



May 13, 2024

Please Reply to St. Catharines Office
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VIA EMAIL TO clerk@hamilton.ca

Office of the City Clerk
Attn: Ms. Janet Pilon, Acting Clerk
City of Hamilton
71 Main Street West
Hamilton, Ontario L8P 4Y5

Dear Ms. Pilon:

RE: NOTICE OF OBJECTION
City of Hamilton Notice of Intention to Designate
84 York Boulevard as a property of cultural heritage value or interest under
Part IV of the *Ontario Heritage Act*, R.S.O, 1990, Chapter O.18, (the "OHA")
section 29(5)
HC EC 89 Park LP

We are counsel to HC EC 89 Park LP (the "Proponent") in connection with the above noted matter. Our clients have entered into an Agreement of Purchase and Sale (the "Agreement of Purchase and Sale") with the Trustees of Philpott Memorial Church, the owner of the lands referenced above (the "Subject Lands").

Please accept this correspondence as our client's notice under section 29(5) of the OHA of objection to the City's Notice of Intention to Designate the Subject Lands.

The Subject Property

The Subject Property is located at the northwest corner of York Boulevard and Park Street in the City of Hamilton. The Subject Property was constructed and used as a Place of Worship and consists of two portions: the northern most portion constructed circa 1901 and the larger portion at the corner constructed in 1906.

The owner supports redevelopment of the property as contemplated by HC EC 89 Park LP to a high-density mixed-use development. The development proposal contemplates that the existing buildings be removed and that elements be retained and integrated into the new development.

Client Committed. Community Minded.

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Background and Relevant Facts

The factual background to this matter includes the following:

1. 84 York Boulevard was added to the Hamilton Heritage Property Register in September, 2014.
2. The owner entered into an APS with 2847572 Ontario Inc. on August 4, 2021. It was their intention to vacate the church as it could no longer meet their needs as a congregation. Multiple investigations on how they could repurpose the building resulted in recommendations to sell.
3. 2847572 Ontario Inc. participated in a Formal Pre-Consultation with City staff on September 14, 2022. That pre-consultation resulted in the following feedback from staff:
 - i. redevelopment on site will require a re-zoning and site plan application;
 - ii. that a Cultural Heritage Impact Assessment would be required as part of a development application;
 - iii. that options to retain/reuse should be explored; and
 - iv. that the owner must give 60 days' notice to the City of their intent to demolish.
4. In January, 2023 EC (89 PARK) LP entered into a limited partnership with Hamilton Coliseum Place Inc (formerly 2847572 Ontario Inc.) now known as HC EC 89 Park LP.
5. On May 4, 2023 HC EC 89 PARK LP met with City staff to review the development proposal. Staff gave general direction that their preference is to maintain the whole building and indicated that if demolition were to be pursued the application would require strong technical support and the retention and reuse of salvageable items.
6. Between May and September, 2023 HC EC 89 PARK LP completed ongoing investigative testing to determine what, how, how much, if any, component of the building could be preserved and incorporated into a potential redevelopment.
7. On September 12, 2023 HC EC 89 PARK LP met with staff and the proponent's technical team to discuss the findings of the investigation and discussed preservation and re-use of certain elements of the building.
8. In September, 2023 HC EC 89 PARK LP submitted a draft CHIA Report that included:
 - a. A Feasibility Assessment Report from PJ Materials Consultants Limited which concluded that it would not be possible for the mortar to be removed without causing damage to the underlying brickwork, and that the damage in attempting to do so would likely to be considerable and extensive;
 - b. A Condition Assessment of Existing Structure (and Addenda) by Jablonsky, Ast and Partners Consulting Engineers, which concluded among other things that the

Park Street North and York Blvd. facades were in structurally reasonable condition, but that the façade would be unable to perform the function of a durable building envelope without significant repair of the exterior of the bricks; and

- c. Impact Assessments on Adjacent Properties by MHBC which concluded that the removal of the church and redevelopment at 84 York Blvd would not negatively impact the adjacent properties.
9. In November, 2023 the Proponent submitted its final CHIA and supporting documentation.
10. On January 19, 2024 staff report PED24007 was released recommending designation of the Subject Lands. On January 26, 2024 the Hamilton Municipal Heritage Committee ("HMHC") considered the staff report. Notwithstanding a deputation made by the Proponent, the HMHC recommended designation.
11. On February 23, 2024 Planning Committee considered the HMHC recommendation and moved a motion to adopt the minutes and recommendation to designate the Subject Lands.
12. On March 27, 2024 the Planning Committee minutes were adopted by Council and the Notice of Intention to Designate was issued by staff on April 15, 2024.

Reasons for Objection

We have reviewed the Notice of Intention to Designate and accompanying designation research report prepared by the City in support of designation of the Subject Property. The reasons for the objection to the proposed designation include the following:

a) **Heritage Integrity:**

Both portions of the building have been altered. The alterations have resulted in impact to the integrity of the heritage fabric of the buildings. Specifically, the building facades have been reclad in a stone veneer with cement-based mortar that has been applied over the original brick facade. The cladding was installed in 1952.

The owners retained a structural engineering consultant and a materials specialist with expertise in brick construction, restoration and repair. The conclusion of these experts is that the stone veneer cladding is starting to fail and repair and replacement will be required. They further conclude that the application of the cladding has damaged the underlying original brick façade to the extent that it is likely that significant portions of the brick facades will require replacement as well. While overall, the structure, as of today, is still sound, the consultants conclude that ultimately the facades will fail and that there is not sufficient useable brick within the existing building to feasibly repair the facades.

It is not reasonable to designate a building for long term retention and conservation, when it has been demonstrated that there is a need for considerable repairs to the building and that the repairs will result in further removal of heritage fabric and attributes that are part of the reason for designation. While the City staff report recommending designation

acknowledged the façade related issues, staff discounted the impact of the repairs that will be required.

b) **Contextual Value:**

The Statement of Cultural Heritage Value states that the property has contextual value because of the building's location near Market Square and because the building is considered a physical landmark. The City's research report and basis for the property meeting the contextual criteria of the O. Reg 9/06 is not supported by evidence that the site was purposely chosen or the building was purposely located to take advantage, be part of, or in any other way contribute to the surrounding area. Instead, it is clear from the historical evidence that the site was chosen because it was practical – it was an available lot at a price the church could afford.

The church may have been considered a landmark at the time of its construction. However, at two stories and with no bell tower or other noticeable architectural features, the building does not stand out from the surrounding context. In order for a property to be considered a landmark in the context of O. Reg 9/06, the property must be a well-known marker in the community that is used as a point of reference. First Ontario Centre is directly across the street from the subject property and the Hamilton Public Library is diagonally across the street. Both are more well known and more physically identifiable than the subject building. Therefore, it is unreasonable to believe that the community still considers the subject property to be a landmark.

c) **Listed Proposed Heritage Attributes:**

The draft designation lists contextual attributes related to the location and siting of the building. For the reasons stated above, these attributes cannot be supported and should be removed.

d) **Impediments to Reparation of the Façade**

In term of the prospect for repairs to the façade, it is the proponent's position, based on the Condition Assessment, that such work is not feasible given there are not enough original exterior wythe bricks of suitable quality.

Replacing exterior bricks with interior bricks is not recommended given that they are of lesser quality compared to the exterior façade. Any attempt to retain the façade and cover over the deteriorated face brick will likely result in a similar issue of trapping moisture and degrading the brick further. Therefore, the best option for conservation is to recommend dismantling the building and reuse of salvageable materials where possible and appropriate.

e) **Feasibility of long-term conservation:**

Section 29 of the *Ontario Heritage Act* states that a municipality may designate a property if it meets the criteria for designation. Section 29 does not require that a municipality designate.

The owner has determined the building can no longer meet its needs and plans to vacate the site in the fall of 2024. Given the alterations to the façade of the building and the cost of future repairs as a result of those alterations, the likelihood of re-use is diminished. With designation of the property and the consequent limits on ability to change or demolish the building, it is highly likely that the building will remain vacant. If so, long term conservation of the building is unlikely.

We respectfully request that Council consider this objection and withdraw the Notice of Intention to Designate the Subject Lands. We respectfully request that the City provide us with copies of all notices, meetings, reports and any decisions respecting designation of the Subject Lands.

Yours very truly,

Sullivan Mahoney LLP

Per:



Sara J. Premi

Sara J. Premi Professional Corporation

SJP:bj

cc--Municipal Heritage Planner
cc--client