

Rams Head Developments v. City of Toronto

- Originally an application to demolish a designated structure as part of an application for a condominium;
- Negotiations with staff on possible reconstruction scenarios resulting in one wall being left *in situ*;
- City staff took position at OMB that the application was to “alter” not demolish and therefore the OMB could not hear the appeal.

Rams Head Developments v. City of Toronto

- OMB concluded:
 - section 34(6) of the OHA permits the Board to order a municipality to consent to a demolition “with such terms and conditions” as the Board may specify;
 - the OHA places no restrictions on the terms and conditions; and
 - no definition for “demolition” or “alter” in the OHA.

Policy Response – City of Toronto

OPA 199

- Alteration: is any change to a property on the Heritage Register in any manner including its restoration, renovation, repair or disturbance, or a change, demolition or removal of an adjacent property that may result in any change to a property on the Heritage Register.
- Demolition: is the **complete destruction of a heritage structure and property from its site**, including the disassembly of structures and properties on the Heritage Register for the purpose of reassembly at a later date.

ADMNS Kelvingrove Investment Corp. v. Toronto (City)



- The Board wrote that “one starts from the premise that Provincial goals are complementary, not conflicting.”
- The Board found that conservation, protection and preservation of heritage in Ontario is “the rule, and demolition is the exception.”

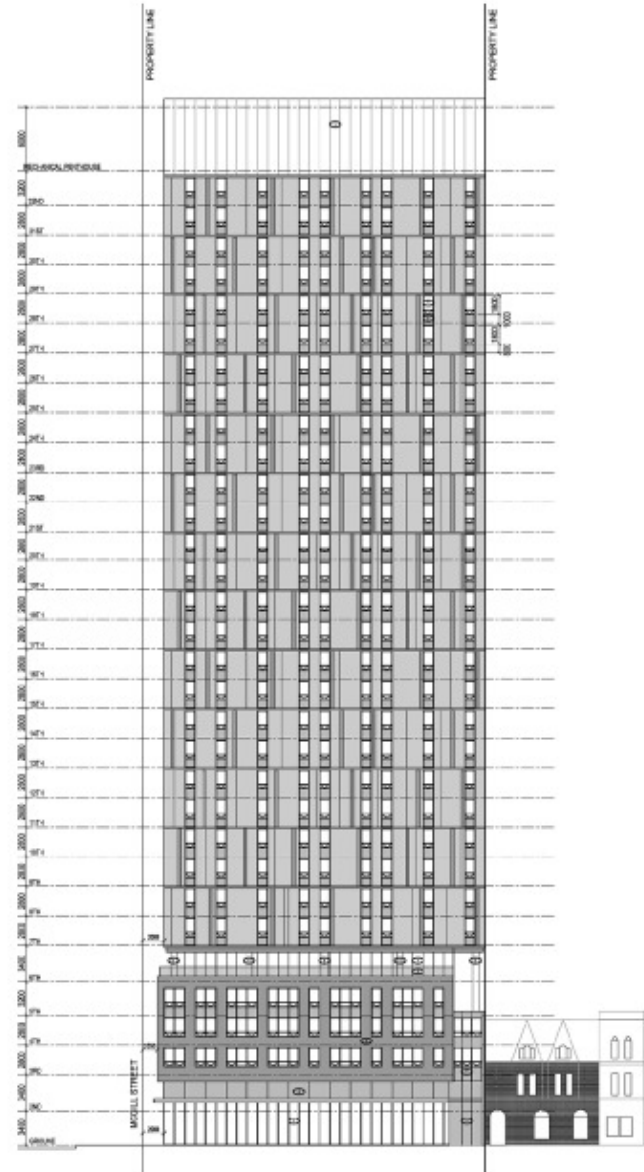
CHC MPAR Church Holdings Inc. v. Toronto (City)

- The new student development located at 412 Church Street will **contribute to the vibrancy of the neighbourhood** by providing quality accommodations and a safe learning environment that will meet the needs of current and future students.
- The 32 storey building is **designed to integrate with the surrounding context in height and materiality** while distinguishing itself with the sculptural articulation of window openings, and elements defining entrances to both the student residence and the commercial spaces at grade.





Attachment 3: East Elevation



CHC MPAR Church Holdings Inc. v. Toronto (City)

- “After a careful review of the extensive evidence and opinions that proffered support for and opposition to the proposed student residence use at this location, the Board was not persuaded that it should expend its efforts evaluating the merits of a student accommodation at this location given the weightier matter of the impacts created by the proposed development on the heritage attributes of the adjacent properties.”

Heritage Conservation Districts



Heritage Conservation Districts

- Part V of the Act;
 - Applies to a collection of properties within a geographically defined area;
 - Council can identify area of study with similar powers as s.38 of PA for a period of up to one year;
 - Council required to pass a district plan following full public consultation;
 - No work may be undertaken or by-law passed which conflicts with the objects of the plan;

Heritage Conservation Districts

- Part V also applies to property individually designated under Part IV which is located in a district (“dual designation”).
- Appeal to OMB remains for any application with respect to a property located in a district;
- Broader right of appeal because the reasons for designation are not as precise in respect of any individual property.

Heritage Conservation Districts

- *Hermiston-Toth v. Oshawa* (2006)
 - Council enacted a by-law pursuant to s.40.1 to designate a study area;
 - Council passed the by-law prior to the terms of reference for the study being considered or approved;
 - The OMB found that Council was required “to undertake a study in advance of the imposition of interim control”.
 - Appeal from by-law granted.

Part V Designations & Section 41.2

Consistency with heritage conservation district plan

41.2 (1) Despite any other general or special Act, if a heritage conservation district plan is in effect in a municipality, the council of the municipality shall not,

- (a) carry out **any public work** in the district that is contrary to the objectives set out in the plan; or
- (b) **pass a by-law for any purpose** that is contrary to the objectives set out in the plan. 2005, c. 6, s. 31.

Conflict

(2) In the event of a conflict between a heritage conservation district plan and a municipal by-law that affects the designated district, the **plan prevails to the extent of the conflict**, but in all other respects the by-law remains in full force. 2005, c. 6, s. 31.

375 – 381 Queen Street West

- Proposal for 7 storey office building with retail at grade on Queen Street West
- Located within the Queen West HCD
- Retention and restoration of one contributing building
- Provision in HCD Plan “affirmed” the 16 m height maximum in the bylaw
- City position - any height above 16 m was contrary to the HCD Plan and could not be approved



ISSUED FOR SITE PLAN CONTROL (SPA) RESUBMISSION - OCTOBER 7, 2015



Queen Richmond Centre West Phase 2

375-381 Queen Street West, Toronto, ON, CA.

Architectural Drawing List

A0.00 Cover
A0.01 Context Plan & Statistics

A1.01 Site Plan

A2.00 Basement Plan
A2.01 Ground Floor Plan
A2.02 Second Floor Plan (2nd Floor)
A2.03 Third Floor Plan (3rd Floor)
A2.04 Fourth Floor Plan (4th Floor)
A2.05 Fifth Floor Plan (5th Floor)
A2.06 Sixth Floor Plan (6th Floor)
A2.07 Seventh Floor Plan (7th Floor)
A2.08 Mechanical Penthouse Plan
A2.09 Roof Plan

A4.01 North Elevation - Queen Street West
A4.02 East Elevation - Peter Street
A4.03 South Elevation - Jack Cooper Lane
A4.04 West Elevation

A5.01 North-South Building Section
A5.02 East-West Building Section

A10.01 Detailed Building Elevation - Queen St.
A10.02 Detailed Building Elevation - Peter St.

Landscape Drawing List

L-1 Landscape Plan
L-2 Green Roof

Site Servicing Drawing List

CV-1 Site Servicing and Grading
CV-2 Site Servicing Details
CV-3 Construction Management Plan

Plan of Survey

Plan of Lot 20 and Part Lots 21, 22, 23, 24
& 25, Registered Plan 1B.

DRAWING NOT TO BE SCALED

Users of this drawing shall not scale dimensions from the drawing for the purpose of construction. Dimensions shall be taken from the drawing and not from the model or other representation of the drawing.

This drawing shall not be used for construction without the written consent of the architect. The architect shall not be responsible for any errors or omissions in the drawing.

ISSUED

1/10/2015: Issued for Preliminary Project Review
04/10/2015: Issued for SPA
10/07/2015: Issued for SPA (Revised)
10/07/2015: Issued for SPA (Revised)
10/07/2015: Issued for SPA (Revised)

REVISED

Heritage Conservation Districts

“The Board finds height is not a Heritage Attribute and it is not an objective of the HCD. The Board finds that it is a zoning standard from which the Applicant seeks to be exempted and that the City is attempting to elevate its utility by linking it to heritage matters, notwithstanding that it has not substantiated such a connection”.



PLANNER AT WORK

Re Ottawa (City) By-law No. 2013-110



Ottawa By-law 2008-250

- Despite the provisions of the underlying zone, the following provisions apply to land uses within an area affected by an heritage overlay, in order to encourage the retention of existing heritage buildings by offering zoning incentives to reuse the buildings, and to limit the size and location of additions to preserve the heritage character of the original building:
- Where a building in an area to which an heritage overlay applies is removed or destroyed it must be rebuilt with the same character and at the same scale, massing, volume, floor area and in the same location as existed prior to its removal or destruction. (By-law 2014-289) (By-law 2015-281) (By-law 2014-289)

Re Ottawa (City) By-law No. 2013-110

- Board rejects contention that there is an “inherent conflict” between intensification and heritage policies;
- “Some developers and officials presume that it means one thing: replacement of existing buildings with larger ones. That is not how it is defined; the PPS [Provincial Policy Statement] says it includes work to re-use existing buildings, via “conversions” and “additions.”

Building Maintenance Standards

- Section 34.5 of the Act intended to work in concert with authority under the BCA, 1992;
- The subject of much discussion & consideration by municipalities;
- Many have passed amendments to their Property Standards By-laws & more are assessing it;
- Provides for minimum standards of maintenance and guidelines for repair & restoration.

Increased Onus on Municipalities

- ***Tremblay v. Lakeshore*** – cannot fetter own authority under the Act by requiring voluntary designation; i.e. the consent of the owner;
- ***Birchgrove Estates*** – no indication the Town had matched volunteer efforts to document heritage attributes of area;
- ***Russell Hill Investments*** – designation undertaken contrary to staff report and in an effort to prevent PA applications from proceeding; OMB found process was “improper use of the Heritage Act” and evidence of bad faith.

So, what have we learned?

- Intensification is not a “trump card” ...but neither is “heritage”;
- PPS and OP policies are to be read together – presumption against conflict;
- Development process best serves heritage concerns when the heritage is seen as a asset and incorporated from the outset, rather than an afterthought;
- Listing does not equal “significance”;

- Guideline documents may not serve communities as well in the new OHA era;
- Education is paramount – both for new members of the community and for the development industry;
- Municipal staff and heritage advocates need to engage in the design process – heritage is not a bar to development but one critical piece of the puzzle.

Thank you

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Stratford/St. Marys
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