

August 4, 2022

Sent by email to rick.oconnor@ottawa.ca

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File no. 02433417

M. Rick O'Connor
Clerk
City of Ottawa
110 Laurier Avenue West
Ottawa, ON K1P 1J1

Dear Mr. O'Connor:

**Re: City of Ottawa File No. ACS2022-PI E-RHU-0028
Designation of 501 Cole Avenue under Part IV of the Ontario Heritage Act
Notice of Objection**

We are the lawyers for Tony and Anita Cassone, the owners of 501 Cole Avenue (the "**Property**"). Please accept this letter as a Notice of Objection with respect to the City's Notice of Intention to Designate the Property under Part IV of the *Ontario Heritage Act* ("**OHA**"). The grounds for objection follow:

1) The designation is not justified by any study and is contrary to Staff's recommendation

The City's intention to designate the property is not supported by any study. To the contrary, the June 8, 2022 staff report to Built Heritage Subcommittee and Council, which evaluates the Property under the *OHA* recommended that Council not proceed with the issuance of the Notice of Intention to Designate. Staff's recommendation was based on their conclusion that:

As the house at 501 Cole Avenue **demonstrates limited historic or architectural value**, staff are of the opinion that **the property's designation under Part IV of the Ontario Heritage Act would not contribute meaningfully to the City's designation program** nor address any gaps in regard to associative or community histories not yet represented through heritage designation [*emphasis added*].

Notwithstanding Staff's recommendation, the Built Heritage Subcommittee ("BHSC") unanimously approved a motion by Councillor Brockington that ignored staff's opinion regarding the design value of the Property and reversed staff's recommendation, instead recommending that Council designate the Property under Part IV of the *OHA*. The motion was brought without notice to our clients, and without the ability to properly respond. The motion did not identify any study or other evidentiary basis for reversing staff's recommendation and its opinion regarding design value, and had no basis beyond the request of the Westboro Community Association. Planning Committee and Council adopted BHSC's recommendation without debate or further study.

2) Lack of design or physical value

The design or physical value of a property under the *OHA* must be evaluated under the criteria enumerated in s. 1(2)(1) of O. Reg 9/06, which states:

The property has design value or physical value because it,

- i. is a rare, unique, representative or early example of a style, type, expression, material or construction method,
- ii. displays a high degree of craftsmanship or artistic merit, or
- iii. demonstrates a high degree of technical or scientific achievement.

The Statement of Cultural Heritage Value or Interest justifying the designation of the Property states that the house on the property is “typical” of its period. However, it provides no evidence that the Property is a “rare, unique, representative or early example of a style, type, expression, material or construction method.” In our view and that of our experts, the house is a poor example of a vernacular style that is referenced in the designation document as “Edwardian Classicist.” We agree with the conclusion of the Staff Report that the Property is a “common” building type and “representative” of “typical affluent suburban dwellings”, not that it is representative of “Edwardian Classicist” architecture.

Rather, as noted in the Staff Report, the house is a typical and austere example of Edwardian Neoclassical residential architecture in Ontario with its square plan, rectangular windows, and symmetrical façade composed of single bays on either side of a main entrance set in a two-storey portico. It features no special craftsmanship, detailing, window treatments, or dormer shapes that would make it “representative.”

In the opinion of our heritage expert, it is highly unlikely that the house would be considered by a qualified architectural historian as being “representative” of “Edwardian Classicist” architecture. The design or physical value of the Property does not justify designation under Part IV of the *OHA*.

3) Lack of contextual value

Section 1(2)(3) of O. Reg 9/06 states that a property has contextual value because it:

- i. is important in defining, maintaining or supporting the character of an area,
- ii. is physically, functionally, visually or historically linked to its surroundings, or
- iii. is a landmark

The Statement of Cultural Heritage Value baldly claims that:

501 Cole Avenue has contextual value as a house designed and constructed subject to John E. Cole’s requirements for large residences in Highland Park. Cole, one of a number of dairy farmers in Ottawa’s west end in the late 19th century, subdivided his land in 1898 with the vision of creating a prosperous, cohesive suburban neighbourhood and included a covenant on the area’s large lots to ensure development was in keeping with this vision. The house is situated on a large lot that features mature trees along the property line, a green front lawn and a generous setback in keeping with the character of other houses from this period in Highland Park

Notably, the Statement does not identify the “area” in question. Regardless, the character of the area is mixed, no matter whether “Highland Park” is: a) the original 1898 subdivision of 144 lots on 9 blocks; b) the subdivision described by Cole in 1912 as containing 1,000 lots; or c) the current neighbourhood of “Highland Park,” which contains approximately 1400 lots. The original subdivision of 144 lots in 1898 is currently a mix of old and new houses. About half the houses appear to have been built in the 1900-1929 era, while the other half include a few houses dating from very end of the 20th century, but many more built within the past 5 years.

The character of any of these areas would not be changed if the house at 501 Cole Avenue were to be replaced by residential construction sympathetic to the rhythms and appearance of the existing, and very mixed (old and new residences on full and half lots) streetscape.

In light of the above, we believe that the City has erred in its application of Regulation 9/06 of the Ontario Heritage Act to evaluate the heritage value or interest in the property, and that City staff were correct in advising against Designation. We urge Council not to designate 501 Cole under Part IV of the *OHA*.

Please ensure that all future notices in this matter, or any further requests for information, are directed to the undersigned and Michael Polowin.

Sincerely,

Gowling WLG (Canada) LLP

Jacob Polowin

Jacob Polowin

c. Clients
Michael Polowin

JP