



December 1, 2023

Heritage Branch, Ministry of Citizenship and Multiculturalism
400 University Avenue, 5th Floor
Toronto, ON
M7A 2R9

Re: Proposed changes to the Ontario Heritage Act and O.Reg. 385/21 General with respect to certain alteration requests

Q: Is 30 days a sufficient time for municipalities to process applications and determine if they are complete?

A: 30 days is sufficient unless an application is particularly complex. In most instances applications that would fall under the proposed provisions are processed under the City of Ottawa's existing Delegation of Authority by-law. Applications processed under the Delegation of Authority By-law are typically issued in 5-10 business days.

Q: Are there any further conditions that should be applied to these types of applications?

A: This list is sufficient provided that municipalities retain the ability to require the information and material prescribed under Section 6(1) of Ontario Regulation 385/21, as is currently proposed by these amendments.

Q: How many applications do you receive each year from municipally designated heritage properties that are primarily used for religious practices or Indigenous spiritual or religious practices requesting an alteration to identified heritage attributes connected to those practices?

A: In 2023 the City of Ottawa received 8 heritage permit applications from municipally designated properties primarily used for religious practices. Of these applications, 6 would qualify to proceed under the proposed provisions. These applications were processed and issued by staff under the City of Ottawa's Delegation of Authority By-law and were required to facilitate minor restoration work such as repointing or the repair of historic windows.

Q: How long does it typically take to review such an application (in hours)? How long do you believe it would take under the revised process and requirements?

A: Most applications that we assume would be subject to this new process would be reviewed under the City of Ottawa's Delegated Authority by-law. Once a complete application is received, review typically takes 1-4 hours. Prior to receiving an application from a property owner, it is the City of Ottawa's general practice to discuss the proposal with the applicant, either via email or a meeting, and review draft versions of any submission material such as specifications for

potential replacement materials, draft drawings etc. This initial process can take anywhere from 1 hour for applications staff have no concerns with, to 6-8 hours for more complicated projects.

Q: What level of employee in your organization typically undertakes this work (e.g., administrative staff, management)?

A: Heritage Planners on our team undertake the review of alteration applications. Applications processed under Delegated Authority are typically reviewed by staff at the Planner I level.

General Comments:

- We are unsure of the necessity of this seemingly niche process. The City of Ottawa has developed a fair and speedy Ontario Heritage Act permitting process through the City's Delegation of Authority By-law where the majority of alteration permits are reviewed and approved at the staff level within 5-10 business days of the receipt of a complete application. Staff anticipate that most alterations subject to these proposed provisions would currently be eligible for approval under the Delegation of Authority By-law.
- We are concerned that this new process, which only applies to specific properties, will cause significant confusion and actually places a greater burden on applicants than our existing processes. Currently, applicants only need to complete a relatively simple application form and provide documentation of the work they are proposing, they do not need to engage with identifying designated heritage attributes and impacts to them as suggested by the summary posting on ERO.
- Our interpretation of the proposed amendment is that the s. 33 (18) requirement for Council to consent to the application (without terms/conditions) only applies where *all* of the heritage attributes which are to be altered are attested to be connected to a religious practice. In cases where some attributes which would be affected are not connected to a religious practice, Council would have no obligation to consent without terms or conditions to those aspects of the alteration. Staff would have to consider whether our process would require us to separate the application into two applications, one where the alterations are subject to new subsection 33 (18), and one where the alterations were not. This may increase costs and staff processing time.

Questions:

- Staff seek clarification on the relationship between the conditions set out in the new 33 (18) paragraphs 1 to 4 and 6 and the associated requirements of 33(2) and Regulation 385/21 S. 6(1)
 - 33 (25) notes that the Council must solely rely on the affidavit to confirm the completion of 33 (18) paragraphs 1-4, whereas s. 33 (20) and (22) retain the municipality's ability to deem an application incomplete on the grounds of missing material required by subsection 33 (2) or 385/21 S. 6(1).
 - What happens when the applicant provides a complete affidavit, but staff questions the conclusions or quality of material submitted as required by 33 (2) or 385/21 S. 6(1)? Is Council required to consent to the application, or is the City able to deem the application incomplete?
- What happens in instances where a designated building is being used for religious purposes when that building was previously used for a different religious purpose? For example, in Ottawa there is a designated former Synagogue now used as a Christian church. Would the identified heritage attributes of the building representing its use as a former Synagogue, such as Star of David shaped details in the exterior cladding, be eligible for alteration by the current occupant?
- Why can terms or conditions not be applied to the approval of a heritage permit under these provisions?
 - In instances where an alteration may be detrimental to the condition of a building, the City prefers to retain the ability to apply conditions related to structural monitoring or the completion of an engineering study prior to work being undertaken.
 - Heritage permits issued by Council typically delegate the authority to authorize minor design changes to staff. Without the ability to apply conditions, applicants may be in a position where a minor design change to accommodate Ontario Building Code or zoning requirements also requires them to reapply for a new heritage permit.
- How do these provisions work with heritage designation by-laws completed under previous versions of the OHA and which may not include a list of heritage attributes?
- If a property owner or tenant is seeking permission for alterations under Section 33 and demolition or removal under Section 34, is it the Province's intent for them to submit two separate applications, both with differing legislative timelines?

- 33(18) indicates that these provisions apply only to buildings and not to other elements of a property that may be identified as a heritage attribute. Should these provisions also apply to non-building elements of a designated property?

Sincerely,

A handwritten signature in blue ink, appearing to read "Don Herweyer", with a long horizontal flourish extending to the right.

Don Herweyer
Interim General Manager
Planning, Real Estate and Economic Development Department