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sent via e-mail to [mayor@cityofkingston.ca](mailto:mayor@cityofkingston.ca)

Mayor Bryan Paterson & Council  
The Corporation of the City of Kingston  
216 Ontario Street,  
Kingston, Ontario, K7L 2Z3

**Re: Report #19-204 to Council – Block 4  
Proposed Negotiations with St. Lawrence College**

Donnelly Law (“we” or “the Firm”) represent the Frontenac Heritage Foundation (“FHF”) in the matter of *Homestead Land Holdings Limited v Kingston (City)*, case PL170714 and In8 Capital Theatre matter, *Burfoot v. Kingston (City)*, 2017 CarswellOnt 17400.

We write to relay FHF’s concern with Staff Report 19-204 (the “Report”) and recommendation to proceed to negotiate a development agreement with St. Lawrence College (“SLC”) to develop a significant part of downtown Kingston (Block 4, North Block District) as a “post-secondary campus”.

Notwithstanding the fact that this matter has not had the benefit of public consultation and vetting by citizens groups, the proposal is contrary to Kingston’s Official Plan (“KOP”) and planning precedent-setting decision of the Ontario Municipal Board (as it then was) in the IN8 Capital Theatre case.<sup>1</sup>

As Council is no doubt aware, existing Kingston planning policies call for 25.5 metres in height (6 - 8 storeys) not the 18 storeys which has been referenced in previous Council discussion, and is referenced on page 6 of the Report.

Most importantly, these “negotiations” should not be occurring without considerably more detail being made available to the public. As part of the Tall Building Guidelines, the consultant told the public that they were early in the process and

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<sup>1</sup> *Burfoot v. Kingston (City)*, 2017 CarswellOnt 17400, 3 O.M.B.R. (2d) 246.

that no decisions would be made on individual sites throughout the process period. Clearly, this is not the case but should be, when Staff is alleging considerable public benefits may be realized, in exchange for giving away valuable publicly owned land.

As you may recall, the last time a sweetheart deal for the City was proposed, it turned out to be a considerable financial liability.

Specifically, on the last day of the *Homestead Land Holdings Limited v Kingston (City)* hearing, counsel to the developer disclosed to our firm part of the true financial liability of the City leasing an art gallery space in the proposed development. As it turns out, far from being a “bonus”, if approved, the space will cost taxpayers \$287,541 in rent!

In addition, outfitting, utilities, staffing, maintenance, cleaning and other costs will increase the City’s spending on the space considerably. Has the total ever been calculated?

In the case of SLC, residents should also question why this extremely valuable piece of Block 4 real estate is being offered for a “nominal” amount, see Page 3:

*These negotiations would include disposing of Block 4 to SLC for a nominal fee in order to support this potential partnership.*

This seems like a very strange way to “negotiate”.

In addition, FHF asks is there has been any consideration given to other forms of development? Importing a further Institutional use in the downtown core, at the loss of a possible financial windfall for the City, must be carefully examined and transparently justified before Council votes on whether to conduct a closed-door negotiation and transaction involving tens of millions of dollars in development rights.

FHF acknowledges a site-specific policy which governs development on Block 4 has been in place since 2010 that could have been revised through the Official Plan update, and was not.

It is respectfully submitted Staff are yet again ignoring the importance of the Official Plan and zoning policies that are in fact, now in place. The staff report does not reinforce to Council that the matter which is being negotiated is decidedly contrary to the existing vision for the city's core.

Two highly acclaimed urban thinkers have traveled to Kingston in recent months to testify on behalf of FHF about this vision.

One of those experts, Mr. George Baird, is described by the Canadian Encyclopedia as:

A Member of the Order of Canada and two-time winner of the Governor General's Award, as an architect, scholar, and educator, George Baird is among the most broadly influential figures in his generation of Canadian architects.<sup>2</sup>

Mr. Baird in his testimony was very critical of the proposed addition of increased height downtown beyond the Official Plan.

Ms Anne McIlroy is a very distinguished planner and urban designer, and recently named a Fellow of the Royal Architectural Institute of Canada. She was similarly opposed to towers in downtown Kingston.

FHF recognizes that the idea of a SLC campus in the city's core has been acknowledged as a Council priority, and that the report also states that a full planning application will be required.

Where the Report falls short, however, is that there is no indication of the Official Plan policies in place to protect the heritage and continuity of downtown. For example, the proposed use would be "Institutional" (as per the existing SLC campus and Queen's U. campus) and not "Central Business District". Why?

Notwithstanding the fact that the LPAT hearings for Blocks 3 and 5 are referenced on page 6 of this Report, Staff members are recommending that the City proceed with negotiations. What is the scope of the negotiation? What are the planning principles guiding Staff? What steps are being taken to ensure the eventual agreement won't be contrary to the OP, appealed and defeated?

What is the real estate appraisal of the land, which should be disclosed before a "nominal" price is conceded?

A strong argument can be made for prematurity of these negotiations with SLC proceeding in advance of the LPAT decision being released in the Homestead matter, and Court decision in the leave to appeal in the IN8 capital judicial review.

For all these reasons, there'd be more reasons prioritized if the matter hadn't come up so suddenly and in summer, please defer any decision on this critical matter until a great deal more information about this land giveaway is disclosed to the landowner – being the residents of Kingston.

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<sup>2</sup> <https://www.thecanadianencyclopedia.ca/en/article/george-baird>

Please do not hesitate to contact me at 416-572-0464, or by email to [david@donnellylaw.ca](mailto:david@donnellylaw.ca), cc'ing [morgan@donnellylaw.ca](mailto:morgan@donnellylaw.ca) should you have any questions or comments concerning this correspondence.

Yours truly,

A handwritten signature in blue ink, appearing to read "D. Donnelly", with a long horizontal flourish underneath.

David R. Donnelly

cc: Council