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November 5, 2021

**\*\* MEDIA RELEASE \*\***

## Ontario Land Tribunal Approves Towers Proposed by Homestead Land Holdings Ltd. in North Block, Kingston

*Lawyer calls Decision a major disappointment in protecting Kingston's Historic Core*

Kingston—The Ontario Land Tribunal (the Tribunal) issued Thursday, November 4, 2021 a brief 17 page decision approving Homestead Land Holdings Ltd. and the City of Kingston's support of a development application for proposed 19 and 23 storey towers on Queen Street in the historic core of the city.

The LPAT decision by Vice-Chair Susan de Avellar Schiller and S. Braun inexplicably reverses a previous decision by Chair Marcia Valiante that denied the same high-rise proposal. In an earlier decision dated August 9, 2019, Chair Valiante considered all the evidence presented and preferred the team of expert witnesses retained by the Foundation when assessing the impact of the proposed towers on the neighbouring buildings and historic downtown. Her decision was "no" to Homestead Holdings high-rises.

The new decision is also diametrically opposed to the findings of the OMB/LPAT in the IN8 Capital Theatre case, which denied a proposal for a 16-storey tower, also on Queen Street.

"It's disappointing to have the previous decisions of the Tribunal reversed with this decision, particularly when the expert evidence was so strongly in favour of preserving Kingston's historic core, the unique skyline, and avoiding a repeat of the waterfront condo curtain-wall", said David Donnelly, counsel to the Foundation in the hearings.

"The City's witnesses did a poor job of justifying the controversial decision to approve the towers downtown, and ignored their own Climate Emergency Declaration and warnings of experts like Jennifer Keesmaat and George Baird that tall towers are major contributors to the climate crisis", Donnelly added.

Parts of the decision defy much of the evidence at the hearing concerning the impact of the towers, which all experts agreed would be a very prominent "landmark" feature downtown:

Even viewing the towers over the height of the podia would require the pedestrian to crane her neck to look up, a posture not conducive to enjoying the streetscape. The towers might be able to be seen more easily at a distance, depending on view direction and line of sight. [para 36]

This finding directly contradicted world-renowned architecture and urban design expert George Baird, who testified the towers would have a major impact on the pedestrian realm and character of downtown Kingston, which he described as much admired and amongst the finest heritage communities in Canada in part because of its human scale and character.

Developer Homestead Land Holdings Ltd. got a second try at their appeal when they wrote to the LPAT through rule 25 of the LPAT's Rules of Practice and Procedure, which allows for a seldom used internal review of an adjudicator's decision. Associate Marie Hubbard granted a re-hearing.

In January 2020, the Tribunal ordered a second hearing, and this was delayed due to the pandemic. The second hearing was scheduled as a virtual hearing for a total of ten days, commencing March 29, 2021.

The November 4, 2021 decision states in part:

In planning for both heritage and for growth, the challenge is to find the right balance to achieve both elements of a community's ambition. The compatibility provisions in the OP, the applications of which have informed the proposals now before the Tribunal, are the mechanism used by the City to achieve that balance. [para 26]

The Homestead development sites are about two blocks away from the Market Square HCD. The Tribunal agrees that the proposed towers will be seen, again depending on the viewing direction and line of sight, but disagrees that they are either close enough or tall enough to have a negative impact on this HCD. [para 34]

"The Tribunal is not persuaded that there is a negative disturbance of the pedestrian experience, whether the pedestrian is viewing the towers from within the North Block or from within an HCD or HCA. (Heritage Conservation District or Heritage Character Area). [para 37]

"Simply being able to see something, or simply knowing that it is there, does not constitute an adverse impact that warrants further modifications or mitigation." [para 38]

This is the opposite finding from the previous two OMB/LPAT hearings, which very much calls into question the need for consistency at the Ontario Land Tribunal. Approving tall towers is seen by some as being poor planning and bad for city building.

A recent 29-storey high-rise approval in Burlington is generating significant controversy, according to Mayor M. Mead-Ward, who stated: "This is a devastating and shocking decision imposed on our community."

For nearly fifty years, the Frontenac Heritage Foundation has remained steadfast in attempting to protect built heritage across the Kingston region, and in particular Kingston's historic core. Shirley Bailey, President of the Foundation says: "This appeal was done at great cost to the Foundation and our membership has supported this effort to guide development in our historic core. We believe that time and public opinion will prove the Foundation right, that there will be a negative impact on our downtown. As a property owner in downtown Kingston, we will continue to advocate for development which we feel is of human scale and compatible with our built heritage."

The Foundation would like to thank Donnelly Law, including David Donnelly, Ms. Alexandra Whyte and Ms. Morgan Fletcher who represented the Foundation on the matter, our witnesses Allan Ramsay, George Baird, Dr. Marcus Letourneau, and Bruce Downey, and the many Participants who made depositions at both the first and second hearing.

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