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August 4, 2023

by email

Mayor and Members of Council
City of Kingston
216 Ontario Street
Kingston, ON K7L2Z3

Dear Mayor and Members of Council

This letter is prompted by a motion which Councillor Glenn is bringing to Council at its meeting on August 8 in which she asks Council to support enforcement of its Procedural Bylaw for Heritage (By-law 2023-38).

As Council members well know, the City of Kingston holds a special place in the history of our nation. When the Capital was located here, and the decision was made to build a city hall in 1844, there was a building boom, and as a result, our city has a wealth of built heritage fabric that you will not find in any city this size in Ontario.

The matter at hand deals with a series of four designated dwellings known as the Hales Cottages, located at 311 – 317 King St. West, in a prominent location west of the city core across from the Gord Downie Memorial Pier.

The stucco-covered dwellings were built in 1841 for Charles Hales of Bellevue, to be rented to government officials when Kingston was the capital of the United Provinces of Upper and Lower Canada. Unfortunately, designation by-laws under the *Ontario Heritage Act* (OHA) dating back to 1975 do not spell out in sufficient detail all of the heritage attributes which should be protected. Still, it is clear that the outer shell of the building, its openings and the outbuildings like garages should be carefully protected.

Often when new people come to our city and buy property, they need to be reminded of the planning and heritage rules. Most people are genuinely sorry when they take action without the proper permits. It is easy enough to contact the City's Heritage Services staff to ask what constitutes maintenance (not requiring a permit) and what is more than maintenance and requires a heritage permit.

Unfortunately, when a new buyer purchased one of the Hales cottages, shingles were replaced on the house and garage without permits. In November 2022, the owner was informed of the need for heritage approval. The owner continued to make alterations to the exterior without permits including replacing most period windows with windows

which are not heritage appropriate, altering the existing limestone stable/garage opening and removing other original decorative elements on the house.

When an owner deliberately contravenes the permit system after multiple warnings, it is important for the City to take action.

Section XI of the Procedural By-law for Heritage ***with its basis in S. 69 of the OHA*** has provisions which need to be used to reinforce the fact that in Kingston we are proud of our built heritage, and we respect the rules in place to honour it. The Procedural By-law was updated in 2023, and we note that the provisions for S. XI were unchanged from the earlier version dating to 2013.

It is our understanding that Legal Services is addressing this situation, but still, we implore City Council to stand by the Procedural By-law, and support staff in ensuring that our protected built heritage is respected and continues to be protected.

The question will be asked about previous enforcement. In 1988 a developer (Tracy Christie) was fined \$48,000 for demolishing heritage protected buildings at the current location of the Royal Block. About 5 years ago, the owner of 488 Division was prosecuted and fined for demolishing a log building behind the stone house at 488 Division St. There may have been other prosecutions in the past, but they are not widely publicized. More recently, there have been two situations which were problematic. In one, work was started on the Belvedere Hotel without either heritage or building permits: there, the work was largely acceptable, and permits were granted. In a second, on the Church of Good Thief project, window replacement and masonry repairs were undertaken without permits: in this case, work was stopped, and permissions were granted by Council contrary to the Heritage Committee recommendation.

On a final note, we currently have a Provincial Government which changed the legislative framework such that heritage staff's workplans across the Province have been hijacked by mandating them to assess all Listed properties within a specified timeframe. Some view this as being counterproductive to heritage protection. Enforcement of our longstanding by-laws, however, is a critical piece of heritage work, and we support staff and Council in enforcing its by-laws. Kingston has always been a leader in heritage protection, and we hope this will continue.

On behalf of the FHF board, many thanks for your time and support for the heritage of Kingston.

A handwritten signature in blue ink that reads "Shirley Bailey". The signature is written in a cursive, flowing style.

S. Bailey, President