

Conservation Review Board
Commission des biens culturels



ISSUE DATE: February 23, 2017

CASE NO.: CRB1602

PROCEEDING COMMENCED UNDER subsection 29(5) of the *Ontario Heritage Act*, R.S.O. 1990, c.O.18, as amended

Owners/Objectors:	George and Lida Konrad
Subject:	Notice of Intention to Designate
Property Address:	22 William Street
Legal Description:	PL BR24 LOTS 13, 20, 21 PT LOT 12
Municipality:	City of Brampton
CRB Case No.:	CRB1602
CRB Case Name:	Konrad v. Brampton (City)

Heard: January 26, 2017 in Brampton, Ontario

APPEARANCES:

Party

City of Brampton

Counsel

Matthew Rea

REPORT OF THE BOARD DELIVERED BY JERRY V. DEMARCO AND LAURIE SMITH

OVERVIEW

[1] This Report concerns an objection under s. 29(5) of the *Ontario Heritage Act* (the “OHA”) by George and Ludmila (“Lida”) Konrad (the “Konrads”) to a Notice of Intention to Designate their property at 22 William Street in Brampton, Ontario (the “property”), issued by the Council of the City of Brampton (the “City”). The matter was referred by

the City to the Conservation Review Board (the “Review Board”) for a hearing and its Report pursuant to s. 29(7) of the *OHA*.

[2] Having considered the evidence and submissions, and for the reasons given in this Report, the Review Board finds that the property meets Criteria 1(2)1.i and ii of Ontario Regulation 9/06: Criteria for Determining Cultural Heritage Value or Interest (“O. Reg. 9/06”) under the *OHA* and recommends that it should be designated for its cultural heritage value or interest.

BACKGROUND

[3] The Konrads have owned the property since 1986. On July 21, 2015, the City published a Notice of Intention to Designate the property under s. 29 of the *OHA*. The Konrads objected by letter dated August 1, 2015.

[4] The Konrads did not appear at the hearing. They notified the Review Board by letter dated January 9, 2017 (Exhibit 3) that they did not agree with the designation of their house. They gave reasons why and stated that they did not wish to discuss the matter anymore. The Konrads confirmed by email to the Review Board on January 11, 2017 that they would not be in attendance at the hearing.

[5] The City was represented at the hearing by legal counsel Matthew Rea. The City’s only witness was Antonietta Minichillo, who is the heritage planner for the City.

[6] The list of exhibits entered as evidence at the hearing is attached as Appendix 1 to this Report.

ISSUE

[7] The issue is whether the property at 22 William Street, Brampton, has cultural heritage value or interest according to the criteria of O. Reg. 9/06 and should therefore be designated under s. 29 of the *OHA*.

RELEVANT LEGISLATION AND REGULATION

[8] *Ontario Heritage Act*

Definitions

1. In this Act,

“heritage attributes” means, in relation to real property, and to the buildings and structures on the real property, the attributes of the property, buildings and structures that contribute to their cultural heritage value or interest;

PART IV - CONSERVATION OF PROPERTY OF CULTURAL HERITAGE VALUE OR INTEREST

Definition

26. (1) In this Part, “property” means real property and includes all buildings and structures thereon.

Same

(2) In sections 27 to 34.4, “designated property” means property designated by a municipality under section 29.

Designation by municipal by-law

29. (1) The council of a municipality may, by by-law, designate a property within the municipality to be of cultural heritage value or interest if,

- (a) where criteria for determining whether property is of cultural heritage value or interest have been prescribed by regulation, the property meets the prescribed criteria; and
- (b) the designation is made in accordance with the process set out in this section.

Referral to Review Board

(7) Where a notice of objection has been served under subsection (5), the council shall, upon expiration of the thirty-day period under

subsection (4), refer the matter to the Review Board for a hearing and report.

Report

(12) Within thirty days after the conclusion of a hearing under subsection (8), the Review Board shall make a report to the council setting out its findings of fact, its recommendations as to whether or not the property should be designated under this Part and any information or knowledge used by it in reaching its recommendations, and the Review Board shall send a copy of its report to the other parties to the hearing.

O. Reg. 9/06: Criteria for Determining Cultural Heritage Value or Interest

Criteria

1. (1) The criteria set out in subsection (2) are prescribed for the purposes of clause 29 (1) (a) of the Act.
- (2) A property may be designated under section 29 of the Act if it meets one or more of the following criteria for determining whether it is of cultural heritage value or interest:
 1. 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.
 2. The property has historical value or associative value because it,
 - i. has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community,
 - ii. yields, or has the potential to yield, information that contributes to an understanding of a community or culture, or
 - iii. demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.
 3. The 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.

CASE FOR THE OWNERS

[9] The Konrads' concerns about the proposed designation are set out in their original August 1, 2015 objection letter as well as a letter dated January 9, 2017 (Exhibit 3). By email dated January 11, 2017 to the Review Board, the Konrads clarified that their January 9, 2017 letter constituted their disclosure and that they would not attend the hearing. By email dated January 18, 2017, the Review Board advised the Konrads that they still had the option of attending the hearing to question witnesses and provide oral submissions. However, the Konrads did not attend the site visit or the hearing. Nevertheless, they did not withdraw and the Review Board, therefore, continued with the hearing.

[10] The Konrads object to the proposed designation of their property because they believe that certain repairs to the windows and foundation of their house "would not be allowed if our house was designated" and because they "may be in a disadvantage selling the house". In their letter of objection (Exhibit 4, Tab 8), they note that the arched windows are deteriorated and due for replacement, and the brick portion of the foundation is crumbling and in need of repair. Because they believe that replacement windows and bricks would be prohibitively expensive, the Konrads say that they are considering a simpler profile of windows with wood or aluminum fillers and parging instead of bricks, alternatives which they believe would not be permitted if the property were designated.

[11] The Konrads sent a one-page letter to the Review Board on January 9, 2017, indicating that they do not agree with the designation of the property for the following reasons:

We bought this house as an ordinary residential property and have paid the taxes and insurance according to the size of our property as an ordinary house and not as a heritage house. We feel, that we should not be told what we can do or not to do with our house/property. It would be our decision to do what is best for us to live in the house comfortably. The whole process of the intention to designate our house as a heritage house is upsetting us and has a negative impact on our lives.

CASE FOR THE CITY

[12] The City's position is that the property has cultural heritage value or interest because it meets Criteria 1.i and ii for design and physical value, Criterion 2.i for historical and associative value, and Criteria 3.i and 3.ii for contextual value under s. 1(2) of O. Reg. 9/06. The City argues that the documents submitted by the Konrads do not disclose anything that is relevant to the issue that is before the Review Board.

[13] The City called Antonietta Minichillo as an expert witness. Ms. Minichillo has served as Heritage Coordinator for the City of Brampton since 2007. Her role includes coordinating the development and implementation of the City's cultural heritage program, interpreting and implementing the *OHA*, and researching, evaluating and recommending properties for inclusion on the Municipal Heritage Register. She holds a Master in Environmental Studies with a concentration in Historic Preservation from York University (2007) and is a member of the Ontario Professional Planners Institute, the Canadian Institute of Planners and the Canadian Association of Heritage Professionals. The Review Board qualified Ms. Minichillo as a heritage professional expert for the purposes of providing opinion evidence.

[14] Ms. Minichillo testified that the property is located in a mature residential neighbourhood and contains a single resource: a 2.5 storey, 3-bay, red-brick house in an Italianate style with Second Empire influences. Ms. Minichillo initially estimated the date of construction as *circa* 1875 but later revised this to *circa* 1880.

[15] According to Ms. Minichillo, the property was first identified as having heritage value in 1986 when it was inventoried by the Brampton Local Architectural Conservation Advisory Committee ("LACAC") in the Canadian Inventory of Historic Buildings ("CIHB") entry for Brampton (Exhibit 4, Tab 2, page 4).

[16] Ms. Minichillo testified that in 1993 to 1995, the property was evaluated by volunteers as part of a “Heritage Resource Inventory” being developed for the City (Exhibit 4, Tab 2, page 5). The property was “rated” on its historical, architectural and contextual significance; it achieved a “total score” of 56 out of 100 and was identified as a “Class B” property. The City added the property to its municipal inventory of heritage properties in 1995.

[17] Ms. Minichillo indicated that in 2001, Barbara McPhail and Jean Simonton of the firm Unterman McPhail prepared a “Field Survey” and “Evaluation Worksheet” for the property (Exhibit 4, Tab 2, pages 5-10). It was “graded” for historical, architectural and contextual significance; it achieved “total points” of 54 out of 100 and was identified as a “Class B” property. Class B properties were considered “Significant: worthy of preservation, municipal designation under the Ontario Heritage Act will be considered; may need further historical research.”

[18] Ms. Minichello testified that in February 2008 she conducted an Inventory Re-evaluation of the property (Exhibit 4, Tab 2, page 11). Using the criteria of O. Reg. 9/06, she scored the property as a percentage for each criterion, then used these percentages to calculate “subgrades” and an “overall category grade”. She graded the property “B” for historical or associative value, “A” for design or physical value, and “B” for contextual value, for an “Overall Category Grade” of “A”. Ms. Minichillo testified that under the City’s policy, a grade of “A” would support designation of the property under the *OHA*.

[19] Ms. Minichello testified that, because the property was graded as “A” on the Inventory Re-evaluation, the City directed her to prepare a “Listing Candidate Summary Report (Re-evaluation)” of the property in March 2008 (Exhibit 4, Tab 3A). The Statement of Cultural Heritage Value contained in the report concludes that the property:

is of high cultural heritage value because of its architectural details which include: 3 bay front elevation, centre entry with double doors, metal cresting on roof, one-storey porch, thistle keystones, front gable with decorative vergeboard, bay window with metal cresting, decorative brackets under the eaves. This building is extremely well preserved and is characterized by many architectural details and original features which exemplify excellent craftsmanship.

[20] Ms. Minichillo testified that the Brampton Heritage Board accepted the Summary Report in March 2008 and revised the property listing on the City of Brampton Register of Heritage Resources, reclassifying the property from “B” to “A” (Exhibit 4, Tab 3B, page 21).

[21] Ms. Minichillo indicated that in 2014, the City retained the Heritage Resources Centre at the University of Waterloo to prepare a heritage report on the property. This report formed the basis for her report to Council recommending designation (Exhibit 4, Tab 6, page 40).

[22] Ms. Minichillo’s report provides an extensive list of heritage attributes that contribute to design/physical value. It indicates that the property has historical/associative value because it was built for Hugh Clark *circa* 1875, is associated with Margaret Wegenast, wife of former Brampton Mayor Franklin Wegenast, and “May be linked to the Dale Estate through George Wilson”. Ms. Minichillo testified to the contrary that research conducted by the City and its consultants was not conclusive on whether the George Wilson associated with the property was the same George Wilson who was manager of potted roses at the Dale Estate, a rose-growing business that was one of Brampton’s most significant industries. The report indicates that the property has contextual value because it contributes to the character of William Street, Downtown Brampton and the surrounding neighbourhood; and it is located next to 18 William Street, a listed heritage resource. The Brampton Heritage Board received Ms. Minichillo’s report and directed staff to proceed with designation of the property (Exhibit 4, Tab 7A, page 66).

[23] Ms. Minichillo first testified that the house on the property was built *circa* 1875, based on information provided in the 1986 and 1993 to 1995 evaluations. She later revised this to *circa* 1880, on the basis of the Unterman McPhail 2001 evaluation, which stated that Hugh Clark purchased the land in 1882 and the house “appears to have been built in the 1880s.”

[24] Ms. Minichillo produced evidence to support the association of certain persons with the property and their significance in the community: research notes and census regarding Hugh Clark and Wylie Clark’s association with the property in 1887, 1893, 1897 and 1901; a 1953 publication indicating that Hugh Clark was a founding director of a Brampton company incorporated in 1880; copies of the 1895 marriage registration and 1941 obituary for Rev. Wylie C. Clark; a 1903 article noting Wylie Clark’s election as moderator for the Toronto Presbytery of the Presbyterian Church; and a 1938 obituary for Eliza Switzer, indicating that her funeral would be held at her home at 22 William Street.

[25] Ms. Minichillo authored two documents: “Stylistic Elements of 22 William St. House” and “Italianate Style” (Exhibit 4, Tab 9, pages 70-74). In the first document, she provides quotations from various architectural style publications regarding typical elements of the Italianate style that are relevant to 22 William Street. The second document provides graphic representations of Italianate style houses and Second Empire style houses and compares these to the features found on the house at 22 William Street. Ms. Minichillo’s opinion is that the house at 22 William Street exhibits features belonging to both the Italianate style and the Second Empire style. She stated: “It is one of those buildings that eludes interpretation.” In her opinion, this blending of two styles is not unusual for the time period: “In my opinion it only enhances the beauty of the building and helps it to meet [O. Reg.] 9/06”.

[26] Ms. Minichillo also produced a spreadsheet document titled “Designation Register Analysis” (Exhibit 4, Tab 10, pages 75-77). It lists all designated houses on the City of Brampton Heritage Register that have been described as “Italianate style” or

“Second Empire style” and indicates which of them share the heritage attributes of the house at 22 William Street. It then provides a numerical analysis to confirm the rarity of those heritage attributes within the pool of designated Italianate or Second Empire houses. For example, no others have metal cresting or dogtooth brickwork, two (or 12.5%) have a front gable with vergeboard and one other (6.25%) has thistle keystones.

[27] Ms. Minichillo testified that, in her opinion, the property meets Criterion 1.i of O. Reg. 9/06 because it is a representative example of the Italianate style. Ms. Minichillo also testified that elements of the Second Empire style are present, but could be characterized more as “influences”, while the Italianate style is more dominant.

[28] Mr. Rea, for the City, submitted in closing that although all three criteria of O. Reg. 9/06 have been met, the strongest argument is in favour of the property’s design or physical value. Mr. Rea proposed that, in view of the evidence provided, it would be appropriate to add reference to the Second Empire style to the statement of cultural heritage value and attributes.

[29] In Ms. Minichillo’s opinion, the property also meets Criterion 1.i of O. Reg. 9/06 because the thistle keystones, the dogtooth brickwork and metal cresting are rare or unique examples of these features within Brampton.

[30] According to Ms. Minichillo the property meets Criterion 1.ii of O. Reg. 9/06 because all of the heritage attributes exhibit a high degree of craftsmanship and artistic merit: “The house is well-executed and has a lot of artistic merit”. These heritage attributes include: the rectangular plan; Italianate architectural style; two and a half storey brick residence; three bays; truncated hip roof; metal cresting on roof; front gable with decorative vergeboard; centred entry with double doors and transom; 2.5-storey bays; metal cresting on front bay; decorative dog-tooth brick work below windows on bays; decorative porch with carved fretwork, double columns and brackets; brackets under eaves; unusually shaped windows; brick voussoirs and thistle keystones.

[31] Ms. Minichillo testified that, in her opinion, the property meets Criterion 2.ii of O. Reg. 9/06 because it was built for farmer Hugh Clark at a time when the Town of Brampton was developing and growing. Ms. Minichillo initially testified that the house was built *circa* 1875 but later revised her opinion to confirm that because it was built for Hugh Clark, who acquired the property in 1882, the house was more likely to have been built *circa* 1880. In her opinion, Mr. Clark is not an important person in the history of Brampton, but his construction of the house on this property speaks to a trend of farmers retiring to build urban houses in Brampton.

[32] In Ms. Minichillo's opinion, the property also meets Criterion 2.ii of O. Reg. 9/06 because it is associated with Rev. Wylie Clark. She said that he is a significant person in the history of Brampton because of his role in the Presbyterian and United churches. She did not include this historical association in the Notice of Intent to Designate.

[33] Ms. Minichillo believes that the property may be linked to the Dale Estate, a flower-growing business which was so important to Brampton that all connections with that theme are considered municipally significant. However, because she is "not 100% certain that there is a physical connection between the property and the Dale Estate" she hesitates to say that the property is significant for that reason.

[34] In Ms. Minichillo's opinion, the property meets Criterion 3.i of O. Reg. 9/06 because it contributes to the character of William Street, Downtown Brampton and the surrounding neighbourhood. The 2001 Unterman McPhail report gave the property a grade of "very good" for "Historical Significance: Trend/theme" noting that it "established [the] town: 1880-1920". The 2001 report also gave the property a grade of "good" for "Contextual Significance: Streetscape/setting", noting it was located in a "19th century residential area, mixed size, materials, park to east".

[35] Ms. Minichillo believes that the property meets Criterion 3.ii of O. Reg. 9/06 because it is physically, visually and historically linked to its surroundings; it is located next to 18 William Street, a listed heritage resource built in an Edwardian style.

ANALYSIS

[36] The essence of the Konrads' objection is that they do not wish to have their property designated, as: (1) they believe that designation will adversely affect their financial interests, and (2) they believe they should have autonomy over their property.

[37] In their objection letter dated August 1, 2015, the Konrads expressed concerns about the high cost of repairing items (windows and bricks) to their original state and a concern that more affordable repair options would not be allowed if the house were designated. In their January 9, 2017 letter to the Review Board, the Konrads noted that they bought their house as an ordinary residential property and not as a heritage house. They indicated that they should not be told what they can do with their house and property. They also stated that the designation process has been upsetting to them and has a negative impact on their lives. They concluded by stating that they do not agree with the property designation and would not discuss the matter anymore.

[38] At the hearing, the City took the position that the Konrads' objection to the proposed designation failed to include any reasons that were relevant to the Review Board's considerations in this proceeding. In particular, the City relied on the cases of *Tremblay v. Lakeshore (Town)*, 2003 CanLII 6354 at paras. 23-24 and 26-27 (Ont. Div. Ct.) and *Trothen v. Sarnia (City)*, 2016 CanLII 29998 at paras. 56-57 (Ont. Cons. Rev. Bd.).

[39] The Review Board agrees with the City's submission that the consent of the owner is not required by the municipality seeking to designate a property under the *OHA*. This was clearly stated by the Divisional Court in *Tremblay*, at paras. 23-34 (citations omitted):

Requiring the consent of the owner is not consistent with an overall reading of the Act or its purpose. Indeed, the Act contemplates notice to the owner, possible objections, and a hearing process.

The object of the Act is the conservation and protection of the heritage of Ontario. This may interfere with individual property rights. Accordingly, in requiring the consent of the owner as a pre-condition to designation, the Town placed an unreasonable obstacle on its own discretionary powers thereby fettering its discretion and aborting the process intended by the Act.

[40] The Divisional Court in *Tremblay* added, at paras. 26-27:

The Town imposed a condition contrary to the intent of the legislation. By imposing a condition on the application that was not provided for at law, the Town aborted the decision-making process. The owner's consent is not a pre-condition. Indeed, one can think of a variety of situations where the owner would not want the heritage designation.

The Town argues that Council's resolution was reasonable in light of the entire context of the Act: namely, that the owner can ultimately demolish the building notwithstanding the previous designation. However, reading the Act as a whole discloses an assumption that the owner may not consent. Moreover, the very purpose of the Act must be to balance the interests of the public, the community and the owner. This balancing would not be necessary if the owner's consent were a precondition.

[41] The Review Board finds that the overall approach of the *OHA*, as explained in *Tremblay*, continues to apply to the current version of the *OHA* despite legislative changes since the Divisional Court's decision. In particular, consent by the owner is not a requirement for a designation by-law.

[42] As noted by the City, the *Tremblay* decision has been most recently considered by the Review Board in a case involving the proposed repeal of a designation by-law. In *Trothen*, at para. 57, the Review Board noted:

The Review Board in *Armstrong, supra*, and the Divisional Court in the *Tremblay* decision make it clear that the object of the *OHA* is to conserve and protect the heritage of Ontario and there may be, as a consequence, an infringement of an owner's property rights and the economic interests that naturally arise therefrom. The Ontario Legislature, however, chose not to include the economic interests of the owner as a criterion in evaluating and protecting Ontario's heritage. It could easily have done so. The Review Board finds that economic factors, including the financial cost of maintaining and repairing the Property are not relevant in determining whether the by-law should be repealed. Maintenance and repair of a property are required by the City's property standards by-law, and are not specific to properties with cultural heritage value or interest. Nevertheless, the Review Board notes that Mr. Ayers is in the position of

being eligible for the City's tax rebate and cost-sharing program for designated properties. As he was able to do with the former provincial grant program, Mr. Ayers might be able to offset some of his costs through this new City program.

[43] While the City acknowledges that the above passage from *Trothen* involves a proposed repeal of a designation by-law, it argues that the Review Board's analysis applies equally to cases involving proposed designations.

[44] Paragraph 57 of *Trothen* refers to *Tremblay* as well as to another recent Review Board case (*Armstrong v. Goderich (Town)*, 2016 CanLII 27018) involving a proposed repeal. In *Armstrong*, at para. 60, the Review Board noted:

To permit an owner's wishes to automatically trump heritage considerations would run counter to the object of the *OHA* and render designation a purely voluntary approach by allowing what would effectively be automatic de-designation whenever an owner makes a request under s. 32.

[45] The Review Board finds that the above aspects of *Trothen* and *Armstrong* also apply to proposed designations under s. 29 and not just to proposed repeals under s. 32.

[46] While the City takes the formal view that the Konrads' objections are not relevant to a determination of cultural heritage value or interest, it does attempt to address the substance of their concerns. Ms. Minichillo, in her "Evidence Outline" (Exhibit 5), states that City heritage staff "wish to provide clarity and to acknowledge the property owners' thoughts on the matter". While recognizing that the Konrads' reasons for objection "do not contest the heritage value of the property", she goes on to provide input that may be of some assistance to the Konrads. For example, similar to para. 57 of *Trothen*, Ms. Minichillo refers to the possibility of the Konrads obtaining a heritage incentive grant. She mentions that repair work could be undertaken in phases to decrease financial hardship. She also notes that the City would be willing to consider the remainder of the house differently from the front façade in terms of proposed repairs. The Review Board

encourages the Konrads and Ms. Minichillo to discuss these matters further with a view towards working together to address their interests.

[47] While the Review Board is cognizant of the owners' lack of consent to the proposed designation in this case and the fact that designation by-laws may have financial or other consequences on them as owners, the Review Board is guided by the purposes of the *OHA* and the specific criteria in O. Reg. 9/06 in providing its recommendations under s. 29(12) of the *OHA*. The owners' objections, based on their lack of consent to the proposed designation and their concerns about financial or other impacts, are not relevant to the O. Reg. 9/06 criteria. Therefore, the Review Board now turns to its analysis of the evidence and submissions relevant to the O. Reg. 9/06 criteria.

[48] With respect to the design or physical value of the property, the City contends that the property meets Criterion 1.i of O. Reg. 9/06 because it is a representative example of the Italianate style, and because it also exhibits elements of the Second Empire style. The Review Board is satisfied that the evidence submitted through Ms. Minichillo's testimony supports a conclusion that the property includes elements typical of the Italianate style and can be considered representative. Italianate elements identified in Ms. Minichillo's documents "Stylistic Elements of 22 William St. House" and "Italianate Style" include the following features of the house at 22 William Street: the tall, narrow, paired, segmentally-arched windows; the moulded thistle keystone; the symmetrical façade; the truncated, hipped roof with metal cresting; the decorated bay windows; the wooden porch with ornate brackets and paired columns, and the paneled double doors. The Review Board notes that some elements typical of other styles are present at the site, either introduced contemporaneously or subsequently, but does not consider that these elements are sufficient to conclude that the property is representative of a second style.

[49] The City submits that the property also meets Criterion 1.i of O. Reg. 9/06 because it is a rare or unique example of a material or construction method, referencing

the thistle keystones, the dogtooth brickwork and the metal cresting on the front bay and roof. The Review Board accepts the City's numerical analysis that these features are unique or rare among other Italianate-style houses in Brampton. In evaluating rarity or uniqueness for the purpose of Criterion 1.i, the Review Board considers that it is appropriate in this case to restrict the geographic scope of examination to the City of Brampton.

[50] With respect to Criterion 1.ii, the City submits that the property exhibits a high degree of craftsmanship and artistic merit because it is well-executed and all of its heritage attributes exhibit a high degree of craftsmanship and artistic merit. The attributes listed by the City include all aspects of the exterior of the house, including its style, proportions, design components and decorative elements. In the absence of more detailed evidence as to how the overall house was designed and crafted, the Review Board finds that craftsmanship and artistic merit should be limited to elements exhibiting craftsmanship or artistic design, such as: the metal cresting, the brickwork including dogtooth patterning and voussoirs, the thistle-design keystones, the segmentally-arched wood windows, and the wooden porch with its fretwork, columns and brackets.

[51] With respect to the historical and associative value of the property, the City asserted in the Notice of Intent to Designate that the property meets Criterion 2.i of O. Reg. 9/06 through its association with Hugh Clark, Margaret Wegenast, and George Wilson. During the hearing, Ms. Minichillo added Wylie Clark and Eliza Switzer to this list. The Review Board finds that none of these people meets the two-part requirement set out in Criterion 2.i. because the property must have "direct associations" with the person, and the person must be "significant to a community".

[52] The Review Board accepts Ms. Minichillo's evidence that the property has a direct association with Hugh Clark: he acquired the property in 1880 and built the house *circa* 1880. However, the evidence that Hugh Clark was a founding director of a Brampton company is not sufficient to conclude that he was "significant to a community".

[53] The Review Board considers that the evidence linking Rev. Wylie Clark to the property is not sufficient in character or duration to constitute a “direct association”. He lived at the house in 1897 but did not own it; within a few years he lived elsewhere. He was not living at the property at the time that he was working in the community as a minister and moderator.

[54] The Review Board accepts Ms. Minichillo’s evidence that George Wilson owned the property from 1911 to 1927. However, Ms. Minichillo could not confirm that this was the same George Wilson who was in charge of potted roses at the nearby Dale Estate; in her opinion any association with the Dale Estate would be considered significant, given the importance of that business in Brampton’s history. Given the common nature of the name, and in the absence of other evidence, the Review Board agrees with Ms. Minichillo and finds that it has not been demonstrated that the George Wilson who owned the property from 1911 to 1927 was significant to the community.

[55] The City submitted evidence that Margaret Wegenast owned the property from 1906 to 1911 and that she was wife of the mayor Franklin Wegenast. In the absence of further evidence as to her roles in relation to the property or the community, the Review Board finds that neither a direct association nor significance to the community has been established.

[56] The City submitted evidence that Eliza Switzer lived at the property from 1927 to 1938 and that her funeral was held at the house. No evidence was provided to support her significance to the community.

[57] With respect to the contextual value of the property, the City submits that the property meets Criterion 3.i. of O. Reg. 9/06 “because it contributes to the character of William Street, Downtown Brampton and the surrounding neighbourhood”. The Review Board notes that the test set out in O. Reg. 9/06 is whether the property “is important in defining, maintaining or supporting the character of an area.” In this case, the only evidence as to the character of the area was a notation in the 2001 evaluation noting

that it was located in a “19th century residential area, mixed size, materials, park to east.” The Board finds that this is not sufficient information to understand the current character of the area, or to make a determination as to whether the property is important in defining, maintaining or supporting that character.

[58] The City submits that the property meets Criterion 3.ii of O. Reg. 9/06 because it is physically, visually and historically linked to its surroundings, namely the adjacent listed heritage resource at 18 William Street, built in an “Edwardian style”. Beyond their being adjacent houses that are both listed on the municipal heritage register, no evidence was provided to support the assertion that they share a link. In the circumstances, the Review Board does not find that a link has been established for the purposes of Criterion 3.ii.

SUMMARY AND RECOMMENDATIONS

[59] In making a recommendation for designation, it is sufficient for a property to meet one or more of the criteria in O. Reg. 9/06. Having considered the evidence and submissions at the hearing, and for the reasons set out above, the Review Board finds that the property meets Criteria 1(2)1.i and ii of O. Reg. 9/06 under the *OHA* and recommends that it should be designated as having cultural heritage value or interest because of its design or physical value.

“Jerry V. DeMarco”

JERRY V. DEMARCO
ASSOCIATE CHAIR

“Laurie Smith”

LAURIE SMITH
MEMBER

Appendix 1 – Exhibits List

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Conservation Review Board

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

Appendix 1**Exhibits List**

Exhibit #	Nature of Exhibit and description	Filed By:
1	Declaration of Service of Notice of Hearing on the parties and directions for publication.	Conservation Review Board
2	Affidavit of Service: Notice of public hearing.	City of Brampton
3	Letter from George and Lida Konrad to the Review Board, dated 9 January 2017.	Owners/Objectors
4	Document Book prepared by the City of Brampton.	City of Brampton
5	"Evidence Outline – 22 William Street" document prepared by the City of Brampton.	City of Brampton
6	Clear copy of Plan No. BR24, submitted by the City of Brampton.	City of Brampton