

Conservation Review Board
Commission des biens culturels



ISSUE DATE: July 31, 2018

CASE NO.: CRB1725

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

Owner/Objector:	Estate of Vivien R. White
Subject:	Notice of Intention to Designate (Harris-White House)
Property Address:	33 Murray Avenue
Legal Description:	PLAN 3932, PT LOT 14
Municipality:	City of Toronto
CRB Case No.:	CRB1725
CRB Case Name:	White Estate v. Toronto (City)

Heard: July 4, 2017 by telephone conference call

APPEARANCES:

Parties

Counsel*/Representative

Estate of Vivien R. White

Sheila White

City of Toronto

Cigdem Iltan*

ORDER OF THE BOARD DELIVERED BY DANIEL NELSON AND ROBERT V. WRIGHT

BACKGROUND

[1] This is a procedural order of the Conservation Review Board (“Review Board”) arising from a pre-hearing conference (“PHC”) in respect of an objection by the Estate of Vivien R. White to a Notice of Intention to Designate the property at 33 Murray Avenue in the City of Toronto, Ontario (the “property”).

ORDER*Organization/Conduct of the Hearing*

[2] The hearing will take place on September 27 and 28, 2018 at 10:00 a.m. in Room 12-4, 12th Floor, 655 Bay Street, Toronto, in the municipality of Toronto. The hearing will be open to the public and public notice will be published. A site visit will take place at 9 a.m. on September 27, 2018 with the parties in attendance. No adjournments will be granted before or during the hearing except in accordance with the Review Board's *Rules of Practice and Procedure* ("Rules").

[3] The parties are:

- The City of Toronto; and
- The Estate of the Late Vivien R. White

[4] A party may attend or participate in a proceeding in person, with a representative, or may send a representative to attend in place of the party. A representative or party shall file, upon request of the Review Board, Form 1, Representative of a Party – Commencement of Authorization, which can be found in Appendix A to the Rules, if they have not already done so.

[5] If a party fails to appear at the hearing without giving notice to the Review Board and all parties in advance and/or does so without reasonable cause, the Review Board has the discretion under the *Statutory Powers Procedure Act* to proceed with the hearing in their absence.

[6] The issues are whether:

- the property has lost heritage value due to alterations and additions to the building;
- the property has no heritage significance because farmer John Harris was not important to the community; and

- the property has no contextual value as it relates to the neighbourhood.

[7] The issue raised by the owner regarding the owner/objector's consent to the heritage designation, and whether there was a misunderstanding or miscommunication that the heritage designation was the only way to preserve the trees on the site, may or may not be a relevant issue at the hearing. That will depend upon the evidence at the hearing, and whether this is relevant to the considerations under Ontario Regulation 9/06 ("O. Reg. 9/06")

[8] The owner/objector intends to call two to three witnesses; and the municipality intends to call one witness.

[9] At the hearing, subject to the discretion and direction of the Review Board hearing panel:

- a) each party is entitled to make a short oral opening statement;
- b) in respect of each witness, the examination-in-chief by a party will be followed by cross-examination by the other party, and then re-examination by the party calling the witness originally;
- c) each party may make a short oral closing argument, and may also provide brief written submissions; and
- d) each participant may make a short statement and may be subject to cross-examination.

Witnesses, Document Exchange and Expert Evidence

[10] By September 6, 2018, the following items are to be served on every other party and filed with the Review Board:

- a list of intended witnesses, witness statements, and the order in which they will be called. In addition, in respect of expert witnesses the name, address and qualifications of each expert, and copies of the expert's report(s) and all documents to which the expert will refer;

- an Agreed Statement of Facts, where applicable; and
- copies of all other documentary and other evidence that the party will refer to, or tender as evidence, at the hearing.

[11] The materials are to be exchanged between all parties and two paper copies are to be provided to the Review Board, as well as an electronic copy.

[12] Any intended evidence, including documents, not disclosed within the timeframe set out above, may not be used as evidence at the hearing unless the Review Board directs otherwise. Where a witness statement or expert report has not been provided by the required date, the witness may not give evidence at the hearing unless the Review Board directs otherwise.

[13] It is not necessary for any party to replicate in disclosure materials the following standard sources:

- The *Ontario Heritage Act* or any other Ontario legislation freely available from www.ontario.ca/laws;
- O. Reg. 9/06;
- Parks Canada's Standards and Guidelines for the Conservation of Historic Places in Canada;
- Ontario's Provincial Policy Statement;
- The Ontario Heritage Toolkit; and
- Any caselaw, including the Review Board decisions, freely available on www.canlii.org.

Expert Witnesses and Evidence

[14] An expert witness who is providing opinion evidence must execute the Acknowledgement of Expert's Duty form prior to or at the hearing.

[15] An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the

hearing. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Review Board may refuse to hear the expert's testimony.

[16] Expert witnesses who are under summons, but not paid to produce a report, do not have to file an expert witness report; but the party calling them must file a brief outline of the intended evidence of the expert.

[17] The Review Board may vary or add to this Order at any time, either on request of a party or as it sees fit.

"Daniel Nelson"

DANIEL NELSON
MEMBER

"Robert V. Wright"

ROBERT V. WRIGHT
VICE-CHAIR

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