

Conservation Review Board
Commission des biens culturels



ISSUE DATE: January 14, 2020

CASE NO.: CRB1914

PROCEEDING COMMENCED UNDER subsection 31(5) of the *Ontario Heritage Act*, R.S.O. 1990, c.O.18, as amended

Objectors: Rick Ferron, David Vida
Owner: The Corporation of the City of Niagara Falls
Subject: Proposed Repeal of Designation By-law No. 2010-90
Property Address: 7565 Lundy's Lane (Former Parks, Recreation & Culture Building)
Legal Description: PT TWP LT 132 Stamford as in ST51544, ST23564, ST22849 & ST21927 Except RO180983 & PT 1, 59R594
Municipality: City of Niagara Falls
CRB Case No.: CRB1914
CRB Case Name: Ferron v. Niagara Falls (City)

Heard: December 4, 2019 by telephone conference call

APPEARANCES:

Parties

Counsel

Rick Ferron, David Vida

Self-represented

City of Niagara Falls

Donna Jaques

ORDER OF THE BOARD DELIVERED BY MARCIA VALIANTE

Background

[1] This is a procedural order of the Conservation Review Board (“Review Board”) arising from a pre-hearing conference (“PHC”) held on December 4, 2019 in respect of objections by Rick Ferron and David Vida to a Notice of Intention to Repeal Designating By-law No. 2010-90 for the property at 7565 Lundy’s Lane in Niagara Falls, Ontario (the “property”). The property is owned by the City of Niagara Falls (“City”).

Organization/Conduct of the Hearing

[2] The hearing will take place on **May 21 and 22, 2020 at 10 a.m. in the Council Chambers, Niagara Falls City Hall, 4310 Queen Street, Niagara Falls, Ontario**. The hearing will be open to the public and public notice will be published. A site visit will take place at **9:30 a.m. on May 21, 2020** 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 to the hearing are:

- Rick Ferron;
- David Vida; and
- City of Niagara Falls.

[4] No persons requested participant status at the PHC.

[5] 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.

[6] If a party fails to appear at the hearing without giving notice to the Review Board and to 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 that party's absence.

[7] The issues for the hearing are whether the property continues to be of cultural heritage value or interest and, in particular, whether the heritage attributes of the property as set out in Designating By-law No. 2010-90 remain.

[8] The Objector Mr. Ferron intends to call two witnesses; the Objector Mr. Vida intends to call two to three witnesses; and the City intends to call one to two witnesses.

Requirements for the Hearing: Witnesses, Document Exchange and Expert Evidence

[9] By May 7, 2020, the following items are to be served on every other party and filed with the Review Board:

- a list of intended witnesses and the order in which they will be called;
- a list of intended expert witnesses and the order in which they will be called. In addition, 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;
- witness statements for all intended witnesses;
- an Agreed Statement of Facts; and
- copies of all other documentary and other evidence that the party will refer to, or tender as evidence, at the hearing.

[10] 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. Paper copies should be paginated, with tab markers, and colour images, where appropriate.

[11] 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.

Expert Witnesses and Evidence

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

[13] 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.

[14] The Review Board may vary or add to this Order at any time, either on request or as it sees fit, and may do so by an oral ruling or in writing.

"Marcia Valiante"

MARCIA VALIANTE
MEMBER

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 Tribunals Ontario - Environment and Land Division
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