



**CITY OF KINGSTON**  
**INFORMATION REPORT TO KINGSTON MUNICIPAL**  
**HERITAGE COMMITTEE**

Report No.: KMHC-10-010

**AMTO:** Chair, KMHC  
**FROM:** Cynthia Beach, Commissioner, Sustainability and Growth Group  
**RESOURCE STAFF:** George Wallace, Director, Planning and Development Department  
**DATE OF MEETING:** 2010-07-05  
**SUBJECT:** Properties of Culture Heritage Value (Listed Properties) and Information Requirements under the *Ontario Heritage Act*

**EXECUTIVE SUMMARY:**

This report has been prepared in response to a request from the Kingston Municipal Heritage Committee for clarification concerning the ability to substitute consultation with KMHC for a Heritage Impact Statement requirement as identified in Report to Kingston Municipal Heritage Committee # KMHC-10-004 (Addition of Properties of Cultural Heritage Value ('Listed' Properties) to the City of Kingston Heritage Properties Register), and respond to questions concerning the reliability of Heritage Impact Statements.

**RECOMMENDATIONS:**

This report is for information only.

**AUTHORIZING SIGNATURES:**

<u>ORIGINAL SIGNED BY COMMISSIONER</u> Cynthia Beach, P.Eng, MCIP, RPP, Commissioner, Sustainability & Growth Group
<u>ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER</u> Gerard Hunt, Chief Administrative Officer

**CONSULTATION WITH THE FOLLOWING COMMISSIONERS:**

Terry Willing, <i>Community Development Services</i>	N/R
Denis Leger, <i>Corporate Services</i>	N/R
Jim Keech, <i>President and CEO, Utilities Kingston</i>	N/R

*(N/R indicates consultation not required)*

**OPTIONS/DISCUSSION:**

This report has been developed to provide a response to a request from Kingston Municipal Heritage Committee for clarification concerning the ability to substitute consultation with the Committee for a Heritage Impact Statement (HIS) requirement identified in Report to Kingston Municipal Heritage Committee # KMHC-10-004 (Addition of Properties of Cultural Heritage Value ('Listed' Properties) to the City of Kingston Heritage Properties Register), and to respond to questions concerning the reliability of Heritage Impact Statements. This report has been prepared following a review of the relevant heritage legislation and policy, including the *Ontario Heritage Act* and the Official Plan of the City of Kingston (2010).

In Report #KMHC-10-004, the following clause was recommended:

“ AND THAT any notice to demolish or remove a building or structure located upon real property listed on the City's Heritage Properties Register as a property of cultural heritage value or interest, or the demolition or removal of a structural element (such as a wall or roof) on a piece of real property listed on the City's Heritage Properties Register as a property of cultural heritage value or interest, be accompanied by a Heritage Impact Statement prepared in accordance with the City's requirements.”

The question was raised whether consultation with the Heritage Committee was a possible alternative to this requirement. A further question was raised concerning the reliability of proponent initiated Heritage Impact Statements. The following information is provided in response to these questions:

- 1) Provisions already exist for Heritage Impact Statements within the Official Plan. These provisions are found under Section 7.1.7; 7.1.8; and 7.19 of the Official Plan. Heritage Impact Statements may be required, when appropriate, for the demolition of heritage property and cannot be replaced by other processes. The Official Plan for the City of Kingston, which was adopted by Council, also states what material is required in support of a demolition application.
- 2) Council does not approve the demolition of properties listed in the Register of Heritage Properties under Section 27 of the *Ontario Heritage Act*. The owner of the property is only required to provide 60 days notice, during which time Council, in consultation with its Municipal Heritage Committee, can determine whether it wishes to trigger designation by serving a Notice of Intention to Designate under s. 29 of the *Ontario Heritage Act*.
- 3) Consultation with a Municipal Heritage Committee is already provided for 'listed' properties under s. 27 (1.3) of the *Ontario Heritage Act*. It occurs at the time of addition of a property to the register and not at other points in the process.
- 4) Including Municipal Heritage Committee consultation for alterations and/or demolitions would not be consistent with the requirements of the *Ontario Heritage Act*. Section 27(5) indicates that Council can require 'plans' and 'information' to accompany notice of a demolition of a listed property. It does not provide for a further round of heritage committee consultation as it does, for example, at the time of 'listing' under s.27(1.3) or in relation to an application for alteration of a designated property under s. 33(4).
- 5) Requiring owner submitted impact assessments is a widely accepted practice when permits or approvals are issued by municipalities. Other examples where proponents pay consultants to prepare reports in support of their submissions include, but are not limited to, *Environmental Assessment Act* assessments, planning rationales, ground water assessments, engineering reports, and archaeological assessments. In relation to Heritage Impact Statements, the standards required are consistent and established by requiring that the professional preparing the document is an independent professional architect, professional heritage planner, and/or member of the Canadian Association of Heritage Professionals, all of which are governed by a professional code of conduct.
- 6) Heritage Impact Statements form a solid basis for decision making. Like any other professionally prepared study requested by the City, they can be made subject to peer review when appropriate. They also form part of the evidentiary basis for a decision of the Council where that decision may be appealed to an administrative tribunal.

At the time of 'listing' in accordance with s. 27(1.1)(c) of the *Ontario Heritage Act*, the Heritage Committee should ensure that the statement of cultural heritage value for the property is sufficient. The *Ontario Heritage Act* contemplates that this statement shall be relied upon by a municipality in its considerations arising from a notice of the owner's intention to demolish. Given the

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short 60 day notice period provided for under the Act compared to the processes provided for designated properties, it is anticipated that such heritage value will be established as part of the 'listing' of the property on a municipality's Heritage Properties Register.

**EXISTING POLICY/BY LAW:**

*Ontario Heritage Act*, R.S.O. 1990, c. O.18. (Ontario)  
Adopted Official Plan the City of Kingston (City of Kingston)

**NOTICE PROVISIONS:**

N/A

**ACCESSIBILITY CONSIDERATIONS:**

Alternative formats of this report are available on request.

**FINANCIAL CONSIDERATIONS:**

N/A

**CONTACTS:**

George Wallace, Director, Planning and Development Department  
Marnie Venditti, Manager, Planning and Development Department  
Marcus Létourneau, Heritage Planner, Planning and Development Department

613-546-4291, ext. 3252  
613-546-4291, ext. 3256  
613-546-4291, ext. 1386

**OTHER CITY OF KINGSTON STAFF CONSULTED:**

Alan McLeod, Senior Legal Counsel, Legal Services, Corporate Services Group

**EXHIBITS ATTACHED:**

N/A