



# The Corporation of the Town of Milton

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Report To: Council

From: Jill Hogan, Commissioner, Development Services

Date: September 12, 2022

Report No: DS-109-22

Subject: Recommendation Report \_Objections to the Designation of 111 Mary Street (Edwin Earl House)

Recommendation: **THAT Report DS-109-22, be APPROVED ;**  
**THAT Council affirms its decision of June 20, 2022 (Item 8.d), stating its intention to designate the property at 111 Mary Street under Part IV, Section 29 of the Ontario Heritage Act;**  
**THAT if there is an appeal to the Ontario Land Tribunal (OLT), Council directs Staff to take any necessary action to participate in the hearing;**  
**AND FURTHER THAT Council authorizes the Commissioner, Development Services to retain the necessary legal and technical resources to defend Council's decision in accordance with all applicable Town policies and procedures.**

## EXECUTIVE SUMMARY

The Town has received a letter of objection to the Notice of Intention to Designate for 111 Mary Street from the property owner within the statutory timeline of 30 days.

Staff has reviewed the objections raised by the owner and is of the opinion that despite these objections, the properties meet Ontario Regulation 9/06, the criteria prescribed for municipal designation under Part IV, Section 29 of the Ontario Heritage Act under all three categories of design and physical, historical and associative and contextual values as per the Heritage Impact Assessment (HIA) recommendations.

Designation will enable Council to review proposed alterations for the property, enforce heritage property standards and maintenance, and refuse demolition.

## REPORT

### Background

## Background

On June 20, 2022, Council approved the Notice of Intention to Designate (NOID) 111 Mary Street as outlined in Section 29 (4) of the Ontario Heritage Act. The NOID for the property was served on the Owner and the Ontario Heritage Trust on July 28, 2022. In accordance with Section 29 of the Ontario Heritage Act, the notice was published in a newspaper on July 21, 2022.

In accordance with clause 29(5) of the Heritage Act, a person who objects to a proposed designation shall, within thirty days after the date of publication of the notice of intention, serve the clerk of the municipality a notice of objection setting out the reason for the objection and all relevant facts.

The 30-day period of objection ended on August 20, 2022. The Town Clerk received a letter of objection from the property owner on August 19, 2022. The letter is appended to this report as Appendix 'A'.

The letter of objection from the owners, Andrew and Caroline Kocher, stated that the decision to designate their property *"severely restricts our ability to deal with our property. Aside from that, we have been mindful stewards of the historical integrity of the property and have no intention of compromising the valuable historical characteristics of the structure. The staff recommendation fails to consider the lengthy term of ownership during which our family has had care and custody of the property."*

## Discussion

According to the Heritage Act Section 29, when a letter of objection for designation is received within 30 days of the NOID, Council will have 90 days to:

1. Withdraw the NOID and serve a notice of withdrawal to:

- The Property owner
- Any other people who objected
- Ontario Heritage Trust
- Published in the newspaper

OR,

2. Proceed with the designation within 120 days of the NOID and serve a copy of the by-law to:

- The Property owner
- Any other people who objected
- Ontario Heritage Trust



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## Discussion

If Council proceeds with (2) the designation by-law, the owner can appeal to the Ontario Land Tribunal (OLT) for a final decision.

If Council fails to meet these timelines, the NOID is considered withdrawn, and Council will still need to issue the notice of withdrawal. However, for clarity, the deemed withdrawal of a NOID to designate a property under subsection (9) does not prevent the Council from giving a new notice of intent to designate the property.

In consideration of the reasons for objection, Staff is of the opinion that the reason provided did not justify why the property was not worthy of designation. On the contrary, the HIA (see Appendix 'B') fully supports the importance of designating this valuable listed heritage property.

Should Council proceed with the designation by-law despite any notice of objection, Clause 29(11) of the Heritage Act states that any person who objects to the proposed designation by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality notice within 30 days after the date of publication.

The Tribunal decision on the appeal will either support or override the Council decision on the proposed designation.

## Financial Impact

There is no financial impact associated with this report.

Respectfully submitted,

Jill Hogan  
Commissioner, Development Services

For questions, please contact:     Anthony Wong, Senior Policy Planner     Phone: Ext. 2565

## Attachments

Appendix 'A' Letter of Objection from Owner

Appendix 'B' heritage Impact Assessment for 111 Mary Street

Approved by CAO  
Andrew M. Siltala



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Chief Administrative Officer

## Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.