The Corporation of the City of Hamilton

BY-LAW NO. 77 -227

To Designate:

Municipal No. 46 Forest Avenue

As Property of:

HISTORIC AND ARCHITECTURAL VALUE AND INTEREST

WHEREAS The Conservation Review Board did hold a hearing pursuant to subsection 8 of section 29 of The Ontario Heritage Act, 1974, on Thursday, the 21st day of July, 1977 to determine whether the property located at No. 46 Forest Avenue should be designated to be of historic or architectural value or interest;

AND WHEREAS The Conservation Review Board did make a report dated the 21st day of July, 1977, wherein the Board found "that the City of Hamilton has acted in the best interests of the citizens of the community in giving notice of its intention to designate 46 Forest Avenue as a property of historical and architectural value and interest";

AND WHEREAS The Conservation Review Board recommended that 46 Forest Avenue be duly designated by by-law under the provisions of The Ontario Heritage Act, 1974;

AND WHEREAS it is desirable to designate 46 Forest Avenue in accordance with the recommendation of The Conservation Review Board.

NOW THEREFORE the Council of The Corporation of the City of Hamilton enacts as follows:

1. The Council herein adopts the report of The Conservation Review Board, dated the 21st day of July, 1977, annexed hereto as Schedule "A", as its reasons for designating the property referred to in section 2, under The Ontario Heritage Act, 1974.

2. The property municipally known as No. 46 Forest Avenue, situate on parts of Lots 204 and 205 of George Hamilton Survey, and more particularly described in Schedule "B" hereto annexed, is hereby designated as property of historic and architectural value and interest.

3. The City Solicitor is hereby authorized and directed to cause a copy of this by-law, together with reasons for designation to be registered against the property affected, in the proper registry office.

4. The City Clerk is hereby authorized and directed,

(i) to cause a copy of this by-law, together with reasons for the designation to be served on the owners and The Ontario Heritage Foundation;

(ii) to publish a notice of this by-law in a newspaper having general circulation in the Municipality of the City of Hamilton.

PASSED this 30th day of August A.D. 1977.

Deputy City Clerk

Mayor

CERTIFIED A TRUE COPY.
DEPUTY CITY CLERK

(1977) 6 R.B.C. 21, February 8

Ontario

Conservation
Review Board

Ministry of Culture and Recreatic
7th floor
77 Bloor Street West
Toronto, Ontario
M7A 2R9

RE: CITY OF HAMILTON - INTENTION TO DESIGNATE
46 FOREST AVENUE - HAMILTON, ONTARIO

Jack McNie, Chairman — July 21, 1977

HEARING pursuant to Section 29(8) of The Ontario Heritage Act, 1974, of the Notice of Intention given by the Council of the City of Hamilton to designate 46 Forest Avenue to be of historic or architectural value or interest.

P. M. EKER - for the City of Hamilton

A. WELLENREITER - for Western Oak Limited

R E P O R T

The Board attended at the City Hall of the City of Hamilton on Thursday, July 20, 1977. A public hearing was conducted in order to determine whether the subject property known as 46 Forest Avenue, Hamilton, should be designated under The Ontario Heritage Act, 1974, as being of historic or architectural interest or value.

Bill No. 229

This is Schedule "A" to By-law No. 77-227, passed on the 30th day of August A.D. 1977.

THE CORPORATION OF THE CITY OF HAMILTON

Deputy City Clerk

Mayor

Counsel for the City advised that all procedures stipulated by the statute with regard to the hearing had been satisfactorily complied with and submitted supporting copies of notices and affidavits..

With respect to ownership, it was noted that the registered Owners of 46 Forest Avenue are The Sisters of St. Jospeh of the Diocese of Hamilton. The equitable Owners under an agreement for purchase and sale, in possession of the property, are Western Oak Limited.

Counsel for the City called on a planner in the Planning Department of the regional municipality which provides planning services to the City of Hamilton. He stated in evidence that the premises at 46 Forest Avenue were composed of parts of lots number 204 and 205, George Hamilton Survey, and are subject to zoning By-law No. 77-85 approved by the Ontario Municipal Board June 8, 1977. According to the planner, the present zoning of E1 was changed by the above By-law from E3; the new zoning multidensity residential, permits conversion and some commercial uses; it waived certain yard and parking requirements; all buildings in the block bounded by John Street South, Forest Avenue, Charlton and Hughson South are under E1 except the church on John Street South; normally, the building footage of approximately 9,000 sq. ft. would

necessitate providing four parking spaces; all the buildings in the block are original residences which post-date the construction of 46 Forest Avenue, estimated at around 1840.

All seem to be used for commercial purposes and servicing neighbouring St. Joseph's Hospital.

The planner referred to the research function of his office and acknowledged he had been responsible for preparing the extract on Mr. Frederick J. Rastrick which described the historical importance of the premises. He noted that resources used included the available assessment rolls, street directories and the McMaster University Mills Library and Hamilton Reference Library.

Replying to Counsel for the Owner, the planner indicated that the exact date of construction was uncertain, as 1853 was the oldest assessment rolls they could find; that it was dubious that Rastrick designed the building inasmuch as he did not arrive in Hamilton apparently until 1858.

The planning department is only aware of two known existing buildings in which Rastrick was involved as architect; the Customs House on Stewart Street and the building known as the "Castle" at the south-west corner of James and Duke Streets.

An obituary from The Spectator of September 18, 1897, was submitted as an exhibit, together with an excerpt from a book entitled "Canadian Album: Men of Canade" which the planner felt underlined the importance of Mr. Rastrick's contribution to the community.

A further exhibit entered by the planner was "Architectural Review and Evaluation", a report prepared for the City of Hamilton by Dr. Anthony Adamson in December, 1973, which dealt with a number of neighbourhoods in Hamilton. Specifically noted was the high category rating given to the 46 Forest Avenue property for its architectural merit.

The Counsel for the Owner expressed his dismay that this information had not earlier been made available to Owners whose properties were listed in the report and indicated he had experienced some difficulty getting it, also noting that a similar list of Toronto properties had been openly circulated in Toronto. The Chairman agreed that such a step would be useful and fair and recommended it to the City.

A photograph of the premises taken last year was introduced for identification purposes.

The Counsel for the City stated that the designation was intended to cover both exterior and interior of the premises but agreed that this should be made clearer in future.

There was considerable discussion between the two parties with respect to the way in which, and reasons for which, properties were designated and the effect of a designation on renovation and addition. The planner, under questioning, admitted that because of shortage of staff, attention was usually given to properties which seemed to be in danger of demolition. He noted that it was real estate signs of a company involved in land assembly and development on the various properties in the block embracing the 46 Forest Avenue property which had prompted the City and the Local Architectural Conservation Advisory Committee action. The Counsel for the Owner noted that Western Oak had not had any dealings with the said real estate firm.

The planner said he could not commit the planning department; however, he felt that in the event an addition was put on to the building, the designation might help the Owner to get the present parking requirements eased, noting that there were precedents for it.

Counsel for the Owner argued that there is no incentive under the present assessment regulations for Owners to spend the considerable amounts involved in authentically restoring buildings. However, the planner

noted that under the Act the City had the right to make special support arrangements if it chose to.

Counsel for the City next called on a witness whom all agreed was highly qualified to give evidence on the architectural merit of the building.

He observed that he had not previously seen a building which has been as successfully recycled for residential or commercial use as this one and suggested that the City would do well to recognize these contributions and abilities. In particular, he suggested the experience could be of value to the Local Architectural Conservation Advisory Committee.

Generally speaking, the building is of considerable architectural excellence and of great importance to Hamilton's heritage. Noting that he was only expressing a personal opinion, he indicated that the building might well be regarded by the provincial authorities as a building of "provincial merit", noting that the earliest similar building in Toronto was erected some ten years later. The building is of general rennaissance design with some fine classical Greek detailing. It is well-scaled, square in plan, two storeys in height, and is constructed of limestone with an aslar facade.

The interior was surprisingly well preserved and had been faithfully restored in important respects. In particular, he referred to the staircase.

The witness urged that the City approach these unique premises in a spirit of full co-operation and not let stringent By-law requirements inhibit the reasonable use and expansion of the building.

Because the building itself is such a well proportioned classical building, it is impossible to add an addition in complete harmony, but that should not preclude satisfactory design which does not detract from the main building. He felt an addition could be handled readily by either an unobtrusive structure of the same materials or one of entirely dissimilar materials.

The witness suggested the City, acting upon legal advice, might want to try frame a By-law to designate the property in such a way that the building and front of the property would be described separately to provide for appropriate architectural design controls of any expansion in the remaining area to the east of the building.

The Owner was called by Counsel. She referred to the extensive renovations commenced and largely completed before the designation was made, noting that they could

have erected a new building for what they have spent on the renovations to date.

She would prefer that it not be designated fearing that it would adversely affect market value in the event they have to sell and that it would attract curious people because it might be regarded as a museum. She reminded the hearing that the Owners had recognized the quality of the building at the outset and without any designation or encouragement from the City had undertaken to restore it both outside and inside.

In summary, the Board finds that the City of Hamilton has acted in the best interests of the citizens of the community in giving notice of its intention to designate 46 Forest Avenue as a property of historical and architectural value and interest.

The Chairman complimented the Owners for their initiatives and imagination and was confident that the City would co-operate fully with them to common advantage.

The Board, therefore, recommends that 46 Forest Avenue be duly designated by By-law under the provisions of The Ontario Heritage Act, 1974.

Jack McNie, Chairman

J-68

PROPERTY MUNICIPALLY KNOWN AS NO. 46 FOREST AVENUE

All and Singular that certain parcel or tract of land and premises situate, lying and being in the City of Hamilton, in the Regional Municipality of Hamilton-Wentworth, and being composed of parts of lots numbers 204 and 205 in the survey of lots for the late George Hamilton in the block bounded by John Street, Forest Avenue, Hughson Street and Hannah Street (now Charlton Avenue), in said survey more particularly described as follows:

COMMENCING at the north westerly angle of said lot 204; THENCE easterly along the northerly limits of said lots 204 and 205, 89 feet more or less to the north westerly angle of the lands heretofore sold to one Sharp; THENCE southerly and along the westerly limits of said Sharp's lands 100 feet to the northerly limits of said lands heretofore sold to one Snider; THENCE westerly and along the northerly limits of said Snider's lands 17 feet to the north westerly angle of said Snider's lands; THENCE southerly and along the westerly limits of said Snider's lands 3 feet more or less to the north easterly angle of the lands heretofore sold to Charles Lenz and Mary Lenz; THENCE westerly and along the northerly limits of said lands of Charles Lenz and Mary Lenz 72 feet more or less to a point in the westerly limits of said lot 204 said point being the north westerly angle of said lands of Charles Lenz and Mary Lenz; THENCE northerly and along the westerly limits of said lot 204, 103 feet more or less to the place of beginning. UPON WHICH is situate the dwelling house known as Municipal No. 46 FOREST AVENUE.

Bill No. 229

This is Schedule "B" to By-law No. 77- 227 , passed on the 30th day of August A.D. 1977.

THE CORPORATION OF THE CITY OF HAMILTON

Deputy City Clerk

Mayor

J-69

DATED August 30, 1977

THE CORPORATION OF THE CITY OF HAMILTON

BY-LAW NO. 77-227

To Designate:

Municipal No. 46 Forest Avenue

As Property of:

HISTORIC AND ARCHITECTURAL
VALUE AND INTEREST

64559

No.
Land Registry Division of Wentworth (No. 62) C.D.
I CERTIFY that this instrument is registered as of
A .M. 10:37
SEP 15 1977 in the
Land
Registry Office
at Hamilton
Ontario.

D Cannon
LAND REGISTRAR

K. A. Rouff,
City Solicitor.

33

Reg'n Fees 10.00
Extra Charges 2.00 lots.
3.00 copies