

Preserving A City's History  
The Ontario Heritage Act and the Importance of Heritage  
Designations in the City of Toronto

By: Carmen Siegel  
0791847  
For: Professor Moon  
Due Date: November 2<sup>nd</sup>, 2015

A city that has no preserved historical heritage is a city without a soul. English settlers established the City of Toronto in 1793, and heritage sites from as early as 1794 are still intact around the city. The Province of Ontario recognized the importance and significance of preserving both heritage and archeological sites across the province, and established the Ontario Heritage Act (Ontario Heritage Act, 2015). Their amendments give both the province and municipalities the ability to stop the demolition of heritage sites, as well as identify new sites and provide a set of guidelines and standards outlining their significance. The history and geography of Toronto have shown many heritage sites to be in the downtown core of the city (Ontario Ministry of Tourism, Culture and Sport, 2015). One example is Fort York, once the primary battleground to defend the city, now surrounded by new condominium developments over twenty stories high casting their shadow on one the oldest historical sites found in the area. Canada recognized the importance of Fort York, designating it as a National Historic Site of Canada in 1923, before the Ontario Heritage Act designated it in 1985 (City of Toronto, 2015).

In the last 15 years, Toronto's booming population increase and a constantly increased demand for housing has put pressure on the Ontario Heritage Act to preserve buildings and monuments sitting on prime real estate from big box developers. Without the resources to identify and monitor every undesignated building, the local residents have assisted in locating and fighting for cultural and historical heritage sites in their communities.

This essay will explore the Ontario Heritage Act through one neighbourhood's fight to keep its heritage intact. This essay will focus on the now-designated heritage home 7 Austin Terrace, once the home of John B. Maclean, and explore the legal and moral issues that arose between the City of Toronto, the developer, the local government, and the neighbourhood residents in the Casa Loma area. This essay will touch on the Casa Loma area as a whole, and reference multiple other properties and their legal fights to preserve their history. Many by-laws were amended through these outcomes, bringing attention and change to the City of Toronto laws on preservation.

In 1975, The Ontario Heritage Act was officially in force. The purpose of the act is to "give municipalities and the provincial government powers to preserve the heritage of Ontario" and focuses on protecting heritage properties and archaeological sites (Ontario Ministry of Tourism, Culture and Sport, 2015). To get this designation, one must fill out a form and provide historical and legal documents of the property, and any other proof or reason why they think it should be designated. The Heritage Preservation Services, an affiliate of the Ontario Heritage Act, will assist in drafting a report to present to the city council once they believe the property should in fact be designated. From there, it is up to the city council to decide if the property will be officially designated. This process is not always straight forward, as often stakeholders associated with the properties have other opinions on how it should be used. This can create tension between local communities, developers, and the city. In 2002, the Government Efficiency Act came into force, which was established to help update and clarify some of the provisions in the Ontario Heritage Act. In 2005, the Act was updated once again, passing comprehensive amendments and enhancing the legislation protecting heritage sites. The amendments include a provision that gives both the province

and municipalities the power to delay and stop demolition of heritage sites, and clarifies the rights of the property owner. The amendment focuses on expanding the ability for the province to identify and designate such sites, and establishes clear standards on preserving the provinces properties. The update also included increased protection of heritage districts, archaeological resources and marine heritage sites.

Born in 1862, Colonel John B. Maclean was an Ontario-born publisher who founded the Daily Mail, Maclean's Magazine, The Financial Post, Chatelaine Magazine, and many other publications still in circulation today (Matheson, 2007). In 1906, the well-established businessman purchased 7 Austin Terrace, then on a large mass of farmland for \$12,500. Maclean planned to build a modest \$4000, 2-storey dwelling immediately to live in with his wife and son, while planning to construct a much larger estate following its completion. John M. Lyle was listed as the architect for this home, who is now famous for his design of Union Station and the Royal Alexandra Theatre. Due to unfortunate health circumstances of Maclean's wife and son, the plans to construct a larger estate were abandoned, and the family permanently settled into their "temporary" house at 7 Austin Terrace. The house, located steps away from other designated heritage sites such as Casa Loma, the Spadina House, and 5 Austin terrace (home to the Sisters Servants of Mary Immaculate), was inhabited by Maclean until he died in the home in 1950. His nephew received the property, and in 1960 the Biles family acquired the site, renting it in its almost exact condition for 40 years (Heritage Preservation Services, 2010).

In October of 2008, a developer bought the Maclean house, and proposed to build 8 townhomes and a 6-unit rental building on the property. Sitting in the "Casa Loma" neighbourhood, the historic neighbourhood is home to massive trees, low-density large single-family dwellings, and with the exception of a few, old Georgian and Victorian style homes. This new development was not only poorly suited and overdeveloped for the area, but also proposing to entirely demolish the Maclean house, along with its historical significance to the community. Residents were outraged by the development proposal, but the City of Toronto had no choice but to give the permit to the developer, based on his ownership of the property and lack of historical designation - the developer was not required to change the proposed zoning for the property (CLRA, 2015).

This led the residents of the neighborhood to formally establish the Casa Loma Residents Association (CLRA), with the support of local city counselor Joe Mihevc, MPP Eric Hoskins, and former Mayor David Miller (CLRA, 2015). The group worked with the Heritage Preservation Services to prove the house had cultural and historical significance. The structure and surrounding land went under review. During this process, the owner (and developer) brought in contractors who started to demolish parts of the building, specifically the elements that would be considered historically relevant for a heritage designation (The Heritage Preservation Services reviews architectural elements such as windows, wood frames, and columns to determine their designation.) Residents claimed these pieces of the home were specifically targeted, as they made the building more historically valuable (Baluja, 2011). Residents stood alongside the contractors, outraged and demanding they stop. The police were present, but due to the owner's legal right to

modify the property, had no power to stop the partial demolition and these key features (figure 2). The City appealed to the Minister of Culture for the Province of Ontario to issue a stop order, since the City Council was not scheduled to meet until over a month later. The minister issued the order, which prohibited demolition, alteration, and removal of parts on the property for 60 days. This was only the second time since 2005, when the Ontario Heritage Act was enhanced, that the Minister intervened and issued an order (Heritage Preservation Services, 2010).

On January 5<sup>th</sup>, 2010, the Heritage Preservation Services published their report on the property, writing “This report recommends that City Council include the property at 7 Austin Terrace (John B. Maclean House) on the City of Toronto Inventory of Heritage Properties and state its intention to designate the property under Part IV, Section 29 of the Ontario Heritage Act” (Heritage Preservation Services, 2010). The report outlined reasons why it was historically significant, which included its relation to one of Canada’s most prominent publishers and its relation to Lyle, who designed the home using Georgian Revival styling in the pre World War 1 era. The City of Toronto also filed an appeal under Section 111 of the City of Toronto Act, regarding the demolition of rental properties (Heritage Preservation Services, 2010).

The city council met in the same month the report was published and recommended refusal to build on two counts: the first being the historical significance of the site based on the Ontario Heritage Act, and the second being the demolition of rental properties based on City of Toronto Act (Selley, 2011). The developer had 30 days to appeal, which he did, but was not granted building rights for his original 8 townhome and multi rental building proposal. The developer sold the property to another developer, Renaissance Fine Homes, who was willing to work with the city and community to restore the building to the best of their abilities (Treble, 2014). The developer split the original structure into two units and built two additional semi-detached homes on the southeast side of the property.

Today, the front of the Maclean house has been restored as much as possible, and a plaque sits in front of the doorway alongside the 100-year old iron-gate fence. The original structure has been turned into two luxury units, and two additional semi-detached homes bring the unit count to six. The property features underground parking and a rooftop terrace overlooking the city. The new additional semi-detached homes are built to match the brick and pillar theme among many of the older homes in the area, many dating back to the early 1900’s.

This demonstration of community outcry proved that a strong resident appeal to a proposed development could result in positive change. When speaking with a member of the CLRA, she mentioned how a resident in the early 2000’s helped change the by-law on tree conservation for the City of Toronto. A resident at 94 Lyndhurst Avenue, directly perpendicular to Austin Terrace (figure 1.1), bought a home and had a developer make an addition to the existing home and update the backyard. If one were to walk through the neighbourhood, they would find 100-year-old oak trees on every property, creating a tunnel-like feel on every street. The developer took down a tree without a permit and without notifying the neighbours, whose backyard became partially bare without the tree’s

shade. This started a citywide debate on tree conservation, and called into question the process of obtaining proper permitting to remove trees under the Toronto Municipal Code Chapter 658, Ravine And Natural Feature Protection, which was adapted from the Council of the City of Toronto 2002-10-03 by By-law No. 838- 2002 when this debate occurred (City of Toronto Municipal Code, 2013). Today, any person convicted of an offence under City of Toronto Municipal Code Chapter 813, Article III based on illegal tree removal, is subject to a minimum fine reaching \$100,000.00 per tree and in addition, possibly a supplementary fine of \$100,000.00 (City of Toronto, 2015).

A similar scenario to that of 7 Austin Terrace occurred on 72 Wells Hill Avenue (figure 3) when a developer bought the home on a large piece of land, and proposed entire demolition, including many of the mature oak trees on the property.

72 Wells Hill Avenue sits on land that was once owned by Sir Henry Pellat, noted as the first person to bring hydro-electricity to Toronto, and who also built Casa Loma as his home. In 1909, Frank Denison purchased the property from Pellat. Denison had arrived from Leeds, England to manage the Toronto office for Zam-Buk Company, who created a popular antiseptic ointment for athletes and a widely used healing product during World War 1 (Heritage Preservation Services, 2012). 72 Wells Hill was built by the Toronto architectural firm of Wickson and Gregg who are noted for their design of homes in exclusive Toronto neighbourhoods, their early work of the Central Reference Library (now the Kauffler Student Service Centre at the University of Toronto) and Timothy Eaton Memorial Church in Forest Hill (Heritage Preservation Services, 2012). The home is a landmark of historical and architectural importance in the area representing the Period Revival style on an early 20<sup>th</sup> century residential street. In 1921, the property was sold to Charles Edward Neilson, secretary-treasurer of his grandfather's company William Neilson Limited, the still-prominent Canadian dairy product company Neilson Dairy (Otto, 1998). After Neilson's death in 1962, the family lived in the home, and prior to its sale, converted it into a four-plex multi family home. In 1964, a new couple acquired the property, and lived in it while renting the other units for over 40 years (Heritage Preservation Services, 2012).

Starting in 2012, the CLRA mobilized with local politicians and sent in a request to have the home reviewed by the Heritage Preservation Services, without the support of the new property owner. In October 2012, the community council "adopted TE19.12, approving a residential demolition application for the property at 72 Wells Hill Avenue with certain conditions that included the preservation of significant natural features" (City Of Toronto, 2012). The property was to be designated under the Ontario Heritage Act, which the new owner complied with, and had her architects receive recommendations for the execution of the new additions to conserve more of the original structure ((Heritage Preservation Services, 2012). Today, most of the home's front exterior is preserved, but the rest of the home has been entirely demolished. Although the entire building was not preserved, the outside was preserved enough to not completely change the historical look of the home, and the trees on the property remain. 72 Wells Hill Avenue is still under construction, with no published date of expected completion.

The Casa Loma area is also home to the Lyndhurst Lodge, a white estate designed by the same architect of 72 Wells Hill Avenue, Wickson and Gregg, in 1916. The Lodge was home to wealthy Torontonians Ralph Connable and his family, who had Ernest Hemingway live in his home as a guest between 1920-1930 as he built his writing career with *Star Weekly* (Krawczyk, 2010). This home is also designated under the Ontario Heritage Act. Additionally, famous architect James Arthur Harvey built another property of interest, 51 Wells Hill Avenue, known as the Jeremiah Dinwoody House, in 1913 (Hill, 2009). Harvey was a prominent Toronto-based architect who had an active career during the late 1800 and early 1900 period. This home was designated under the Ontario Heritage Act in September 2012 (Heritage Preservation Services, 2012). Also, Hillcrest Community School was built and first opened in 1905, and has since expanded in 3 stages. Its original structure is still complete intact, with new additions on every side of the building (TDSB, 2010).

The City of Toronto currently has 11 designated heritage conservation areas across the city (Toronto City Council, 2005), with many others pending approval. A large contributing factor to an increase in reviews of certain neighbourhoods is the community's involvement and passion to keep the history and culture of the area intact. In 2005, the City Council approved the study to designate the entire Casa Loma area as a potential heritage conservation district under the Ontario Heritage Act based on the multiple existing heritage properties, and the neighborhood's mission to preserve its history. The study is still being conducted.

Preserving heritage sites and establishing heritage districts give a city a history that cannot be relived. Communities and residents passionate about the historical and cultural significance in their neighbourhoods have brought awareness to the issue of preserving properties and area across the city. Politicians have supported these causes, and the City of Toronto has responded by enforcing stricter guidelines and fines to ensure compliance from the population. The Casa Loma area is just one example of an area with an extraordinary amount of history, some of which built the foundations of the entire city. The importance of law and rules established by the Ontario Heritage Act is the reason for this outlook on the importance of preserving old buildings and monuments. Through policies, council meetings, and amendments to the Ontario Heritage Act, the city is slowly building up its historical background, and ensuring little pieces of seemingly insignificant history is brought together to build a large portfolio of historically significant properties, along with their stories.

Appendix

Figure 1- Casa Loma Area



Retrieved from Elli Davis Real Estate: <http://ellidavis.com/toronto/toronto-neighbourhood-guide/casa-loma/> (2015)

Figure 1.1- Casa Loma Area with subject properties identified





Retrieved from CLRA website: <http://www.clratoronto.com/> (2015)

*\*Modified with Stars added for reference on addresses.*

**Figure 2- 7 Austin Terrace Before, During and After Demolition**



Before

Retrieved from CLRA website: <http://www.clratoronto.com/> (2015)



During

Retrieved from CLRA website: <http://www.clratoronto.com/> (2015)





After: New additions on far left and right side of exterior, and underground garage entrance.

Retrieved from CLRA website: <http://www.clratoronto.com/> (2015)

**Figure 3- 72 Wells Hill Avenue (1933, left, 2012, right)**



Retrieved from CLRA website: <http://www.clratoronto.com/> (2015)

## References

Balkissoon, P. (2010). *Architectural gem could be saved* | *Toronto Star*. *thestar.com*. Retrieved 2 November 2015, from

[http://www.thestar.com/life/homes/2010/01/26/architectural\\_gem\\_could\\_be\\_saved.html](http://www.thestar.com/life/homes/2010/01/26/architectural_gem_could_be_saved.html)

Baluja, T. (2011). *Heritage Maclean House faces uncertain future*. *The Globe and Mail*. Retrieved 2 November 2015, from <http://www.theglobeandmail.com/news/toronto/heritage-maclean-house-faces-uncertain-future/article569396/>

City of Toronto Municipal Code,. (2013). *Chapter 658, Ravine and Natural Feature Protection*. Toronto: City of Toronto.

City of Toronto,. (2015). *Permits - removing or injuring trees on private property - private tree bylaw*. Retrieved 2 November 2015, from

<http://www.toronto.ca/311/knowledgebase/65/101000042065.html>

City of Toronto,. (2015). *Fort York National Historic Site*. Retrieved 2 November 2015, from <http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=b59c2271635af310VgnVCM1000071d60f89RCRD>

CLRA Toronto,. (2015). *Casa Loma Residents Association Newsletter*. Retrieved 2 November 2015, from <http://clratoronto.com/wp-content/uploads/CLRA-Newsletter-March-2-2015.pdf>

Heritage Preservation Services,. (2012). *Request for Heritage Review of 72 Wells Hill Avenue* (p. 2). Toronto: City of Toronto.

Heritage Preservation Services,. (2015). *7 Austin Terrace â€” Intention to Designate under Part IV, Section 29 of the Ontario Heritage Act* (pp. 1-21). Toronto: City of Toronto.

Hill, R. (2009). *Harvey, James Arthur* | *Biographical Dictionary of Architects in Canada*.

*Dictionaryofarchitectsincanada.org*. Retrieved 2 November 2015, from

<http://dictionaryofarchitectsincanada.org/node/239>

Krawczyk, B. (2010). *TOBuilt: Detailed Structure Information*. *Tobuilt.ca*. Retrieved 2 November 2015, from [http://www.tobuilt.ca/php/tobuildings\\_more.php?search\\_fd3=7479](http://www.tobuilt.ca/php/tobuildings_more.php?search_fd3=7479)

Leblanc, D. (2011). *Toronto's heritage buildings face 'demolition by neglect'*. *The Globe and Mail*.

Retrieved 2 November 2015, from <http://www.theglobeandmail.com/life/home-and-garden/real-estate/torontos-heritage-buildings-face-demolition-by-neglect/article622391/>

Matheson, R. (2007). *John Bayne Maclean. The Canadian Encyclopedia*. Retrieved 2 November 2015, from <http://www.thecanadianencyclopedia.ca/en/article/john-bayne-maclean/>

Ministry Of Culture,. (2006). *Heritage Property Evaluation*. Toronto: Queens Printer.

Ontario Ministry of Tourism, Culture and Sport,. (2015). *Ontario Heritage Act*. Retrieved 2 November 2015, from [http://www.mtc.gov.on.ca/en/heritage/heritage\\_act.shtml](http://www.mtc.gov.on.ca/en/heritage/heritage_act.shtml)

Otto, S. (1998). *William Neilson. Dictionary of Canadian Biography, vol. 14*. Retrieved 2 November 2015, from [http://www.biographi.ca/en/bio/neilson\\_william\\_14E.html](http://www.biographi.ca/en/bio/neilson_william_14E.html)

Selley, C. (2011). *Chris Selley: The impotence of a heritage designation. National Post*. Retrieved 2 November 2015, from <http://news.nationalpost.com/posted-toronto/chris-selley-the-impotence-of-a-heritage-designation>

TDSB.on.ca (2010). *TDSB: Hillcrest Community School*. Retrieved 2 November 2015, from <http://www.tdsb.on.ca/profiles/5232.pdf>

The City Planning Division,. (2013). *7A, 7B, 7C Austin Terrace and 1A, 1B, 1C Lyndhurst Court – Common Elements Condominium Application and Part Lot Control Exemption Application – Final Report*. Toronto: City of Toronto.

Toronto City Council,. (2005). *Casa Loma Heritage Conservation District Preliminary Study (Wards 21 and 22 - St. Paul's)*. Toronto: City of Toronto.

Treble, P. (2014). *Saving John Maclean's house. Macleans.ca*. Retrieved 2 November 2015, from <http://www.macleans.ca/society/saving-the-house-that-macleans-built/>