

An informational update!

Heritage Easement 39 Carfrae Street

Truthful, Accurate, Factual



39

- “Heritage easement agreements provide the highest level of protection...”
- “Of particular benefit for a significant cultural heritage resource with an old heritage designating by-law, like Carfrae Cottage, a heritage easement agreement can ***offer additional clarity or specificity on the heritage attributes*** of the property.”
- “...establish ***requirements for maintaining*** a property, or specific features or attributes of a property.”
- “...other requirements, such as ***insurance***, can be included within a heritage easement agreement.”

**The Easement can be divided
into three basic sections.**

Section One - Framework

Section Two - Heritage Attributes - Schedule 'C'

Section Three - Photos

**Experiences of an owner trying to exist
with the current Heritage Easement**

Heritage Violation posted publicly Dec 3, 2021

- Notified by the City, Feb 2, 2022
- The restoration of the white picket fence
- The picket fence ***is not*** included in the Statement of Cultural Heritage Value or Interest - Schedule 'C'
- Mr. Greg Barrett letter September 16, 2022 states, "The Owner shall not, undertake or permit any demolition, construction, alteration, remodelling, or any other thing or act ***which would materially affect the attributes, features or the appearance*** or construction of the Building ***as set out in the Cultural Heritage Value or Interest...***"



Building and Planning Information

File #:	21032966	Reference #:	L.S.P.-2978-65.
Address:	39 Carfrae St		
Type of File:	Heritage Properties - Residential - Kyle Gonyou - Ontario Heritage Act Violation By law No: L.S.P.-2978-65 Letter sent: December 3, 2021		
Issue Date:	Not Issued/reviewed		
Status:	Opened		

Additional Information

Date of Registration
Council Meeting Date
Civic Corner Liaison Date

Value

We already had a picket fence!



- The ***existing*** picket fence was not in great shape with many sections missing

So why the registered violation?

- “Section 2.8 No Act of Waste - The Owner shall not erect or permit any act of waste on the Property. In particular, the Owner shall not, except with the prior written approval of the City: (f) Erect or remove or permit the erection or removal of any building, fence, or structure of any type whatsoever on the Property provided, however, that the **approval of the City shall not be unreasonably withheld** if such erection or removal would not cause any damage or a real likelihood of damage to the Building or otherwise negatively affect it or its Cultural Heritage Value or Interest.”



February 2, 2022

David Christopher Caloren
39 Carfrae Street
London, ON N6C 1G1

Hand Delivered

Dear David Christopher Caloren,

The property at 39 Carfrae Street is protected by a Heritage Easement Agreement pursuant to Section 37(1), *Ontario Heritage Act*. The Heritage Easement Agreement prevails over the property's heritage designating by-law, By-law No. L.S.P.-3978-65. The Heritage Easement Agreement is registered on the title of the property.

The Heritage Easement Agreement articulates your responsibilities as the owner of the property at 39 Carfrae Street.

Please provide to the City a letter or certificate, in a form and from an insurance company, agent, or broker, of insurance coverage for the property pursuant to Section 2.2 of the Heritage Easement Agreement.

Section 2.8.f of the Heritage Easement Agreement requires "prior written approval of the City" to "erect or remove or permit the erection or removal of any... fence... of any type whatsoever on the Property..." It has been brought to the City's attention that a fence has been erected on the property. No such prior written approval from the City has been sought. Please seek the necessary approval, in the form of a Heritage Alteration Permit, from the City per the requirements of the Heritage Easement Agreement. Please provide your remedy, in writing, within thirty (30) days.

As previous efforts to contact you via registered mail have been unclaimed, this letter will be personally delivered. Please advise in writing if you prefer to receive correspondence at a different address.

Sincerely,

Kyle Gonyou, CAHP
Heritage Planner

kgonyou@london.ca
519-661-CITY(2489) x5344

Enclosure

Heritage Easement Agreement
Heritage Alteration Permit application



300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

June 6, 2022

Jeff Gard
205 Victoria Street
London, ON N6A ZB9
jeff@jeffgard.ca

by Mail and Email

Dear Jeff Gard,

The City has reviewed the information submitted by you as a Heritage Alteration Permit application for the alterations completed to the property at 39 Carfrae Street, which is subject to a Heritage Easement Agreement. The City has now received the Heritage Alteration Permit application as complete.

Pursuant to Section 2.8 of the Heritage Easement Agreement, prior written approval of the City was required to erect, or permit the erection of a fence, on the property. No such prior written approval was obtained. However, your Heritage Alteration Permit application seeks retroactive approval of the fence. As the fence has not caused damage to the building or otherwise negatively affect its cultural heritage value, consistent with Section 2.8(f) of the Heritage Easement Agreement, approval of the fence is hereby provided.

The City has accepted the insurance policy information provided by you in accordance with Section 2.2 of the Heritage Easement Agreement.

Please ensure that any future necessary approvals as required by the Heritage Easement Agreement are obtained in advance of undertaking any alterations to the property at 39 Carfrae Street.

Thank you for your stewardship of this significant heritage property.

Yours truly,

Jana Kelemen, M.Sc.Arch., MUDES, MCIP, RPP
Manager, Urban Design and Heritage

In the spirit of cooperation, we submitted a Heritage Alteration Permit Application

Our white picket fence was
approved on June 6, 2022.

*“As the fence has not caused damage to the
building or otherwise negatively affect its
cultural heritage value....”*

Part of the violation included the claim that the proper form for insurance was not submitted.

This is the form that I have been requested to complete, by the Heritage Department

However, this form is not appropriate.

I am not a City property.

This is my personal property.



Certificate of Insurance - Standard

This is to certify that the Insured named below is insured as described:

***** This form must be completed and signed by your insurer or insurance broker. *****
 Note: Proof of liability insurance will be accepted on this form only (with no amendments).

Named Insured				E-mail address	
Insured's address (street name, city, province and postal code)				Telephone number	Fax number
Type of insurance	Insurance Company (full legal name)	Policy Number	Effective Date Year Month Day	Expiry Date Year Month Day	Limits of Liability (bodily injury & property damage - inclusive)
Commercial General Liability					Occurrence \$ Aggregate \$
<input type="checkbox"/> Umbrella <input type="checkbox"/> Excess					Occurrence \$ Aggregate \$
Other (Explain.)					Occurrence \$ Aggregate \$

Commercial General Liability: **Occurrence Basis**, Including Personal Injury, Property Damage, Broad Form Property Damage, Contractual Liability, Non-Owned Automobile Liability, Owner's and Contractor's Protective Coverage, Products - Completed Operations, Contingent Employers Liability, Cross Liability Clause and Severability of Interest Clause.

Tenant's Legal Liability: NO or YES . . . (Limit) _____
 Liquor Liability: NO or \$ YES

THE CORPORATION OF THE CITY OF LONDON, the London Convention Centre o/a RBC Place, Covent Garden Market Corporation, Museum London o/b London Regional Art & Historical Museums, London Public Library Board, London Police Service, Western Fair Association, Housing Development Corporation, London and London & Middlesex Community Housing have been added as an additional Insured but only with respect to their interest in the operations of the Named Insured.

If cancelled or changed in any manner, that would affect the City of London or other scheduled additional Insured for any reason, so as to affect this certificate, thirty (30) days prior written notice by registered mail or facsimile transmission will be given by the insurer(s) to:

The Corporation of the City of London
Attention: Risk Management Division
520 Wellington Street, Unit 1
P O Box 5035
London, ON N6A 4L9

Office location: _____ Fax: **519 661-4631**
 Mailing address: _____ E-mail: **certificates@london.ca**

Motor vehicle liability	Insurance Company	Policy Number	Effective Date	Expiry Date (YYYYMMDD)	Limits of Liability
					\$

Motor Vehicle Liability - must cover all vehicles owned, or operated by, or on behalf of the insured.

This is to certify that the Policies of Insurance as described above have been issued by the undersigned to the Insured named above and are in force at this time.

This certificate is executed and issued to the aforesaid Corporation of the City of London, the day and date herein written.

Name of insurance company or broker (completing form)	Telephone number
Address	Fax number
Name of authorized representative or official (Please print.)	E-mail address
Signature of authorized representative or official	Date (YYYY-MM-DD)

I am totally confused

- planting trees, shrubs, or vegetation (Section 2.8 e) - Easement states Approval required - ***City says no approval required***
- installing stone terrace (Section 2.8 c) - Easement states Approval required - ***City says no approval required***
- restoring / repairing the thistle (Schedule 'C' - Cultural Heritage Value or Interest) - Easement states Approval required - ***City says no approval required***
- restoring / replacing wood finial (Schedule 'C' - Cultural Heritage Value or Interest) - Easement states Approval required - ***City says no approval required***
- restoring / replacing white picket fence (Section 2.8 f) - Easement states nothing about restoring / replacing only erect or remove and only if negatively affects Cultural Heritage Value or Interest - ***City approval required***

Section Two - Heritage Attributes - Schedule 'C'

After being so confused by the City's interpretation of the Easement, my lawyer Elizabeth Cormier requested a meeting with Greg Barrett to discuss the Easement and the Heritage Attributes on Schedule 'C'. Specifically ***the kitchen door, the two fireplaces, the thistle, the roof, the porch,*** but also the many more misleading or incorrect descriptions.

A meeting was finally set for August 17, 2022

The meeting was cancelled the evening prior on August 16, 2022 without any explanation.

Letter dated September 16th, 2022

September 16, 2022

Jeff Gard
205 Victoria Street
London, ON N6A 2B9
jeff@jeffgard.ca

By Registered Mail, Regular Mail, and E-Mail

Dear Jeff Gard,

As you know, the property at 39 Carfrae Street is protected by a Heritage Easement Agreement pursuant to Section 37(1), *Ontario Heritage Act*.

A complaint has been received regarding alterations to the interior of the building at 39 Carfrae Street, including the removal of the tile surround from the fireplace in the "east parlour" and removal of the tile surround and mantelpiece from the fireplace in the "west parlour." Images obtained by the City provide evidence of these alterations. These features are identified as heritage attributes in By-law No. L.S.P.-2978-65 as well as the "Statement of Cultural Heritage Value or Interest" in Schedule C of the Easement Agreement and depicted in Images 37-38 and Image 39 of Schedule D of the Easement Agreement.

Section 2.1 of the Heritage Easement Agreement states,

The Owner shall not, except as hereinafter set forth, without the prior written approval of the City, undertake or permit any demolition, construction, alteration, remodelling, or any other thing or act which would materially affect the attributes, features or the appearance or construction of the Building as set out in the Cultural Heritage Value or Interest and as may be depicted in the copies of the Photographs on file or drawings or other documents attached hereto.

No approval was obtained from the City prior to these alterations being completed. As a result, you are hereby provided notice that you are in breach of the requirements of the Easement Agreement. If by October 31, 2022, you have not restored the specified alterations and provided the City proof of same or made other arrangements satisfactory to the City for remedying this breach, the City may enter upon the property without further notice and carry out the obligations outstanding in accordance with Section 2.9 of the Easement Agreement and Section 446 of the *Municipal Act, 2001*.

The City will recover from you any expenses we incur to remedy your default. Our estimated maximum costs of remedying the breach are \$3,100.00 + HST. This amount reflects our assumption that the removed tile surrounds and mantelpiece remain intact and available for reinstall, and that the City's entry on the property will be on consent without the need for security personnel. Should these assumptions be inaccurate or any further complications arise, the estimated maximum costs shall be subject to change.

Meeting October 3, 2022

with Greg Barrett, Jana Keleman, Sachit Tatavarti,
Elizabeth Cormier, Alison Mason

My slide presentation was 60 minutes long.
Greg Barrett took detailed notes and instructed
staff to review.

Greg Barrett even commented that it clearly
seems based on my presentation that the
City staff made some errors.

I left the meeting relieved, finally we were
making some head way.

Only to be disappointed. More delays by the
City, then more letters with demands to be
addressed within a short time frame.

Both Greg Barrett and Jana Keleman left the
employment of City of London.

June 20, 2023

VIA EMAIL

Elizabeth Cormier Professional Corporation
100-140 Fullarton Street
London, ON N6A 5P2

Dear Ms. Cormier:

Re: 39 Carfrae Street, London

We acknowledge receipt of your Heritage Alteration Permit application related to a roof replacement for 39 Carfrae Street. Please be advised that Planning & Development have expressed concerns with recommending Municipal Council's approval of the permit application as proposed. If the property owner's position is that an asphalt roof replacement is the only practical option, please obtain and provide the following on or before June 30th, 2023:

- 1) additional quotations for a wood roof replacement; and
- 2) evidence that alternative roof materials to asphalt have been explored, such as a composite shingle roof.

Further to my email correspondence dated April 3rd, 2023, I confirm the property owner has not provided any further particulars with respect to the alleged inaccuracies in the Statement of Cultural Heritage included within the Heritage Easement Agreement registered against the property. We welcome further discussions to amending the existing Statement of Cultural Heritage Value or Interest to address the inaccuracies you have highlighted regarding the descriptions of certain features of the building and the materials used to construct other features.

Nevertheless, it is our position that none of the inaccuracies alleged diminish or otherwise affect the cultural heritage value of the attributes protected under the original designating by-law or the Heritage Easement Agreement. Our position as communicated in the City's letter dated September 16, 2022 (enclosed) remains that the alterations made to the fireplaces in the "east parlour" and west parlour" were unapproved alterations prohibited under the Heritage Easement Agreement and contraventions of Section 33 of the *Ontario Heritage Act*.

The property owners of 39 Carfrae Street are hereby provided notice that they are in breach of the requirements of the Heritage Easement Agreement. If by **Friday, August 18th, 2023** the specified alterations have not been remedied and the City provided proof of same, the City reserves the right to take any steps available at law to address this breach without further notice, which include exercising the City's right of entry under the Heritage Easement Agreement and the laying of charges under the *Ontario Heritage Act*.

As previously indicated, our estimated maximum costs of remedying the breach are \$3,100.00 + HST. This amount reflects our assumption that the removed tile surrounds and mantlepiece remain intact and available for reinstall, and that the City's entry on the property will be on consent without the need for security personnel. Should these assumptions be inaccurate or any further complications

Letter June 20, 2023

Extremely disappointing, complete refusal from City Staff to acknowledge that we have tried many times to have a dialogue.

We have provided detailed particulars to the inaccuracies of the Heritage Easement, now multiple times via zoom meetings / telephone - May 26, 2022
in person meetings - Oct 3, 2022, and
written submissions - Nov 4, 2022.









Today both fireplaces, meet the require set backs for combustable material and the required size for hearth extensions.

Any changes now requested (June 20, 2023) by the City of London to the fireplaces must be consistent with Heritage legislation and more importantly, ***the Ontario Fire Code***. The City of London fire department has confirmed that the materials installed formerly were combustibile and did not meet the Fire Code.

“...the City may enter upon the property without further notice and carry out the obligations outstanding in accordance with Section 2.9 of the Easement Agreement and Section 446 of the Municipal Act, 2001. The City will recover from you any expenses we incur to remedy your default.”



Roof is Leaking!

- the current roof consists of **two layers of asphalt shingles and one layer of pine shakes** - so since the early 1960's the roof has been covered in asphalt shingles
- pine shakes are no longer installed due to their poor longevity
- awarded a grant for \$1000 from the London Foundation for Heritage towards the cost of **upgrading** to a cedar shake roof
- we have received three quotes with some variations of inclusions for a cedar roof - \$71,291.70, \$84,727.40 and \$129,522.86
- a composite shingle roof is similar pricing

P.O. BOX 24090, LONDON, ONTARIO N6H 5C4 (519) 434-0960 FAX (519) 660-6481

PROPOSAL SUBMITTED TO

Mr. & Mrs. Beck
39 Carfrae Street
London, Ontario
N6C 1G1

March 27, 2001

Phone - 672-3124

We hereby submit specifications and estimates for:

1. Supply and installation of pine shake roof on main house and modified bitumen membrane roofing in rear upper low slope section.

Remove and reinstall finial

Remove chimney saddles

Install custom pre-finished metal edge in charcoal colour along eaves

Install pre-finished aluminum trim along gable ends. Paint finish to match fascia. *Also gable ends*

Install 24" wide 26 gauge steel valley in charcoal colour

Install new 24" wide 26 gauge steel "W" valley irons in charcoal colour.

Install pressure treated hard pine shakes with 10" exposure, 18 inch #15 plain felt interlay on top 4" of each course and fastened with galvanized nails.

Double shakes on all valleys and eaves

Install sheet lead at compound conjunctions as required.

Fill in existing vent holes as required to ensure vents will fit in roof.

~~We~~ **Propose** hereby to furnish material and labour - complete in accordance with above specifications, for the sum of:

Payment to be made as follows: **TERMS: Due when rendered, 2% per month interest on overdue accounts.**

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, windstorm and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized Signature: *[Signature]*

Note: This proposal may be withdrawn by us if not accepted within _____ days.

Words from the City of London letter dated
June 20,2023

“...it is our position that none of the inaccuracies alleged diminish or otherwise affect the cultural heritage value of the attributes protected under the original designating by-law or the Heritage Easement Agreement.”

Regardless of the facts, what is stated in the Easement and Designation is true!

- City claims Cedar = Pine
- City claims Shingles = Shakes
- City claims original features = features installed in 2005, 1999, 1972
- City claims stone = interior slate tiles installed on exterior
- City claims sympathetic = inappropriate proportions
- City claims symmetrical, balanced composition = not really, in fact completely wrong
- City claims Queen's thistle = any reference to the Queen is factually incorrect
- City claims Wood Ceiling = you need to imagine this feature

Why so passionate?



- This is my retirement home. It is where I was to enjoy a stress free life, putting around maintaining the house and gardens.
- I personally have spent 1000's of hours restoring this home.

A large, conical pile of grey pea stone gravel dominates the foreground and middle ground. The stones are small and rounded. In the background, there is a garden with green plants, a white fence, and a red wheelbarrow on a black stand. A blue tarp is partially visible on the right side of the pile.

I personally moved more than 5 tonnes of pea stone

How can CACP help?

- Protecting inaccurate, undocumented, untrue Heritage raises questions and doubts for all Heritage claims, past and future
- CACP should ask more questions of City Staff and demand truthful, documented facts
- support a ***new collaborative Easement*** based on three words. The same three words that this presentation started with - ***Truthful, Accurate, Factual***

a fourth word is also required

Reasonable