

39 Carfrae St – HEA Application: COUNCIL CITY SUBMISSION BY BECK HEIRS

This is an additional submission by the estate trustees who in 2021 entered into the Heritage Easement Agreement with the City. We wanted to provide the highest possible protections for Carfrae Cottage as it “is a very significant cultural heritage resource”. (Staff Report, p. 1)

Our focus here is on rebutting key points made before the PEC, particularly regarding the roof, fireplaces and thistle features. Mr. Gard is spinning a story about purported problems with the Heritage Easement Agreement to allow him to ignore its terms.

Roof: Having asphalt shingles under the wood roof does not justify an entirely asphalt roof which makes no attempt to mimic the appearance of wood. The Easement does not assert that the roof had always been wood; if this had been a concern, an inspection was an option.

Carfrae Cottage is unique. Both www.historicplaces.ca and the 2021 Staff Report emphasize the contrast between Carfrae Cottage and the newer neighbouring development, which “distinguishes the heritage character of the property.” What is relevant is whether the new roof is consistent with the distinct heritage attribute of the roof which is protected in the Easement.

The applicants have frustrated the City’s review by providing only two extreme quotes, despite having information on more reasonable options before their May application for a Heritage Alteration Permit. At PEC, Mr. Gard again declined to consider using materials which are the normal alternative – even for buildings with the less stringent Heritage Designation.

It is true that they cost more than asphalt, but the difference is not unreasonable given the overall value of the house (a \$1,500,000 charge/mortgage was added in 2022 – Annex 1 of our PEC submission), the cost of the wood roof in 2001 (\$18,000), and the applicants’ occupations according to public information, i.e., a public servant, and Mr. Gard is a real estate agent “in the top 2% nationally” from 2005-2021 for Royal LePage (pp. 1-2, 28 of his item 5 and endnote^j).

As well, additional maintenance costs are to be expected when buying a house with protected heritage features. As a real estate agent, Mr. Gard and his partner owner were surely more aware than most buyers of the significance of the Easement, plus the utility of an inspection if they had concerns.

At PEC we heard concerns about “demolition by neglect” unless this request is granted. This is a real concern for homes with only a Heritage Designation. However, the Heritage Easement Agreement guards against this by imposing positive obligations on the owner (ss. 2.2 to 2.6).

Fireplace mantles with tile surround: These are clearly protected in the Easement Agreement; indeed, they were a key reason we entered into it. It is to be expected that heritage fireplaces do not meet the current Fire Code - again, inspection was the route if this was a concern.

Nevertheless, protecting heritage characteristics is surely compatible with fire requirements. A reasonable owner would have worked collaboratively with City officials so as to bring the fireplaces up to Code in a manner which retained the heritage features as much as possible. As the City planner said at PEC, at least 90% of all Heritage Alteration Applications are approved by staff without Committee or Council ever seeing them.

Instead, Mr. Gard unilaterally removed the mantles and tile surround without making any effort to retain the heritage aspect, with the west parlour changes being particularly dramatic – as is clear from photographs in both his PEC presentation (pp. 17-19) and the Easement (Images 38 & 39).

39 Carfrae St – HEA Application: COUNCIL CITY SUBMISSION BY BECK HEIRS

Since a complaint was made to the City about this breach of the Easement, he has stymied all City staff efforts to solve the problem. Mr. Gard’s history of not consulting with the City before making changes is the basis of the poor communications with staff.

Thistle: The thistle’s provenance is a manufactured issue; the HEA simply says its provenance is “reputed”.ⁱⁱ Mr. Gard obtained additional research in May, 2023 supporting the essence of the reputed history, i.e., that it came from Castle Mey during the war – but with an even more interesting backstory. This has no real significance – why not simply put the thistle back up?

Instead, the new details of the backstory are being used to try to undermine the integrity and validity of the fundamental terms of the Heritage Easement Agreement.

Original vs. Consistent Character: Mr. Gard both broadly and repeatedly attacks the Easement for protecting attributes of more recent vintage than 1860, thus implying that all attributes listed in the Easement are claimed as original; further, that they merit protection only if original. This is both deceptive and misguided. Only the “east parlour” fireplace is specifically described as original, with the front door “believed to be original”. This is not to say that all the other features are not original, rather these two are highlightedⁱⁱⁱ as it is so unusual for them to be original. The point of the detailed listing is clarity on the attributes which contribute to the heritage character of the house. For instance, if the owners wanted to replace the kitchen door with a different style, they need to work with City staff.

New Agreement? The whole point of the Agreement is to create an easement with additional protections which is registered on title and thus binds future owners. They choose whether to buy the property with the Heritage Easement; all potential buyers had advance copies of it.

The Heritage Easement is reasonable and clear - and only two years old. Nothing in Mr. Gard’s submissions disclose substantive problems with its terms; our submission to the PEC (Annex 2) has a point-by-point rebuttal of his assertions regarding purported problems. Talk about a new collaborative Agreement is a smokescreen to frustrate the application of the current Easement and a lever for its removal or new minimal protections.

Summary and Conclusion: Our concern is not with the normal application of the Easement – this is between the City and the new owner. Rather, the applicant is attacking the integrity and very essence of the Easement, including its binding nature.

We are concerned that acquiescing to Mr. Gard’s requests will not only harm Carfrae Cottage’s heritage character and features, but also create an unfortunate precedent, especially because Mr. Gard has orchestrated such a public campaign and as this was the first Heritage Easement Agreement for a private home in London. Other homeowners will be reluctant to enter into one, particularly as, like any easement, a Heritage Easement constrains the actions of future owners and thus a new one likely costs the owners by negatively affecting market value.

In conclusion, to protect heritage – or even to simply uphold what the City approved only two years ago – the City should reject the current application regarding the roof and especially reject the request to revoke the Heritage Easement Agreement. City staff have shown willingness to collaborate and be reasonable, so we readily support referral to City staff.

ⁱ From [About Jeff — Jeff Gard](#) (in our PEC submission, now taken down but July 13 screenshots available on request.

ⁱⁱ Heritage Easement Agreement, p 19: “The Scotch thistle, affixed at the top of the gable, was reputedly ...”

ⁱⁱⁱ There is also a reference to “the original structure” of the whole building in contrast to the newer porch.