

Bill No. 665
2017

By-law No. A.-_____

A by-law to authorize and approve the Licence Agreement between The Corporation of the City of London and the Heritage London Foundation, for the use of the property located at 101-137 Windermere Road, known as the Elsie Perrin Williams Estate, and to authorize the Mayor and City Clerk to execute the Licence Agreement.

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS it is deemed expedient for The Corporation of the City of London (the "City") to enter into the Licence Agreement with the Heritage London Foundation (the "Agreement");

AND WHEREAS it is appropriate to authorize the Mayor and the City Clerk to execute the Agreement on behalf of the City;

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

1. The Agreement attached as Schedule "A" to this by-law, being a Licence Agreement between the City and the Heritage London Foundation is hereby AUTHORIZED AND APPROVED.
2. The Mayor and the City Clerk are authorized to execute the Agreement authorized and approved under Section 1 of this by-law.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on November 28, 2017.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – November 28, 2017
Second Reading – November 28, 2017
Third Reading – November 28, 2017

Schedule "A"

THIS AGREEMENT made in triplicate on the ____ day of _____ 2017.

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON
(Hereinafter referred to as "the City") **OF THE FIRST PART**

- and -

THE HERITAGE LONDON FOUNDATION
(Hereinafter referred to as the "Licensee") **OF THE SECOND PART**

WHEREAS the City is the owner of certain lands, more particularly described as Part of Lots 18 and 19, Concession 3, City of London (formerly Township of London, County of Middlesex, Province of Ontario and known municipally as 101-137 Windermere Road also known as the Elsie Perrin Williams Estate (hereafter referred to as "Windermere");

AND WHEREAS the City has agreed to grant to Heritage London Foundation (HLF) an exclusive licence to use and occupy Windermere as a historic building that is primarily available to (but not limited to) heritage and environmental groups for the rental of office and meeting space and to use for administrative assistance. On occasion it is also available for rent to the general public for social events, weddings, and business meetings.

AND WHEREAS the parties believe it is desirable that their rights and responsibilities regarding the operation of Windermere be formalized.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual covenants and agreements herein and subject to the terms and conditions set out in this agreement, the parties agree as follows:

1. Term

- 1.1) This agreement shall be effective from and including the first day of January 2018 to and including the thirty-first day of December 2022, with two (2) options to renew for a further three (3) years each.
- 1.2) Notwithstanding section 1.1, either party may, upon not less than one hundred eighty (180) days written notice terminate this Agreement for any reason
- 1.3) Notwithstanding section 1.1, the Licensee shall have the option to give notice as outlined below of its intention to renew this agreement to the other party not less than six month before this agreement expires. In the event that the Licensee gives notice of an intention to renew this agreement, the City shall have thirty days from the date that notice is effective to give notice to the Licensee that it objects to the renewal and that the agreement shall expire according to section 1.1. If the City does not object to the renewal in the prescribed time, this agreement is renewed for a further three (3) year period, and section 1.1 shall be deemed amended to affect such renewal.

2. Notice

- 2.1) Any notice under this agreement shall be sufficiently given by personal delivery or by registered letter, postage prepaid and mailed in a Canadian post office, addressed in the case of notice to the City, to the City Clerk, The Corporation of the City of London, P.O. Box 5035, London, Ontario, N6A 4L9, and in the case of notice to The Licensee, to the address for service or to any other address as may be designated in writing by the parties, and the date of receipt of any notice by mailing shall be deemed conclusively to be three days after the date of postage.

3. Obligations of the Licensee

- 3.1) The Licensee shall at all times abide by Ontario Heritage Act, the City of London Alcohol Risk Management Policy, Special Events Policy and such other policies governing the use of City property as shall be reasonably applicable and as may be amended from time to time.
- 3.2) The Licensee shall operate Windermere as a centre for business, educational, social, and cultural activities including but not limited to, conferences, seminars, nuptial ceremonies, receptions, and fundraisers. The Licensee acknowledges that it must comply with the terms of the Last Will and Testament of Elsie P. Williams, The Elsie P. Williams Estate Act, 1938, S.O. 1938, c. 75, and The City of London Act 1980, S.O. 1980 as amended. See schedule "A" attached.
- 3.3) For the purposes of operating Windermere, the Licensee has the right to use and to access, and to permit other persons to use and to access the building commonly known as the "Estate House", and the adjacent cleared areas, including, but not limited to, the parking lot, the gazebo, the entrance way, and the grounds surrounding the Estate House except the cottage located at the main entrance ("the Cottage"). Upon mutual consent of the parties, the use of the Cottage by the Licensee may be the subject of future amendments to this agreement.
- 3.4) The Licensee shall have the right to set rates that it may charge for the use of Windermere. Such gross revenues as may be generated through such rates are for the account of the Licensee.
- 3.5) The Licensee shall be responsible for all expenses resulting from its operation of Windermere, including but not limited to, telephone, marketing and promotion, salary, catering, and business insurance expenses and taxes levied by all levels of government resulting from the operation and use of Windermere as herein provided, including the collection and remittance of harmonized sales tax. The City will pay all utility bills on a monthly basis. The Licensee shall reimburse the City for two thirds of the cost of the utilities on a bi-annual basis beginning on the anniversary date of this Agreement
- 3.6) In each year of this Agreement on or before May 31, the Licensee will report to the City on the previous years' program and financial activities of Windermere. Reports shall be in a form satisfactory to the City. The Licensee shall keep books and records in accordance with generally accepted accounting principles (SAAP) for not for profit organizations and, will allow the City to inspect such books and records at any time on reasonable notice.
- 3.7) The Licensee acknowledges that any capital improvements to Windermere, whether it, the City, or both parties paid for the improvements, become the property of the City and The Licensee forfeits all right to reimbursement for its contribution for such expenditures.
- 3.8) The Licensee shall promptly inform the City of any required maintenance or approved capital improvements on the property which it regularly uses and accesses.
- 3.9) The Licensee shall be responsible for the costs of all maintenance, repairs and cleaning of the buildings, and its components including without limitation janitorial service, window cleaning, building security, pest control, removal of litter, disposal of waste, emergency power, and preventative maintenance schedules for all systems. All maintenance, repairs and cleaning will be completed in a satisfactory and timely manner and in accordance with standards acceptable to the City.
 - a) The City shall be responsible for all repairs at a cost of more than \$2,500.00 per occurrence unless necessitated by the negligence of the Licensee, its officers, employees, agents, contractors, invitees or licensees
 - b) The Licensee shall be responsible for all repairs at a cost of \$2,500.00 or less per occurrence unless necessitated by the negligence of the Licensee, its officers, employees, agents, contractors, invitees or licensees.
 - c) The Licensee shall be responsible for all improvements for or by any sublessee(s)
 - d) The City agrees, prior to the commencement of any repairs or maintenance, that reasonable notice be provided so as to minimize disruption to the Licensee's operations at Windermere.
- 3.10) The City and the Licensee will jointly conduct bi-annual inspections of Windermere. Prior to the execution of this Agreement, the City and the Licensee shall conduct an audit of the Windermere property which shall establish the standard for all future audits of the Windermere property. Such standards shall not be less than the City's standard for inspection and audit of facilities it owns or operates. Copies of these audits and any resulting work plans shall be made available to both parties.
- 3.11) The Licensee shall maintain a separate reserve fund for any yearly surplus generated from operations at

Windermere to fund maintenance of the building and/or to lower rent payments by member organizations.

- 3.12) Should the Licensee cease to exist or the agreement is terminated, all assets including the reserve fund, and improvements of the Licensee generated at Windermere, will become property of the City to be used to improve Windermere.
- 3.13) The Licensee shall work with the Manager of Culture to determine what furnishings and collections need to be maintained by the City.

4. Insurance

- 4.1) Throughout the term of this Agreement, the Licensee shall obtain and maintain the coverage shown below and shall provide that this coverage will not be cancelled or permitted to lapse unless the insurer notifies the City in writing at least thirty (30) days prior to the date of cancellation or expiry:
- a) Third party general liability insurance covering all claims for negligence, nuisance, property damage and personal injury, including death, arising out of the use of Windermere by the Licensee. Such policy shall include the City as an additional insured with respect to this Agreement and be in an amount not less than five million (\$5,000,000.00) dollars including personal injury liability, contractual liability, non-owned automobile liability, employer's liability, and shall contain a severability of interests and cross liability clauses.
 - b) Standard all risk property insurance covering the property of the Licensee, including leasehold improvements, in an amount not less than the full replacement cost value with a deductible of no more than \$2,500.00; such policy shall include a waiver of subrogation in favour of the City; and
 - c) Business interruption insurance covering loss of gross income arising from a peril insured under 4.1. (b) in an amount not less than 80% of estimated annual income. and
 - d) Standard all risk tenants legal liability insurance covering Windermere in an amount not less than two hundred fifty thousand (\$250,000.00) dollars, and
- 4.2) The Licensee shall not do, omit to do, or permit to be done or omitted to be done on or at Windermere anything that may increase premiums or void coverage under the property insurance policies carried by the City on Windermere
- 4.3) The insurance described in 4.1 above will not be cancelled or permitted to lapse unless the insurer notifies the City in writing at least thirty (30) days prior to the date of cancellation or expiry. Evidence of such insurance shall be delivered to the City promptly at inception of this Agreement and thereafter prior to the insurance renewal date. Failure to satisfactorily meet these conditions relating to insurance shall be deemed a breach of this Agreement.
- 4.4) The City reserves the right to request such higher limits of insurance or other types policies appropriate to this Agreement as the City may reasonably require from time to time.

5. INDEMNITY

- 5.1) The Licensee shall indemnify and hold the City harmless from and against any liability, loss, claims, demands, costs and expenses, of every nature and kind whatsoever, including reasonable legal fees, occasioned wholly or in part by willful conduct or otherwise by reason of or on account of the Licensees use or occupation of the Windermere or arising out of any breach, violation or non-performance on the part of the Licensee of any covenant or provision in this Agreement, whether arising from actions of the Licensee or by its employees, servants, agents, subcontractors or others the Licensee is responsible for at law. Such indemnification shall continue in effect after expiry of this Agreement with respect to any matter arising during the use, occupation, and operation of Windermere by the Licensee.
- 5.2) The Licensee agrees that in the event that any third party obtains an injunction preventing the use of the Windermere by the Licensee, the Licensee will not hold the City in any way responsible for any losses incurred thereby, whether by the Licensee or any other party and agrees to indemnify the City for all costs and expenses arising from such losses, during the currency of this Agreement.
- 5.3) The City shall indemnify and save harmless the Licensee from and against any and all claims, actions, damages, losses and liabilities and expenses (including, without limitation bodily injury including death, personal injury and property damage) arising from or out of ownership or maintenance by the City of Windermere, its surrounding land and outbuildings or occasioned in whole or in part by any act or omission of the City, its officers, employees, agents contractors, invitees or licensees.

6. Dispute Resolution

6.1) In the event of a dispute arising out of or in connection with this License, the parties undertake to attempt to settle the dispute by engaging in good faith with the other in a process of mediation before commencing arbitration or litigation.

7. General

7.1) The Licensee acknowledges and agrees that nothing in this agreement shall be construed or interpreted so as to create Landlord and Tenant relationship between the parties. The Licensee further acknowledges and agrees that this Agreement is a grant of license for the specified purposes, and no a grant of a leasehold interest in the property.

7.2) The Licensee will provide public access to Windermere for the Sunday of the Doors Open Event weekend assuming such an event occurs within the period of this agreement.

The City hereby acknowledges receipt of a triplicate copy hereof.

IN WITNESS WHEREOF the Company has affixed its corporate seal, attested by the hands of its duly authorized officers this _____ day of _____, 2017.

THE HERITAGE LONDON FOUNDATION

Per: Brenda J. McQuaid

Name: Brenda J. McQuaid

Title: President

I/We Have the Authority to Bind the Corporation

IN WITNESS WHEREOF the Corporation of the City of London has hereunto caused to be affixed its Corporate Seal attested by the hands of its proper signing officers pursuant to the authority contained in By-law No. _____ of the Council of the Corporation of the City of London passed the _____ day of _____, 2017

THE CORPORATION OF THE CITY OF LONDON

Matt Brown, Mayor

Catharine Saunders, City Clerk

Schedule "A"

WILL OF LATE MRS. E. P. WILLIAMS.

THIS IS THE LAST WILL AND TESTAMENT of me, ELISIE P. WILLIAMS, of the Township of London, in the County of Middlesex and Province of Ontario, Widow:

1. I give and bequeath the following legacies to the following persons, namely:

To my god-child, Jane Ellis, of the City of London, in the said County of Middlesex, daughter of George Ellis, of the same place, Manufacturer, Five Thousand dollars;

To Thomas W. McFarland, of the said City of London, Gentleman, Five thousand dollars;

To Talbot Macbeth, of the said City of London, Retired Judge of the County Court of the County of Middlesex, Five thousand dollars;

To Thomas Graves Meredith, of the said City of London, Esquire, Ten thousand dollars, and in the event of his dying in my lifetime, the said legacy shall be paid to his sons, Stanley and Bedmond Meredith, in equal shares;

To the said Stanley Meredith, Five thousand dollars;

To the said Bedmond Meredith, five thousand dollars;

To Harriet Kestle, my housekeeper, Ten thousand dollars;

To William Kenney, my chauffeur, a legacy of Five thousand dollars;

To Mary Gowdy, my housemaid, Five thousand dollars,

and to each person who is in my employment at the time of my decease, and who has been in my employment for three consecutive years prior to the time of my decease (other than the said Harriet Kestle, William Kenney and Mary Gowdy) One thousand dollars.

2a. I give and bequeath my jewellery to the said Jane Ellis and my wearing apparel to the said Harriet Kestle.

3. All the rest, residue and remainder of all the estate, both real and personal, of every nature and kind which I shall die possessed of or entitled to, including all the estate of Daniel Simmons Ferrin, in his lifetime of the said City of London, Manufacturer, deceased, of which, under the powers contained in the last Will and Testament of the said late Daniel Simmons Ferrin (bearing date the First day of June, A.D., 1904, and proved in the Surrogate Court of the County of Middlesex on the Twenty-seventh day of February, A.D. 1904) I have certain powers of appointment, and in the exercise of the said powers and of every other power now, or at the time of my decease hereunto enabling me, I give, devise, limit and appoint to the said Talbot Macbeth and the said Thomas Graves Meredith, my Trustees, and the survivor of them, and his successor, their and his heirs, executors and administrators respectively, according to the nature thereof, upon trust to sell, call in and convert into money the same, or such part thereof as shall not consist of money, (save and except the property owned by me in the said Township of London and known as "Windermere" (hereinafter called "Windermere") and being all the real property owned by me in the said Township of London, and save and except all the furniture, books, pictures, plate, glass and china which, at the time of my death shall be in, about or belonging to the dwellinghouse at "Windermere" (hereinafter called "my household furniture and effects") and of the sum of the money produced by such sale, calling in and conversion, and after payment of my ready money, to pay my funeral and testamentary expenses and debts, and the legacies bequeathed by this my Will, and to invest the residue of the said moneys in any investments authorized by law for trust funds, with power for the Trustees of this my Will, from time to time, to vary such investments, and to stand possessed of the said residuary trust funds and the investments for the time being representing the same (hereinafter called "the residuary trust fund") upon trust to pay out of the annual income of "the residuary trust fund" for the proper care and maintenance of all the horses and dogs which I shall own at the time of my decease so long as they, or any of them, live, and to keep the said animals at "Windermere" and to see that they are not worked or ill-treated; to pay out of the said income to the Humane Society of the said City of London the sum of Two hundred dollars per annum for twenty years from the time of my decease; to permit the said Harriet Kestle to reside in my dwellinghouse at "Windermere" and to have the use of the same and of the land upon which the said dwellinghouse is erected, known as "Windermere", and of "my household furniture and effects", free of charge, so long during the term of her natural life as the said Harriet Kestle wishes to reside therein; to pay

to the said Harriet Kestle, for her support and maintenance in the said dwellinghouse, so much of the annual income of "the residuary trust funds" as the Trustees of this my Will may from time to time deem necessary or expedient so long as the said Harriet Kestle resides in the said dwellinghouse and the Trustees of this my Will shall, so long as the said Harriet Kestle resides in the said dwellinghouse, pay out of the income of "the residuary trust fund" the taxes upon Windermere, the insurance premiums, and such amounts as may be necessary or expedient to keep the said dwellinghouse and Windermere in a good and sufficient state of repair; and upon the decease of the said Harriet Kestle or when she ceases to reside in the said dwellinghouse, whichever event first happens to permit the Corporation of the City of London, and its successors, to use and occupy Windermere and my household furniture and effects for all time to come as a Public Park and Museum only, and upon the express condition that they shall be used only as a Public Park and Museum; and to pay the balance of the net annual income of "the residuary trust fund", or so much thereof as the Trustees of this my Will may, from time to time, deem to be necessary or expedient, to The Corporation of the City of London for the maintenance and upkeep and improvement of "Windermere" so long as "Windermere" and "my household furniture and effects" are used by the said Corporation solely as a Public Park and Museum for the City of London, or, in the uncontrolled discretion of the Trustees of this my Will, to apply the balance of the net annual income of "the residuary trust fund" or so much thereof as the trustees of this my Will may, from time to time, see fit, for the maintenance, upkeep and improvement of "Windermere" and "my household furniture and effects" so long as "Windermere" and "my household furniture and effects" are used by the said Corporation as a Public Park and Museum solely, with power to the Trustees of this my Will, from time to time, to pay any or all of the net annual income of "the residuary trust fund" which they shall deem not to be necessary for the maintenance, upkeep and or improvement of "Windermere" in the purchase of pictures or objects of interest for the said museum, and if the Trustees of this my Will shall deem it necessary or desirable, and if there shall be a sufficient amount of income, not required for the purposes aforesaid, to enable the Trustees of this my Will to do so, to erect, from time to time, additional buildings and/or make additional improvements to "Windermere" for the purposes of a Public Park and Museum for the City of London, but not to exceed at any time the amount of the remainder of the net annual income of "the residuary trust fund".

3. In the event of the Corporation of the City of London, or its successors, ceasing at any time to use and occupy "Windermere" and "my household furniture and effects" solely as a Public Park and Museum, I give, devise and bequeath "Windermere" and "my household furniture and effects" unto Ursuline Religious of Diocese of London in Ontario, for Brasels Hall for its own use absolutely, and in the event aforesaid I direct the Trustees of this my Will to deliver or pay "the residuary trust fund", and so much of the income thereof, if any, as then remains, to the said Ursuline Religious of Diocese of London in Ontario for its own use absolutely forever.

4. In the event of the provisions hereinbefore made in this my Will for the Corporation of the City of London with regard to the use and/or occupation of "Windermere" and/or "my household furniture and effects" and the provisions hereinbefore contained for the payment by the Trustees of this my Will to or for the benefit of The Corporation of the City of London for the maintenance, upkeep and improvement of "Windermere" being illegal or invalid in any respect, and in the event of The Corporation of the City of London failing within two years after my decease to have the said provisions validated by the Legislature of the Province of Ontario, I give, devise and bequeath "Windermere" and "my household furniture and effects" unto the said Ursuline Religious of Diocese of London in Ontario for Brasels Hall for its own use absolutely forever, and I direct the Trustees of this my Will, in the events aforesaid to transfer and/or pay "the residuary trust fund" and the accumulated income, if any, to the said Ursuline Religious of Diocese of London in Ontario for its own use absolutely.

5. I authorize the Trustees of this my Will to retain investments made by me in my lifetime as long as they shall think proper, and I exonerate them from all responsibility for any loss or damage occasioned thereby.

6. In the event of either of the Trustees of this my Will dying or remaining out of the Province of Ontario for more than twelve months, or desiring to be discharged from all or any of the trusts or powers reposed in or conferred on him, or refusing, or is unfit to act therein, or is incapable of acting therein, I authorize the surviving or continuing Trustee for the time being of this my Will, by writing, to appoint The Canada Trust Company to be Trustee in the place of the Trustee so dying, remaining out of Ontario, desiring to be discharged, refusing, or being unfit or incapable of acting therein, and after the said The Canada Trust Company has been appointed a Trustee of this my Will, it shall perform all the duties and have all the powers hereinbefore vested in the Trustees of this my Will.

7. I direct that the succession tax or duty upon the legacies bequeathed by paragraph one of this my Will shall be paid out of the residuum of my estate, and shall not be deducted from the said legacies, or paid by the legatees therein named, and the said legacies and the said legatees are exonerated from the payment of the said tax or duty.

8. I desire that I shall be buried in the garden, south of the sundial, in "Windsore", next to my late husband.

9. I appoint the said Talbot Macbeth and Thomas Graves Meredith to be the Executors and Trustees of this my Will.

10. It being my desire that the said Thomas Graves Meredith, who is my Solicitor, shall continue to act as such in all matters relating to my property and affairs, and my estate, and shall make the usual professional charges, I direct that he shall, notwithstanding his acceptance of the office of Executor and Trustee of this my Will and his acting in the execution thereof, be entitled to make the same professional charges and to receive the same pecuniary emoluments and remuneration for all business done by him and all attendances, time and trouble given or bestowed by him in or about the execution of the trusts and powers of this my Will, or the management and administration of my trust estate, real or personal, as if he, not being himself an Executor or Trustee of this my Will, were employed by the Executors and Trustees thereof, as their Solicitor, and he shall be entitled to retain out of my trust moneys, or to be allowed to receive from his co-trustee (if any) out of the said moneys, the full amount of such charges, any rule of equity to the contrary notwithstanding, nevertheless without prejudice to the right or competency of the said Thomas Graves Meredith to exercise the authority, control, judgment and discretion of a Trustee of this my Will.

11. I revoke all Wills by me at any time heretofore made.

IN WITNESS WHEREOF I have hereunto set my hand this fifteenth day of July, in the year of our Lord one thousand nine hundred and thirty-two.

ELSIE P. WILLIAMS.

SIGNED, PUBLISHED AND DECLARED by the Testatrix, Elsie P. Williams, as and for her last Will and Testament, in the presence of us, both present together at the same time, who, at her request, in her presence and in the presence of each other hereunto subscribed our names as witnesses.

H. R. Davidson
of the City of London, Solicitor.

M. H. Thompson, of the same place, Secretary.

THIS IS A CODICIL to the LAST WILL AND TESTAMENT of me, ELSIE P. WILLIAMS, of the Township of London, in the County of Middlesex, Widow, bearing date the Fifteenth day of July, A.D. 1932:

1. I direct the Trustees of my said Will to pay to my housekeeper, Harriet Kestle, (now known as Harriet Corbett), Fifty-five dollars per month, as wages, so long during the term of her natural life as she wishes to reside, and does reside in the dwellinghouse erected upon my property, known as Windermere, mentioned in my said Will, and keeps and maintains my dog, Shaker, and I declare that this amount is intended to be and shall be in addition to the provisions made for the said Harriet Kestle (or Corbett) by my said Will, and I give the same to the said Harriet Kestle (or Corbett) accordingly.

2. I direct the Trustees of my said Will to retain at Windermere aforesaid the services of William Kenney, Mary Gowdy, Winnian Gay, and Frederick Russell, for at least ten years after my decease, and to pay to them respectively the wages which he or she was receiving from me immediately before my decease.

3. I direct the said Trustees to permit the said Mary Gowdy to live with the said Harriet Kestle (or Corbett) in the said dwellinghouse, free of charge, so long as the said Harriet Kestle (or Corbett) resides therein, and I direct my said Trustees to pay to the said Harriet Kestle (or Corbett) for the support and maintenance of the said Mary Gowdy in the said dwellinghouse, so much of the annual income of the residuary trust funds as my said Trustees may, from time to time, deem necessary or expedient.

4. I revoke the legacy to my god-child, Jane Ellis, bequeathed to her by my said Will, and in lieu thereof I give and bequeath unto the said Jane Ellis a legacy of One thousand dollars.

5. I revoke the gift and bequest in my said will of my jewellery to the said Jane Ellis, and I give and bequeath the said jewellery to the said Harriet Kestle (or Corbett).

6. In all other respects I do hereby confirm my said Will.

IN WITNESS WHEREOF I have hereunto set my hand this Fourteenth day of April, in the year of our Lord one thousand nine hundred and thirty-four.

ELSIE P. WILLIAMS.

SIGNED, PUBLISHED AND DECLARED by the Testatrix, Elsie P. Williams, as and for a codicil to her last will and testament, in the presence of us, both present together at the same time, who, at her request, in her presence and in the presence of each other have hereunto subscribed our names as witnesses.

W. H. Thompson, of the City of London, Secretary.

L. M. Campbell, of the same place, Trained Nurse.

THIS IS A SECOND CODICIL TO THE LAST WILL AND TESTAMENT OF ME, ELSIE P. WILLIAMS, of the Township of London, in the County of Middlesex, Widow, bearing date the Fifteenth day of July, A.D. 1932:

1. I direct the Trustees of my said Will to pay to my housekeeper, Harriet Kestle (or Corbett) a legacy of Ten thousand dollars in addition to the legacy to the said Harriet Kestle (or Corbett) of Ten thousand dollars bequeathed by my said will, and I give and bequeath the additional Ten thousand dollars to the said Harriet Kestle (or Corbett) accordingly.

2. I direct that the succession tax or duty or inheritance tax or duty upon the said additional legacy to the said Harriet Kestle and upon the benefits conferred by the first codicil to my said Will (such codicil bearing date the Fourteenth day of April, A.D. 1932) upon the said Harriet Kestle (or Corbett), Mary Gowdy and Jane Ellis mentioned in the said first codicil to my said will shall be paid out of the residue of my estate and shall not be deducted from the said legacies or benefits or paid by the said Harriet Kestle (or Corbett), Mary Gowdy and Jane Ellis or any or either of them, and I exonerate the said beneficiaries and the said legacies from the payment of the said tax or duty.

3. In all other respects I confirm my said will and the said first codicil thereto.

IN WITNESS WHEREOF I have hereunto set my hand this 18th day of May, A.D. 1934.

ELSIE P. WILLIAMS

SIGNED, PUBLISHED AND DECLARED by the Testatrix, Elsie P. Williams, as and for a second codicil to her last will and testament, in the presence of us, present both together at the same time, who, at her request, in her presence and in the presence of each other have hereunto subscribed our names as witnesses.

Edith Jane Fraser, 340 Wellington St.

H. R. Davidson, City of London, Solicitor.

A true copy

EDMUND WELD

Registrar.

CHAPTER 75.

An Act respecting the Elsie P. Williams Estate.

*Assented to April 8th, 1938.
Session Prorogued April 8th, 1938.*

WHEREAS Elsie P. Williams, of the township of London ^{Preambl}
in the county of Middlesex, widow, died on or about the
3rd day of June, 1934, having first made and published her
last will and testament bearing date the 15th day of July, 1932,
and certain codicils thereto bearing date the 14th day of April,
1934, and the 18th day of May, 1934, respectively; and whereas
the said Elsie P. Williams, after making provision for payment
of certain legacies and bequests directed by her will that all
her estate including the estate of Daniel S. Perrin over which
she had a power of appointment, be given to her executors and
trustees upon trust to convert the same into money, with the
exception of her property known as "Windermere" (being her
country residence situate some distance outside the city of
London); and whereas after bequeathing a number of legacies
the said testatrix provided for her housekeeper, Harriet
Kestle, residing during her lifetime at "Windermere" and
receiving for her support and maintenance at "Windermere" an
annual income such as her trustees might from time to time
deem necessary or expedient, so long as she continue to reside
at "Windermere" and provided that in addition thereto such
trustees should pay the taxes on "Windermere" and the
insurance premiums and keep the dwelling house in repair;
and whereas the said will further made provision that upon the
decease of the said Harriet Kestle or upon her ceasing to
reside at "Windermere," whichever event first happened, to
permit the corporation of the city of London and its successors
to use and occupy "Windermere" and her household furniture
and effects for all time to come as a public park and museum;
and whereas the said will further made provision that in the
event of the corporation of the city of London ceasing at any
time to use and occupy "Windermere" and such household
furniture and effects solely as a public park and museum,
then "Windermere" and such household furniture and effects
should become the absolute property of the Ursuline Religious
of the Diocese of London in Ontario, for Brescia Hall, and that
the residuary trust fund should also become the absolute
property of and be paid over forthwith to the said Ursuline
Religious order; and whereas the corporation of the city of
London as contemplated by said will applied for and obtained

an Act of the Legislative Assembly of the Province of Ontario empowering it to accept the provisions made for it in the will which Act is referred to as Chapter ~~78~~ Statutes of Ontario, 1935; and whereas on the 11th day of March, 1936, Mary Ryan, a niece of the late Daniel S. Perrin, commenced an action in the Supreme Court of Ontario against Thomas Graves Meredith and Talbot Macbeth, as executors, in which action six other nephews and nieces of the said Daniel S. Perrin were joined as defendants with various other parties interested in the estate of the said Elsie P. Williams, such action being brought to set aside the said will of Elsie P. Williams, and for a further judgment declaring that the purported exercise of the power of appointment by the said Elsie P. Williams therein was null and void; and whereas in the month of November, 1937, a settlement of said action was arrived at between Mary Ryan, the plaintiff, and several of the defendants therein named and written minutes of settlement which are contained in Schedule A to this Act, were executed on behalf of such parties; and whereas the corporation of the city of London has by its petition prayed for special legislation in respect of the estate of the said Elsie P. Williams and in respect of the matters hereinafter set forth; and whereas it is expedient to grant the prayer of the said petition;

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

short title.

1. This Act may be cited as *The Elsie P. Williams Estate Act, 1938*.

minutes of settlement affirmed.

2. The Act referred to in the said minutes of settlement bearing date the 5th day of November, 1937, set forth in Schedule A hereto, wherever referred to in the said minutes of settlement, shall be deemed to be this Act, notwithstanding the variations of the said minutes of settlement by virtue of the provisions of this Act, and the said minutes of settlement as varied by the provisions of this Act, notwithstanding any provisions in the said minutes of settlement to the contrary, are hereby declared to be legal, valid and binding on the plaintiff and defendants and all persons referred to in the said minutes of settlement including their heirs, executors, administrators, successors and assigns respectively, and without restricting the generality of the foregoing the said minutes of settlement as varied by the provisions of this Act are hereby declared to be legal, valid and binding on all defendants referred to in the said minutes of settlement who have failed or refused to sign the said minutes of settlement in the same manner and to the same extent as if such defendants had signed and executed the said minutes of settlement and had agreed to the terms and provisions thereof as varied

by this Act, and upon all other persons having any right, title and interest in the estates of the said Elsie P. Williams and Daniel S. Perrin.

3. The council of the corporation of the city of London is hereby authorized and empowered to pass and shall pass such by-laws and shall enter into such agreements and do such other acts, matters and things as may be deemed necessary or expedient for the full and proper carrying out of the provisions of this Act.

4. The assets of the said estate of Elsie P. Williams, including the assets and funds over which the said Elsie P. Williams was given power of appointment under the will of Daniel S. Perrin, and all securities and accumulations thereof, except those set aside under the provisions of section 7 are hereby transferred and vested without any further act, conveyance, transfer, deed or assurance in the corporation of the city of London, and the said corporation is hereby empowered and directed to take over and obtain physical possession or control of all such assets, funds, securities and accumulations thereof and all documents and evidence of title subject to all existing liabilities of the said estate; and by virtue of the said variations of the said minutes of settlement and the setting aside of certain assets under the provisions of section 7, payment of the moneys required to be paid under the provisions of clauses 4 and 5 of the said minutes of settlement, shall be made by the said corporation forthwith after it shall have obtained possession or control of the said assets or such of them as shall be sufficient therefor, except those assets set aside under the provisions of section 7.

5. Upon the coming into force of this Act, the rights, duties, powers, discretions and obligations of the executors and trustees of the said estate of Elsie P. Williams, namely, Thomas Graves Meredith and Talbot Macbeth, and their successors and nominees in office, except those expressly reserved in section 7, shall vest in the corporation of the city of London and the said executors and trustees shall forthwith assign, transfer, set over and deliver unto the said corporation possession and control of all books, documents, records, securities, moneys and all assets and things belonging to the said estate of Elsie P. Williams, including all books, documents, records, securities, moneys and all assets and funds and things relating to or over which the said Elsie P. Williams was given power of appointment under the terms of the will of Daniel S. Perrin, excepting only the assets referred to in section 7.

6. The accounts of the said executors and trustees shall be brought in, audited and passed before the surrogate judge

of

of the county of Middlesex on such day as he may appoint upon application therefor by the said executors or any of the parties to the said minutes of settlement, and an appeal shall lie from the order of the said surrogate court judge to the Court of Appeal for Ontario and such sum as may be awarded by the said surrogate court judge or by the said Court of Appeal in the event of an appeal being taken, shall be paid to the said executors and trustees by the corporation of the city of London out of the said estate of Elsie P. Williams.

Trust fund
to be
established.

7.—(1) A trust fund of \$300,000 shall be and the same is hereby declared to be set aside in trust out of the residuary trust fund of the said estate of Elsie P. Williams, for the upkeep and maintenance of the premises known as "Windermere" and the grounds connected therewith as a public park and museum, and in trust for all the purposes for which the said residuary trust fund was created by the terms of the said will and codicils.

Subject to
willingness
to accept,
the trust
fund of
\$300,000 and
"Winder-
mere" to
remain
vested in
executors.

(2) Subject to the willingness of the said executors and trustees to accept and carry out the trusts in this section provided, the said trust fund of \$300,000 and the dwelling house known as "Windermere" and the land upon which the said dwelling house is erected and used in connection therewith, and the household furniture and effects, including the furniture, books, pictures, plate, glass and china which at the time of the death of the said Elsie P. Williams, were in, about or belonging to the said dwelling house, shall remain vested in the said Thomas Graves Meredith and Talbot Macbeth in trust for all the purposes for which the said residuary trust fund was created by the terms of the said will and codicils.

If executors
unwilling to
accept trust,
Canada
Trust Co.
may act as
trustee.

(3) In the event of the said Thomas Graves Meredith and Talbot Macbeth failing to indicate their willingness to accept and carry out the said trusts as provided in this section by filing a written consent thereto with the Registrar of the surrogate court of the county of Middlesex within fifteen days after the coming into force of this Act, and in the event of such trust having been accepted, then in the event of the death of the said Thomas Graves Meredith and Talbot Macbeth or the survivor of them, the said trust fund of \$300,000 and other assets described in subsections 1 and 2 shall vest in the Canada Trust Company, provided that the said Canada Trust Company indicates its willingness to accept and carry out the said trusts as provided in this section by filing a written consent thereto with the Registrar of the surrogate court of the county of Middlesex within fifteen days of the death of the survivor of the said executors.

(4) In the event of the said Canada Trust Company failing to indicate its willingness to accept and carry out the said trusts as provided in this section, the said trust fund of \$300,000 and other assets described in subsections 1 and 2 shall vest in trust for all the purposes for which the said residuary trust fund was created by the terms of the said will and codicils, in such trust company as may be named or appointed by the surrogate court judge of the county of Middlesex, upon the application of any person interested in the said trusts created by this section.

If Canada Trust unwilling to act, surrogate court judge of county of Middlesex shall appoint trustee.

8. The corporation of the city of London shall forthwith pay such of the legacies and bequests as have not been paid and which are set forth and enumerated in the said last will and testament of the said Elsie P. Williams and the codicils thereto, including the bequest in favour of Bessie Gay, who shall be entitled to the same bequest as is made to the other servants by the last paragraph of clause 1 of the said will of Elsie P. Williams, and shall forthwith pay such other sums of money and costs for which the said corporation is now or may hereafter be liable, together with the costs of the present executors and trustees in connection with this Act.

Council to pay bequests.

9. The right, title and interest of every nature or kind which the Ursuline Religious of the Diocese of London may have or claim to have under the terms of the said will and codicils of Elsie P. Williams, shall vest in the corporation of the city of London as provided in the said minutes of settlement.

Rights of Ursuline Religious to vest in city of London.

10. The corporation of the city of London is hereby authorized to and shall use, hold and dispose of the balance of the said estate of Elsie P. Williams including the assets and funds over which the said Elsie P. Williams was given the power of appointment under the will of the said Daniel S. Perrin, and all securities and accumulations thereof, for the purpose of creating a memorial or memorials to the said Elsie P. Williams by the erection and equipment of a public library, museum, art gallery or hospital, or any additions thereto or maintenance thereof, or for any one or more of such purposes.

Direction as to balance of estate.

11.—(1) If the council of the corporation of the city of London applies any money which under this Act it is authorized to use, hold and dispose of, in paying current or any expenditures other than those authorized by this Act, the members of the said council who vote in favour of such application shall be jointly and severally liable for the amount so applied, and such amount shall be recoverable in any court of competent jurisdiction.

Liability of members of council for wrongful application of moneys.

(2) If the said council, upon the request in writing of a ratepayer, refuses or neglects to bring an action therefor

within

within one month from the receipt of such request such action may then be brought by any ratepayer on behalf of himself and all other ratepayers.

(3) Any such amount which may be recovered under this section shall be used, held and disposed of by the said corporation in accordance with the provisions of this Act.

(4) The members of the said council who vote in favour of such application shall be disqualified from holding any municipal office for a period of two years.

Power to
make
arrangement
as to balance
of residuary
trust fund.

12. The Board of the Victoria Hospital and the Public Library Board, both of the city of London, are hereby authorized and empowered to enter into such agreements and do such other acts, matters and things as may be deemed necessary or expedient to provide for the application of the balance of the said residuary trust fund by the corporation of the city of London in accordance with the purposes set forth in section 10 and for no other purpose.

Commence-
ment of Act.

13. This Act shall come into force on the day upon which it receives the Royal Assent.

SCHEDULE A.

IN THE SUPREME COURT OF ONTARIO.

BETWEEN:

MARY RYAN,

PLAINTIFF.

—and—

THOMAS GRAVES MEREDITH and TALBOT MACBETH, Executors of the last Will and Testament of Daniel S. Perrin, and Executors of the last Will and Testament of Elsie P. Williams, HARRIET KESTLE (or CORBETT), THE CORPORATION OF THE CITY OF LONDON, and THE URSULINE RELIGIOUS OF THE DIOCESE OF LONDON in Ontario, for Brescia Hall, FINDLEY E. PERRIN, MRS. LOOMIS MINOTT (formerly Jessie Mumbrue), MRS. MAUDE PALMER, MRS. CHARLES CRAIG, VICTOR MUMBRUE, DANIEL MUMBRUE, JANE ELLIS, THOMAS W. MCFARLAND, TALBOT MACBETH, THOMAS G. MEREDITH, STANLEY MEREDITH, REDMOND MEREDITH, WILLIAM KENNEY, MARY GOWDY, WILLIAM GAY, BESSIE GAY, FREDERICK RUSSELL, and THE HUMANE SOCIETY OF THE CITY OF LONDON,

DEFENDANTS.

MINUTES OF SETTLEMENT

THIS ACTION is settled as follows:

1. The Plaintiff and the Defendant Victor Mumbrue withdraw all allegations of undue influence and lack of testamentary capacity set forth and enumerated in the Statement of Claim, and all parties hereto abandon all claims to set aside the power of appointment which it is alleged the late Elsie P. Williams failed to exercise by the terms of her last Will and Testament bearing date the 15th day of July, 1932, and the Codicils thereto bearing date the 14th day of April, 1934, and the 18th day of May, 1934, respectively, and all parties hereto consent to the said Will and the Codicils thereto standing as the last Will and Testament of the said Elsie P. Williams, subject to the provisions hereinafter contained.

2. The Defendant The Corporation of the City of London, the Plaintiff, and the Defendant Victor Mumbrue, consent and agree to all the legacies and bequests set forth and enumerated in the said last Will and Testament of the said Elsie P. Williams and the Codicils thereto, and to the payment of the same, and to all the provisions in the said Will of the said Elsie P. Williams and the Codicils thereto in favour of any Defendant to this action including the defendant Bessie Gay who shall be entitled to the same bequest given to other servants by the last paragraph of Clause 1 of the said last Will of the said deceased.

3. The Defendant The Ursuline Religious of the Diocese of London in Ontario, hereby agrees to assign, transfer and set over to the defendant The Corporation of the City of London all right, title and interest of every nature or kind which is given to it under the terms of the said last Will and Testament and the Codicils thereto of the said Elsie P. Williams, subject to the enactment of the legislation hereinafter referred to and payment of the monies provided in the next succeeding paragraphs.

4. The Defendant The Corporation of the City of London agrees to pay—

- (a) To the Plaintiff and the following Defendants, namely, Mrs. Loomis Minott, Daniel Mumbrue, Victor Mumbrue, Mrs. Charles Craig, Mrs. Maude Palmer, and Findley E. Perrin, a total amount of \$175,000.00 payable as hereinafter mentioned.

(b)

- (b) To the Defendant The Ursuline Religious of the Diocese of London in Ontario, the sum of \$100,000.00, payable as hereinafter mentioned, for all rights granted to it under the said last Will and Testament of the said Elsie P. Williams and the Codicils thereto, and for an assignment to the said Defendant The Corporation of the City of London of the rights granted to the said Defendant The Ursuline Religious of the Diocese of London in Ontario, under the terms of the said last Will and Testament of the said Elsie P. Williams and the Codicils thereto: and
- (c) To pay to Isabel Butler, Isabel Ware, Beatrice Reid, John E. Middleton, Rosemary Shuttleworth and Rita Stevenson, Legatees mentioned under the Will of the said Elsie P. Williams, bearing date the 8th day of February, 1927, and referred to in the pleadings of this action, a total of \$12,000.00 payable in proportion to the amount bequeathed to each of them under the said Will of the 8th day of February, 1927.

5. The amounts hereby agreed to be paid by The Corporation of the City of London shall be payable as soon as the said The Corporation of the City of London has applied for and obtained an Act of the Legislature of the Province of Ontario empowering it to take over from the Defendants, Thomas Graves Meredith and Talbot Macbeth, the Estate of the said Elsie P. Williams, and all the assets thereof, including the fund of the Daniel S. Perrin Estate over which the said Elsie P. Williams was given a power of appointment under the Will of the said Daniel S. Perrin, and all securities and accumulations thereof, and has, pursuant to the provisions of the said Act, obtained possession or control of the said Estate to enable it to make such payments from the assets of the said Estate.

6. This action to be adjourned until such application by The Corporation of the City of London has been disposed of by the Ontario Legislature.

7. The Defendant The Corporation of the City of London shall make application at the next Sittings of the Ontario Legislature for an Act validating this settlement, and such application shall provide for the setting aside of a trust fund of \$250,000.00 for the upkeep and maintenance of Windermere and the grounds connected therewith as a public park and museum, and such application shall provide that the balance of the said Estate, after making provision for the payments herein mentioned, shall be used by the Defendant The Corporation of the City of London to create a memorial or memorials to the deceased by the erection and equipment of a public library, museum-art gallery-park-hospital-or any additions thereto or maintenance thereof, or for any one or more of such purposes.

8. In the event of the application for such Act being refused, all proposals herein contained and agreed to by the parties executing these Minutes of Settlement shall automatically become null and void and of no further effect and this action shall proceed to trial at the next Sittings of this Honourable Court commencing after the date of the hearing and disposition of the said application for said Act. In the event of the application of the Defendant The Corporation of the City of London for said Act being granted, this action shall be dismissed with such costs payable to such parties as are hereinafter provided by Clause 11 hereof.

9. The Defendant, The Corporation of the City of London, in making application for the said Act, shall provide in said application for the vesting in the said Defendant The Corporation of the City of London of the entire Estate of the said Elsie P. Williams, including the trust fund over which the said Elsie P. Williams was given power of appointment under the terms of the Will of the said Daniel S. Perrin deceased, and all discretions, rights and powers of the Defendants Thomas Graves Meredith and Talbot Macbeth, as Executors and Trustees of the estate of the said Elsie P. Williams, and their successors and nominees.

10. The application for the said Act shall also provide for the audit and passing of accounts of the Defendants, Thomas Graves Meredith

and

and Talbot Macbeth or their nominees or successors, in their capacity as Executors and Trustees of the estate of the said Elsie P. Williams, and the said Defendants shall be entitled as such Executors and Trustees to such fair and reasonable compensation as may be awarded to them by the Surrogate Judge of the County of Middlesex on the auditing of such accounts, and the amounts so allowed shall be paid to them out of the Estate of the said Elsie P. Williams.

11. The costs of the Defendants Thomas Graves Meredith and Talbot Macbeth and the parties to this action (other than the Plaintiff and the Defendants Mrs. Loomis Minott, Daniel Mumbrue, Victor Mumbrue, Mrs. Charles Craig, Mrs. Maude Palmer, Findley E. Perrin and The Ursuline Religious of the Diocese of London) shall be payable out of the Estate of the said Elsie P. Williams; the costs of the Defendants Thomas Graves Meredith and Talbot Macbeth as Executors and the costs of the Defendant The Corporation of the City of London shall be payable on a solicitor and client basis; the costs of The Corporation of the City of London of and incidental to applying for and obtaining the said Act of the Ontario Legislature shall also be paid out of the said Estate on a solicitor and client basis.

Dated at London, Ontario, this 5th day of November, A.D. 1937.

"BRADEN & McALISTER,"
Solicitor for the Plaintiff.

"J. I. HODGINS,"
Solicitor for the Defendant
The Corporation of the City of London.

"MURPHY, LEBEL & DURDIN,"
Solicitors for the Defendant
The Ursuline Religious of the Diocese
of London in Ontario, for Brescia Hall.

"CRAIG MCKAY,"
Solicitor for the Defendant
Findley E. Perrin.

"C. C. CARROTHERS,"
Solicitor for the Defendants
Mrs. Loomis Minott, Mrs. Maude Palmer,
Mrs. Charles Craig and Daniel Mumbrue.

"ALEX. FERGUSON,"
Solicitor for the Defendant
Victor Mumbrue.

"G. N. WEEKES,"
Solicitor for the Defendants
William Gay and Bessie Gay.

"G. A. P. BRICKENDEN & Co.",
Solicitor for the Defendant
Frederick Russell.

.....
Official Guardian, Solicitor for the Defendant
Jane Ellis.

CHAPTER 109

An Act respecting the City of London

Assented to November 14th, 1980

WHEREAS The Corporation of the City of London hereby applies for special legislation in respect of the matters hereinafter set forth; and whereas it is expedient to grant the application;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "Corporation" means The Corporation of the City of London;

(b) "council" means the council of the Corporation.

2. By-law No. C.P.-501 (c)-361 of the Corporation passed by the council on the 7th day of August, 1979 and approved by the Ontario Municipal Board on the 15th day of November, 1979, being a by-law to amend By-law No. C.P.-501-427, shall be deemed to have come into force on the 1st day of January, 1980, notwithstanding any provision contained in By-law No. C.P.-501 (c)-361 to the contrary, and the Corporation is hereby authorized and empowered to refund that portion of contributions toward the cost of boundary roads and outlet sewers paid between the 15th day of November, 1979 and the 31st day of December, 1979, which is equal to the difference between the rates of contributions prescribed by By-law No. C.P.-501-427 as it existed on the 1st day of January, 1980, and the rates of contributions prescribed by By-law No. C.P.-501-427 as it existed on the 14th day of November, 1979.

Effective
date of
By-law No.
C.P.-501 (c)-
361.
refunds
authorized

3. Notwithstanding any provision to the contrary contained in *The Elsie P. Williams Estate Act, 1938*, including the minutes of settlement set forth in the schedule thereto, or in the will and codicils of Elsie P. Williams, the Canada Trust Company is hereby authorized and empowered to pass the accounts of its administration and settle the amount of its compensation before the proper authority or by agreement with the Corporation and to convey and transfer forth-

Powers of
executor to
vest in City
of London
1938, c. 75

with the land and premises known as "Windermere", the grounds connected therewith and the household furnishings contained therein, after payment of its disbursements, compensation and the costs of the passing or settlement of its accounts to pay over the balance of the trust fund established by section 7 of the said Act to the Corporation, the said property, chattels, and balance of the trust fund to be held by the Corporation subject to the rights and trusts set forth in the said Act.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is *The City of London Act, 1980*.