

PATTERSON ADAMS LLP

Barristers & Solicitors

February 28, 2017

By e-mail: mayorandcouncil@victoria.ca

City of Victoria

1 Centennial Square
Victoria, BC V8W 1P6

Attention: Mayor and Council

Dear Mayor and Council:

***Re: The addition of 607-621 John Street/2551 Rock Bay Avenue to
the City of Victoria, Register of Heritage Properties
Our File No. 25247.001***

We write as solicitors for the registered owner of the above-captioned property, who have referred to us your letter of February 16, 2017 providing an invitation to our client to appear before Council at its meeting of March 9, 2017.

By way of background, the writer attended the information session held May 10, 2016 at the Burnside-Gorge Community Centre and there expressed our client's concerns and objections to the addition of the above-captioned property to the City's Heritage Register.

For your information, enclosed is a copy of our letter dated May 27, 2016 addressed to your Heritage Planner with respect to this matter.

The case for support prepared for the Planning Department does not establish justification for inclusion, in fact, the case for support does the opposite, and provides reasons why this property should not be added to the Heritage Register.

Nothing in the Character-Defining section of the Report sets this building apart from other buildings within the same precinct.

Emphasis is placed not on architectural significance, but the fact that the building demonstrates the xenophobic tendencies of the time as well as protectionist economics. If, as it is alleged in the Report, the construction of this building coincided with escalating Anti-Asiatic sentiment and a conscious effort to boycott Chinese laundries in support of non-Chinese laundries in Victoria, then this building should not be recognized as such,

David Adams, Q.C.
Les Jamieson**

Claire Shulver

Associate Counsel:

*Jack Angus
Craig Beveridge**

*John D. Patterson
(2004)*

*402 - 707 Fort St.
Victoria, BC
Canada*

*Mailing Address:
PO Box 1231
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250-383-8310*

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**Denotes
Law Corporation*

nor, through its inclusion in the Heritage Register, preserve for future generations as a bitter reminder of those times.

Until the Times Colonist article of March 2, 2016, our client was unaware of the building's history. Councillor Thornton-Joe was quoted in that article as questioning why this application should be supported when part of the rationale is because it reflects a racist attitude at that time. Our client also questions the rationale, as should you.

The purpose of this letter is to write to request that the Planning Department's application to add this property to the Heritage Register be denied and to inform you that we will be attending and addressing the May 9th Council meeting.

Yours truly,

PATTERSON ADAMS LLP

Per:


David B. Adams, Q.C.

*ps

cc. by e-mail: John Srebot
Peter Trzewik

PATTERSON ADAMS LLP
Barristers & Solicitors

May 27, 2016

By fax: 250-361-0557

City of Victoria
#1 Centennial Square
Victoria, BC V8W 1P6

Attention: Adrian Brett, Heritage Planner, Community Planning

Dear Sir:

**Re: The addition of 607-621 John Street/2551 Rock Bay Avenue to
the City of Victoria, Register of Heritage Properties
Our File No. 25247.001**

Further to your letter of April 21, 2016 and our attendance at the meeting held on Tuesday, May 10, 2016, we are writing to respond to the "Heritage Register Update Exit Survey" which was delivered to those owners present or represented at the meeting.

The following response is provided on behalf of our client, 1163918 Ontario Ltd. (the "Owner").

1. Did you feel your questions and/or concerns about the City's Heritage Register were addressed at tonight's information session? Why or why not?

The distinction was made between the Heritage Register and Heritage Designation. The purpose of the Register being to provide a list of properties with known Heritage Value to assist the City in monitoring development of that property, however, development of that property cannot be regulated unless the property is within a Heritage Conservation Area of the City of Victoria. The development of a property listed on the Heritage Register within a Heritage Conservation Area or a Heritage Designated Property would require a Heritage Revitalization Permit.

David Adams, Q.C.*
Les Jamieson*
Paul G. Morgan
Claire Shulver

Associate Counsel:

Jack Angus
Craig Beveridge*

John D. Patterson
(2004)

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*Denotes
Law Corporation

.../2

2. Would you consent to having your property added to the City's Heritage Register?

Owner's Name: 1163918 B.C. Ltd.

Property Address: 607-621 John Street/2551 Rock Bay Avenue

No. There is nothing in the Statement of Significance which demonstrates the Heritage Value of this property. In particular, without limiting the generality of the foregoing, the comments made with respect to the cultural and historical value are not admitted by the owner and are offensive. The picture of the property shown in the Statement of Significance does not reflect the property as it is today. The addition of this property to the Heritage Register will provide no benefit to the Owner, the City nor to the community. This property is not within a Heritage Conservation Area.

We look forward to receiving your comments and further information concerning any additional meetings that may be required with respect to this matter.

Yours truly,

PATTERSON ADAMS LLP

Per:

David B. Adams, Q.C.

*cns

cc. John Srebot by email: [REDACTED]

Peter Trzewik by email: [REDACTED]

Douglas B. Thompson
Sharon Thompson
748 Princess Ave.
Victoria, B.C. V8T 1K6

To Mayor and Council:

We are sorry we are unavailable to attend the March 9th, 2017 council meeting to voice our strong opposition to the Heritage Registration of our building at 740 Princess Ave.

As stated in our last letter, the building is in an area of new commercial buildings and several older homes. It has limited use because of design and condition. The original shell and facade are constructed of sandstone brick which is difficult to restore. All the repair options we have explored require refacing the brick with more modern materials. We are also concerned about earthquake damage.

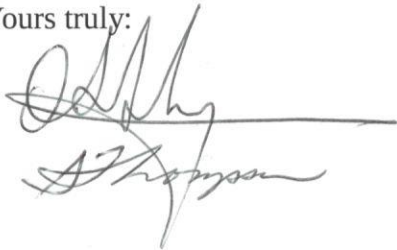
The interior has been completely gutted for auto use. Because of the high property tax based mostly on the land value we feel the most efficient use of this property would be to replace the building with cement block built to the property lines to match the existing addition.

A Heritage Registration would add one more roadblock and more expense to the redevelopment of this property.

Please do not add the Heritage Registration to 740 Princess Ave.

Again, thank you for your consideration of this matter.

Yours truly:

A handwritten signature in dark ink, appearing to read 'D. B. Thompson', is written over a horizontal line. Below the line, the name 'D. B. Thompson' is written in a cursive script.

February 24, 2017

City of Victoria

Attn: Adrian Brett
Heritage Planner
Via email: abrett@victoria.ca

Dear Adrian:

**Re: 1403 Chambers St.
Victoria, BC V8V 4C6**

Further to our conversation earlier this week, I thought it best to follow up with this letter relative to 1403 Chambers and the City of Victoria's Heritage Registry.

Currently 1403 Chambers is under contract for sale. We will take possession of the property on April 3rd of this year. As builder/owner of the Chambers Apartment next door, this home came to our attention through our building process.

My initial contact with the owner was prompted due to the homes obvious poor state of repair. Upon closer inspection, my concerns were well warranted. Although we do not intend to tear down this home, such action is certainly reasonable given its state of disrepair. Our intention is to completely rebuild the property. This will start at the foundation level (it currently has no foundation), and when complete, the home will look very much like it does currently. However, modern materials and finishes will be used. With a full height basement and subtle design alterations, the home will be an excellent copy of its original self, but it will not comply for heritage status.

Putting 1403 Chambers on the heritage list would seem short sighted given the immediate work planned. As such, I request that such does not occur.

Regards

Greg D. Abbott

██████████
██████████

cc mayorandcouncil@victoria.ca

February 22, 2017

File No: 8525 Grounds/01 General TB Park

By Email: mayorandcouncil@victoria.ca

Original letter by mail

Mayor and Council
City of Victoria
#1 Centennial Square
Victoria BC V8W 1P6



RE: Request to add Royal BC Museum Thunderbird Park and Mungo Martin to City of Victoria's Register of Heritage Properties

Dear Mayor and Council:

This is further to telephone conversations we have had with Mr. Adrian Brett, Heritage Planner, City of Victoria and our previous email correspondence sent to the City regarding the properties being listed on the Heritage Register.

We appreciate very much being asked about Thunderbird Park and Mungo Martin House, as we too, are supporters and advocates of not only the built heritage of Victoria, but the history of peoples and landscapes in the province of BC.

Thunderbird Park is a protected provincial heritage site and is through the Heritage Act and is on the provincial heritage register (http://www.bclaws.ca/civix/document/id/complete/statreg/96187_01#section3). Thunderbird Park includes: Mungo Martin House Wa'waditla, Helmcken House, and the Totem Park & surrounding grassy-treed area (including Garry Oak meadow). <http://www.royalbcmuseum.bc.ca/exhibits/tbird-park/main.htm?lang=eng>

Any activity within the boundaries of Thunderbird Park must be approved by the Province of BC - Heritage Branch, in accordance with its status as a protected provincial heritage property. The approval of the Province supersedes any City approval so it doesn't make sense to also designate this site at the municipal level.

Therefore, as previously noted in our letter of October 3, 2016, we respectfully decline the City of Victoria's request to include Thunderbird Park on the City of Victoria's Heritage Register as this site is already protected by the province and does not require further protection or administrative oversight by the City.

If you have any questions or would like more information about Thunderbird Park, please don't hesitate to give me a call or send an e-mail, my contact information is below.

Yours sincerely,



Angela Williams
Chief Operating Officer and Deputy Chief Executive Officer

675 Belleville Street, Victoria, BC Canada V8W 9W2
T 250 213-8007 | F 250 953-4336
AWilliams@royalbcmuseum.bc.ca | www.royalbcmuseum.bc.ca

cc: Ms. Pam Lowings, Head Property Management & Site Development
Mr. Adrian Brett, Heritage Planner, City of Victoria

KIERAN A.G. BRIDGE
Barrister & Solicitor • Law Corporation

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February 24, 2017

BY E-MAIL
abrett@victoria.ca
and
mayorandcouncil@victoria.ca

Legislative Services
City of Victoria
1 Centennial Square
Victoria, B.C.
V8W 1P6

Attention: Adrian Brett
Heritage Planner

Dear Sirs/Mesdames:

**Re: Proposed addition of 2725 Rock Bay Avenue
to City of Victoria's Register of Heritage Properties
Our file: 70130/702**

As you know from my letter of September 20, 2016, I am legal counsel for Valerie Wise, who is the owner of the above-noted property (the "Property").

Neither I nor Ms. Wise received a reply to that letter, other than an acknowledgement of its receipt and later notification by e-mail "that the agenda item regarding the addition of properties to the City's Register of Heritage Properties, scheduled for 6:30 PM, Thursday, September 22, has been postponed" in order "to allow time to review the City's Heritage Property Protection Bylaw, to ensure internal City processes and the Bylaw align."

We interpret this as an acknowledgement and admission by the City of its previous misstatements as identified in Point 1 of my letter of September 20, 2016.

We have received no indication that the errors, omissions and misstatements identified in Points 2(a), (b) and (c) of my letter of September 20, 2016, have been acknowledged or corrected

by the City or its staff. Specifically, no revised and corrected version of the "Committee of the Whole Report" dated August 9, 2016, has been identified or provided.

My letter of September 20, 2016, concluded, "Kindly address all further correspondence regarding the possible addition of the Property to the Register of Heritage Properties to this office." Despite this request, I have received no further relevant communication from the City.

However, Ms. Wise has provided me with a copy of your letter addressed only to her dated February 16, 2017, regarding the resumed proposal to add the Property to the Register of Heritage Properties, and the undated document entitled "Information Package" enclosed therewith.

Property Owner's Position and Demand

As previously stated, Ms. Wise is strongly opposed to the addition of the Property to the Register of Heritage Properties.

Ms. Wise hereby demands that:

- (a) the Property not be added to the Register of Heritage Properties or assigned any other heritage-related designation, and
- (b) the City confirm in writing by no later than March 3, 2017, that the Property will not be considered for addition to the Register of Heritage Properties at the meeting currently scheduled for March 9, 2017, as referred to in your letter.

In the event that such confirmation is not received, I am instructed to commence legal proceedings without further notice.

Errors, Omissions and Misstatements in the City's Recent Communications

Your letter of February 16, 2017, and the Information Package contain further errors, omissions and misstatements of fact and law. Indeed, they are contradicted by or do not reflect other relevant City documents, some of which are not referred to in your letter or the Information Package and of which, in the absence of hours of research, neither Ms. Wise nor any other property owner would likely be aware.

The versions of the City's *Heritage Property Protection Bylaw*, Bylaw No. 95-62, and *Land Use Procedures Bylaw*, Bylaw No. 16-028, available on the City's website as of February 20, 2017, are out of date. They were consolidated on September 27, 2016. It was only through further research that later amendments to those Bylaws were uncovered.

Moreover, neither your letter of February 16, 2017, nor the Information Package reveal the existence of the "Committee of the Whole Report" dated October 27, 2016, from the City's

Director of Sustainable Planning and Community Development on the subject of "Proposed Amendments to the Heritage Property Protection Bylaw No. 95-62 and the Land Use Procedures Bylaw No. 16-028" (the "October 2016 Report").

The October 2016 Report contains "the proposed heritage regulatory framework which staff recommend for Council's consideration and would be established through the proposed bylaw amendments". That regulatory framework significantly contradicts and is inconsistent with the contents of the Information Package attached to your letter of February 16, 2017.

For example:

- (a) The Information Package asserts:

"By itself, listing a property on the Heritage Register does not restrict *any* future actions proposed by an owner."

(italics added)

In contrast, the October 2016 Report states on page 5, in points 12, 13 and 14, that even such minor activities as proposed use of temporary buildings or construction trailers or proposed landscaping changes on any "Heritage Protected Property" (which is defined on page 1 to include both "Registered" and "Designated" heritage properties) are to be subject to the following process:

"Delegate to Staff for potential approval if consistent with *Standards and Guidelines for the Conservation of Historic Places in Canada*".

- (b) The Information Package also asserts:

"Property listed on the Heritage Register does not have any formal protection and does not require the approval of City Council for alteration unless it is located within a heritage conservation area."

In contrast, the October 2016 Report states:

- (i) on page 5, in point 3, that "Applications involving any variances to a Heritage Designated, Heritage Registered *or* any property in a HCA" (underlining in original, italics added) are to be subject to the following process:

"Submit to Council for a decision".

- (ii) on page 2, in the third bullet point:

"● with both statuses ["Heritage Designation" and "Heritage Registration"], applications for demolition are withheld until all necessary approvals, including any approvals by Council are in place."

We also note that in the *Heritage Property Protection Bylaw* (in its current form as research indicates it was amended in January 2017, rather than in the old form to which a link is provided on the City's website) section 5 indicates, by its reference to properties listed in the Heritage Register and by its opening words "Without restricting section 3" that properties in the Heritage Register are subject to the restrictions and processes set out in sections 3, 4 and 6. This is consistent with statements in the October 2016 Report, as set out above. Indeed, the legislative basis for Council's authorization prior to demolition of a property on the Heritage Register is found in *Heritage Property Protection Bylaw* sections 5 and 6.

However, those matters are inconsistent with what is stated in the Information Package as quoted above.

In addition, we have not seen any indication that the City or its staff have acknowledged that, as set out in my letter of September 20, 2016, the addition of a property to a heritage register or the assignment of a heritage designation significantly affects the market value of the property, including by limiting or eliminating its mortgagability. As stated in that letter, the Property is a commercial and investment property that would have its value negatively affected by listing in the heritage register.

Instead, the Information Package attached to your letter of February 16, 2017, contains the following:

"Q. Will the value of my property be affected by Heritage Register status?

A. Listing your property to the Heritage Register may either have no effect on your property's value or potentially increase your property's value. National and international studies have shown that properties that are recognized and/or protected by municipal heritage programs actually increase in property value and fluctuate less during economic downturns. A comprehensive study on heritage and property values is available through Canada's National Trust website at www.nationaltrustcanada.ca."

(underlining added)

In fact, there is no study available on that website, or at any other location to which recipients of the Information Package are referred, which states that adding a property to a heritage register causes an increase in the value of the property.

This unwarranted and potentially misleading statement in the Information Package appears to be calculated to achieve one of the goals set out in the October 2016 Report (to which affected property owners were not referred) which is "to avoid creating a perceived disincentive for properties being added to the Heritage Registry".

It is of particular concern that, regarding the "Heritage Register Update Project", the October 2016 Report asserts that:

"The owners of potential candidate properties will be clearly communicated with about the extent of regulatory powers associated with a "Heritage Registration" status and the associated processes after Council has considered and potentially approved the recommended Bylaw Amendments."

As is readily apparent from what is set out above, this commitment was not met.

Conclusion

For these reasons and those set out in my letter of September 20, 2016, the City and its staff:

- (a) have not provided a proper or lawful foundation for the addition of the Property to the Register of Heritage Properties; and
- (b) are in breach of their obligations to Ms. Wise, including but not limited to their obligation to provide Ms. Wise with an accurate and complete collection of the information and documentation which Council will have before it and may consider when deciding whether to add the Property to the Register of Heritage Properties.

Ms. Wise's Position and Demand are as set out under that heading above.

As previously stated, kindly address all further correspondence regarding the subject matter to this office.

Yours very truly,
Kieran A.G. Bridge, Law Corporation
per:

A handwritten signature in black ink, appearing to read "Kieran Bridge", written in a cursive style.

Kieran A.G. Bridge

cc: Valerie Wise

KIERAN A.G. BRIDGE
Barrister & Solicitor • Law Corporation

1400 – 1125 Howe Street
Vancouver, B.C.
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Telephone: 604-687-5546
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E-mail: kieran@kieranbridgelaw.com

February 24, 2017

BY E-MAIL
abrett@victoria.ca
and
mayorandcouncil@victoria.ca

Legislative Services
City of Victoria
1 Centennial Square
Victoria, B.C.
V8W 1P6

Attention: Adrian Brett
Heritage Planner

Dear Sirs/Mesdames:

**Re: Proposed addition of 225 Dundas Street/505 Catherine Street
to City of Victoria's Register of Heritage Properties
Our file: 70130/702**

As you know from my letter of September 20, 2016, I am legal counsel for Valerie Wise, who is the owner of the above-noted property (the "Property").

Neither I nor Ms. Wise received a reply to that letter, other than an acknowledgement of its receipt and later notification by e-mail "that the agenda item regarding the addition of properties to the City's Register of Heritage Properties, scheduled for 6:30 PM, Thursday, September 22, has been postponed" in order "to allow time to review the City's Heritage Property Protection Bylaw, to ensure internal City processes and the Bylaw align."

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However, Ms. Wise has provided me with a copy of your letter addressed only to her dated February 16, 2017, regarding the resumed proposal to add the Property to the Register of Heritage Properties, and the undated document entitled "Information Package" enclosed therewith.

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As previously stated, Ms. Wise is strongly opposed to the addition of the Property to the Register of Heritage Properties.

Ms. Wise hereby demands that:

- (a) the Property not be added to the Register of Heritage Properties or assigned any other heritage-related designation, and
- (b) the City confirm in writing by no later than March 3, 2017, that the Property will not be considered for addition to the Register of Heritage Properties at the meeting currently scheduled for March 9, 2017, as referred to in your letter.

In the event that such confirmation is not received, I am instructed to commence legal proceedings without further notice.

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Your letter of February 16, 2017, and the Information Package contain further errors, omissions and misstatements of fact and law. Indeed, they are contradicted by or do not reflect other relevant City documents, some of which are not referred to in your letter or the Information Package and of which, in the absence of hours of research, neither Ms. Wise nor any other property owner would likely be aware.

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Moreover, neither your letter of February 16, 2017, nor the Information Package reveal the existence of the "Committee of the Whole Report" dated October 27, 2016, from the City's

Director of Sustainable Planning and Community Development on the subject of "Proposed Amendments to the Heritage Property Protection Bylaw No. 95-62 and the Land Use Procedures Bylaw No. 16-028" (the "October 2016 Report").

The October 2016 Report contains "the proposed heritage regulatory framework which staff recommend for Council's consideration and would be established through the proposed bylaw amendments". That regulatory framework significantly contradicts and is inconsistent with the contents of the Information Package attached to your letter of February 16, 2017.

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We also note that in the *Heritage Property Protection Bylaw* (in its current form as research indicates it was amended in January 2017, rather than in the old form to which a link is provided on the City's website) section 5 indicates, by its reference to properties listed in the Heritage Register and by its opening words "Without restricting section 3" that properties in the Heritage Register are subject to the restrictions and processes set out in sections 3, 4 and 6. This is consistent with statements in the October 2016 Report, as set out above. Indeed, the legislative basis for Council's authorization prior to demolition of a property on the Heritage Register is found in *Heritage Property Protection Bylaw* sections 5 and 6.

However, those matters are inconsistent with what is stated in the Information Package as quoted above.

In addition, we have not seen any indication that the City or its staff have acknowledged that, as set out in my letter of September 20, 2016, the addition of a property to a heritage register or the assignment of a heritage designation significantly affects the market value of the property, including by limiting or eliminating its mortgagability. As stated in that letter, the Property is a commercial and investment property that would have its value negatively affected by listing in the heritage register.

Instead, the Information Package attached to your letter of February 16, 2017, contains the following:

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A. Listing your property to the Heritage Register may either have no effect on your property's value or potentially increase your property's value. National and international studies have shown that properties that are recognized and/or protected by municipal heritage programs actually increase in property value and fluctuate less during economic downturns. A comprehensive study on heritage and property values is available through Canada's National Trust website at www.nationaltrustcanada.ca."

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This unwarranted and potentially misleading statement in the Information Package appears to be calculated to achieve one of the goals set out in the October 2016 Report (to which affected property owners were not referred) which is "to avoid creating a perceived disincentive for properties being added to the Heritage Registry".

It is of particular concern that, regarding the "Heritage Register Update Project", the October 2016 Report asserts that:

"The owners of potential candidate properties will be clearly communicated with about the extent of regulatory powers associated with a "Heritage Registration" status and the associated processes after Council has considered and potentially approved the recommended Bylaw Amendments."

As is readily apparent from what is set out above, this commitment was not met.

Conclusion

For these reasons and those set out in my letter of September 20, 2016, the City and its staff:

- (a) have not provided a proper or lawful foundation for the addition of the Property to the Register of Heritage Properties; and
- (b) are in breach of their obligations to Ms. Wise, including but not limited to their obligation to provide Ms. Wise with an accurate and complete collection of the information and documentation which Council will have before it and may consider when deciding whether to add the Property to the Register of Heritage Properties.

Ms. Wise's Position and Demand are as set out under that heading above.

As previously stated, kindly address all further correspondence regarding the subject matter to this office.

Yours very truly,
Kieran A.G. Bridge, Law Corporation
per:

A handwritten signature in black ink, appearing to read "Kieran Bridge", written in a cursive style.

Kieran A.G. Bridge

cc: Valerie Wise

Pamela Martin

From: Bob & Judy Skene [REDACTED]
Sent: Thursday, March 02, 2017 11:48 AM
To: Victoria Mayor and Council
Subject: Register of Heritage Properties

Hello Mayor and Councillors:

Having received a second notice regarding my property at 431 Hillside Avenue I thought I should write again to remind you of my first response. The residence at 431 Hillside is a two story residence sandwiched between my two commercial properties at 2616 Bridge and 419 Hillside. 431 Hillside is located in a district that has been zoned commercial for many years. There is no other residence within several blocks.

I bought the two Hillside properties (419 and 431) about 14 months ago. My plan over time is to demolish the residence and build another multi-storey commercial property. To have 431 Hillside on a Register of Heritage Properties will cause me untold cost and problems in moving forward. Please do not proceed with designating this property on the Register of Heritage Properties.

Thank you,
Bob Skene
2269 Sage Lane, Victoria, BC
[REDACTED]



The Salvation Army

Canada and Bermuda
British Columbia Division

Business Administration

103 – 3833 Henning Drive, Burnaby, BC V5C 6N5

Tel: 604.299.3908

Fax: 604.678.8489

www.SalvationArmy.ca/BritishColumbia

March 3, 2017

Legislative Services
City of Victoria
1 Centennial Square
Victoria, BC
V8W 1P6

Attention: Mayor Lisa Helps, and Council

Re: High Point Church - 949 Fullerton Ave, Victoria

Dear Mayor Helps and Council,

We are in receipt of your letter of February 16th, 2017 indicating that the Mayor and Council are considering adding our property at 949 Fullerton Ave, to the City's Register of Heritage Properties, and that you will be discussing this matter at your meeting on March 9th, 2017.

We would like to request that consideration of this location be deferred in order that appropriate consultation regarding the proposal can take place and we can determine our response. At this stage we have received some very general information regarding Heritage Registration. We have not however, received a report on the particular aspects of this building which are of interest to the City and therefore it is difficult for us to assess what the specific implication of Heritage Registration may be for this particular property going forward.

We welcome the opportunity to receive and review the report of the Heritage Planner on this location and feel that it is reasonable to request some additional time to consider exactly what is being recommended, and to discuss it, before it is brought before Council.

We look forward to your confirmation and if there are any questions please do not hesitate to call.

Sincerely,

Jennifer Sydenham, MBA
Divisional Property Coordinator
The Salvation Army, BC Division
604 296-3825
Jennifer_sydenham@can.salvationarmy.org