



**City of Kingston  
Report to Council  
Report Number 24-108**

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**To:** Mayor and Members of Council  
**From:** Jennifer Campbell, Commissioner, Community Services  
**Resource Staff:** Kevin Gibbs, Director, Heritage Services  
**Date of Meeting:** April 2, 2024  
**Subject:** Notice of Objection to Proposed Heritage Designation  
**Addresses:** 888 Montreal Street  
**File Numbers:** R01-044-2023

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**Council Strategic Plan Alignment:**

Theme: Corporate business

Goal: See above

**Executive Summary:**

This report is to provide a Notice of Objection for Council's consideration, which was received as part of the heritage designation process currently underway for the subject property located at 888 Montreal Street.

A Notice of Intention to Designate the property was served on the owners and published in *The Whig Standard* on December 12, 2023. The owners of 888 Montreal Street provided a Notice of Objection on December 29, 2023, with supplementary information provided January 11, 2024. When a Notice of Objection is received by the City, Council has 90 days to decide if it wishes to withdraw its Notice of Intention to Designate or not. This timeline will expire on April 10, 2024.

The draft designation by-law was prepared and provided to the owners in accordance with *Ontario Heritage Act* requirements. The subject property exceeds the minimum required criteria for determining cultural heritage value or interest in Ontario. Staff have discussed the concerns with the property owners, though no changes to the draft designation by-law have been requested by the property owners. Heritage staff, the Heritage Properties Working Group and

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the Kingston Heritage Properties Committee support the designation of the subject property under Section 29 of the *Ontario Heritage Act* and staff recommend giving final readings to the by-law and serving a Notice of Passing.

**Recommendation:**

**That** Council acknowledges receipt of the Notice of Objection and supplementary information letter from Irena and Lech Poklewska-Koziell, dated December 29, 2023 and January 11, 2024, respectfully, to the proposed designation of the property located at 888 Montreal Street as a property of cultural heritage value or interest pursuant to Section 29(5) of the *Ontario Heritage Act* and having considered the objections set out in the Notice of Objection and supplementary information letter pursuant to Section 29(6) not withdraw the Notice to Intention to Designate the property; and

**That** Council accordingly reaffirms its approval of the Draft Designation By-Law for 888 Montreal Street; and

**That** Council gives all three readings to the Designation By-Law for 888 Montreal Street, attached as Exhibit C to Report Number 24-108, and directs the City Clerk to serve a Notice of Passing as prescribed under Section 29(8) of the Act.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY COMMISSIONER

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**Jennifer Campbell,**  
**Commissioner, Community**  
**Services**

ORIGINAL SIGNED BY CHIEF

ADMINISTRATIVE OFFICER

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**Lanie Hurdle, Chief**  
**Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Paige Agnew, Commissioner, Growth & Development Services	Not required
Neil Carbone, Commissioner, Corporate Services	Not required
David Fell, President & CEO, Utilities Kingston	Not required
Peter Huigenbos, Commissioner, Major Projects & Strategic Initiatives	Not required
Brad Joyce, Commissioner, Infrastructure, Transportation & Emergency Services	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required

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**Options/Discussion:**

This report provides an update on the heritage designation process currently underway for the property at 888 Montreal Street and circulates the Notice of Objection that has been received (Exhibits A and B) for Council's consideration.

The property at 888 Montreal Street is situated on the west side of Montreal Street, just south of John Counter Boulevard. The irregularly shaped 4,500 square metre residential property contains a one-and-a-half storey Ontario vernacular frame farmhouse constructed between 1860 and 1878, with a series of non-contributing rear additions.

**Background**

Section 29 of the *Ontario Heritage Act* authorizes the Council of a Municipality to enact by-laws to designate real property, including all buildings and structures thereon, to be of cultural heritage value or interest. Council, on December 5, 2023, with respect to [Report Number HP-23-036](#), passed the following motion:

**That** Council direct staff to serve a Notice of Intention to Designate the property located at 888 Montreal Street as a property of cultural heritage value or interest pursuant to Section 29 of the *Ontario Heritage Act*, attached as Exhibit A to Report Number HP-23-036; and

**That** should no Notice of Objection be received by the Clerk of The Corporation of the City of Kingston within thirty (30) days of the publication of the Notice of Intention to Designate, the Designation By-Law for 888 Montreal Street, attached as Exhibit G to Report Number HP-23-036, be presented to Council for all three readings, and that staff be directed to carry out the requirements as prescribed under Section 29(8) of the Act.

As outlined in detail in [Report Number HK-21-004](#), the 2020 changes to the *Ontario Heritage Act* created a new two-tier appeal process for new designations. Following consultation with its heritage committee and the serving of a notice of its intention to designate a property, anyone, within 30 days of the publication of the notice in the newspaper, can object by providing a Notice of Objection to the City Clerk.

A Notice of Intention to Designate the property was served on the owners, published in the newspaper and posted on the City's website on December 12, 2023. The Notice of Objection was provided by the property owners to the City on December 29, 2023 (Exhibit A), within the 30-day objection period. Additional information was also provided by the owners on January 11, 2024 (Exhibit B).

When a Notice of Objection is received by the City, Council has 90 days to decide if it wishes to withdraw its Notice of Intention to Designate, following the completion of the 30-day objection period. This timeline will expire on April 10, 2024. Council's decision regarding the objection is required to be served on the owner(s) and be published in the newspaper in the form of either a Notice of Passing (after giving final reading to the by-law) or a Notice of Withdrawal.

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If Council chooses to publish a Notice of Passing, the public (including the owners) will be afforded an opportunity to appeal the designation to the Ontario Land Tribunal within 30 days of the publication of the Notice. The Tribunal would then review the appeal, hold a hearing, and render a binding decision on the fate and content of the designation.

### **Cultural Heritage Analysis**

The purpose of the first tier of the two-tier objection/appeal process is to provide the municipality with an opportunity to consider the merits of the objection and reconsider their intention to designate the property, before relinquishing decision making authority on the outcome of the designation to the Ontario Land Tribunal, should the matter be appealed under tier two.

The Letter of Objection dated December 29, 2023 (Exhibit A) from the owners of 888 Montreal Street, requests deferral of the proposed heritage designation in order to allow the owners time to engage the services of a licensed property appraiser. While the owners are welcome to have their property appraised at any time, the estimated market value of the property and any perceived impacts from the proposed heritage designation, is not a criterion for determining cultural heritage value or interest through the *Ontario Heritage Act*. Further, a study conducted through the University of Waterloo has determined that a heritage designation “does not in itself have any demonstrable negative effect on the value of those properties” studied. It goes on to say that designated properties appear to increase in value more consistently when measured against the average market trend within a given community.

With respect to the owners’ request for a deferral, the *Ontario Heritage Act* is clear (Section 29(6)) that Council must respond to the Notice of Objection within 90 days following the completion of the 30-day objection period, by either advancing the designation or withdrawing its intention to designate; a deferral of this decision is not an option under this clause of the Act. If Council takes no action within the prescribed timeline, its intention to designate the property is deemed to be withdrawn.

Staff provided this information to the owners. The owners provided the supplementary letter (Exhibit B) on January 11, 2024 to Mayor Paterson and members of Council, requesting Council withdraw its intention to designate the property.

The majority of the supplementary letter appears to question the City’s legal ability to designate private property under the *Ontario Heritage Act*. The City’s Legal Services department has provided clarification and comments below on this matter. It should be noted that all regulatory and legislative requirements established under the *Ontario Heritage Act* have been met in the evaluation, review, preparation and processing of the proposed designation. The City of Kingston has been designating private property under the *Ontario Heritage Act* since 1975. The Kingston Heritage Properties Register includes over 1,000 properties designated under Part IV or Part V of the Act, most of which are privately owned.

The building at 888 Montreal Street has been featured in two separate publications by Dr. Jennifer McKendry, namely her Ontario Cottage brochure and her book ‘Woodwork in Historic Buildings of the Kingston Region’. The cultural heritage value of the subject property was initially

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evaluated by the consulting firm Archaeological Research Associates in 2016 and recommended for designation at that time. The subject property exceeds the Provincial requirements for determining cultural heritage value and interest by satisfying three of the nine criteria in Ontario Regulation 9/06.

Heritage staff have offered to meet with the owners to discuss their concerns. While the owners were thankful for the offer, they have declined the invitation. They continue to object to the proposed designation, but to-date the owners have not requested any specific edits to the draft designation by-law (Exhibit C). Photographs of the property are included as Exhibit D.

### **Legal Services Comments**

The property owners have raised questions in their Notice of Objection and in earlier correspondence with the Heritage Properties Committee which are not relevant to the legal standards set out in the *Ontario Heritage Act*. These responses appear to be based on misunderstandings related to the application of the statute to privately owned properties as well as other legal processes. Staff of both Heritage Services and Legal Services have shared information related to these questions with the owners, in an effort to explain the purpose of a heritage designation and the property owners' rights to appeal.

### **Summary**

The draft designation by-law was prepared in accordance with *Ontario Heritage Act* requirements. The subject property was evaluated against the 'Criteria for Determining Cultural Heritage Value or Interest' in Ontario Regulation 9/06, which requires the property to meet at least two (2) of the nine (9) criteria to be considered for designation under the Act. The subject property exceeds the minimum criteria requirement. Heritage staff, the Heritage Properties Working Group and the Kingston Heritage Properties Committee support the designation of the subject property at 888 Montreal Street under Section 29 of the *Ontario Heritage Act*. Staff recommend giving final readings to the by-law and serving a Notice of Passing.

### **Existing Policy/By-Law:**

*More Homes Built Faster Act*, 2022 (Province of Ontario)

*More Homes, More Choice Act*, 2019 (Province of Ontario)

*Ontario Heritage Act*, R.S.O. 1990, C.O. 18 (Province of Ontario)

Ontario Regulation 9/06 – Criteria for Determining Cultural Heritage Value or Interest (Ontario)

Ontario Regulation 385/21 – General Regulations (Ontario)

City of Kingston Official Plan

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**Notice Provisions:**

Notice of Passing or Notice of Withdrawal must be served on the property owner(s) and the Ontario Heritage Trust and be published in a newspaper, having general circulation in the municipality, pursuant to Section 29 of the *Ontario Heritage Act*.

**Contacts:**

Kevin Gibbs, Director, Heritage Services, 613-546-4291 extension 1354

Joel Konrad, Manager, Heritage Planning, 613-546-4291 extension 3256

Ryan Leary, Senior Planner, Heritage, 613-546-4291 extension 3233

**Other City of Kingston Staff Consulted:**

Alan McLeod, Senior Legal Counsel & Deputy City Solicitor, Legal Services

**Exhibits Attached:**

Exhibit A Notice of Objection, dated December 29, 2023

Exhibit B Supplementary Information letter, dated January 11, 2024

Exhibit C Draft Designation By-Law – 888 Montreal Street

Exhibit D Photographs of Property

Kingston, Ontario, December 29, 2023

**Delivered in person and by Registered Mail & Email**

THE CORPORATION OF CITY OF KINGSTON  
216 Ontario Street,  
Kingston, ON N1H 3A1

Attention: Mayor Bryan Paterson, Councillors Gary Oosterhof, Paul Chaves, Lisa Osanic, Wendy Stephen, Don Amos, Jimmy Hassan, Brandon Tozzo, Jeff McLaren, Vincent Cinanni, Conny Glen, Gregory Ridge, Ryan Boehme  
c/o Jennet Jayna, City Clerk

Dear Mayor and Council Members:

**Re: Kingston City Council Meeting, December 5, 2023 – Clause 1 of Report Number 04:  
Received from Kingston Heritage Properties Committee with respect to Notice of  
Intention to Designate under the Ontario Heritage Act. (File: R01-044-2023)**

**NOTICE OF OBJECTION**

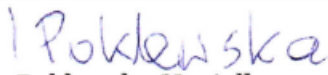
I, Irena Poklewska-Koziell and I, Lech Poklewski-Koziell are the owners of Lot 5 WGCR in Kingston, county Frontenac known municipally as 888 Montreal Street. We do not give permission to THE CITY OF KINGSTON to designate our property.


This letter serves as a formal Notice of Objection under subsection 29(5) of the Ontario Heritage Act, R.S.O. 1990, c. O.18.

We would like to examine the extent of the proposed designation and its impact on the utility and value of our property. We are of the opinion that a professional evaluation by a licensed appraiser is in our best interest.

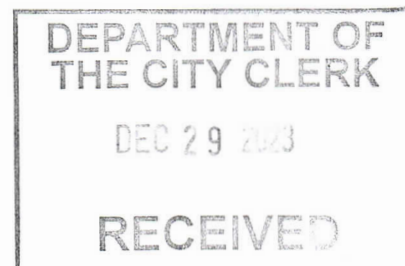
We ask for a deferral of any designation on our property as we conduct necessary analysis and consultations.

All documents to be maintained on property file.

  
Irena Poklewska-Koziell  
888 Montreal St, Kingston, ON K7K 3J7

  
Lech Poklewski-Koziell

Lanie Hurdle, CAO  
Kevin Gibbs, Acting Director Heritage Services  
Joel Konrad Manager of Heritage Planning  
Ryan Leary, Senior Planner, Heritage Services  
c/c aa

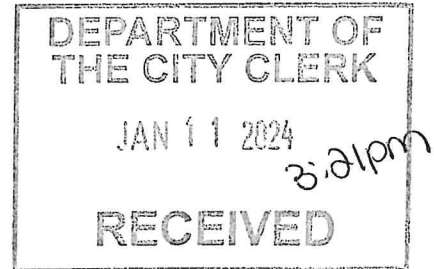




Kingston, Ontario, January 11, 2024

Delivered in person, by Registered Mail and Email

THE CORPORATION OF CITY OF KINGSTON  
216 Ontario Street,  
Kingston, ON N1H 3A1



Attention: Mayor Bryan Paterson, Councillors Gary Oosterhof, Paul Chaves, Lisa Osanic, Wendy Stephen, Don Amos, Jimmy Hassan, Brandon Tozzo, Jeff McLaren, Vincent Cinanni, Conny Glen, Gregory Ridge, Ryan Boehme  
c/o Jennet Jayna, City Clerk

Dear Mayor and Council Members:

**Re: Kingston City Council Meeting, December 5, 2023 – Clause 1 of Report Number 04:  
Received from Kingston Heritage Properties Committee with respect to Notice of  
Intention to Designate under the Ontario Heritage Act. (File: R01-044-2023)**

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### NOTICE OF OBJECTION

Furthermore, to our letter from December 29, 2023 in which we asked for your consideration in allowing time for professional valuation to assess the impacts on our property, we are submitting additional documentation to the Notice of Objection to any designation or bylaw of our property.

I, Irena Poklewska-Koziell and I, Lech Poklewski-Koziell are the lawful owners of Lot 5 WGR in Kingston, county Frontenac known municipally as 888 Montreal Street.

This property has been granted to David Brass on June 10, 1801 by a Crown Land Patent (MNR certified copy pending) *Canada Evidence Act* R.S.C. 1985, c. C-5, s 24.

Land Patent is an instrument by which the government conveys a grant of public land to a private person (Black's) and the Crown (federal/ provincial/ municipal) is alienated and gives up its right, title and interest in that land to an individual or a corporation.

Crown land in (Black's) definition is a demesne land of the Crown, land belonging to the sovereign personally, or to the government, as distinguished from the land held under private ownership.

This procedure follows *expressio unius est exclusio alterius*, a maxim of statutory interpretation meaning that - the expression of one thing is the exclusion of another and as such the CITY is excluded from our private property.

The granting of land is an acquired right that a person does not naturally enjoy, but that is instead procured, such as the right to own property and this acquired-rights doctrine is the principle that once a right has vested, it may not be reduced by later legislation (Black's law).

Our Deed clearly specifies what has been granted;

TO HAVE AND TO HOLD unto the said Grantees as joint tenants and not as tenants in common, their heirs, executors, administrators, successors and assigns, to and for their sole and only use forever;

SUBJECT NEVERTHELESS to the reservations, limitations, provisoes and conditions expressed in the original grant thereof from the Crown.

The said Grantor COVENANTS with the said Grantees that he has the right to convey the said lands to the said Grantees notwithstanding any act of the said Grantor.

AND that the said Grantees shall have quiet possession of the said lands free from all encumbrances.

AND the said Grantor COVENANTS with the said Grantees that he will execute such further assurances of the said lands as may be requisite.

AND the said Grantor COVENANTS with the said Grantees that he has done no act to encumber the said lands.

AND the said Grantor RELEASES to the said Grantees ALL his claims upon the said lands.

The Sovereign granted letter patents to the Province of Ontario, Ontario Heritage Trust and the City of Kingston which are corporations with their regulations and powers in respect of people's rights and people's private property rights and as the Crown's prerogative are bound to it.

*Ontario Heritage Act* (OHA) regulates both the municipality (CITY) and its heritage as well as the Ontario Heritage Trust (Trust) and its assets, which in both cases are public.

Black's definition of public, 1. Relating or belonging to an entire community, state, or nation. [Cases: Municipal Corporations] 2. Open or available for all to use, share, or enjoy. 3. (Of a company) having shares that are available on an open market. [Cases: Corporations].

Given the fact that our property is a fee simple freehold ownership, the maxim *expressio unius est exclusio alterius* has to be applied because if private than not public.

Private property can not be public property (CITY) with public access and can not be in a Trust (OHT) where the third party beneficiary is the public, therefore applying municipal bylaw to designate a private property as a public benefit frustrates the law.

A land survey by which a boundary is measured delineates the lawful ownership, and on that ground the listing of a private property on a public register *Ontario Heritage Act*, R.S.O. 1990, c. O.18, s. 27(3), has no force or effect and for this reason we object to any listing of our property.

Consequently, serving a designation on the Trust (OHT), *Ontario Heritage Act*, R.S.O. 1990, c. O.18, s. 29(19) which is a public body as prescribed in *O. Reg. 157/10: Public Bodies - Part III.1* of the OHA and in the *Crown Agency Act*, R.S.O. 1990, c. C.48, further frustrates the law.

Moreover this is explained in the Ontario Agencies and Appointments Directive that "sets out the rules and accountability framework for provincial agencies, short-term advisory bodies and special advisors, as well as the remuneration guidance for government appointments" and in Part 1, 1.5.1 the following is clarified,

Trust

Administers funds and/or other assets for beneficiaries named under statute. The funds and/or other assets are administered by a trust agency for named beneficiaries (that is, the funds and/or other assets do not belong to the government).

Is fully responsible for its operations.

Is not funded out of the Consolidated Revenue Fund.

If a public agency administers for a beneficiary that is the public, then it (Trust) can not administer the same for a private ownership plus an asset in Ontario Heritage Trust Fund can not be a private property in freehold.

THE CORPORATION OF CITY OF KINGSTON is bound by the *Municipal Act, 2001*, S.O. 2001, c. 25 and any designation by-law that frustrates the law has no force or effect, see below

**Conflict between by-law and statutes, etc.**

- 14 (1) A by-law is without effect to the extent of any conflict with,
- (a) a provincial or federal Act or a regulation made under such an Act; or
  - (b) an instrument of a legislative nature, including an order, licence or approval, made or issued under a provincial or federal Act or regulation. 2001, c. 25, s. 14.

*The Municipal Act, 2001* in Part II under the General Municipal Powers gives the CITY inclusion of public property to “govern its affairs” there is no power given in governing of private property.

**Scope of powers**

- 8 (1) The powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues. 2006, c. 32, Sched. A, s. 8.

**Powers of a natural person**

- 9 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. 2006, c. 32, Sched. A, s. 8.

THE CORPORATION OF CITY OF KINGSTON is bound by federal statutes that protect private property rights.

*The British North America Act, 1867*, now the *Constitution Act, 1867* states,

- 9 The Executive Government and Authority of and over Canada is hereby declared to continue and be vested in the Queen.

109 All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec,

Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same.

Section 52(1) of the *Constitution Act, 1982* – **The supremacy clause** has to be upheld,  
52.(1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

THE CORPORATION OF CITY OF KINGSTON is bound by the Crown.

The Crown land patents which have force in Ontario can not be disregarded because it will be in a violation of the Provincial Statues protecting private property rights.

*Legislation Act, 2006, SO 2006, c 21, Sch F*

**Crown not bound, exception**

71 No Act or regulation binds Her Majesty or affects Her Majesty's rights or prerogatives unless it expressly states an intention to do so. 2006, c. 21, Sched. F, s. 71.

*An Act respecting Certain Rights and Liberties of the People*

Statutes published in Appendix A are Imperial Acts and Parts of Acts relating to Property and Civil Rights that were Consolidated in The Revised Statutes of Ontario, 1897, Volume III, pursuant to Chapter 13 of the Statutes of Ontario, 1902, that are not repealed by the Revised Statutes of Ontario, 1980 and are in force in Ontario subject thereto.

*An Act respecting Real Property*

Statutes published in Appendix A are Imperial Acts and Parts of Acts relating to Property and Civil Rights that were Consolidated in The Revised Statutes of Ontario, 1897, Volume III, pursuant to Chapter 13 of the Statutes of Ontario, 1902, that are not repealed by the Revised Statutes of Ontario, 1980 and are in force in Ontario subject thereto.

*Property and Civil Rights Act, R.S.O. 1990, CHAPTER P.29*

**Rule of decision**

1. In all matters of controversy relative to property and civil rights, resort shall be had to the laws of England as they stood on the 15th day of October, 1792, as the rule for the decision of the same, and all matters relative to testimony and legal proof in the investigation of fact and the forms thereof in the courts of Ontario shall be regulated by the rules of evidence established in England, as they existed on that day, except so far as such laws and rules have been since repealed, altered, varied, modified or affected by any Act of the Imperial Parliament, still having the force of law in Ontario, or by any Act of the late Province of Upper Canada, or of the Province of Canada, or of the Province of Ontario, still having the force of law in Ontario.

R.S.O. 1990, c. P.29, s. 1.

If any claims were to be made by the Crown, the 60 years have passed and since the Crown is bound so is THE CORPORATION OF CITY OF KINGSTON because the prerogative of the Crown is supreme to a municipal by law and no claim can be made, thereafter. See below,

*Real Property Limitations Act, R.S.O. 1990, c. L.15*

**Limitation where the Crown interested**

3 (1) No entry, distress, or action shall be made or brought on behalf of Her Majesty against any person for the recovery of or respecting any land or rent, or of land or for or concerning any revenues, rents, issues or profits, but within sixty years next after the right to make such entry or distress or to bring such action has first accrued to Her Majesty. R.S.O. 1990, c. L.15, s. 3 (1).

*Conveyancing and Law of Property Act, R.S.O. 1990, c. C.34*

**Covenants to be implied**

23 (1) In a conveyance made on or after the 1st day of July, 1886, there shall, in the cases in this section mentioned, be deemed to be included, and there shall in those cases be implied, covenants to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share thereof expressed to be conveyed by him, with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common:

On conveyance for value by beneficial owner

1. In a conveyance for valuable consideration, other than a mortgage, the following covenants by the person who conveys, and is expressed to convey as beneficial owner, namely, covenants for,

- i. right to convey,
- ii. quiet enjoyment,
- iii. freedom from encumbrances, and
- iv. further assurance,

according to the forms of covenants for such purposes set forth in Schedule B to the Short Forms of Conveyances Act, being chapter 472 of the Revised Statutes of Ontario, 1980, and therein numbered 2, 3, 4 and 5, subject to that Act.

The Municipal Councillors Guide makes “helpful considerations”,

Helpful considerations: section 7

As a councillor, you are encouraged to familiarize yourself with the Constitution Act, 1982, the Canadian Charter of Rights and Freedoms and the Human Rights Code.

In addition, familiarize yourself with the Municipal Act, 2001. This Act is one of the most significant provincial statutes governing Ontario’s municipalities and gives your municipality flexibility to deal with local circumstances and to react quickly to local economic, environmental or social changes....

In our statement and previous submissions to the CITY staff and Council we have objected to any designations, bylaws or encumbrances on our private property without our written permission.

We ask that the Council withdraw the designation of our property.

All documents to be maintained on property file.

*I. Poklewska*

Irena Poklewska-Koziell

*Lech Poklewski-Koziell*

Lech Poklewski-Koziell

Address for contact 888 Montreal St, Kingston, ON K7K 3J7

c/c aa

Lanie Hurdle, CAO

Kevin Gibbs, Acting Director Heritage Services

Joel Konrad Manager of Heritage Planning

Ryan Leary, Senior Planner, Heritage Services

**City of Kingston By-Law Number 2024-XX**

**A By-Law to Designate the property at 888 Montreal Street to be of Cultural Heritage Value and Interest Pursuant to the *Ontario Heritage Act***

**Passed:** [insert date]

**Whereas:**

Subsection 29(1) of the *Ontario Heritage Act*, R.S.O. 1990, Chapter 0.18 (the "*Ontario Heritage Act*") authorizes the council of a municipality to enact by-laws to designate property within the municipality, including buildings and structures on the property, to be of cultural heritage value or interest;

The *property* was listed on the register established pursuant to Section 27 of the *Ontario Heritage Act* in 2016;

On November 15, 2023, Council of the City of Kingston ("*Council*") consulted with its municipal heritage committee regarding the designation of the property at 888 Montreal Street (the "*property*") in accordance with subsection 29(2) of the *Ontario Heritage Act*;

On December 12, 2024, *Council* caused notice of its intention to designate the *property* to be given to the owner of the *property* and to the Ontario Heritage Trust (the "*Trust*"), and on December 12, 2024, notice of the intent to designate the *property* was published in The Kingston Whig-Standard, a newspaper having general circulation in the City of Kingston; and

A notice of objection to the proposed designation was served on the municipal Clerk (the "*Clerk*") of the Corporation of the City of Kingston (the "*City*") on December 29, 2023, within the time prescribed by subsection 29(5) of the *Ontario Heritage Act*.

**Therefore, *Council* enacts:**

1. The *property* is designated as being of cultural heritage value and interest, as more particularly described in Schedule "A" of this by-law.
2. A copy of this by-law will be registered against the *property* in the appropriate land registry office. The *Clerk* is authorized to serve a copy of this by-law on the owner of the *property* and the *Trust*, and to cause notice of the passing of this by-law to be published in The Kingston Whig-Standard.



City of Kingston By-Law Number 2023-XX

3. The *City* reserves the right to install a designation recognition plaque on the *property*, in a location and style determined by the *City* in consultation with the owner.
4. This by-law will come into force and take effect on the date it is passed.

Given First and Second Readings XXX, 2024

Given Third Reading and Passed XXX, 2024

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**Janet Jaynes**  
**City Clerk**

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**Bryan Paterson**  
**Mayor**

**Schedule “A”**  
**Description and Criteria for Designation**

Civic Address: 888 Montreal Street  
Legal Description: Part Farm Lot 5 Con West Great Cataraqui River Kingston  
as in FR372716; City of Kingston, County of Frontenac  
Property Roll Number: 1011 040 110 18100 0000

**Introduction and Description of Property**

888 Montreal Street is located on the west side of the Montreal Street, just south of John Counter Boulevard in the City of Kingston. The irregularly shaped 4,500 square metre residential property contains a one-and-a-half storey Ontario vernacular frame farmhouse constructed between 1860 and 1878, with a series of non-contributing rear additions.

**Statement of Cultural Heritage Value/Statement of Significance**

*The property has design value or physical value because it is a rare, unique, representative or early example of a style, type, expression, material or construction method.*

888 Montreal Street is a rare example of a mid-19<sup>th</sup> century one-and-a-half storey wood frame Ontario vernacular farmhouse (also commonly referred to as an Ontario Cottage style) with Georgian and Gothic Revival influences. Typical of the Ontario Cottage style is the side gable roof with a central gable on the main front façade. The front façade is symmetrical, with a central entranceway flanked by window openings. Less common, but certainly typical of this style, is the hip roofed verandah that extends the length of the front façade. Where many have been lost to neglect and redevelopment, this building is a relatively rare example of a surviving wood framed Ontario vernacular farmhouse in Kingston, as opposed to brick or stone construction.

*The property has design value or physical value because it displays a high degree of craftsmanship or artistic merit.*

For a simple vernacular farmhouse, this property displays a high degree of craftsmanship and artistic merit, particularly expressed in its Gothic Revival or Medieval influences, as evident by the steeply pitched front gable with a tall gothic arched window opening and decorative vergeboard (or bargeboard) that travels along the eaves across the front façade and into the central gable and north and south gable ends. The details continue in the two corbelled red brick chimneys, one located at each end of the gable roof, as well as the window openings with triangular headed casings and the round columns supporting the verandah.

*The property has contextual value because it is physically, functionally, visually or historically linked to its surroundings.*

While much of the rural character of Montreal Street has been lost, this frame 1870s house is historically linked to the area and its past agricultural roots and is a vestige of the former rural origins of the area.

### **Heritage Attributes**

Key exterior elements that contribute to the property's cultural heritage value include its:

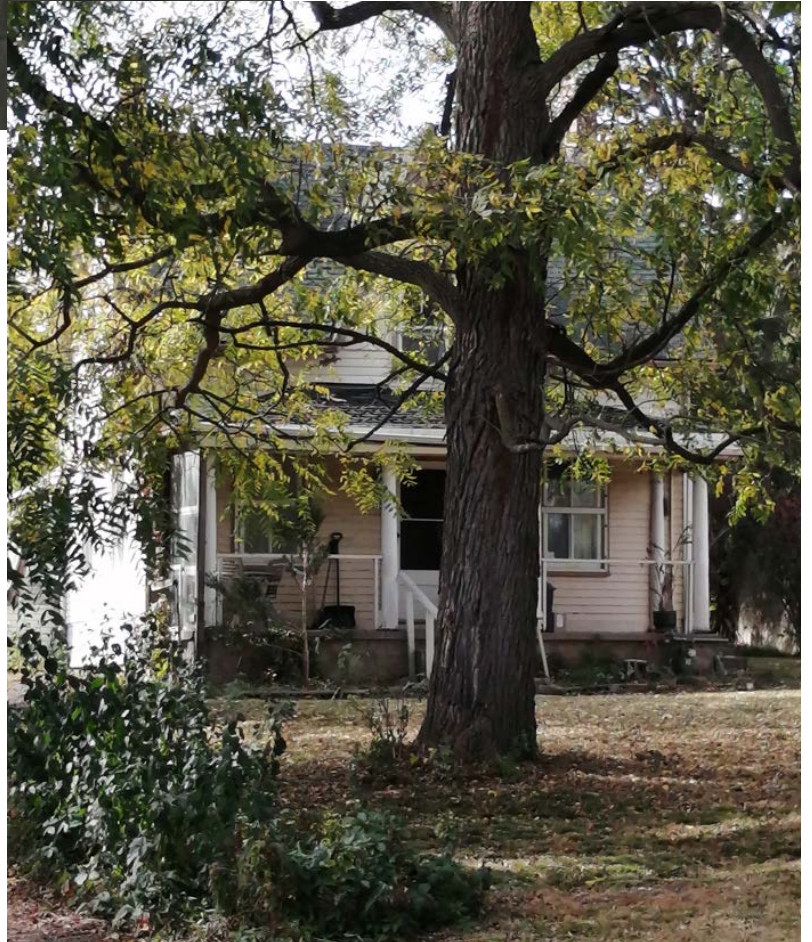
- One-and-a-half storey Ontario Cottage style dwelling of wood frame construction, clad in a clapboard exterior;
- Side gable roof with central steep-pitch gable and tall gothic arched window opening;
- Two red brick corbelled chimneys located at each gable end;
- Symmetrical front façade with central entranceway flanked by windows and covered by a verandah supported by round columns;
- Triangular headed window casings throughout; and
- Vergeboard on roofline, eaves and central gable.

### **Non-Heritage Attributes**

Elements that are not included in the Statement of Cultural Heritage Value of the property include the:

- Series of rear additions to the original building

888 Montreal Street





Front view of the subject house looking north-westerly



Front view of the subject house looking south-westerly