

ISSUE DATE:

**May 16, 2008**



PL060861

Ontario  
Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 34.1 of the *Ontario Heritage Act*, R.S.O. 1990, Chapter O.18,  
as amended

Subject	Demolition Permit
Referred by	Alma Heritages Estates Corp.
Property Address/Description	96 Moore Street
Municipality	City of St. Thomas
OMB Case No.	PL060861
OMB File No.	M060094

**APPEARANCES:**

**Parties**

**Counsel**

City of St. Thomas

B. Card

Alma Heritage Estate Corporation

A. Patton

**AMENDING DECISION DELIVERED BY K.J. HUSSEY AND S. MURDOCH  
AND ORDER OF THE BOARD**

**Preamble**

The Board has received a letter dated March 12, 2008, on behalf of the Corporation of the City of St. Thomas. The Letter attaches March 4, 2008 correspondence from Mr. Rylett of Thomas P. Rylett Limited, Consulting Engineers, addressed to Alma Heritage Estates Corporation (the "Rylett Opinion"). The Letter responds to certain conditions of the Order of the Board dated January 15, 2008, (the "Order") concerning property known as Alma College, 96 Moore Street, in the City of St. Thomas. The City, jointly with the Appellant, Alma Heritage Estates Corporation requests that:

1. The Order not exclude the Tower of the Alma College building from demolition. The Parties do not object to the Board making the obligation to replicate the tower unambiguous and clear.
  
2. The Order not include paragraph 10 Documentation and Data Recovery. The Parties submit that “[t]here was no evidence put to the Board by any party or participant which could support a finding that the inclusion of paragraph 10 in the order is necessary in the public interest.”

**The Board’s Decision:**

**1. Tower Retention or Replication**

At the hearing of this matter, Mr. Rylett was qualified as an expert. On the issue of the Tower, the Board has considered the Rylett Opinion, that it is “impracticable to retain the Tower as a free-standing structure.” Therefore, in accordance with the Order, the Parties’ obligation is to provide a faithful and accurate replication of the Tower as part of the façade of the main building to be constructed in connection with future development of the property. Given the reasonable impracticability of doing so, the parties are not required to retain the original Tower.

The Board accordingly amends the Order by adding the following to paragraph 7.

**Replication:**

Before the removal of the Tower, all facades, materials, architectural components, design aspects, placement, original construction technology, as well as evidence of past alterations are to be accurately recorded in sufficient detail to achieve a faithful and accurate replication of the Tower. This replication

will be to the as-found contemporary condition with changes as necessary to bring the structure to code and to reflect any historical research findings deemed relevant to its representation.

## **2. Documentation and Data Recovery**

The scope of the demolition permit before the Board included all buildings and structures on the property, except for the entranceway of the Alma College building. The Board heard evidence that demolition is warranted only as a result of its deplorable state of repair and the impossibility—both practical and financial—of restoration. There was no evidence to suggest that demolition is warranted as a result of the property having lost its cultural heritage value or interest. Indeed, the evidence was to the contrary.

As stated in the Order, the Board determined that the fact that Alma College in its current condition is doomed did not mean that memories of this structure must suffer a similar fate. This matter could represent the last opportunity to document the physical existence of the Alma College facility.

The Board's Order therefore required documentation and data recovery in keeping with the standards set out in the Ontario Ministry of Culture's Ontario Heritage Tool-Kit. The volume relevant to this matter is, *Designating Heritage Properties: A Guide to Municipal Designation of Individual Properties Under the Ontario Heritage Act*. Chapter 5, *Preventing Demolition*, addresses s.34, s.34.1, and s.34.3 of the Act. Subheading 3: *Decision* advises:

*At minimum, council should require full documentation of a heritage building or structure prior to its demolition, as well as documentation of any other heritage resources on the property that may be affected.*

When considering the purpose and intent of the *Act*, which is to provide for the

conservation, protection, and preservation of the heritage of Ontario, the recommendation by the Ministry of Culture regarding documentation at the time of demolition, appeared and continues to appear reasonable to this panel.

Similarly, with reference to the objectives of the example standards and guidelines for documentation and data recovery cited in the Order, the Board considers documentation and data recovery to be relevant to the purpose and intent of the *Act*, in the public interest, and authorized under s.34 of the *Act* which permits Council to assign terms and conditions to an application for a permit to demolish or remove a building or structure from a protected property.

Nevertheless, the Board acknowledges the parties' position that this is a hearing of a settlement, and not a hearing on the merits. To this end, bearing in mind the cultural heritage importance this Board has found attaches to the Alma College property, and hearing the City's and the Corporation's wish to be relieved of this burden, the Board suggests that the City ensure that the intent of paragraph 10 Documentation and Data Recovery be fulfilled. At the sunset of the more than 125-year history of Alma College, this will be the last opportunity to document the physical characteristics of a property protected for its cultural heritage value or interest by the City under the *Act* since 1994, and of current importance to the community.

The Order is therefore amended to read:

#### **10. DOCUMENTATION AND DATA RECOVERY**

Given that the property has been protected under the *Ontario Heritage Act* since 1994 and that it continues to hold cultural heritage value or interest, the City is strongly advised that it is in the public interest to cause a qualified heritage specialist to document the whole property before the demolition or removal of any buildings or structures, and that this be done according to accepted standards for heritage documentation and data recovery.

If the documentation is to be done, the documentation should include, but not be limited to all buildings, structures, ruins, cultural heritage landscape features, building archaeology, and significant trees and plantings. All documentation and data recovery materials should form a permanent record of the physical existence of the Alma College facility and be maintained by the City. This record should be permanent and in the public domain. Any documentation now existing may substitute for the above, provided that it is complete and meets at least the standard for documentation and data recovery as set out in ICOMOS Canada Committee on Recording and Documentation; Ministry of Transportation Ontario; the National Park Service, United States Department of the Interior; and similarly in the Class Environmental Assessment Process for Management Board Secretariat & Ontario Realty Corporation, 2004, which references a Manual of Guidelines, June 1994.

SO ORDERS THE BOARD.

“K.J. Hussey”

K.J. HUSSEY  
MEMBER

“S. Murdoch”

S. MURDOCH  
MEMBER