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CONSERVATION REVIEW BOARD

RE: THE CORPORATION OF THE CITY OF MISSISSAUGA INTENTION TO DESIGNATE THE PROPERTY KNOWN AS 174 KING STREET EAST, (THE MOODY - TRACHSLER HOUSE), IN THE CITY OF MISSISSAUGA, ONTARIO.

**Stuart Kidd, Chair
Karen Haslam, Co-Chair**

September 5 and 6, 2007

The first part of the hearing was held on 28 and 29 June 2007. The hearing commenced at 9:00 am on 28 June 2007 and finished for the day at 5:00 pm with only the City's case having been presented, cross examined and re-examined. At the closing of that day the Solicitor for Objector # 1 advised he would only be able to attend for two hours on the following morning. He indicated that would allow insufficient time to present his client's case, for Objector # 2 to present and for the summations of all three parties. It was decided to meet the following morning to determine the dates for the continuance of the hearing and advise the public.

The hearing reconvened on 29 June, 10:00 am ending at 11:30 am. After discussing time needs and scheduling, it was agreed that the hearing should reconvene on 5 September 2007 at 9:00 am through to 6:00 pm and, if required, the hearing would reconvene at 9:00 am on 6 September 2007. It was also agreed that the Objectors would have until 31 July 2007 to exchange final materials to be used for presentation at the continuance of the hearing.

The hearing continuance started at 9:00 am on 5 September and adjourned that day at 5:00 pm. The hearing reconvened the next day running from 10:00 am to 12:30 pm.

A pre-hearing on this case was held by teleconference at 10:00 am on 8 March 2007 among the Conservation Review Board and the three parties involved. Only a date for a hearing was resolved at that time.

This hearing was convened under Section 29(9) of the Ontario Heritage Act, R.S.O.1990, c.O.18 as amended, for the purpose of reporting to the Council of the City of Mississauga, Ontario, whether, in the opinion of this Board, on the basis of the evidence it heard, the property known at 174 King Street East in Mississauga, Ontario, should be designated by by-law under the Act.

The current legal description is part of Lot 14, Concession 1 South of Dundas Street (SDS) and part of Plan A27. The subject house with two additions to the rear or south is located on this property. The owners include brothers Wayne Summerville and Dean Summerville.

Notice of this hearing was placed by the Conservation Review Board in the Mississauga News issue of 15 June 2007. An affidavit prepared by a Conservation Review Board staff member regarding this publication was filed as Exhibit 1. The hearing was held in Classrooms on the 2nd floor of the Mississauga Central Library at 301 Burnhamthorpe Road West.

The Chair noted having inspected the site and neighbourhood in advance of the hearing.

The subject frame house is located on the southeast corner of King Street East and Camilla Road. The neighbourhood is primarily low density residential.

Parties and Witnesses:

- Mr. Michal E. Minkowski introduced himself as the City Solicitor leading the case on behalf of the City. Witnesses for the City included:
 1. Mr. Greg Carraro, a representative of the Mississauga Heritage Foundation,
 2. Mr. Mark Warrack, Heritage Coordinator, Community Services Dept., City of Mississauga
 3. Mr. Dan Chalykoff, a heritage building consultant retained by the City for this case to prepare the Heritage Evaluation Study,
- Mr. Earnest Toomath introduced himself as the Solicitor on behalf of Mr. Wayne Summerville, one of the owners objecting to the proposed designation. Mr. Wayne Summerville was identified as Objector # 1 in this hearing. Witnesses for Objector # 1 included:
 4. Mr. Bruno Antidormi, Vice President of Ellis Don Construction, and a neighbour in the subject area,
 5. Mr. Nando Iannicca, Municipal Councillor with the City of Mississauga and particularly for the Ward covering the subject property
 6. Mr. David Hellyer, an engineer and consultant to Mr. W. Summerville evaluating the subject house
 7. Mr. Wayne Summerville, part-owner
- Mr. Dean Summerville introduced himself as another part owner and brother to Mr. Wayne Summerville. After review, as noted below, he was accepted as Objector # 2 for the hearing.

Presentations:

In advance of the presentations by the parties and the public, the Proof of Ownership of the subject property was tabled by Mr. Minkowski and entered as Exhibit 2.

Introduction of the Case for the City:

Mr. Minkowski stated that the site is at the southeast corner of King Street East and Camilla Road. It is in the former town of Cooksville; an area that was one of the

historic parts of what is now Mississauga. The site and buildings were identified as a property of interest in 1989 by the Mississauga Heritage Foundation, also known as Heritage Mississauga. Mr. Minkowski advised the Board there are four reasons the City is seeking designation. They are:

1. the building is rare and unique and is representative of an early example of building construction known as a “Saltbox” style house;
2. building could contribute to awareness of the early Cooksville years;
3. building is physically, functionally and historically linked to the area; and
4. it is a landmark.

Introduction of the Case for Objector # 1:

Mr. Toomath summarized his client’s objection to be that:

1. the building is not a heritage building; it was built in the 20th century;
2. the building is not a landmark;
3. the house is not a “Saltbox” style house typical of the East coast, it is not representative of this area and is built from reclaimed building materials;
4. it was built after Cooksville received hydro electric power from Toronto Power in the 20th century, as also indicated by the knob and tube wiring in the original structure suggesting its construction to be after 1908; and,
5. one of the City’s original reports suggested the building had no heritage value.

Introduction of the Case for Objector # 2:

Mr. Dean Summerville introduced himself as an Objector as well. He stated that he had a more intimate knowledge of the history of the property and of the process involved to date than Mr. Wayne Summerville, his younger brother. Mr. Minkowski objected to Mr. Dean Summerville being both an objector and a witness. The Board recessed and returned with a decision that, while it is the Board’s practice to consolidate like evidence, Mr. Dean Summerville would be allowed to be a separate Objector because both brothers had participated as separate objectors during the Pre-hearing Conference and had previously submitted separate letters of objection. The Board directed Mr. Dean Summerville to avoid overlapping or repeat evidence and to limit his evidence to his presentation, as he could not call himself as a witness.

Public Presentations:

The Board invited any members of the public attending to give presentations related to heritage aspects of the case. Mrs. Beverly Doerr, a neighbourhood resident, asked to speak to the Board on the issue. Mrs. Doerr was affirmed.

Mrs. Doerr indicated she lives close to the site along with others attending the hearing. She said she considered the building to be an “eyesore” and a target for vandalism. The Board advised her that those considerations exceeded the jurisdiction of the Conservation Review Board. She also noted that in the last 15 years, she had no knowledge of the property being known to have heritage value.

Case for the City, as represented by Mr. Minkowski:

Mr. Minkowski called his 1st witness, Mr. Gregory Carraro, and tabled the “Witness Statement of Gregory Carraro on behalf of the Mississauga Heritage Foundation”,

which the Board accepted an Exhibit 3, and the “Document Book” of the Mississauga Heritage Foundation, which the Board accepted as Exhibit 4.

Witness # 1 – Mr. Gregory Carraro:

Mr. Carraro was sworn in as a witness. He stated that he spent his full life in the neighbourhood and that he has been teaching high school history in the area for five years. He advised that he has been a Board Member of the Mississauga Heritage Foundation for a number of years. The Board was referred to Tab 1 of Exhibit 4 showing the Foundation to have been established in 1960, prior to the incorporation of the City of Mississauga in 1974. The Foundation was stated to be the champion of the heritage movement in Mississauga doing research primarily with volunteers. The Foundation now has 14 directors, three paid staff and between 100 and 200 members. The Foundation was stated to support and complement the work of the City’s Municipal Heritage Committee.

Mr. Carraro advised that he has been aware of the property all of his life including having walked past the house with his grandmother numerous times growing up in the neighbourhood. His awareness of the potential cultural heritage value of the property came from a general research report by a summer student working with the Mississauga Heritage Foundation in 2003. The subject property was identified as one deserving further research in paragraph 1 on page 2 of Exhibit 3. The report gave some background on the property ownership which was not confirmed due to illness of Mrs. Manners, the owner at the time.

Mr. Toomath objected to this witness being considered an expert in heritage buildings. He suggested Mr. Carraro could only provide opinion evidence as someone living in the area. The Board stated that, while Mr. Carraro was not trained in the assessment of heritage properties, his evidence would be accepted as an interested volunteer actively involved in heritage properties and the Mississauga Heritage Foundation within the community.

Mr. Minkowski referred the Board to Tab 8 of Exhibit 4 being an assessment of the architectural significance of the subject property by Denis Héroux, a member of the advisory service of the Architectural Conservancy of Ontario. The assessment was based on a site visit by Mr. Héroux on 14 May 2005 with Mr. Carraro to view the exterior only. Mr. Toomath objected to this person’s evidence as not being an expert trained in heritage buildings. The Board accepted the organization as an active and experienced group involved in the assessment of historic architecture.

Page 2 of Tab 8 under the topic “Significance” suggests the subject house to be a good example of the Saltbox form popular in Ontario in the period from 1800-1860. The author believed the house to have been built between 1845 and 1860, which he stated was consistent with the development date of the area.

Mr. Héroux deduced that the original heating system was with woodstoves, which were stated to be commonly available after 1845. He suggests the most important features of the house have been preserved: the Salt Box form, the windows with peaked trim and the house being in its original location. Among his suggestions, he

states that if designated the rear dormer should be removed as it detracts from the Saltbox form.

Mr. Minkowski then brought the Board's attention to Tab 9 of Exhibit 4 being a 17 October 2003 letter from the President of Heritage Mississauga to Councillor Katie Mahoney, Chair, Heritage Municipal Committee, City Council, City of Mississauga. The letter states the Heritage Mississauga Board resolution of 14 October recommending the designation of the subject property. The letter goes on to state that *"This saltbox-style farmhouse appears to date to the 1840s or 1850s, and it may be the oldest remaining building in Cooksville."*

Cross Examination of Witness # 1 on behalf of Objector # 1:

Mr. Toomath asked whether Mr. Carraro or Mr. Héroux had been inside the property. Mr. Carraro confirmed that neither of them had been inside. Mr. Toomath asked whether the Héroux report was the sole information source. Mr. Carraro agreed that this was the case. Mr. Toomath then asked the names of the students that conducted the original research and Mr. Carraro replied that two summer students did the original research report.

Cross Examination of Witness # 1 by Objector # 2:

Mr. Dean Summerville asked Mr. Carraro whether he had attended the meeting called by Councillor Iannicca, Municipal Councillor for that Ward, to discuss the proposed designation. Mr. Carraro stated that he had not attended.

Re-examination of Witness # 1:

Mr. Minkowski asked the Witness to confirm the statement by Mr. Héroux under Tab 8 that the Saltbox style was in existence in Ontario. Mr. Carraro reviewed Mr. Héroux's statement on page 2. It stated *"The house is a good example of the Salt Box form and was designed in the Neoclassical style popular in Ontario in the 1845 -1860 period."*

Witness # 2 – Mr. Mark Warrack:

Mr. Minkowski tabled a document titled "Witness Statement of Mark Warrack" dated June 28, 2007, which was accepted as Exhibit 5. Mr. Warrack was then affirmed and was referred to his resume in Exhibit 5. Mr. Warrack has been employed by the City of Mississauga since 1988 and is now the Heritage Coordinator. He reports to the Heritage Advisory Committee of City Council through the Commissioner of Community Services. The duties are broad ranging and responsible in their association with local heritage efforts including policy, planning and development review functions. He has experience evaluating heritage properties and he works with all levels of government in his capacity at the City. Mr. Warrack has appeared as a professional heritage witness before the Conservation Review Board, the Ontario Municipal Board and the Ontario Provincial Court. He is also licensed by the Province to undertake archaeological activities on behalf of the City. Mr. Warrack was accepted as an expert witness.

Co-chair Ms. Haslam questioned whether there was any conflict between Mr. Warrack's resume having included work with the Ministry of Culture, of which she was a former Minister. It was agreed there was no conflict.

Exhibit 5 was reviewed to outline Mr. Warrack's background, a summary of evidence and relevant documents on heritage issues from international, provincial and local sources considered relevant to the property.

Mr. Minkowski then tabled 5 volumes of tabbed documents. Their respective titles, tab series and assigned exhibit numbers are as follows;

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|--------------------------------|--------------------|------------|
| ▪ "Document Book – Volume I" | Tabs 1 through 12 | Exhibit 6 |
| ▪ "Document Book – Volume II" | Tabs 13 through 20 | Exhibit 7 |
| ▪ "Document Book – Volume III" | Tabs 21 through 36 | Exhibit 8 |
| ▪ "Document Book – Volume IV" | Tabs 37 through 47 | Exhibit 9 |
| ▪ "Document Book – Volume V" | Tabs 48 through 54 | Exhibit 10 |

Mr. Minkowski then referred the witness to Tab 1 to briefly outline the chronology of events related to the designation process involved in this property. It starts by noting the first written contact was from the Chair of the Mississauga LACAC in 1989 to the property owner, Mrs. Manners, advising that the property was listed on the City's Heritage Inventory as one of heritage interest. All subsequent correspondence regarding the buildings on the site and related matters were listed as well.

The Board was then referred to Tabs 48 through 52 in Exhibit 10. Mr. Warrack reviewed the plan and air photo information of the site. He indicated the site in the Cooksville Planning District amid other listed properties and a location plan. The four air photos of the property and area within Tabs 51 and 52 show the house and site in 1954 with housing along Camilla Road to the south and residual orchards East and Southeast. Mr. Warrack indicated how the series shows the progression of encroaching low density residential urban development through to the 2006 photo. Tabs 53 and 54 were explained to be photos taken in April 2007 of the subject house from all four directions, the streetscape and buildings in the neighbourhood.

Mr. Minkowski then referred the witness and Board to Tab 21 of Exhibit 8, being a 1978 report from Mary McTeague, an employee with the Recreation and Parks Department, City of Mississauga dealing with historic and architectural features of the property. The report estimated the age at 1835, based on architectural detail. Mr. Warrack brought the Board's attention to the comment on the second page of the report suggesting that the subject house does not merit designation because it is most common with no outstanding architectural features.

Tab 23 was then reviewed, being Mr. Warrack's 25 Jan. 2005 report to the municipal heritage committee on the subject property. The report recommends the Chair of the Municipal Heritage Committee notify the owners of the subject property of the City's interest and intent to designate the property. The final Heritage Designation Report is at Tab 25, Exhibit 8. The report is to the Municipal Heritage Committee dated 9 March 2005 over the name of Mr. Paul Mitcham, Commissioner of Community Services, Mr. Warrack's senior manager. Page 1 indicates the earliest date of construction may have been 1832. This estimate is based on land title information for that year showing a purchase price of 200 acres by Mr. J. McMillan at a price of \$225 pounds sterling and a selling price of \$500 pounds sterling for 198 acres to Mr. J. Trotter one year

later. The assumption used here to estimate the age of the house is that the price differential reflects the addition of a house to the property value. The report states that Trotter lived on the land and would have required a residence. The title history of the report continues to suggest there may have been a house at the subject location, although it is not conclusive as to the location of the house vis a vis the parent parcel or whatever the remaining parcel would have been. The Board questioned the difference in area shown on the abstract from 200 acres on one entry to 198 acres on the next. The witness could not explain the two acre reduction in the transfer from McMillan to Trotter.

The report's architectural description adds that the house is well preserved and exhibits a fine standard of craftsmanship. It is said to have a distinctive saltbox roof with finer details relating to the Classical Revival style, all of which are suggested to date to the early to mid 19th century.

Under Site Considerations the report suggests that the subject house appears to be of the same period as the 1830 construction date of the Bradley House in Clarkson, which is now a museum in the City. The Bradley House with clapboard exterior was suggested by all parties to be a Saltbox style building, although it was noted by the City that it had been moved from its original location. That house is shown in a photo on the second page of Tab 5 in what will be accepted later in the hearing as Exhibit 18. The report also ties the subject house to the "Regency" style house at 160 King Street, immediately west across Camilla Road from the subject. This house is also listed on the Heritage Register and its location relative to the subject property is shown on the plan under Tab 50 in Exhibit 10.

Mr. Minkowski then referred the witness and the Board to Tab 26 of Exhibit 8: the 13 May 2005 Building Inspection Report by Hellyer Engineering Ltd. for Objector # 1. Mr. Minkowski reviewed the purpose of the report to have been a building inspection report, not a heritage review, while it was noted that on page 3 the report suggested the original house to have been built from reclaimed materials. The witness was asked to read a statement in the third paragraph of the first page of the appendix of the report dealing with "Structure" stating that, on the whole, the building appears to be relatively solid and sound enough for continued occupancy with relatively minor repair to stabilize weaker components in key areas.

The witness was then referred to Tab 36 being the "Designation Statement". The house was stated to be the last Saltbox style house on its original location in the City and was noted to be the presumed oldest structure standing in the Cooksville district of the City. Its growth over time was stated to be worthy of preservation as is its importance as a landmark.

Mr. Minkowski then referred the witness back to review Tab 19 of Exhibit 7 being the 2006 survey of various heritage contacts in Southern Ontario about the prevalence of Saltbox houses in their communities. The chart was noted to show only one existing designated example in Mississauga and relatively few other examples among the communities contacted.

The witness was referred to Tab 20 of Exhibit 7 where the email from Mr. Fred Cane, Ministry of Culture, noted that Saltbox houses are very rare in Ontario.

As a comparison of Salt Box style houses, Tab 16 of Exhibit 7 was noted to be a July 2003 architectural evaluation of a similar Salt Box style house in London, Ontario. The evaluation was prepared by the Architectural Conservancy of Ontario. Mr. Dean Summerville objected to the evidence in that the authors were not architectural experts, however the Board accepted the evidence based on the experience of the organization and the comparable information. The report referenced the use of balloon framing, handsplit lath and sawn lath all having been materials typically used during the early to mid 1800's. As well, woodstoves were typical to houses in that period. Evidence was given later by Mr. Hellyer that all such materials were identified in the subject property.

The reference to style at the top of page 4 describes the shape of the house in London and notably diminishes a subsequent point by Mr. Hellyer, on behalf of Objector # 1, that a common angle to the rear sloping roofline is critical to the saltbox style.

The Hearing was then directed to Tab 36 of Exhibit 8; the Designation Statement. Mr. Warrack drew from the statement that the property was a rare example of a saltbox style house on its original site in a highly visible location near the centre of the original town centre of Cooksville. This speaks in favour of the contextual merits of the house and site.

Mr. Minkowski then referred the Board to Tabs 2 through 7 of Exhibit 6, being international and Ontario policies, guidelines and the Heritage Act. He asked Mr. Warrack whether the property conformed to these policies and if it meets the criteria of Ontario Regulation 9/06 of the Heritage Act. Mr. Warrack agreed and added that the subject property meets the policies of the Mississauga Official Plan as outlined under Tab 10. The goals, objectives and specific definition of a heritage site within the plan appear to cover this property, provided it is as old as suggested by the City. The policies and guidelines in the Official Plan are specific, broad and well suited to protection of heritage sites and districts.

Mr. Minkowski then asked Mr. Warrack to return to the conclusion of his witness statement on page 10 of Exhibit 5. From that he stated how the house with the two additions in fact added value to the original house and that being still located on its original site relative to the centre of old Cooksville were beneficial to show the changes in that town at the time.

The Board recessed for lunch at 12:10 pm and called the hearing back to order at 1:10 pm.

Cross Examination of Witness # 2 on behalf of Objector # 1:

Mr. Toomath asked and Mr. Warrack confirmed that the first and only staff person that was ever inside the house on behalf of the City was Mary McTeague. Her 7 July 1978

report on the subject house under Tab 21 of Exhibit 8 was confirmed to state on page 2 that the house does not merit designation. Mr. Warrack stated that he did not know exactly what she saw in that visit.

Mr. Toomath then drew the witness back to the Hellyer report, being under Tab 26 of Exhibit 8. The witness agreed that the page 6 recommendation of the report stated that the building does not merit repair and should be demolished. Mr. Toomath then asked the witness to confirm how the City reports did not include this recommendation in the reports to Heritage Mississauga or to the Municipal Heritage Committee. Mr. Warrack countered that these are not heritage matters.

Mr. Warrack confirmed to Mr. Toomath that the recommendation was not given to the Architectural Conservancy of Ontario either. The witness also agreed that this group might also have estimated a different date of origin had they been aware of the use of salvaged materials in the house, as report by Hellyer under Tab 26 Exhibit 8. Mr. Toomath asked whether the heritage contacts surveyed regarding prevalence of saltbox houses shown under Tab 7 of Exhibit 7, including Mr. George Duncan, a heritage expert with the City of Markham, in his email comments under Tab 18 of Exhibit 7 would have concluded differently had they known the original building had knob and tube wiring installed as part of the original construction. Mr. Warrack said he was not sure but that possibly they would have. Mr. Toomath suggested that perhaps Mr. Cane, Ministry of Culture Heritage Advisor, would also have had a different estimate of origin with this information, particularly regarding the reused windows and lath.

Mr. Toomath referred the witness back to Tab 20 of Exhibit 7 being the email from Mr. Fred Cane, Heritage Advisor with the Ministry of Culture. Mr. Toomath suggested that Mr. Cane left the Saltbox style issue open and that previous evidence suggested the rear sloping roofline should be a straight angle, where this was not the case in the subject house.

Mr. Toomath suggested to the witness that the Saltbox style house is not so rare in Mississauga, given the existence and good condition of the City owned Bradley House Museum in Mississauga.

Mr. Toomath asked the witness to refer to the black and white photo of the house from about 1927 shown in various exhibits and explain why there were no trees around such a farmhouse that the City suggested had been there since the mid 1800's. The witness was asked if it were not possible that the house had been recently built and not had the chance for trees to grow up yet. Mr. Warrack agreed that it was possible. Mr. Warrack also agreed that if the house was built in the 20th century the historical connection to the neighbourhood would be different.

Re-examination of Witness # 2:

Mr. Minkowski brought the witness back to the Hellyer report under Tab 26 Exhibit 8 and noted how the handwritten annotation on top of the cover page indicated the

report had been distributed at the General Committee of Council meeting of 29 June 2005, contrary to Mr. Toomath's suggestion of that information having been withheld. He also noted that while rehabilitation costs for the house were irrelevant to the hearing, the structure as reported by Hellyer was in good condition. Mr. Minkowski closed with the comments that age is only one of the prime considerations in the proposed designation and that Mr. Cane's "Ontario Saltbox" style is still a valid consideration.

Witness # 3 – Mr. Dan Chalykoff:

Mr. Minkowski tabled documents titled "Witness Statement of D. R. Chalykoff" dated 25 May 2007 and "Heritage Evaluation Study: 174 King Street East, Mississauga, Ontario" prepared for the City Legal Services by D. R. Chalykoff dated 16 May 2007, which were accepted as Exhibits 11 and 12 respectively.

Mr. Chalykoff was sworn in. Mr. Minkowski then asked him to review his qualifications as a heritage consultant outlined on page 47 of Exhibit 12. He outlined significant architectural training at university, a diploma in architecture, active membership in relevant architectural associations, employment in architectural firms involving project responsibility and self employment in building design, construction, restoration and evaluations including heritage buildings.

Mr. Toomath questioned and Mr. Chalykoff confirmed that he is not an architect, a master carpenter or a journeyman carpenter. However, the Board agreed that the training, experience and active involvement in heritage properties warranted acceptance of this witness as a heritage building expert.

Mr. Chalykoff advised he had been retained by the Legal Services Department of the City on 21 November 2006 to assess whether the subject property had cultural heritage value and, if it did, then to elaborate the reasons. The report was prepared based on photographs and inspection from the street. According to Mr. Chalykoff in testimony and Exhibit 12, page 4, paragraph three of section 2 no access to the interior was allowed. Asked for the conclusions from his research, the witness stated the subject property to be an historic landmark having a context near the historic hub of Hurontario and Dundas Streets. He reported that the house and site give significant contrast to the generally post war surroundings of the neighbourhood. As well, he felt the house displays settlement era characteristics considered typical of the post crown grant of land, it has a half blind storey characteristic of the 1850's. Mr. Chalykoff stated the house to be a Saltbox style house and that the change in slope on the back roofline is of no consequence. He suggests the house to be of the Georgian Style common in the area in the 1830's and that it was likely built between 1825 and 1840.

The hearing then looked to title information assembled in Exhibit 12 on page 16. Mr. Chalykoff sets aside speculation as the basis of the suggested the significant increased value of the property from line 6 to line 7 over one year. He explains that the change from the 1832 selling price to McMillan of \$225 Pounds to the selling price one year later of \$500 Pounds to Trotter in 1833 supports the premise of a house being built by the previous owner. He added that the sale of part of a parcel after the

grant of an original crown patent would not have been allowed unless a building had been built on the property.

Mr. Minkowski asked the witness to describe why he considered the building to have originated in the 1825 to 1840 period. The witness first referred to its composition and construction including elements of post and beam as well as stick type construction. The frame was built in a balloon method with studs running from the main floor sill to the under side of the roof on the second floor with the floors hung from those studs, as opposed to platform type construction where floors separate vertical wall extensions to the roof. The witness advised that this style was used from around 1833 through to 1920 and even as late as 1930. He also referred to log type joists and compared the structure to an example on page 30 of Exhibit 12, being the Pinkney House, a Cooksville house from about 1824.

Mr. Chalykoff advised that the heating system suggested the initial construction to be no later than 1840. He attributed this to the two bracketed masonry fireplace chimney locations evident on the Exhibit 12 cover photo being just inside the end walls of the original house.

Mr. Chalykoff suggests an explanation for the evolution of the exterior cladding of the house on page 29 of Exhibit 12 based on the true larger studs and the off-true smaller ones. He states it possible that the house was first clad in heavy wood siding which was removed and to support the thin lath over such spans between the larger true studs, the smaller studs were added before the lath and then the clapboard siding was added afterwards.

Mr. Chalykoff on page 33 suggests attributes of the house such as the pedimented windows, transom window over the front door and eave returns reflect a Greek Revival style that became a Saltbox style house with the first addition. He then referred to the McTeague report of 1978 and reference on page 45 of Exhibit 12. He concludes the possibility that Mary McTeague's interview with Mrs. Trachsler, the owner at that time, generated the date of 1835 from Mrs. Trachsler since Mary McTeague would not have had the expertise to date the building.

Cross Examination of Witness # 3 on behalf of Objector # 1:

When Mr. Toomath queried the witness on the origin of the date referred to in the McTeague report, Mr. Chalykoff agreed it was unknown. He also agreed that his opinion was based on the observations from the street and the reports made available to him. The witness agreed that balloon type framing, as reflected in the subject house, was a building method used into the 1920's. Mr. Toomath asked the witness about the unused mortises in the main post in the attic evident in the photo in item 6.3.3 on page 27 of Exhibit 12, the notched beams in the basement photos and the two types of interior plaster lath used. The witness agreed this could represent reused materials and with balloon type framing the original building could be of 20th century vintage. The witness agreed that the use of salvaged materials such as doors and windows was a possible source of materials in this house. He also agreed that dormers were not always part of the Saltbox style.

Cross Examination of Witness # 3 by Objector # 2:

Mr. Dean Summerville questioned the witness about his extrapolation of value change being equated to building being built where the witness had given evidence from values on lines 6 and 7 of page 16 of Exhibit 12. The witness agreed that the price change did not necessarily confirm that a house had been built.

Re-examination of Witness # 3:

Mr. Minkowski asked and Mr. Chalykoff confirmed that the increases in value referenced in the title information on page 16 of Exhibit 12 were secondary tools to his evaluation process.

The hearing adjourned at 11:30 am and resumed at 9:05 am on 5 September 2007. Notice of this continuance of hearing was placed by the Conservation Review Board in the Mississauga News issue of 22 August 2007. An affidavit prepared by a Conservation Review Board staff member regarding this publication was filed as Exhibit 13. The hearing was continued in a Classroom on the 2nd floor of the Mississauga Central Library at 301 Burnhamthorpe Road West.

Recap of the Case for the City, as represented by Mr. Minkowski:

Mr. Minkowski gave a brief recap of the City's case based on the Designation Statement under Tab 36 of Exhibit 8.

Case for Objector # 1, as represented by Mr. Toomath:

Mr. Toomath opened with his client's main points of objection being that:

- the building is not a Saltbox style house,
- it was not built in the 1800's but in the early 1900's,
- it is not an example of anything worthy,
- it is poorly built with salvaged materials, and
- it is not a balloon type construction using heavy timber.

Witness # 4 – Mr. Bruno Antidormi:

Mr. Antidormi was sworn as a witness and advised that he has lived within a kilometre of the subject property for 26 years. He is employed by Ellis Don, a large contracting firm. He is an Engineer and a Project Manager for this firm with a general knowledge of house building. He indicated that he has no heritage training but has been in an executive position working on two old building restorations that involved an historical society.

The witness related having visited the site for approximately 1.5 hours on 17 October 2005 with Mr. Hellyer and others. He noted having seen the knob and tube wiring installed in the walls behind what appeared to be openings in the plaster that he was sure was otherwise in its original state. When asked by Mr. Toomath, the witness described the workmanship in the house to be poor and observed that structural and other components appeared to be reused materials.

In summary, Mr. Antidormi suggested the building was constructed using poor craftsmanship, poor construction methods and that in his opinion the building was not

built in the 1800's but he estimated in the 1920's to 1930's. He added that he did not consider the building an historic site.

Cross Examination of Witness # 4 by the City:

Mr. Minkowski asked and the witness confirmed his position with Ellis Don is as a manager without experience directly managing historic building projects. He also confirmed that his visit inside the subject house was for about 1.5 hours and involved no testing of materials or direct knowledge of types of lath, chimneys or window pediments. Asked about his opinion on the statement in the Hellyer report that the subject house may or may not be old, Mr. Antidormi agreed.

Witness # 5 – Mr. Nando Iannicca:

Prior to examining the witness, Mr. Toomath tabled his client's submission titled "Designation of Property located at 174 King Street East, Mississauga, Ontario", which was accepted as Exhibit 14 and a document titled "Councillor Nando Iannicca's Notice of General Meeting Regarding the Historical Designation of the Moody – Trachsler House", which was accepted as Exhibit 15. Mr. Iannicca was sworn as a witness. He advised that he was born in the area and now lives at 800 Duncan Avenue in the area of the subject property. He is the Ward Councillor with the City of Mississauga for the area including the subject property and neighbourhood. The Witness advised that he had visited the site with the owners, some neighbours and Mr. Hellyer. While he noted he is not a heritage expert, he commented that no one from the area has spoken to him about the property as a heritage site. He indicated he saw no redeeming construction features inside or out and that it looked like a reclamation project based on the various materials used. He saw no great craftsmanship or evidence of fireplaces inside. Exhibit 15, while venturing beyond the scope of the hearing into planning and political matters, supports his stated opinions of the property.

There was some discussion regarding the popularity of the house in the neighbourhood and a notice of a meeting that was not received by Mr. Carraro, Witness # 1; however the Board advised that issues and planning considerations were outside of the concerns of this hearing.

Cross Examination of Witness # 5 by the City:

Mr. Minkowski established from Mr. Iannicca that his background is in economics with no particular heritage experience and that he was the sole dissenting vote on City Council regarding the intention to designate the subject property. He also agreed that he did no testing inside the subject house and has no particular knowledge of historic construction methods.

Witness # 6 – Mr. Dan Hellyer:

Mr. Hellyer was sworn in and advised he has lived within three miles of the site for 21 years. Mr. Toomath tabled a resume for Mr. David R. Hellyer B. Eng., P. Eng., BDS, CET, RHI which was accepted as Exhibit 16. The resume includes experience in judging skills in the building trades and acting as a Chair of the Board of Examiners for the Ontario Association of Home Inspectors. He has provided expert testimony to the Superior Court of Ontario and has extensive building management and construction

experience and training. He indicated having inspected the property and prepared the reports shown under Tabs 1, 6 and 9 of Exhibit 14 for Objector # 1.

Mr. Minkowski questioned the witness's experience noting an engineering background with no training in architecture, the history of Canada's development, archaeology or heritage. Mr. Dean Summerville asked whether the witness was ever asked to offer opinions on the age of structures and the witness confirmed that he was often asked this in his professional capacity. The Board accepted the witness as an expert in construction including methods and materials used in building.

Mr. Toomath referred the witness to his Building Inspection Report with the inspection date of 13 May 2006 under Tab 1 of Exhibit 14. While the purpose of the report was to determine the viability of the house structure, the witness agreed that he also made conclusions about the construction itself. He indicated that it displayed many old building components which he considered were salvaged materials from other older buildings. He also indicated that the south wall was never finished with stucco before the first addition was added. He stated this indicated the addition was made very soon after the original building was built. The report at the top of page 4 and the corresponding photo numbered P-18 show end wall posts with mortise openings above the ceiling that have no use, log floor beams that were notched from prior use and blackened nails in the attic that suggest reuse after having been in a fire in a previous application. He suggested the building likely predated 1925 and that it may not have been the first building on the site. He noted that the foundation was built under the house in the 1930's.

The witness indicated he found the type of materials used to be poor quality, put together with poor craftsmanship and displaying no distinct architectural style. Apparently some of the studs were scabbed together end to end and there were no heavy beams used, as suggested by the City. The largest he noted were some 4" x 4" studs. He indicated the plaster lath included double sawn lath with wire nails, which he said were only available in the 20th century. He advised there were also square nails in the lath, which further suggested reuse of materials including nails. The witness indicated the wiring to be original knob and tube wiring installed through the original stud framing and behind plaster walls that had not been disturbed for a wiring retrofit, thereby indicating the wiring to have been installed as an original feature of the original building. He advised that, while this wiring method was used until the 1950's, electrical power was not available and house wiring was not done before the 1900's. He summarized that given the lack of any indication of a wiring retrofit of the house for electrical power, the date of origin would be after 1900.

The witness advised that there was no evidence of masonry fireplace chimneys in the house. His inspection of the basement revealed no former foundation and there were no patches in the main or second floors where the brickwork would have penetrated. As well, he suggested any fireplace chimney would have conflicted with the centre wall alignment of the windows on each end of the main floor gable end walls. Based on these factors, the witness felt sure the original heating system was with wood stoves exhausted through the bracketed chimneys, i.e. a later form of heating.

The witness suggested the style was not a true Salt Box given the unique dormer on the south slope of the original building roof. He suggested the Bradley house, to be more of a true Saltbox style. He also pointed out that the windows on the original house were not consistently a pediment type. While the front and side windows displayed that style, the exterior window within the original house in the southeast alcove between the original house and the first addition was not the pediment style. He stated this further supported his contention that the house had been built from older salvaged and inconsistent materials.

Mr. Hellyer was then referred to his second visit to the subject residential building with Mr. Nando Iannicca and others to view the building and share his findings. He indicated that while the materials could be as old as the mid 1800's, they were put together in such a way to suggest 20th century construction including the original wiring behind undisturbed plaster and the lack of fireplaces. His third visit prompted the report dated 6 June 2007 to Mr. Wayne Summerville under Tab 9 of Exhibit 14. The purpose of the report was to look for any more evidence that might indicate the age of the house. That investigation revealed square cut and wire nails in the lath in the ceiling of the living room in the northeast corner of the room, a part of the original house. The wire nails were suggested to be commonly available only after 1910. The double sawn lath evident in photos 8151 and 8171 under this tab were suggested to be available only after 1900 and were further evidence of the age of the original structure. While the witness indicated, as shown in the second bullet on page 1 of that tab, that recycled materials were used in the dining room wall of the main building, (this is the wall between the original house and first addition). As such, it may not reflect the original construction.

The witness made the point that the house was built and almost immediately followed by the first addition. He indicated how the rafters under the south sloping roof of the original house were cut to butt end with the rafters of the first addition and that the joint between the continued rafters rests on the top of the wall plate. The witness suggested this was indicative of the first addition being constructed quite soon after the original building was built. Further to this point, he advised that the studs on the south wall of the house displayed no evidence of the stucco finish having been applied as did the other three walls of the original house. The south wall of the original house was clad with wide barn board, which the witness indicated was the same material used in the exterior attic walls of the first addition. He felt this was because the addition was contemplated soon after the original house was built. He noted that the gypsum board material used on that same south wall as part of what was then the interior of the first addition displayed patent dates of 1922. His assumption then was that the addition was built soon after the original building and that since the addition had 1922 vintage or later materials as shown in photo 8165, the original house was not much older. While the type of nails and the gypsum board material are likely relevant to the date of that addition, if more was known about the lapse of time between the construction dates of the two structures, they could also help determine the date of the original building.

Mr. Toomath asked the witness to introduce certain photos that had not been exchanged among the parties by the end of July, as set out in the Board's letter of 16 July 2007. The Board ruled against these photos being introduced. Mr. Toomath

asked Mr. Hellyer to summarize his findings about the construction, age and style of the house relative to Exhibit 12, the report from Mr. Chalykoff. The witness suggested the house displayed inconsistent and poor construction techniques and materials throughout including door trim and baseboard materials, varying thicknesses and out of plumb wall studs and generally poor workmanship. He indicated it had no heavy timber construction, as compared to the Pinkney House noted on page 29 and 30, it had studs of varying thicknesses, it was not a Saltbox style and had no masonry fireplace chimneys. It was suggested by Mr. Toomath that salvaged materials used in the building may have resulted from the 1923 tornado reported at the bottom of page 13 of Exhibit 12. The witness also notes the lack of eave returns on the south side of the original house, which he felt would have been left if built originally, and which he feels diminishes the suggested Saltbox style.

Cross Examination of Witness # 6 by the City:

Mr. Minkowski asked the witness to confirm aspects of his original report including that the appendix notes on structure found it to be in reasonable condition, the roof to be in good condition, the exterior to be in reasonable condition and that the purpose of that report was not historical in nature. The witness confirmed these features were indicated in his report. The witness confirmed that on page 9 of his report under Tab 1 of Exhibit 14 he recorded masonry chimney materials, although he indicated these were the bracketed chimneys for woodstoves not fireplaces. Regarding the date of installation of the plaster, the witness confirmed he had not done any research on the date of installation.

Regarding the house's history, Mr. Minkowski asked whether the Witness felt the building could have been a shop before it was a house. Mr. Hellyer replied he thought it wasn't. The witness was asked and agreed that his second report under Tab 6 of Exhibit 14 suggested construction possibly in the early 1900's or perhaps during the First World War.

On the topic of the Saltbox style, Mr. Minkowski drew the witness's attention to page 2 under Tab 9 of Exhibit 14 where the witness's report stated that the house resembles a Saltbox design. The witness agreed he made that statement. The witness also agreed that he had done no historical or heritage research into the site or the area.

Re-examination of Witness # 6:

The witness confirmed for Mr. Toomath that the subject house was not built using heavy timber, as was the case in the Pinkney House used in comparison. He indicated this to be a stick built house using nails for fastening. He confirmed that his opinions were based on about 12 hours of time during six visits to the house.

Witness # 7 – Mr. Wayne Summerville:

Mr. Summerville was sworn and Mr. Toomath entered a letter to Mr. Minkowski dated 30 July 2007 from the witness on the subject hearing and attaching title information. This was accepted as Exhibit 17.

The witness advised that he is now a Toronto resident and that his mother, Mrs. Trachsler, immigrated to the area with her parents from Switzerland. Her father, being the witness's grandfather, bought the property in 1927 and they lived there until 1938.

His parents moved to Toronto and his father died there. In 1974 his mother moved back to the subject house, where she stayed until moving to a house nearby in 2000. She visited the subject house until 2001 and she died in 2004. Mr. Summerville recollected spending summers there at the orchard farm with his grandparents. Apparently his uncle, by marriage, worked doing general repairs around the farm and he built the existing foundation under the house. Mr. Summerville stated he knew that work had been done somewhere in the period of 1930 to 1935. He had no recollection of any family member mentioning there being a fireplace in the house and recalled no member of the family expressing an interest in the property for heritage purposes or that it had any such value. When his mother was first contacted about the city's heritage interest in 1978, she opposed the city's interest. She apparently maintained her opposition in 1989 when approached by Mr. Warrack on the matter. The witness summarized that his mother did not consider the house to be a heritage building.

Mr. Wayne Summerville advised that his education includes a Bachelor's degree and an LLB. He was called to the Bar in 1976 and has specialized in real estate law during his career.

Mr. Toomath turned the witness's attention to page 2 the title abstracts shown in Exhibit 17. Page 5 of the abstract on the second last line indicated an Instrument 11241. This was explained as the first entry showing a transfer to the Toronto Hydro in 1903, thereby indicating when electricity was available and, when considered with Mr. Hellyer's evidence indicating original knob and tube wiring being installed at the time of the original building construction, the building would have been built sometime after the date of that transfer.

Cross Examination of Witness # 7 by the City:

Mr. Minkowski asked the witness and he advised that there was a house on the subject property when his grandparents bought the property.

Cross Examination of Witness # 7 by Mr. Dean Summerville:

Mr. Dean Summerville referred the witness to entry 19 on page 16 of Exhibit 12, being Mr. Chalykoff's Heritage Evaluation Study for the City. The witness agreed that the actual Land Registry records showed no reference to a homestead on the property. He also agreed that entry 23 on the same page is not shown in the Registry records and that entries 21 and 22 were wrong.

Case for Objector # 2, Mr. Dean Summerville, as represented by himself:

Mr. Summerville was sworn and commenced his presentation advising he is a Chartered Accountant working with Price Waterhouse. He was also the principle caregiver to his aunt, who was the wife of the uncle that worked on the property including building the foundation under the house. He referred to the photo of the subject house on the cover of Exhibit 12, the City's Heritage Evaluation Study. He suggested that the photo is probably not circa 1927 as shown but perhaps from the 1930's when his uncle, who was involved in fitness and exercise among area residents, made the chin-up bar that is evident in the photo in the back yard to the right of the house.

The witness then tabled a five tab document titled "Materials submitted by A. Dean Summerville", which was accepted as Exhibit 18. He suggested that the eave returns in the photo under Tab 5, which was of 15 Beaufort not 19 Beaufort, were not indicative of age and the same was true of the subject property. The witness noted the last line of a memo from Mark Warrack under Tab 1 suggesting the subject house was a copy of the Bradley House, thus diminishing the uniqueness of the subject house. He then referred to the last line on Tab 4 being a CBC archive giving a comment about the sloping roofline of a Salt Box house implying the style to be inconsistent.

Cross Examination of Objector # 2 on behalf of Objector # 1:

Mr. Toomath asked if he accepted the evidence given by Mr. Hellyer on behalf of Mr. Wayne Summerville. The witness stated he did accept that evidence.

Mr. Minkowski declined cross examination of this witness but asked the opportunity to give reply evidence to that given by Mr. Hellyer on behalf of Objector # 1. The Board considered and advised that it was not inclined to allow the request given that the City had the opportunity in cross examination and would have another opportunity in summation. Mr. Toomath objected to the City's request. Mr. Minkowski was asked by the Board to put the request in writing and this was done.

The Hearing reconvened at 10:00 am on 6 September 2007.

The Board first gave its ruling on the City's request to give reply evidence. The Board declined the request for the following reasons:

1. The Board set the procedure for the hearing in June and yesterday allowed presentation of the cases, cross examination and re-examination.
2. The Board limited the introduction of new evidence by all parties after the end of July, at the agreement of the parties in June.
3. The City's request states that the Board did not make a ruling at the commencement of the hearing which precludes giving reply evidence; however the Board's procedure was set at the outset as a finite limit and was clear.

Summations:

Summation of the case of Objector # 1:

Mr. Toomath noted how the owners had offered the house for sale to anyone for heritage purposes, with a covenant restricting a resale for profit. He advised that no person or group came forward from within such a prosperous community that could afford to purchase it for heritage purposes. He noted how all of those that had looked at the building, including Objector # 1's consultant, the Ward Councillor and the neighbours, felt the house to be unworthy of saving.

The heritage value of the building was not established according to Mr. Toomath. He suggested the six main summary reasons for designation shown on page 2 of Mr. Chalykoff's Heritage Evaluation Study, Exhibit 12, were all wrong. That report suggested the house to be a landmark, which he stated it was not.

Regarding the age of the building, Mr. Toomath made the following points by topic;

Lath: The building was shown to include old and new saw cut lath side by side suggesting use of salvaged materials from the 20th century. The plaster over the lath was original and had not been broken into for alterations.

Nails: the building was put together using old square and more modern wire nails. Wire nails were stated to not be generally available in the mid 1800's and were only used in construction in the early 1900's.

Wiring: The existence of knob and tube wiring was stated to have been installed during the construction of the original house, not as a retrofit that would have broken open plaster walls. The holes through the studs and plates for the wiring were straight, displaying no angles that would have resulted from drilling the holes if a retrofit was involved because only straight drills were in use. Page 5 under Tab 7 of Exhibit 14 showed title abstracts with the first transfers involving Toronto Hydro in 1903 and 1910. He then suggested that the owners would not have wired the house for electricity originally if the electric power had not been available and therefore the building was not built before the early 1900's.

Construction stages: Mr. Toomath referred to Mr. Hellyer's evidence that the first addition was built soon after the original house, based on the noted joints of the rafters end to end resting on top of the plate of the south wall of the original house.

Gyproc: The Board was referred to the 1922 patent date on the drywall material on the interior face of the south wall of the original house within the first addition. The inference was that with a first stage construction soon after the original building the drywall date was relevant to the original house construction date.

Barn board: The exterior wall in the attic of the first addition was noted to have used barn board cladding, not stucco like the rest of the original house. Mr. Toomath considered this another point indicating the first addition to have soon followed the construction of the original house in the 1900's.

Building materials: The building was noted to display poor workmanship and made with old and varied building materials including the windows and frames. He noted the use of many shim materials, including in the stairs, and projected the potential supply of materials resulting from the tornado in the mid 1920's having damaged other buildings.

Photo evidence: Mr. Toomath noted that the earliest photo of the building was the one on the cover of Exhibit 12, which was taken sometime between 1920 and 1930. He suggested that if the house had been there previously then the heritage community would have found some photographic evidence of it.

Saltbox style: Mr. Toomath referred to Exhibit 18 showing the Bradley House to have the suggested proportions, the chimney locations and the continuous angle roofline of a Salt Box design. He suggested the City has a good example of this style of in that property.

Construction technique: Where the City had suggested the subject house was built with heavy timbers, Mr. Toomath noted that the photos and Hellyer report showed the house to be stick built using a variety of types of nails and done with poor quality materials and techniques. He noted the mortises in the photos that were not functional and had no pegged heavy timbers but a frame that was

nailed together indicative of early 1900 vintage. He suggested the house to be built with 20th century methods but poorly executed. He indicated there were no materials worthy of preservation and that all material was mixed and recycled with no consistency in finishing the doorways or baseboards. He referred to the Mary Beth McTeague comment that the building had no historic value on page 45 of the Heritage Evaluation Study, Exhibit 12.

Fireplace chimneys: Mr. Toomath noted how the grandparents of the Summerville brothers had not mentioned the existence of any fireplaces in the house to them, there was no evidence in the basement of any former foundation for a fireplace chimney and no patches to the wood in either the floors or the roof where such a masonry structure would have been installed originally. He stated there were only the bracketed masonry chimneys for woodstoves, which he indicated were not generally available in the mid 1800's.

Summation of the case of Objector # 2:

Mr. Dean Summerville noted that there is no documented evidence of when the house was built and that the case in favour of designation is guided only by estimations, guesses and possibilities. He suggested the Board consider the quality of the City's evidence, that its land records are inconclusive and provide weak indications. He noted there were no facts to base any conclusions on the age of the original building. He referred to the City's evidence often using suppositions and words such as "may have", "was likely", "possibly" and "most likely". He then suggested there was no document supporting a heritage designation. He noted how the Chalykoff Heritage Evaluation Study in Exhibit 12 lacked the benefit of information from interior building evaluations, which were provided in the Hellyer report under Tab 1 of Exhibit 14. He noted how the Chalykoff report ignored the issue of knob and tube wiring reported in the Hellyer report of two years previous.

Mr. Summerville noted the City's basic case started with a property flip in the title records that doesn't provide factual support of the existence of a house on the subject site at that time.

Referring to the earliest photo of the house on the cover of Exhibit 12, Mr. Summerville suggested that if the house were built in the mid 1800's, by the time of that photo in the 1930's there would have been notable vegetation, shrubs and trees around the house for shading at least.

Summation of the case of the City:

Mr. Minkowski summarized the City's case as follows;

Legislation: Mr. Minkowski first referred to Ontario Regulation 9/06 where the designation must meet one or more of the criteria. He suggested the subject building meets the design criteria because it is an early example of a Saltbox style house. He stated the house has historic value because it dates back to the early Mississauga/Cooksville years, even if it was only from the early 1900's. He also suggested it to have contextual value since it was a visible reminder of early days in the Cooksville community.

Saltbox style: Mr. Minkowski stated that no evidence from the Objectors conflicted with the City's position that this was a Salt Box style house. He

referred to Mr. Hellyer's 6 June 2007 report under Tab 9 of Exhibit 14 that referred to the roof slope resembling a Salt Box style. He went on to note that Mr. Hellyer was not a heritage expert versus the evidence provided by Messrs. Chalykoff, Warrack and Cane that recognized the Salt Box design, the survey of other communities providing support comments and the favourable Assessment of Architectural Significance under Tab 8 of Exhibit 4 where Mr. Héroux of the Architectural Conservancy of Ontario found the house to be a good example of the Salt Box form. He summarized that this house and the Bradley House were unique examples of what Mr. Cane referred to as an Ontario Saltbox. He suggested that even some variation to the style has value in design.

Landmark: The position of the neighbours was suggested by Mr. Minkowski to be a form of plebiscite and should be of less concern for the Board than that of the Mississauga Heritage Foundation and City Council. Regarding the Objectors, Mr. Minkowski suggested none had an advanced historic knowledge of the property and that Mr. Wayne Summerville had agreed that there was a building on the property when his grandparents purchased it in 1927. This is supported by the survey plan with a 1926 date shown under Tab 17 A of Exhibit 7 showing the house and barn on a 15.59 acre site at the Southeast corner of King Street and Camilla Road.

Lath: Mr. Minkowski suggested that there was saw cut lath available in the 1830's so the material could have been available during the construction of the original house.

Wiring: Mr. Minkowski suggested perhaps the wiring was added after the building was built when the exterior siding had been removed sufficient to allow the wire to be installed from the outside, thereby not disturbing the plaster.

Heating: Page 40 of Mr. Chalykoff's report in Exhibit 12 was referred to suggesting that there were stoves used for heating after the 1830's. He suggested it was quite possible that the original building was constructed in the 1800's and heated with wood burning stoves. Mr. Minkowski indicated that the City was denied access to investigate the fireplace chimney issue and that possibly the uncle of the Summerville's that built the foundation would have removed all remnant foundation associated with any fireplace.

Balloon frame and heavy timber: Mr. Minkowski related the existence of 4" x 4" and 4" x 6" material and the balloon type framing to compare favourably to the Pinkney heavy timber balloon frame construction of the 19th century style.

Mortise cuts: Mr. Minkowski noted that the Hellyer report identified only two locations of unused mortises in the posts in the attic, which he suggested were insignificant. He disputed the evidence by Hellyer of other reused materials within the original building.

Electricity: Mr. Minkowski suggested the 1910 hydro easement supported the case that a building was there at that time.

In summary, Mr. Minkowski suggested there was a building at the subject location prior to electricity being available and before interior finishing was done. He stated how the building was considered to be a Saltbox style by Messrs. Warrack, Cane, Duncan and Wilkinson and that it meets the Ontario Regulation 9/06 criteria for heritage designation. The age of the building was stated to be valuable and important

in the development of the Cooksville community even if it were only 100 years old. It was said to be worthy to assist in understanding the former history of that community.

The Board thanked all of the parties and the public that had attended for their interest in the subject property as well as in the heritage of their community. The Board particularly thanked the parties for their worthy summations

The hearing adjourned at 12:30 pm.

FINDINGS OF THE BOARD:

Regulation 9/06 of the Ontario Heritage Act states that a property may be designated under section 29 of the Act if it meets one or more of the criteria to determine whether it is of cultural heritage value or interest. The considerations of the Board are set out in standard text format following each of those criteria shown in bold italics below.

Architectural Significance:

- 1. The property has design value or physical value because it,***
 - i. is a rare, unique, representative or early example of a style, type, expression, material or construction method,***
 - ii. displays a high degree of craftsmanship or artistic merit, or***
 - iii. demonstrates a high degree of technical or scientific achievement.***

The design of the house does resemble a Salt Box style. However, the modest construction, finishing and low quality of interior construction detract from the house having any significant design intent. The anomalies in construction and the poor quality further erode the suggestion of adherence to a design.

The City provided well qualified expert witnesses and reports suggesting architectural values of the building. However, the comments were based on emailed copies of photos of the house from the street right-of-way. Those comments also lacked information from professionals regarding the interior construction and did not mention inconsistencies in the window pediments and eave returns noted by the Objectors. They also lacked any information regarding the physical features such as knob and tube wiring or the various nail types that might have altered their comments.

The construction materials shown in photos provided by the Objectors were of mixed sizes and types, were from various sources and were assembled reflecting poor craftsmanship. The Objectors suggested the variety of materials were consistent with salvaged materials. Interior photos from the Objectors showed misaligned and out of plumb studs and 1" x 4" material scabbed onto studs in an open wall section by a window. This was explained by Mr. Chalykoff in Exhibit 12 page 29 to possibly have been added after an old exterior was removed to support a lighter siding material. While possible, the likelihood seemed remote and the Board considered the explanation and photos from the Objectors to be more convincing and suggestive of salvaged materials.

The exterior features noted by the City of returned boxed eaves and window pediments seemed of limited note, inconsistent around the perimeter of the original

house and tended to support the Objector's positions that much of the materials were from salvage sources. However, the Objector's suggested reuse of sawn and split lath materials is unlikely given that the material would likely split in removal for reuse. The interior room, crawl space and attic photographs do suggest poor construction techniques using varied sized materials that might have been available from a number of sources.

The municipal Heritage Designation Report refers to fine standard of craftsmanship, without knowledge of the interior or construction. The Hellyer report and photos contend that the house was originally built of poor quality materials and workmanship, and that the original, the first and second addition building sequence being close together in time is more plausible.

In the Board's view the email comments from Mr. Fred Cane, Heritage Advisor, Ministry of Culture, at Tab 20 of Exhibit 7 regarding Saltbox style houses generally, his opinion that the house was built in 1860 and his comments about certain house features are weakened and may have been quite different if he had of been provided with the information about the structure, wiring and interior features provided in the Hellyer report.

In summary, given the two polarized reports, the Board finds insufficient definitive evidence to confirm design or physical value in the subject house.

Historical Significance:

- 2. *The property has historical value or associative value because it,***
 - i. has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community,***
 - ii. yields, or has the potential to yield, information that contributes to an understanding of a community or culture, or***
 - iii. demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.***

The Board found the evidence on the age of the structure particularly polarized. There were significant uncertainties between the evidence of the City and the Objectors regarding the age of the original house.

The City's McTeague report from 1978 estimates the age to be 1835. Although that person's heritage expertise was perhaps limited, the City makes the suggestion she may have been given the impression regarding age of the original house from the owner. Mr. Héroux, Architectural Conservancy of Ontario, estimated the age to be 1845 – 1860 based on an outside site visit. Mr. Cane of the Ministry of Culture was quite firm that the house was built in 1860 based on photos of the house provided to him. He suggested that because this house is largely intact it is well worthy of designation. As noted above, Mr. Cane's opinions on age may have been quite different with more full information about the structure.

The municipal Reasons for Designation regarding historical significance include reference to land registry records indicating that the dwelling was likely built sometime

between 1832 and 1852. The 9 March 2005 report under Tab 25 of Exhibit 8 to the municipal heritage committee from Mr. Paul Mitcham, Commissioner of Community Services, makes this position primarily based on the title information. It suggests the earliest date of construction may have been 1832. The land title records included in the Heritage Evaluation Study and in other evidence utilize a doubling of price from a sale in 1832 and then another sale in 1833 as evidence of the likely construction of this house on the subject property. The Objector's suggestions of this change being perhaps evidence of land speculation at that time are equally possible given the lack of other documentary records supporting the City's contention and the short period of time from one sale to the other. As well, if there were a house on the property to prompt the increase in value, there was no evidence that it was this house in this location, given that the property size in 1832 was 200 acres. Additional property transfer information is provided in Appendix 2 under Tab 25 of Exhibit 8. However, the reference to James Easton in paragraph three having lived on the 32.5 acre property and that it was likely to be the subject house is considered inconclusive. The subsequent architectural description, although extensive, also seems to rest weakly on building details that may have reflected the mid 1800's, although they could have been built much later. The site considerations referenced are equally plausible but not conclusive to identify the age of the house. The oldest record of the property in the City's evidence is the photo included as Appendix 4 under this Tab 25. This photo shows the original house with both additions from a Northwest position. The date of the photo is shown as 1927. The historical background given in heritage designation report from Mr. Mitcham is inconclusive as to age.

The City's heritage evaluation study of 16 May 2007 indicates the origin of the building to be between 1825 and 1840. However, the evidence from the Objectors shows the knob and tube wiring to have been part of the original construction. The Objectors suggestion that this wiring would have been installed as part of the original construction and not as a retrofit weighs heavily in dating the age of the structure to be sometime after 1900 when electricity became available in that area. The City's suggestion that the house might have been built in the mid 1800s and retrofitted for wiring appears to be neither practical, given the Objectors evidence that the exterior and interior wall surfaces had not been disturbed, and an unlikely investment in such a modest house. They also gave evidence that the holes through stud walls for the wiring appear to be perpendicular and not drilled on an angle as you might expect in a retrofit from one side of the framed wall or the other.

While the Heritage Evaluation Study indicates the building to be a composite of heavy timber and balloon framing, the photographic evidence from the Objectors, particularly in the attic and outside walls around the windows, reveals few pieces of lumber of any size and those pieces do appear to be reused. This supports the Objector's position that these and other materials used in the original construction appear to have been sourced as salvaged materials from demolished buildings. The City's Heritage Evaluation Study also indicates photographic evidence of chimneys indicates the building to have preceded the advent of wood stoves thereby making the date of construction between 1825 and 1840 difficult to refute. Alternately, the Objectors engineering study and photographs indicate how there is no evidence of a chimney foundation for wood fireplaces in any location including the crawl space or in any floor

restoration where the chimney would have necessarily passed through the main and second floors of the original building.

The use and availability of wire nails as evidence of age was also inconclusive. The Objector's position was that such materials were not manufactured and not in common use at that time in Ontario. The City responded that wire nails used in the house framing might have been imported from Europe in the mid 1800's. This was considered quite unlikely as well, given the modest nature of the house. Some of the square nails used in the structure were stated by the Objector's engineer to be blackened suggesting reuse from some burnt building. The Board found this evidence inconclusive, however, it was found to lessen the position of the City regarding the age of the original structure.

In cross examination, Mr. Chalykoff, the author of the municipality's heritage evaluation study, was questioned about the existence of apparent salvaged materials in the original structure. Mr. Chalykoff agreed that the reused materials might suggest a 20th century construction date, as suggested by the Objectors.

Mr. Hellyer gave evidence on behalf of Objector # 1 that the roof rafters at the rear of the original house and the start of the first addition were cut to butt end to each other atop the wall they rest on. He suggested this to be evidence of construction of the 1st addition soon after the original house was built, thereby indicating a more recent original construction date. However, this situation might only mean the builder cut and butt ended the joints to maximize length of the rafters over the addition. This was also considered inconclusive as to the age of the original structure.

The knob and tube wiring seems to have been part of the original building construction, which suggests it was built in the early 1900's. The evidence of the Objectors and their witnesses on this topic appears more reasonable to the Board than the City estimates based on photos taken from the street and the weak title information. The suggestion by the City that the exterior siding might have been removed for the sake of a non-intrusive post construction renovation seems to be an unlikely investment in a modest home of this quality. In cross examination, Mr. Warrack confirmed that the Hellyer recommendation to demolish the building and its status being beyond repair was information that was not shared with the Architectural Conservancy of Ontario, the municipalities surveyed about Saltbox houses or with Fred Cane with the Ministry of Culture. He agreed they may have estimated a different date of origin had they been aware of the use of salvaged materials including windows, knob and tube wiring and the varied types of lath in the house.

The balloon style of construction, similar to the subject house, was used from around 1833 through to 1920, according to the City's consultant, Mr. Chalykoff. While the Hellyer report suggested wire nails used in the original house were only available after 1900, Mr. Minkowski countered that some of this type of product was imported.

Notable through the City's evidence are uncertainties[0] in the often used words such as "likely", "appears to date", "may" and "price increase indicates". These qualifiers weaken the City's current position regarding designation.

Mr. Warrack is a recognized expert in heritage issues while Mr. Hellyer is an expert in building construction, albeit not a heritage expert. However, Mr. Warrack's expertise on behalf of the City appears limited in this case by the lack of proof of the age of the house from any outside documented sources. It is also considered to be limited by not having inspected and tested the interior of the building.

Other than the 1978 visit by a staff person, the City has not entered onto the property to inspect any parts of the building interior. The author of City's heritage evaluation study indicated it would have been fortunate to be allowed to cut into and test materials inside. This is noteworthy in that the City did have the authority to enter interior of house for inspection after the notice of intent to designate was published. Section 38, Inspections reads;

38. (1) For the purpose of carrying out this Part, any person authorized by the council of a municipality in writing may, upon producing proper identification, inspect at any reasonable time property designated or property proposed to be designated under this Part where a notice of intention to designate has been served and published under subsection 29 (3).

The Notice of Intent to Designate was published in the local paper on 22 March 2006. Mr. Chalykoff was commissioned by the City Legal Services office to conduct a heritage evaluation study 9 months on 21 Nov. 2006. That report provides significant critique to the Objectors report prepared by Mr. Hellyer. Unfortunately, the City did not require the owners to allow their representative, Mr. Chalykoff, to inspect the interior for the purpose of gathering evidence for the hearing even though there was sufficient time in advance.

The earliest dated firm documentary evidence is the photo of the house shown as 1927 on Exhibit 12, although that date is disputed to range from 1910 to the 1930's as well. The Board is convinced the original house could have been built as early as 1910 in the time when electricity was becoming available in the area and the original structure was wired either for that purpose or on speculation of its imminent arrival. However, the Board is not convinced by the evidence of the City that the building reflects an historical or associative value based on the criteria of this section of Regulation 9/06.

Contextual Significance:

- 3. The property has contextual value because it,***
- i. is important in defining, maintaining or supporting the character of an area,***
 - ii. is physically, functionally, visually or historically linked to its surroundings, or***
 - iii. is a landmark.***

The City's point of this being the last Saltbox style house on its original site in Mississauga, near the centre of the former town of Cooksville, would be considered worthy if the original house were the age estimated in the Heritage Evaluation Study and the Designation Statement and if the design characteristics were more consistent.

The sense of context of this house relies on the age and architectural value. Given that the Board finds this house lacks proof of significant architectural or historic value, the Board also concludes it lacks significant contextual value.

Recommendations for the City of Mississauga:

Based on the evidence heard, the Board is not definitively convinced that this property meets the criteria for designation under section 29 of the Act. Of concern to the Board is the highly polarized evidence presented by the Parties and the lack of clarity in the evidence supporting the City's case for designation. Specifically, the evidence provided by the City in assessing the age of this structure was put into question through the expert evidence provided by the two Objectors. Even upon cross-examination, the City could not address many of the issues raised by the Objectors as per the age of the structure.

Under the Act, the Board's role is to make recommendations that are to be contemplated when Council renders its final decision on designation. Given the structure of the hearing process, the onus falls upon the City to prove to the Board that the subject property has cultural heritage value or interest as defined by the evaluation criteria of Ontario Regulation 9/06 or the municipal equivalent.

While the recommendation of the Board is not to designate this property under section 29 of the Act, the Board recognizes that the City did not physically visit and inspect this property, as had the Objectors. If this property is indeed of the vintage and significance suggested by the City, it appears that its loss as an aspect of the heritage of the municipality would be unfortunate. Therefore, the Board suggests that the City undertake a site inspection of the physical property and better assess the merits of the case made by the Objectors, before Council renders a final decision on designation. This would better enable the City to truly determine and describe the history of this structure and make the appropriate decision regarding protection or not for this property.

Originally signed by:

Stuart Kidd, Chair
December 11, 2007

Karen Haslam, Co-Chair
December 11, 2007

List of Exhibits:

1. Affidavit of Notice of Hearing – Mississauga News Mississauga, Ontario, June 15, 2007, (3 pages) Tabled by the Board
2. Proof of ownership of 174 King St. East, Land Registry Act (Approximately 24 pages), Tabled by MR. Minkowski
3. Witness Statement of Mr. Gregory Carraro on behalf of the Mississauga Heritage Foundation (3 pages), Tabled by Mr. Minkowski

4. Document Book (multi tab 1-9) by the Mississauga Heritage Foundation, Tabled by Mr. Minkowski
5. Witness statement (including CV on page 4) for Mr. Mark Warrack, Heritage Coordinator, Community Services Dept. City of Mississauga (14 pages)
6. Document Book Volume I (multi tab 1-12) 'Chronology and Relevant Charters, Legislation, Policies and Guides', Tabled by Mr. Minkowski
7. Document Book Volume II (multi tab 13-20) 'Research Resources', Tabled by Mr. Minkowski
8. Document Book Volume III (multi tab 21-36) 'City Reports, Relevant Meeting Minutes and Related Documents', Tabled by Mr. Minkowski
9. Document Book Volume IV (multi tab 37-47), 'Correspondence' Tabled by Mr. Minkowski
10. Document Book Volume V (multi tab 48-50), 'Maps and Photographs', Tabled by Mr. Minkowski
11. Witness statement for D.R. Chalykoff, Canadian Association of Heritage Professionals
12. Heritage Evaluation Study: 174 King Street East, Mississauga, Ontario prepared by D.R. Chalykoff, (including CV on page 47), dated May 16, 2007
13. Affidavit of Notice of Hearing – Mississauga News Mississauga, Ontario, August 22, 2007, Tabled by the Board
14. Building Inspection Report on 174 King Street (multi tab 1-10) containing 3 reports and pictures by David Hellyer, Tabled by Mr. Toomath
15. Notice of General Committee Meeting - dated March 1, 2006 - regarding Historical Designation of the Moody-Trachsler House, 174 King Street E., - Plus Addenda-Map of distribution
16. CV for Mr. David R. Hellyer (Approximately 7 pages)
17. Letter by W. Summerville, dated July 30, 2007, and Abstract of true copy of the Land Registry (1807 – 1949) covering subject property Part lot 14, Concession 1
18. Materials submitted by A. Dean Summerville (multi tab 1-5)

Mississauga 174 King St E Final Signed Hearing Report Dec 11 2007