

**Conservation  
Review Board**

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**Commission des  
biens culturels**

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**Conservation Review Board**

**IN THE MATTER OF** Section 29(8) of the *Ontario Heritage Act* R.S.O. 1990 Ch 0.18

- and -

**IN THE MATTER OF** the lands and premises known municipally as 2 Willow Avenue (Leuty Life Saving Station) in the City of Toronto

- and -

**IN THE MATTER OF** a reference to the Conservation Review Board for a hearing and report in respect of the intended designation of the above property under the aforesaid *Act*.

**DECISION**

This matter was heard by the Board on September 18, 1992. The hearing resulted from the objection to the proposed designation made by Robert T. Bundy, Commissioner of Parks and Property of the Municipality of Metropolitan Toronto.

Appearing as counsel for the City of Toronto was Mr. John Phillips. No one appeared for Mr. Bundy or for the Municipality of Metropolitan Toronto.

Giving evidence on behalf of the City was Joan Elizabeth Crosbie, Preservation Officer with the Toronto Historical Board.

At the outset of the hearing Mr. Phillips filed a deed of the land in question from Annie White to the Corporation of the City of Toronto dated November 29, 1927. He advised that the ownership of the building itself, known as the Leuty Avenue Life Saving Station, was not clear and that he did not have proof that it was in fact owned by the Municipality of Metropolitan Toronto.

The only thing that the City can designate is property. That means land and what sits on the land. The City cannot designate buildings themselves, apart from the land on which they sit. In any event the proposed designation is of a parcel of land owned by the City on which is located a building. The reasons for designation refer to the building and although the building does not appear to be owned by the City, nevertheless the strictures of the Act will apply if the property is designated.

A further matter of confusion arose from the fact that, although Metro had objected to the designation and therefore caused the hearing, Metro was not present to set forth its reasons for objecting. The Board requested that Mr. Phillips ascertain whether Metro did in fact intend to appear and what indeed was their position with respect to the proposed designation and adjourned the hearing for that purpose. Mr. Phillips advised that he had been trying to contact Metro and that he had spoken to Mr. R. G. Bundy who had filed the objection on behalf of Metro but was unable to determine whether Metro would be present at the hearing. He was however, advised, that Metro had not withdrawn its objection to the proposed designation.

The Board observed that from the record, it was apparent that the objection arose in the following manner:

Mr. Robert Bundy, the Commissioner of Parks and Property of the Municipality of Metropolitan Toronto had recommended in a report dated February 19, 1992 that Metro not object to the designation. The Parks Recreation and Property Committee of Metro recommended the adoption of that report. However, on March 11, 1992 Metro Council referred the report back to the Parks Recreation and Property Committee for further consideration and instructed the Commissioner of Parks and Property in consultation with the Metropolitan solicitor to submit a report to the Parks Recreation and Property Committee related to certain aspects of the building. There is no record that that report which the Metro officials were instructed to submit, was ever in fact submitted.

Instead of submitting the report as instructed by Council, Mr. Bundy on his own filed an objection to the designation on behalf of Metro. That act was taken without authority, insofar as the record shows and insofar as Mr. Phillips was able to ascertain.

The result of that objection was the hearing by this Board which cost a substantial amount of money to the Province of Ontario in order to arrange the hearing, substantial personal losses to the members of the Board, one of whom was required to attend from out of town and further losses to the City by virtue of the use of a hearing room and the necessity for four members of the City and Toronto Historical Board staff to have prepared for and be present at the hearing and advertising costs by the City and the Province.

### **Joan Elizabeth Crosbie**

Joan Elizabeth Crosbie, a preservation officer with the Toronto Historical Board, gave evidence as to the heritage value of the property, including its history and architecture. She presented a substantial number of slides but copies or photographs of those slides were not filed as exhibits with the Board.

The substance of her evidence is set out in the City Reports essentially as follows: the property is proposed to be designated for both architectural and historical reasons. It was constructed in 1920 by the Toronto Harbour Commissioners pursuant to the design of the architectural firm, Chapman and Oxley. The rectangular frame building is supported above the water on piers and was designed to expedite the launching of life saving boats. The bellcast gable roof has an observation tower. The City Reports indicate that the Leuty Life Saving Station is one of two remaining life saving stations serving the Toronto lakefront and is a significant feature of Scarboro Beach. Scarboro Beach was the centre of the boat renting business at the time the station was constructed and the station was used principally with respect to capsized boats and canoes rather than to facilitate the rescue of bathers or swimmers. It was equipped with one small power boat, two rowing dories and three look-out towers, one at the station itself and the other two on the beach. It was manned by two seamen from the Main Station and four lifeguards.

The raised principal (northern) entrance is flanked by single flat-headed openings. The east and west elevations contain large, irregularly spaced windows which, when opened, permit an unobstructed view of the beach front. The waterfront (southern) elevation contains paired single doors and two pairs of double doors

which open onto a projecting deck. This design expedites the launching of lifeboats. The bellcast gable roof features a wooden watch tower which enables lifeguards to survey the beach and waterfront area

It is stated to have been an integral component of the City's life saving service since its construction.

There was no evidence presented to contradict the City's Reports and the Board finds, accordingly, the City's Reports and the evidence as stated above in those Reports, to be correct.

### **Recommendation**

The Board recommends that the property be designated as proposed for the reasons set out in the City's materials.

### **Costs**

This hearing, the costs of which are referred to above, was necessitated by the unauthorized objection by the above official of Metro. The official had filed the objection on behalf of Metro but it did not appear from the materials that Metro really had any objection whatsoever to the proposed designation and there was no record that Metro had ever authorized an objection to be filed. No Metro official appeared, the City solicitor was unable to contact any relevant official by the phone and indeed was advised that Mr. Bundy was unable to talk to him because he was "in a meeting". Further, he had told the City solicitor that he "couldn't remember" whether Metro did or did not object to the designation and that if it were up to him they would tear it down. The objection was never withdrawn.

In addition to the costs set out above, the advertising cost to the Provincial Government was \$2,133.00.

It appeared to the Board that Mr. Bundy had engaged in an abuse of process and had behaved in a manner contemptuous to the Board, to the City and to the Province. The Board therefore sought the advice of legal counsel to the Ministry as to whether it had jurisdiction to award costs against either Metro or Mr. Bundy. The Legal Services Branch of the Ministry advises that there is no authority that would permit the Board to order costs against a party before it. Further, the Board cannot make an order requiring costs to be paid to itself.

Under present legislation the Board has no disciplinary powers over its own procedures and is helpless to protect itself, the City or the Province against the cavalier, costly and contemptuous behavior by Mr. Bundy.

The City and the Province may have other recourse against Metro but there is nothing the Board can do to address the abuse.

(Original Signed by)

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Michael B. Vaughan, Q.C.  
Chairman

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Heather Broadbent  
Member

Dated September 18,1992

## List of Exhibits

- Ex. 1 Declaration by Nancy Smith.
- Ex. 2
  - (a) By-law 8964 passed December 19, 1921 registered as Instrument 87324T January, 1922.
  - (b) Deed from Annie White to City registered as Instrument 6372 ES dated November 30, 1927.
  - (c) Attached sketch.
- Ex. 3 Legal description
- Ex. 4 Clause 43 of Neighbourhoods Report #1 adopted January 13, 1992.
- Ex. 5 Clause 17 of Neighbourhoods Report #6 adopted May 4 and 5, 1992.
- Ex. 6 Declaration of Wanda Gill - of publication of Notice of Intention to Designate
- Ex. 7 cv of Joan Elizabeth Crosbie