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DATED August 26th, 1975

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THE CORPORATION OF THE CITY OF HAMILTON

BY-LAW NO. 75-237

To Designate:

Municipal Nos. 35, 39, 41 and 43

Duke Street - Sandford Place

As Property of:

HISTORIC AND ARCHITECTURAL  
VALUE AND INTEREST

K. A. Rouff,  
City Solicitor.

26/8/75

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## The Corporation of the City of Hamilton

BY-LAW NO. 75-237

To Designate:

Municipal Nos. 35, 39, 41 and 43  
Duke Street - Sandyford Place

As Property of:

## HISTORIC AND ARCHITECTURAL VALUE AND INTEREST

WHEREAS The Conservation Review Board did hold a hearing pursuant to subsection 8 of section 29 of The Ontario Heritage Act, 1974 on Thursday, the 21st day of August, 1975 to determine whether the property located at Nos. 35, 39, 41 and 43 Duke Street, sometimes known as Sandyford Place, should be designated to be of historic or architectural value or interest;

AND WHEREAS The Conservation Review Board did make a report dated the 22nd day of August, 1975, wherein the Board found "that the Council of the City of Hamilton has acted in the historic and architectural best interest of the citizens of the community in designating Sandyford Place as a property of historic and architectural value and interest";

AND WHEREAS The Conservation Review Board recommended that Sandyford Place be duly designated by by-law under the provisions of The Ontario Heritage Act, 1974;

AND WHEREAS it is desirable to designate Sandyford Place in accordance with the recommendation of The Conservation Review Board.

NOW THEREFORE the Council of The Corporation of the City of Hamilton enacts as follows:


1. The Council herein adopts the report of The Conservation Review Board, dated the 22nd day of August, 1975, annexed hereto as Schedule "A", as its reasons for designating the property referred to in section 2, under The Ontario Heritage Act, 1974.
2. The property municipally known as Nos. 35, 39, 41 and 43 Duke Street, sometimes known as Sandyford Place, situate on parts of Lot 22 and Part Lots 123 and 124, Registered Plan 1270, and more particularly described in Schedule "B", hereto annexed, is hereby designated as property of historic and architectural value and interest.
3. The City Solicitor is hereby authorized and directed to cause a copy of this by-law, together with reasons for the designation to be registered against the property affected in the proper registry office.
4. The City Clerk is hereby authorized and directed,
  - (i) to cause a copy of this by-law, together with reasons for the designation to be served on the owners and The Ontario Heritage Foundation;
  - (ii) to publish a notice of this by-law in a newspaper having general circulation in the Municipality of the City of Hamilton. ✓

PASSED this 26th day of August, A.D. 1975.

CERTIFIED A TRUE COPY

  
City Clerk  
Mayor  
CITY CLERK

(1975) 9 R.P.D.G. 3, March 4  
(1975) 17 R.B.C. 16, April 8




IN THE MATTER OF Section 29 of  
The Ontario Heritage Act, 1974

- and -

IN THE MATTER OF the Designation  
of Municipal Nos. 35, 39, 41 and  
43 Duke Street (Sandyford Place)  
as property of historic and  
architectural value and interest.

TAKE NOTICE THAT The Corporation of the City of Hamilton  
enacted By-law No. 75-237 on the 26th day of August, 1975 adopting  
the Report of The Conservation Review Board, dated the 22nd day of  
August, 1975 and designating the property municipally known as  
Nos. 35, 39, 41 and 43 Duke Street, sometimes known as Sandyford  
Place, as property of historic and architectural value and interest.

DATED this 29th day of October, 1975.

  
E. A. Simpson  
City Clerk



RECEIVED 26/8/75

AUG 25 1975

LEGAL DEPARTMENT  
THE CORPORATION OF  
THE CITY OF HAMILTON

77 Grenville Street

Queen's Park

Toronto, Ontario

M7A 1E8

Conservation  
Review Board

RE: CITY OF HAMILTON - INTENTION TO DESIGNATE  
SANDYFORD PLACE - 35,39,41,43 and 47 DUKE STREET

Ernest Valorie Swain, Q.C., Chairman  
Joyce E. Bowerman

August 22, 1975.

HEARING pursuant to s29(8) of The Ontario Heritage Act, 1974 of the notice of intention given by the Council of the Corporation of the City of Hamilton to designate parts of Lot 122 and part Lots 123 and 124, registered plan 1270, in the City of Hamilton to be of historic or architectural value or interest.

P.M. EKER, for the City of Hamilton  
G.R. STANGER, Q.C., for La Jolla Holdings Limited  
and Fin-Cup Holdings Limited  
L. CULVER, for Douglas Martin and the Durand  
Neighbourhood Association Inc.

#### R E P O R T

The Board attended at the City Hall of the City of Hamilton on Thursday, August 21, 1975. A public hearing was conducted in order to determine whether civic numbers 35, 39, 41, 43 and 47 Duke Street should be designated as being of historic or architectural value or interest. The properties in question were referred to throughout the hearing and are herein referred to as Sandyford Place.

The City of Hamilton uses "neighbourhoods" as a planning unit. There are 114 of these of which the Durand Neighbourhood in which Sandyford Place is situate is one.

Bill No. 240 ...

This is Schedule "A" to By-law No. 75- 237 passed the 26th day of August, 1975.

THE CORPORATION OF THE CITY OF HAMILTON

  
City Clerk  
Mayor

It is one of four comprising the downtown core of the city. The area is zoned E3 which permits high density multiple dwellings. By a decision dated June 26, 1975, the Ontario Municipal Board gave temporary approval to DE3 zoning which permits low density multiple dwellings restricted to three storeys. This approval lapses on the expiry date of the 180 days provided under The Ontario Heritage Act.

It should be noted that the owner of 35 Duke Street, the most easterly unit, did not object to the designation by City Council. It was further acknowledged by a city official that 47 Duke Street, a low rise apartment unit separated from Sandyford Place, was not included in the DE3 zone and no evidence was directed towards its preservation.

This Board sees its responsibility to be to consider the merit of Sandyford Place in the context of its historic or architectural value or interest. Historic considerations should include the social aspect of living in a particular structure at a particular point in time. This Board is examining only whether the municipality was correct, having regard to all the facts, to designate these properties. This Board is not dealing with the future of the building, the economic feasibility or viability of its preservation, or conservation, or its possible demolition. In that sense, the function of this Board is rather circumscribed.

The premises are part of a terrace block built in 1858 of Hamilton limestone. One architect called by counsel for the city commented that the buildings were classic Greek

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architecture via Scotland and reflected the Scottish heritage of Hamilton. Another noted it was one of the few stone terraces and the best in the city, and possibly in Canada, a view supported by all expert witnesses.

From the historic viewpoint, every structure is a visible manifestation of the history of that community. Sandyford Place is an indicator of the character of living and the aspirations of the citizens in mid 19th century Hamilton. A number of notable persons resided in these premises which were apparently designed by the builder to impress and give a sense of distinction. It is an example of the building era in the days before the large, single family dwelling with grounds and gardens came into prominence. The builder sought street frontage and accommodation in accordance with his Scottish urban development experience. It is an indicator of the geographic expansion of the city from the commercial - industrial waterfront area.

This Board had the opportunity to view the premises before and during the hearing and to tour the immediate area. Sandyford Place is located in a district that has the largest concentration of fine stone buildings in the city. With its prominent corner site, it is the anchor for historic preservation in the Durand Neighbourhood.

The expert evidence presented to the Board indicates the uniqueness of the premises in question. They have a simple, symmetrical, well-proportioned architectural aspect and appear to be the last terrace block of its kind in Canada. Many such

....

buildings were built in England and Scotland, but only a few in Canada. Its intrinsic value lies in the fact that it is four separate units which create an architectural totality. A very competent builder has left Hamilton with a distinctive case study of earlier Victorian residential construction.

The ashlar stone work is of simple, plain lines. There was unanimity of the expert witnesses that the Front Facade was of prime importance for preservation. Attention was drawn to the window pediments, carved cave brackets, lintels, three-sided dormers with hipped roof and side lights and the cornice. As for the interior, reference was made to the staircases, fireplaces and undercut mouldings of plaster. All these elements create a building of exceptional architectural significance to the municipality, the province and, quite possibly, to the nation..

It is noteworthy, and counsel for the owners was quite candid in acknowledging this fact, that the expert evidence presented by the city in support of its desire to designate was uncontroverted. From direct evidence of an officer of the owner corporations and the cross-examination of the experts called by the city, it was apparent that the thrust of the objections to designation related solely to cost of repairs to the electrical, heating and plumbing services, roof, front steps and dormers. It was suggested that such expenses could amount to \$50,000 per unit. No evidence, however, by either party was presented to establish such costs or to outline any potential structural weaknesses.

....



It is not relevant to the deliberations of this Board to know if potential purchasers are available to buy the buildings if the intention to designate is perfected by by-law, or to what uses the buildings could be put, or whether it is economically feasible to operate the buildings in any fashion. Such considerations are beyond the limited function assigned to this Board by The Ontario Heritage Act.

In resume, this Board finds that the Council of the City of Hamilton has acted in the historic and architectural best interests of the citizens of the community in designating Sanddyford Place as a property of historic and architectural value and interest. We, therefore, recommend that Sanddyford Place be duly designated by by-law under the provisions of The Ontario Heritage Act.

Ernest Valorie Swain

Joyce E. Bowerman

## PROPERTY MUNICIPALLY KNOWN AS NOS.

35, 39, 41 and 43 DUKE STREET

IN THE CITY OF HAMILTON

Parcel No. 1: Municipal No. 35 Duke Street, more particularly described in Instrument No. 38018 A.B. in the Registry Office of Wentworth (No. 62) registered on the 30th day of December, 1966 in the Registry Office at Hamilton, Ontario.

Parcel No. 2: Municipal No. 39 Duke Street, more particularly described in Instrument No. 273625 A.B. in the Registry Office of Wentworth (No. 62) registered on the 30th day of November, 1972 in the Registry Office at Hamilton, Ontario.

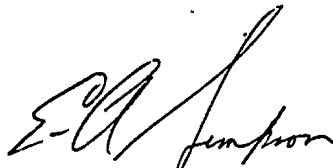
Parcel No. 3: Municipal No. 41 Duke Street, more particularly described in Instrument No. 273709 A.B. in the Registry Office of Wentworth (No. 62) registered on the 1st day of December, 1972 in the Registry Office at Hamilton, Ontario.

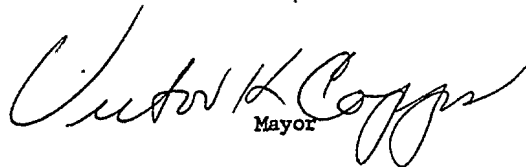
Parcel No. 4: Municipal No. 43 Duke Street, more particularly described in Instrument No. 277551 A.B. in the Registry Office of Wentworth (No. 62) registered on the 5th day of January, 1973 in the Registry Office at Hamilton, Ontario, but not including the property at Municipal No. 47 Duke Street.

Bill No. 240

This is Schedule "B" to By-law No. 75-237, passed on the 26th day of August, 1975

THE CORPORATION OF THE CITY OF HAMILTON

  
City Clerk

  
Mayor

SCHEDULE "B" CONTINUEDParcel No. 1

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the City of Hamilton, in the Regional Municipality of Hamilton-Wentworth, in the Province of Ontario, being composed of an easterly portion of Lot Number One Hundred and Twenty-four (124) in Peter Hunter Hamilton's Survey and more particularly described in Instrument No. 38018 A.B. in the Registry Office of Wentworth registered on the 30th day of December, 1966.

Parcel No. 2

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the City of Hamilton, in the Regional Municipality of Hamilton-Wentworth in the Province of Ontario, being composed of part of Lot Number One Hundred and Twenty-four (124) in Peter Hunter Hamilton's Survey, Plan 1270, and more particularly described in Instrument No. 273625 A.B. in the Registry Office of Wentworth registered on the 30th day of November, 1972.

Parcel No. 3

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the City of Hamilton, in the Regional Municipality of Hamilton-Wentworth in the Province of Ontario, being composed of part of lots numbers One Hundred and Twenty-three (123) and One Hundred and Twenty-four (124) in Peter Hunter Hamilton's Survey, Plan 1270, and more particularly described in Instrument No. 273709 A.B. in the Registry Office of Wentworth registered on the 1st day of December, 1972.

Parcel No. 4

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the City of Hamilton, in the Regional Municipality of Hamilton-Wentworth in the Province of Ontario, being composed of part of Lot Number One Hundred and Twenty-three (123) in Peter Hunter Hamilton's Survey, Plan 1270, and more particularly described in Instrument No. 277551 A.B. in the Registry Office of Wentworth registered on the 5th day of January, 1973.