

November 14, 2010

Jim Baird
Commissioner of Development Services
Development Services Commission
Town of Markham
101 Town Centre Boulevard
Markham, Ontario
L3R 9W3

Dear Jim:

As you are aware, I am appealing the decision made last week by the Markham Heritage Committee, with respect to the partial changing of cladding on my home at 20 Peter Street in Markham. I am very interested in appearing before your Commission, to discuss my *significant* concerns with the way in which both Town Heritage Staff and Heritage Committee members have dealt with our reasonable request to change the cladding on two walls of our house. As I am in Chicago, on business on November 16th, I am writing this letter to outline the issue and my requests. In addition, I will have my heritage building expert, Charters Kenny, testify in person.

1. **The Cladding Issue - Background:** as part of our site plan agreement we stripped off 4 layers of old cladding from our home to expose the base cladding. Our agreement stipulated that we would restore "*the original*" cladding, if possible. We were extremely surprised to find two completely different base claddings. The cladding on the south and west portions of our house are what we believe to be the original cladding. This cladding matched many houses on our street, was professionally installed and was in overall good condition. The cladding on the north and east walls was poorly installed, had suffered significant deterioration and looked like no other homes in our area. We assumed the cladding on this portion of the house was changed for some reason and solicited input from a number of sources:
 - a. **General Contractor:** my general contractor carefully reviewed the cladding on the north and east walls of our house and arrived at the conclusion that it was not original, based on the type of wood, and the installation. He also noted that it was installed with 45 degree cuts which were a major building envelope issue for both water leaks and mold.
 - b. **Goodfellow Wood:** a representative from Goodfellow Wood carefully inspected the cladding and arrived at the same conclusion as my general contractor.
 - c. **David Wylie:** David is a heritage contractor and window restorer that does a lot of work for the Town of Markham. David reached the same conclusion as my contractor and the representative from Goodfellow Wood.
 - d. **Town of Markham Heritage Staff:** Peter Wokral from Heritage Markham came out and inspected the cladding in question and disagreed with all of the parties mentioned above. He stated he believed the cladding in question was original and that it could be repaired. He said this in spite of our major health and safety concerns about water leakage and mold issues. He provided a vague explanation to support his hypothesis and offered to have Markham's Heritage Committee Architectural Sub-Committee come and inspect the cladding.
 - e. **Markham's Heritage Committee Architectural Sub-Committee:** three members of the Heritage Committee's Architectural Sub-Committee, and two members of Heritage Markham Staff came out to inspect the cladding in question. They arrived at the conclusion that the cladding was original and needed to be

preserved. I strongly raised an objection to their unsubstantiated opinion based on the other input I received and the fact that the instillation would likely cause major water and mold issues. None of the parties seemed concerned at all about the health and safety of my family; they seemed solely interested in protecting the cladding in question. When I asked about their credentials, it became clear to me that none of the Heritage Committee volunteers had any professional degree or designation to support their assertions. When I questioned them on the fact that their recommendation would hurt the health of my family, I found them to be both combative and condescending. In particular, I believe strongly that Susan Casella is doing a disservice to the Town and should be removed from the Committee. While her ideology in heritage preservation may be genuine, her execution of this ideology is misguided, creates unnecessary animosity and leaves the Town looking very bad.

- f. Solicitor's Letter: After meeting both groups from the Town, I felt like I was in a *no-win* situation. I could not put the original aluminum cladding back on my house and I was not allowed to change the two walls of wood cladding that would cause water leaks, mold and ultimately harm to my family. I spoke to my lawyer about this and we decided to inform the Town that they had put us in a harmful position for which we would hold them legally responsible. This letter was sent to the Mayor on October 28th, 2010.
2. **The Expert Investigator – Charters Kenny**: I decided to hire an investigator to see if I could determine the instillation timelines on each of the claddings as well as the effectiveness of each cladding. Charters Kenny was retained to inspect my residence. Charters is a professional building inspector who specializes in heritage homes. He has inspected more than 8000 homes, 1000 of which were older than 1920. Charters prepared a 24 page report which was forwarded to the Mayor, Regional Councillors, members of Heritage Markham, and the Heritage Markham Committee on November 4th. His report provided rationale for his assertion that the cladding on the north and east walls of our house was not original. Furthermore, the report stated *"the existing bead board does not provide a draft proof or leak proof seal to protect the home from wood rot, heat loss, etc."*
3. **The Heritage Committee Meeting – Home Owner Presentation**: We were provided an opportunity to present our position to the Heritage Committee on Wednesday November 10th. We came to the meeting hoping to gain agreement to replace the inferior cladding on the north and east walls of our house with wood cladding that would perfectly match the cladding on our south and west walls. We presented the following information:
 - a. Charters Kenny: Charters articulated why he knew the cladding was not original. He explained how a fire had caused the previous home owner to replace the cladding. He also explained that the cladding in question presented a major health issue related to water leakage and mold and needed to be replaced for safety reasons.
 - b. Kirk Tobias: I personally explained to the committee that we had stripped the drywall off on the inside of the north wall of the house and had found significant black mold both inside the house and directly on the cladding that we wanted to replace. I basically begged the committee to allow me to change the cladding in an effort to protect my family's health.
 - c. The Heritage Markham Committee Response: it was clear to me and Charters Kenny that the committee was not interested in what we had presented and flatly turned down my request to change the two walls of my cladding. They seemed completely disinterested in the health of my family and unwilling to let us improve the safety of our home. Barry Nelson, the Chair of the committee was combative and unwilling to support our request. Susan Casella asked for a motion to be passed to increase the building inspections of our property to ensure we did not

"hurt the cladding in question". We were both dumbfounded that a committee nominated by the Town Council could have such callous disregard for the health and safety of my family. Based on this, I question the merit of the Heritage Markham Committee. I immediately appealed the recommendation of the Heritage Markham Committee.

4. **The Development Services Committee Meeting – November 16th:** We have been fighting with the Town of Markham for more than 45 days about the replacement of the cladding on two walls of our house. I have had to spend a significant amount of time and money in an attempt to prove to the Town that the cladding replacement was necessary, even though it was apparent from the start. I want to reiterate that not one staff or volunteer member of the Town has shown any concern for the health of my family. I find this deplorable and am hopeful that your Committee will consider the evidence that we have presented and allow us to properly complete the renovation of our heritage home. I hereby request that your committee immediately agree to the following:
- a. Cladding: allow us to remove the cladding on the north and east walls of our house and replace it with cladding that matches the south and west walls.
 - b. Reimbursement of Expenses: authorize the refunding of the legal and inspection expense that I have had to unnecessarily incur.
 - c. Window Inspection: agree to have the Development Services Committee work with me on the issue of the replacement of windows in our home. We have found very significant water damage, rot and mold in the majority of the original windows in our home. The Heritage Staff team has inspected the windows and has stated they believe we need to retain all the windows. Peter Wokral went so far as to suggest I would have to inject epoxy into the frames of the windows to preserve them. This is unacceptable as it will add a known carcinogen into my home and is not a feasible solution to protect our home from further water damage and mold.

Jim, I am hopeful that your Committee will take my letter and my requests very seriously. The Town of Markham has put me in the position where if I am turned down by your Committee I will be forced to take legal action against the Town in an effort to protect the health of my family. In no way do I want to do this, however, I am completely prepared to do what is necessary to ensure my reasonable requests are approved so I can complete the restoration of my home.

Thank you for taking the time to review this letter.

Regards,

Kirk J. Tobias

Kirk J. Tobias
Homeowner
20 Peter Street
