



BY-LAW 2010-11

Being a By-law to establish a Designated Heritage Property Grant Program

WHEREAS the Council of The Corporation of the Town of Markham is authorized, pursuant to Section 39 of the Ontario Heritage Act, R.S.O. 1990, c.O.18, as amended (the "Act"), to pass by-laws providing for the making of a grant or loan to the owner of a property that has been designated under Part IV of the Act (a "designated property"), as being of cultural heritage value or interest, for the purpose of paying for the whole or any part of the cost of alteration of such property on such terms and conditions as the Council may prescribe;

AND WHEREAS the Council of The Corporation of the Town of Markham is authorized, pursuant to Section 45 of the Act, to pass by-laws providing for the making of a grant or loan to the owner of any building or structure and the land appurtenant thereto that is situate within an area that has been designated by by-law under Part V of the Act, as a heritage conservation district, for the purpose of paying for the whole or any part of the cost of alteration of such property on such terms and conditions as the Council may prescribe;

AND WHEREAS the Council of The Corporation of the Town of Markham deems it advisable and in the public interest to provide a grant program for designated properties on the terms set out in this by-law as an incentive to encourage property owners to renovate and restore such buildings, and thereby contribute to the overall character and identity of the Town of Markham;

AND WHEREAS on January 19, 2010, the Council of The Corporation of the Town of Markham approved the Heritage Property Grant Program as a four year project, and Council approved the Grant Program Guidelines on the same date;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

DEFINITIONS

- 1.1 In this by-law, unless otherwise specified in this by-law:
- (a) 'Applicant' shall mean the owner of the property applying for a grant, or their agent, if such agent is authorized in writing by the owner to act as agent for making the application;
 - (b) 'Contravention' shall mean an offence under a municipal by-law, statute or regulation for which enforcement proceedings have been commenced that relates specifically to the building or land for which a grant is sought or given;
 - (c) 'Designated Heritage Property' shall mean real property including all buildings and structures thereon that have been designated by municipal by-law as being of cultural heritage value or interest pursuant to Parts IV and V of the Act;
 - (d) 'Eligible Conservation Work' shall mean that which is described in sections 5.1 and 5.2 of this by-law;
 - (e) 'Eligible Property' shall mean that which is described in sections 4.1 to 4.5 of this by-law;

- (f) 'Guidelines' shall mean the Town's Heritage Property Grant Program Guidelines, as may be amended from time to time;
- (g) 'Heritage Attributes' shall mean the principal exterior features, characteristics, context and appearance that contribute to the cultural heritage significance of an eligible property;
- (h) 'Heritage Markham' shall mean the Town's municipal heritage advisory committee;
- (i) 'Manager' shall mean the Town's Manager, Heritage Planning and includes his or her delegates;
- (j) 'Preservation and/or Conservation' shall mean the act or process of applying measures necessary to sustain the existing form, integrity and materials of a cultural heritage property;
- (k) "Program" shall mean the Town's Designated Heritage Property Grant Program; and
- (l) 'Restoration' shall mean the process of accurately revealing, recovering, replicating or representing the state of a heritage property at a particular period in its history, while still protecting the cultural heritage value of the property.

TERM AND AMOUNT OF GRANT PROGRAM

- 2.1 The Heritage Designated Property Grant Program shall be established in the amount of one hundred and twenty thousand dollars (\$120,000) with funds allocated to the program over a four (4) year period at a minimum of thirty thousand dollars (\$30,000) per year from the date of the passing of this by-law.
- 2.2 If a grant has been approved by Council, but not paid out on the day this Program expires, the grant amount shall still be provided in accordance with this by-law.
- 2.3 Any funds remaining in the Program at the end of the four year period shall be transferred to the Heritage Loan Fund.

SPECIFIC GRANT AMOUNT AND OWNER CONTRIBUTION

- 3.1 Each grant may be awarded in the amount of up to half the cost (50%) of the Eligible Conservation Work up to a maximum of five thousand dollars (\$5,000).
- 3.2 The owner of the property shall match the Town's grant amount as part of its contribution to the Eligible Conservation Work.
- 3.3 The owner may use any funds available to him or her from the Town of Markham Heritage Loan Fund as part of the owner's matching contribution to the Eligible Conservation Work.
- 3.4 Donated labour and materials shall not be considered part of the costs or part of the owner's matching contribution.
- 3.5 The costs of labour, materials and equipment related to the Eligible Conservation Work may be considered part of the cost of the Eligible Conservation Work provided proof of such costs are verified by invoices.

- 3.6 A property may receive only one grant per calendar year.
- 3.7 Before another grant is considered by the Town, the work associated with the current grant must be completed, inspected and approved by the Manager.
- 3.8 Whether a grant is awarded, and the amount of the grant, shall be subject to available funding within annual program budgets of the Town.
- 3.9 A property may receive only one grant for exterior painting to a maximum of \$2,000 or 25% of the cost, whichever is the lesser.

ELIGIBLE PROPERTY

- 4.1 For a property to be considered Eligible for a grant, the property must be:
- (a) designated under the Ontario Heritage Act (the “Act”):
 - (i) for a single property, a designation by-law under Part IV of the Act must have been passed and registered; or
 - (ii) for a property located within a heritage conservation district, a designation by-law must have been passed under Part V of the Act and only properties identified in the District Plan as being of cultural heritage value or interest (being Classes A and B in Thornhill, Class A (and B at the discretion of Council on the recommendation of Heritage Staff) in Unionville, and Type A in Markham Village) are eligible; and
 - (b) located within the Town of Markham; and
 - (c) free of property tax arrears, any fees or penalties owed to the Town, compliance orders, enforcement orders, contraventions of municipal requirements and the like.
- 4.2 Where a Designated Heritage Property contains non-heritage additions or elements, or the proposed work involves new additions, only the Heritage Attributes of the property will be subject to grant assistance.
- 4.3 Heritage resources owned by any level of government are not eligible except in the following cases:
- (a) where the property is under long term lease to an individual; or
 - (b) where a non-profit, community group has assumed, by long-term lease or legal agreement, responsibility for the building.
- In these cases, such parties may make an application for a grant as the agent of the owner.
- 4.4 Commercial façade projects (front elevation) for commercial properties in heritage conservation districts are not eligible for this Program as there is a separate financial assistance Program for this type of project.
- 4.5 Properties in Markham Heritage Estates subdivision are not eligible for this Program unless and until the building has been located on the property in Markham Heritage Estates for a minimum of twenty (20) years.

ELIGIBLE CONSERVATION WORK

- 5.1 For the proposed work to be eligible for a grant, it must be Eligible Conservation Work, which means the following:
- (a) any conservation work which directly and appropriately preserves, restores or enhances specific Heritage Attributes and does not detract from or diminish the cultural heritage value of the property or the district including:
 - (i) preservation/conservation of existing architectural elements or features which are significant;
 - (ii) re-construction of significant architectural elements or features which still exist, but are beyond conservation or repair;
 - (iii) restoration or re-introduction of significant architectural elements or features which have been lost, but for which the appearance can be clearly determined from archival or documentary sources, or physical evidence that supports the existence of the missing feature.
 - (iv) introduction or repair of protective elements to protect original features.
 - (b) any preservation/conservation work necessary to restore the building to structural soundness including the correction of serious structural faults which threaten the building's survival, but not routine maintenance;
 - (c) any preservation/conservation work which directly and appropriately preserves, restores or enhances specific Heritage Attributes associated with historic cemeteries and their features such as mausolea, dead houses, stone walls, wrought iron fences and gates which are part of the original design, but not specific grave markers, tombs or monuments; and
 - (d) exterior painting in documented original colours;
 - (e) any architect, designer and engineering professional fees to a maximum of one thousand dollars (\$1,000) as a component of the maximum grant amount for work directly related to the proposed preservation/conservation, rehabilitation or restoration project; and
 - (f) any other alterations which the Manager, in his or her sole discretion, determines are important to the cultural heritage significance of the property.
- 5.2 The final determination of what constitutes Eligible Conservation Work is at the discretion of the Manager, in consultation with Heritage Markham, with reference to the Guidelines, and the final decision is made by Markham Council.
- 5.3 Eligible Conservation Work will be generally guided by the following policies and principles: individual heritage conservation district plans, Conservation Principles from the Ontario Ministry of Culture and the Standards and Guidelines for the Conservation of Historic Places in Canada.

INELIGIBLE WORK/ PROJECTS

- 6.1 Ineligible work will include, but limited to, the following:
- (a) Interior work, unless related to structural issues;
 - (b) Short term, routine maintenance, including painting, other than as permitted herein;
 - (c) work on modern additions or work to accommodate modern renovations to a building of cultural heritage value;
 - (d) landscaping;
 - (e) paving;
 - (f) lighting unless repair or restoration of a heritage attribute;
 - (g) signs and commemorative plaques;
 - (h) eaves-troughs, unless considered significant architectural features of the building such as those with decorative elements or those made from long-lasting materials such as copper or lead;
 - (i) mechanical systems and insulation;
 - (j) skylights;
 - (k) poor or defective work; and
 - (l) non-permanent fixtures.
- 6.2 Commercial façade projects (front elevation) in heritage conservation districts are ineligible as there is a separate financial assistance program for this type of project.

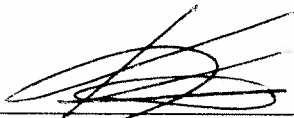
ADMINISTRATION OF THE PROGRAM

- 7.1 The Designated Property Grant Program shall be administered by the Manager.
- 7.2 The overall administration of the Program shall be in compliance with this by-law and the Guidelines.
- 7.3 At minimum, the Program shall be offered at least once per calendar year.
- 7.4 All applications shall be considered by Council for approval after having been reviewed and a recommendation provided by Heritage Planning staff and Heritage Markham.
- 7.5 Approval of a grant does not absolve the owner from obtaining all other approvals required by law to under the project.
- 7.6 Before a grant will be paid by the Town, the following must occur:
- (a) the Eligible Conservation Work must be completely paid for the owner with documentation to verify such payment, and completed to the satisfaction of the Manager;
 - (b) the Eligible Conservation Work must be competed within one (1) year from the date of approval of the grant by Council in order to receive the grant;
- In exceptional cases, the timeframe for project completion may be extended. In such cases, a written request, stating the reasons for required for the extension, must be submitted by the applicant for review and approval at the discretion of the Manager;
- (c) the Manager must be is receipt of all required documentation as identified in the Guidelines, and as requested by the Manager;

- (d) the completed Eligible Conservation Work must reflect the Eligible Conservation Work that was approved by Council or as amended by the Manager.

- 7.7 The Town reserves the right to withhold the payment of all or a portion of the grant if the work has not been substantially completed in accordance with the approved plans and specifications.
- 7.8 If the cost of completed work is less than the original amount upon which the grant was calculated, the grant will be revised to reflect 50% of the new cost.
- 7.9 Any monies remaining in the budget for this Program and not allocated during a calendar year shall be transferred for use to the next calendar year for use as part of the Program.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
9TH DAY OF FEBRUARY, 2010.



KIMBERLEY KITTERINGHAM
TOWN CLERK



FRANK SCARPITTI
MAYOR