



# HERITAGE TRUST OF NOVA SCOTIA

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## ***High Rises Win Again at NSUARB Decision Puts Brunswick Street Heritage Character Under Attack***

HALIFAX—In a decision released on Monday, the Nova Scotia Utility and Review Board “has landed a devastating blow on the Brunswick Street Heritage Area, approving a high-rise building that will dominate two neighbouring registered heritage properties, including St. Patrick’s Church,” said Andrew J. Murphy, President of Heritage Trust of Nova Scotia. “It will tarnish the unique historic character of the area, which contains some of the crown jewels of Halifax’s architectural heritage.”

The NSUARB’s ruling endorses Halifax and West Community Council’s approval of a nine-storey tower addition—presented repeatedly and erroneously as eight storeys—to the former St. Patrick’s Rectory, at 2267 Brunswick Street. The decision flies in the face of MPS Policy 9.3.2.1 ( c ) which clearly demands that proposed developments in the Brunswick Street Heritage Area be “similar” in height and “complementary” to adjacent residential buildings, particularly registered heritage properties.

“In the big picture, it means that no heritage anywhere is safe, if such blatant disregard for the rules which are clearly intended to protect heritage areas from unsympathetic development can occur,” said Murphy.

David Donnelly, counsel to the Heritage Trust, said, “The hearing was eminently fair, but the decision does not deal with the central issue at trial: is a nine-storey modern building made of dark red brick ‘complementary’ or ‘similar’ to a light blue, two-storey heritage building made of wood? Precedent says ‘no,’ but that question never got answered, which seems to defeat the point of the City’s policy protection for Brunswick Street.”

The Brunswick Street Heritage Area has been recognized since the 1960s as the most intact wooden Georgian streetscape in Canada and is lauded as a unique illustration of over 200 years of architectural trends and tastes, from modest vernacular residences to some of the grandest structures in Nova Scotia. In addition to its designation as a Heritage Area, Brunswick Street contains an unusually high concentration of individually registered properties, including sites of municipal, provincial, and national import.

“We were particularly disappointed by the refusal of the Board to hear direct evidence from some of Canada’s most authoritative architects on this matter,” Murphy commented.

Mr. Murphy was referring to two expert witnesses retained by the Trust: Brian MacKay-Lyons, an architect and urban designer of international renown, and Gary Hanley, one of Nova Scotia's most decorated heritage restoration architects. Mr. MacKay-Lyons and Mr. Hanley strongly recommended against allowing the nine-storey tower, as had the City's own Heritage Planner, Aaron Murnaghan. Much to the dismay of the Trust, Mr. Murnaghan was not allowed to testify.

The case turned on whether the proposed nine-storey tower was "similar" in height to the adjacent residential heritage property, the Huestis House, a municipally-registered property that is two storeys tall, the most common height for a building in the Brunswick Street Heritage Area. The Trust's inclusion of the Merriam Webster definition of "similar" as "closely resembling each other ... [with] the possibility of being mistaken for each other" was apparently in vain: the Board's ruling establishes a new legal and linguistic standard whereby a height of nine storeys can be considered "similar" to a height of two storeys.

The Board also substituted its own definition of "complementary" regarding scale and architecture for the Heritage Trust's definition, which sheds little light on why the decision was made.

"I've won cases and lost cases, but never on the definition of a word in its transitive verb versus noun sense," said Mr. Donnelly, echoing a line from the decision.

After a successful redevelopment of the distinctive, three-storey former Rectory into apartments, the current owner, Adam Barrett, proposed a tower addition to the rear of the building. Despite a total of seven meetings of municipal bodies, convened to discuss the proposal, and repeated calls to reduce the addition's height to a maximum of six storeys, so as to respect the roofline of the neighbouring St. Patrick's Church, a provincially-registered property, Barrett refused to amend his plans to anything lower than nine storeys.

The Heritage Trust is concerned that the Board's decision to stick-handle around the very clearly written and thoughtfully composed MPS policies addressed in this case will allow for increased development pressures in one of Canada's most important heritage districts, and that as a consequence Brunswick Street's historic character may no longer receive the protection and sensitive treatment it deserves.

Heritage Trust of Nova Scotia, founded in 1959, is a non-profit registered charity whose goal is to conserve buildings and sites of historic significance, and to promote this important cultural component of Nova Scotia's identity.

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