

# Heritage Matters...in Markham

## HERITAGE EASEMENTS

### ***What is a heritage easement?***

A heritage easement is a legal agreement. It allows the owner of heritage property to ensure its preservation while retaining possession and use of the property. An easement agreement gives a public body, such as a municipality, a legal interest in the property and is registered on the title to the property. The *Ontario Heritage Act* allows municipalities to enter into heritage easement agreements to protect properties of cultural heritage value and interest.

### **How long does an easement run?**

All Markham heritage easements are perpetual to provide ongoing protection. However, council can remove a heritage easement from a property at any time.

### **How are heritage easements different than heritage designation?**

Heritage easements are more comprehensive than designation under the *Ontario Heritage Act*. For example, there are no provisions under the *Heritage Act* to require an owner of a designated property to maintain the building or its heritage features in good condition, insure the building against perils or to rebuild the building in the event of damage. Heritage easements can help address these concerns. Easements also provide much stronger protection against demolition as the municipality must consent. A property can be protected by both an easement and designation. The property does not have to be designated to be protected by a heritage easement

### **What are the main impacts on the owner?**

The obligations of the owner are to ensure the ultimate preservation and maintenance of the building with the owner satisfying the following key obligations:

- i. receive municipal approvals for any changes or alterations that will affect the heritage features of the structure;
- ii. the owner shall insure the structure in an amount equal to that of the replacement of the building so there will be enough money to repair the heritage elements of the building in event of fire or other damage; and
- iii. the owner shall reasonably maintain the structure to regress deterioration and ensure the heritage features are not allowed to deteriorate.

When an owner enters into a Heritage Easement agreement, some of the rights, namely those that represent the right to develop or redevelop the land as one chooses, are shared with the easement holder. The owners are still the “owners” of the property and can sell it, leave it to their children or continue to enjoy it as they please.

To better understand the heritage easement agreement, the City has prepared a separate brochure called “**Understanding the City of Markham Heritage Easement Agreement**”. The purpose of this document is to provide a better understanding of the various components of the agreement and their intended purpose in plain language. A sample easement agreement is included.

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## **Does a heritage easement impact property value?**

In the experience of the Ontario Heritage Trust, an easement has no significant effect on the property's resale value, especially where a similar use for the property or one compatible with its heritage features is contemplated.

## **What are the benefits to the Municipality?**

The municipality benefits considerably as it retains a historically significant structure within its community, which it does not have to administer or maintain. The property also remains on the tax rolls thereby generating income for the municipality.

## **Who is responsible for administration of the easement?**

The municipality is responsible for the administration of the Heritage Easement.

## **When are heritage easements secured by the Municipality?**

Heritage easements are obtained and used in a variety of ways:

- To protect a financial investment in a property by the municipality, the easement can be a condition of funding a restoration project or receiving a property tax reduction;
- To protect heritage features that are important to the community, the easement agreement can be required in return for granting municipal planning approvals or exemptions (i.e. plans of subdivision; site plan and development approvals; severance of land)
- To protect surplus heritage buildings when being sold by the municipality or the province, an easement agreement can be registered on the property prior to the sale

Markham Council has adopted a clear and comprehensive policy detailing when the acquisition of a heritage easement will be required. For a copy, contact Heritage Section staff.

“Heritage Matters...in Markham”  
is a series of information brochures  
on heritage planning topics.

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