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November 12, 2021

VIA COURIER AND EMAIL

Ms. Diana Rusnov
City Clerk
The Corporation of the City of Mississauga
300 City Centre Drive, 2nd Floor
Mississauga ON L5B 3C1

Dear Ms. Rusnov:

**RE: 3611 Mavis Road (the “Site”)
Notice of Intention to Include the Site on the Municipal Heritage Register
Notice of Objection by Hajuna Investments Limited**

We are the solicitors for Hajuna Investments Limited (the “**Owner**”), being the owner of the property municipally known as 3611 Mavis Road in the City of Mississauga (the “**Site**”).

On October 14, 2021, the City of Mississauga (the “**City**”) issued a Notice of Intention to Include the Site on the Municipal Heritage Register under Part IV, Section 27 of the Ontario Heritage Act, R.S.O. 1990, c.O.18, as amended (the “**Notice of Intention**”), a copy of which is attached hereto as Appendix “A”. In connection with the Notice of Intention, we have reviewed the Report from the Acting Commissioner of Community Services to the Chair and Members of the Heritage Advisory Committee dated June 29, 2021 (the “**Staff Report**”) recommending that *“the appropriate City officials be authorized and directed to take the necessary action to include the Site on the Municipal Heritage Register as a listed property.”*

On behalf of the Owner, we hereby object to the Notice of Intention pursuant to Section 27(7) of the Ontario Heritage Act (the “**Notice of Objection**”). Our general reasons in support of the Notice of Objection are set out on a preliminary basis below.

Background

The Site and Planning Context

The Site is located on the east side of Mavis Road, south of Burmanthorpe Road West and north of Central Parkway West. The Site is generally rectangular in shape and currently occupied by a one-storey building with several active tenancies including the Metalworks Production Group, a health and lifestyle clinic, and a bakery.

The Site is located within a *Neighbourhood* as identified on the Urban Structure Map (Schedule 1 and 1b) of the City of Mississauga Official Plan (2010) (the “**Official Plan**”). The Site is designated *Mixed Use* on Schedule 10 of the Official Plan, which applies to areas planned to accommodate a range of uses including residential uses, retail uses, and other uses to support the surrounding residents and businesses. The Site is also located within the Fairview Character Area. Chapter 16 of the Official Plan contains area specific policies (Section 16.11) that apply to the Fairview Character Area, including policies directed at existing industrial operations within the vicinity of the Site that must be addressed before residential uses may be developed.

The Site is located in close proximity to the *Downtown Area*, which is identified as an Intensification Area on Schedule 2 of the Official Plan. The Site is within walking distance to planned and/or existing higher-order transit.

As a general proposition, the Site is in a prime location to facilitate future intensification, including in the form of mixed-use development, in order to support the optimization of land use and infrastructure in keeping with provincial and local policy.

Reasons for Objection

Lack of Public Consultation

The Site is proposed to be listed on the Heritage Register based on a purported intangible value of its association with the Metalworks Studio, a music recording studio that currently leases space on the Site. In this regard, the “Statement of Cultural Heritage Value or Interest” found in Appendix 1 of the Staff Report states the following:

Statement of Cultural Heritage Value of Interest: 3611 Mavis Road has associative value under Regulation 9/06 of the Ontario Heritage Act as it [is] the location of Metalworks Studios.

We understand this to mean that the Site is considered to meet Criterion 2(i) of Ontario Regulation 9/06: Criteria for Determining Cultural Heritage Value or Interest, which states the following:

The property has historical value or associative value because it (i) has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community.

The proposition that the Property has “associative value” in this instance on the basis provided would require a level of consultation, including with the general community, to determine whether the Metalworks Studio has direct associations that are in fact

significant to the community. We are not aware of any consultation having taken place with the community prior to the Notice of Intention being issued.

As a related point, City Staff has not consulted with our client at any point in this process. In fact, our client was first apprised of the matter upon receipt of the Notice of Intention. We have serious concerns with how the process has unfolded in this matter. There are obvious issues of fairness raised in this circumstance without any consultation or prior notice of this initiative being given to our client. Our client should have the opportunity to clearly understand the City's purported statement of value and significance, and to discuss how the City anticipates that this may affect future redevelopment of the Property, particularly given its planned function to facilitate intensification.

Concern with Statements and Descriptions of Site

Although the Site is not being proposed for designation, Appendix 1 of the Staff Report contains statements and descriptions that are typically produced in support of a designation by-law (i.e. description of the property, statement of cultural heritage value or interest, description of heritage attributes). We submit that it is premature to put forward these statements and descriptions in the absence of a meaningful community consultation, and the critical review process that is otherwise contemplated under Part IV of the Ontario Heritage Act where an actual designation is proposed.

Notwithstanding our concern that the statements and descriptions are premature, we note that they also have not been drafted in accordance with the guidance in the Ontario Heritage Tool Kit. For example, the "Description of Heritage Attributes" should include *"those attributes of the property, buildings or structures that contribute to the property's cultural heritage value or interest, and which should be retained to conserve that value"* (Ontario Heritage Tool Kit). However, the current "Description of Heritage Attributes" reads as follows:

Description of Heritage Attributes: 3611 Mavis Road has heritage value due to its association with Metalworks Studio. The prestige of the studio includes the property as a cultural and heritage landmark within the City of Mississauga.

Under the Ontario Heritage Tool Kit, "heritage attributes" are defined as *"those attributes (i.e. materials, forms, location and spatial configurations) of the property, buildings and structures that contribute to the property's cultural heritage value or interest, and which should be retained to conserve that value."* Heritage attributes in the Province of Ontario are expected to be tied to real property (i.e. physical characteristics of a property).

In the present case the purported *intangible* value raises serious questions in and of itself as to whether the Property merits inclusion on the Municipal Heritage Register. Based on the foregoing, we are objecting to the Notice of Intention. At a bare minimum, we are

requesting that City Council remove the Property from the Municipal Heritage Register and direct that Staff undertake further consultation with our client and the broader community prior to revisiting any potential future initiative to include the Property on the Municipal Heritage Register.

Please provide us with written notice of the decision in this matter and the consideration of this item by City Council and any Committee of City Council. Should you have any questions or require anything further in support of this Notice of Objection, please contact the undersigned or in his absence Michael Cara (at mcara@overlandllp.ca or 416-730-8844)

Yours truly,

Overland LLP



Per: Daniel B. Artenosi
Partner

Appendix “A”**Notice of Intention to Include the Property on the Municipal Heritage Register**



MISSISSAUGA

BY Sameday Courier

October 14, 2021

HAJUNA INVESTMENTS LTD

c/o Stack Investments
c/o Downing Street Property Management Inc.
7-668 Millway Ave,
Vaughan, ON L4K 3V2

Dear Sir/Madam:

RE: Notice of Intention to Include a Property on the Municipal Heritage Register per the Ontario Heritage Act, and in the Matter of the Lands and Premises located at 3611 Mavis Road in the City of Mississauga, Province of Ontario

The Heritage Advisory Committee (HAC), at its meeting on July 13, 2021, considered a Corporate Report dated June 29, 2021 regarding the above noted matter and made the following recommendation that was subsequently adopted by Council at its meeting held on September 15, 2021.

GC-0439-2021

That the property at 3611 Mavis Road be added to the Municipal Heritage Register for its associative value and that the appropriate City officials be authorized and directed to take the necessary action to give effect thereto as outlined in the report dated June 29, 2021 from the Commissioner of Community Services.

(HAC-0051-2021)

(Ward 7)

In accordance with the requirements of the *Ontario Heritage Act*, R.S.O. 1990, Chapter O.18, as amended, I am enclosing a copy of the Notice of Intention to Include the Property Located at 3611 Mavis Road, Mississauga, Ontario on the Municipal Heritage Register. For more information, please contact the Heritage Planning Unit at 905-615-3200 ext 4061 or heritage.planning@mississauga.ca.

Notice of Objection to including the above property on the Municipal Heritage Register may be served on the City no later than 4:30 p.m. on November 12, 2021 to the following address: City Clerk, The Corporation of the City of Mississauga, 300 City Centre Drive, 2nd floor, Mississauga, ON, L5B 3C1.

Sincerely,

Martha Cameron

Martha Cameron, Legislative Coordinator
Legislative Services Division, Office of the City Clerk
905-615-3200 ext 5438 – martha.cameron@mississauga.ca

cc (by email): Councillor Dipika Damerla, Ward 7
Paul Mitcham, Commissioner of Community Services
Diana Rusnov, Director of Legislative Services and City Clerk
Sacha Smith, Manager of Legislative Services and Deputy Clerk
Lia Magi, Legal Counsel
Paul Damaso, Director, Culture Division
John Dunlop, Manager, Heritage Planning & Indigenous Relations
Paula Wubbenhorst, Heritage Coordinator
Andrew Douglas, Heritage Analyst

Encl: Notice of Intention to Include a Property on the Municipal Heritage Register per
the Ontario Heritage Act, and in the matter of the Lands and Premises Located at
3611 Mavis Road in the City of Mississauga, Province of Ontario

Date of Notice: **October 13, 2021**

NOTICE OF INTENTION TO INCLUDE A PROPERTY ON THE MUNICIPAL HERITAGE REGISTER PER THE ONTARIO HERITAGE ACT, AND IN THE MATTER OF THE LANDS AND PREMISES LOCATED AT 3611 MAVIS ROAD IN THE CITY OF MISSISSAUGA, IN THE PROVINCE OF ONTARIO, believing these lands and premises as having design/physical; historical/associative; and, contextual cultural heritage value and interest under Ontario Regulation 9/06 of the Ontario Heritage Act, R.S.O. 1990, Chapter O.18, as amended. ("Ontario Heritage Act").

Section 27(3) of the Ontario Heritage Act allows municipalities to add properties which are believed to have cultural heritage value or interest but are not designated as having cultural heritage value or interest under the Act.

We are notifying you that the lands and premises located at 3611 Mavis Road in the City of Mississauga, in the Province of Ontario have been added to City of Mississauga's Heritage Registry as of September 15, 2021 (GC-0439-2021).

The subject property is a commercial property located at 3611 Mavis Road and is the home of Metalworks Studios.

The studio is a cultural landmark and has a high degree of prestige within the music industry. Therefore, the property has associative value as it is home to the studio.

Metalworks Studios has been in operation at this location since 1977. Founded by Gil Moore, the studio was originally for the exclusive use of Gil's band Triumph, industry reputation allowed Metalworks to grow to become Canada's long running and most award winning recording studio. Metalworks has contributed immensely to the musical and cultural landscape of Mississauga.

Notable music icons who have recorded at Metalworks include Christina Aguilera, Prince, Tina Turner, Katy Perry, David Bowie, Drake, Anne Murray, Nelly Furtado, Justin Bieber, Tom Cochrane, Shawn Mendes, and Celine Dion. Metalworks has earned in excess of two hundred gold and platinum awards over the past four decades, multiple JUNO and GRAMMY awards, and a record 17 wins as Recording Studio of the Year by industry peers at the Canadian Music and Broadcast Industry Awards.

The Ontario Heritage Act does require that owners of listed properties give the municipality 60 days' notice when applying for a permit to demolish the building. The permit, and more information around listed heritage properties can be found on our website: <https://www.mississauga.ca/services-and-programs/building-and-renovating/heritage-properties/>. There are no costs or fees applied by the City on listed heritage properties.

For more information or to receive a copy of the statement of cultural heritage value or interest for the property, please contact the Heritage Planning at 905-615-3200 ext. 5366. **Notice of Objection to including the above property on the Municipal Heritage Register may be served on the City no later than 4:30 p.m. on November 12, 2021** to the following address: City Clerk, The Corporation of the City of Mississauga, 300 City Centre Drive, 2nd floor, Mississauga, ON, L5B 3C1.