SUBJECT: Balfour Building Collapse Update – 15-21 King William Street, Hamilton (CM08017) (City Wide)

RECOMMENDATION:

(a) That staff report back to the Committee of the Whole on improved inspection procedures related to vacant buildings and other properties that are potentially unsafe and that this report include the review of other Municipal Best Practices and the possibility of a new, proactive inspection protocol for such buildings in the City of Hamilton.

(b) That the Planning and Economic Development Department and the City’s Municipal Heritage Committee expedite a report regarding a Designating By-law under the Ontario Heritage Act for the significant heritage attributes of 46-53 James Street North (William Thomas Building) for consideration by Council.

(c) That Council receive Report CM08017 respecting information regarding the collapse of the Balfour Building at 15-21 King William Street, Hamilton.

Glen Peace
City Manager

EXECUTIVE SUMMARY:

The primary purpose of this report is to summarize the City of Hamilton’s involvement with the recent building collapse at 15-21 King William Street. Appendix A (attached to Report CM08017) summarizes this involvement prior to the April 16, 2008 building collapse; during the collapse and post collapse.

There have been many issues and questions raised by various Councillors, the public and media surrounding the recent situation of King William Street and the Lister Block in
general. Accordingly, this report attempts to provide some answers and staff comments on these related matters including heritage considerations, enforcement processes and protocols by Emergency Services, Building Services, and Parking and By-law Services and the question of compensation to affected businesses.

A recommendation has been included directing staff to review other Municipal Best Practices related to vacant buildings and other properties potentially unsafe and to report back to Committee of the Whole on the possibility of a new, proactive inspection protocol for such buildings.

The second recommendation deals with the possible designation by Council of the William Thomas Building under the Ontario Heritage Act. This property at 46-53 James Street North abuts the Lister Building along its north wall fronting James Street North. An expedited report from our Heritage Planning staff and the City’s Municipal Heritage Committee is being recommended. We do not want to see the same fate that occurred with the Balfour Building to happen with the Thomas Building. We need to try to get ahead of this from a heritage preservation perspective, particularly in terms of what remains from the original 1855-56 building façade.

The following Departments / Divisions have contributed substantially to the writing of this report:

- Hamilton Emergency Services Department
- Planning and Economic Development Department
- Public Health Services Department
- Corporate Services Department
- Corporate Services Department
- Corporate Services Department

**BACKGROUND:**

In the late evening of April 16, 2008, the building located at 15-21 King William Street, known as the Balfour Building, experienced a partial building collapse in the rear, upper portions of the building. A secondary collapse of the roof occurred on the morning of April 17, 2008, which, in addition to causing extensive interior damage, also caused the 4th floor of the front façade to lean slightly inwards. At approximately 3:00 p.m. on April 19, 2008, while the demolition excavator was pulling back debris, a third collapse occurred which caused the 3rd and 4th floors of the front façade to bulge or buckle. With the concern of public safety, the contractor shortly thereafter undertook a somewhat controlled collapse razing the front façade.
A more complete documentation of these events and actions planned and taken by the owner, demolition contractor and City staff is included in Appendix A (Summary of Relevant Departmental Actions) and in Appendix B (Copper Cliff Metals & Wrecking Corp. – Demolition Report / Demolition Methodology).

The balance of this section will provide background comments on heritage considerations, enforcement activity and practices related to the Lister Block properties and vacant buildings in general and the authority and responsibilities of the City’s Chief Building Official (CBO).

Heritage Considerations

The property at 15-21 King William Street containing the (former) Balfour Building is not designated under the Ontario Heritage Act. It is a listed property, that is listed on the City of Hamilton’s Inventory of Historical and / or Architectural Value.

Accordingly, alterations or demolition of buildings, on any part thereof, on this property, do not require a Heritage Permit, consultation with the Municipal Heritage Committee or Council approval. The Downtown Secondary Plan has policies regarding the submission of Heritage Impact Assessments for listed properties. However, this requirement is somewhat discretionary and typically only relates to approvals under the Planning Act on applications for the Downtown Loan Programs. The preservation of the façade or significant valued parts of the façade during demolition was not a requirement of the City under the Building Code Act. However, LIUNA through its demolition contractor, and with the encouragement of City staff, had agreed to remove all of the decorative masonry lintels, by hand, from the façade during demolition. This was included in the Demolition Methodology Plan submitted to the Building Services Division (see Appendix B).

Regardless, the Emergency Order to Comply for an Unsafe Building issued by the City’s CBO would, in all cases, whether a building was listed or even designated, override the provisions of the Ontario Heritage Act and the City’s Official Plan.

The Lister Building itself is a designated property under the Ontario Heritage Act. The reasons for designation are covered under Schedule A to the Designation By-law (No. 96-175). Staff was particularly cognizant of this designation and any potential impacts to the Lister Building in our review of the adjacent building collapse and discussions with LIUNA and its demolition contractor.

The staff concern for heritage also extended to the chimney stack at the rear of the Lister Building. An Unsafe Order to Comply was issued on April 18, 2008 for the removal of the upper portion of the chimney stack considered unsafe as confirmed in a Professional Engineer’s Report. However, this Order only applied to the unsafe, upper portion. As the chimney is located on the original Lister Building property, the Planning and Economic Development Department has advised the owner that any further demolition of the chimney will require a Heritage Permit.
Staff admit that it is not absolutely clear whether this Heritage Permit is required as the Reasons for Designation as set out in the By-law have no reference to building materials or features that are attached to the rear of the Lister Building, or any specific reference to the free-standing chimney and boiler house. However, with the considerable public interest and sensitivity of any action related to the Lister Building lands and structures and the Ministry of Culture / Ontario Heritage Trust Provincial interest in this property generally; City staff is acting with extreme caution and diligence. The City, as steward of this significant heritage property, also wants to ensure that the funding commitment to the City by the Province would not be compromised.

Regarding the remaining properties on King William Street within the Lister Block, none of these are designated properties under the Ontario Heritage Act. Similar to the former Balfour Building, these other properties are listed in the Inventory. This includes 35 King William Street which the Building Services Division has now received an application for Demolition Permit.

The property abutting the Lister Building on its north wall, containing what is known as the William Thomas Building, is also a listed property in the City’s Inventory of Historical and / or Architectural Value. Recommendation (b) of this report deals with Council’s consideration of designating this property under the Ontario Heritage Act pending an expedited report and Designating By-law from the City’s Heritage Planning staff and the Municipal Heritage Committee.

Enforcement Activity and Practices

As detailed in Appendix A, there have been numerous complaints and investigations by By-law Services staff over the past two years related to properties located in the Lister Block. Most of the 19 complaints were related to the City’s Property Standards By-law. The City’s established practice is to enforce this By-law, only upon complaint. Enforcement is not proactive in terms of the Property Standards By-law. However, it is clear from our history that complaints related to the Lister Block were acted on quickly and compliance with Orders achieved.

It is important for all to understand that the authority given to the municipality under the Property Standards By-law is not effective for many reasons stated in this report. We share the continuing concerns expressed by Council as well as the frustration by the public having pride in their community. The legislation requires a minimum 19 days notice to the owner to remedy the violation under an Order. There is also a legislative appeal to the Property Standards Committee and then potential delays in prosecuting through the Courts. It is not a fast process to achieve compliance.

It is also most important that we consider the principle and basis of Property Standards By-laws and then place the focus on desired community renewal on the property owner. It is the primary responsibility of the property owner to look after his or her property owned.

The Property Standards By-law gets its authority through and is governed by the Ontario Building Code Act. Maintaining buildings safe, particularly structurally sound to minimize the threat against public safety is certainly a key element of this By-law.
However, the City’s Property Standards (By-law Enforcement) Officers are not trained to undertake structural assessments. The By-law Enforcement Team is a group of *generalists* with all Inspectors enforcing all by-laws and they generally possess very limited knowledge of structural engineering. We are expecting that the new team-based approach for Municipal Law Enforcement being proposed as part of the Operational Review implementation will bring some higher level of experience and focus towards more effectiveness in City By-law Enforcement. However, this team-based approach will not address the structural qualifications / expertise issue or property standards enforcement.

The present investigation process entails By-law Officers carrying out visual inspections from the outside and interior observations only through windows and doors. If there are visible signs of possible trouble and reasonable grounds of unsafe issues that are apparent, these would be reported to Building Services for immediate attention.

A similar practice is carried out by the City’s Fire Division working in tandem with both By-law Services and Building Services. Reporting of potential unsafe situations between Departments and Divisions is essential and provides the closest example we have to a proactive system. Building Inspectors are well trained in Building Science and are certified as a requirement of the Ministry of Municipal Affairs and Housing in the specific disciplines for which they are responsible. (ie: plumbing all buildings, building services, large buildings, complex buildings, etc.). Inspectors have the ability to recognize the conditions that would make a building unsafe or the signs that would warrant the requirement for a Professional Engineer’s Report to confirm structural sufficiency.

There is a current protocol regarding vacant building inspections that was approved by Council in April 2003. The background / overview of this protocol is as follows:

Subsequent to issues that arose with vacant unsecured buildings in 2002, a Committee was established of various Municipal agencies (Fire, Police and Building Services as lead agencies, Legal Services and Public Health Services as support agencies) to review the various legislative mandates and streamline the jurisdictional and communication link between the lead agencies.

The by-product of the Committee determined that based on legislative enforceability including securing of buildings, the Building Services Division, via Property Standards, would be the lead agency in securing vacant buildings from unauthorized entry through trespassing / vandalism.

The findings of the Committee were formatted into a report to Council that received approval in April of 2003. One of the recommendations of the report approved was the monitoring of buildings by Hamilton Emergency Services (HES) – Fire Suppression personnel. The protocol developed allows for contact between the lead agencies but principally between Property Standards and Fire personnel (including Prevention) to advise each other of buildings that have been found open to unauthorized access.
A Vacant Building Notification Sheet (VBNS) is used by both Fire and Property Standards and highlights the various deficiencies that may apply to the unauthorized access. If Property Standards finds a vacant building open to unauthorized access they fax a VBNS Form to the Main Fire Prevention Office. Based on this notification, Fire Prevention adds that address to its database and faxes the VBNS to the specific station. After hours, the fax is directed to the Communications Division who in turn faxes information to the specific station. The notification of a vacant building open to unauthorized access can be undertaken by any identifying agency including:

- Property Standards;
- HES - Fire Suppression; or,
- Fire Prevention Inspection through Inspection or public complaint.

If Fire Suppression or Fire Prevention identifies a vacant building open to unauthorized entry, beyond notifying the appropriate fire station and Main Fire Prevention Office for intake, a VBNS Form is sent to Property Standards to initiate action for securing the building.

The protocol is initiated for vacant buildings that are open or have become open at some point to unauthorized access. It does not, however, necessarily apply to all vacant buildings in the City. The protocol was developed to ensure a high level of communication between the two lead agencies – Fire and Property Standards.

Once a VBNS is sent to a fire station, it is catalogued and inspected. Once inspected, the building is subsequently inspected on a 21-day frequency and decreased if repeat monitoring finds the building secure. If a building is monitored for over a 7-8 month period with no recurring unauthorized access entry points, it can be removed from the list. High risk buildings are monitored on a 21-day period exclusively. This program applies to both career and volunteer stations. Inspection protocol is perimeter walk around building as allowable.

It should be highlighted that monitoring of vacant buildings has proven effective in identifying most problems immediately for correction. In addition, it provides suppression crews with the ability to conduct pre-fire reviews of the structure(s). The protocol also provides an after-hours component to assist Fire Suppression crews and Police to determine the condition of the subject building and allow the on-call Property Standards Officer or dispatched on-call Building Inspector to provide guidance or attend to initiate action for buildings deemed unsafe.

Regarding the matter of right of entry for City Inspectors in the carrying out of their duties, this is an authority that must be carefully used either in concert with the owner’s permission or in emergency situations. Both the Building Code Act and the Property Standards By-law enacted under this Act provides for a right of entry by Inspectors at reasonable times to determine compliance with the Act / By-law, provided the building is not being used as a dwelling. For unoccupied buildings where there are no owners on site, Inspectors will attempt to arrange inspections with owners in advance and on consent. The presence of the owner will assist in carrying out the inspection especially where interior inspection is required and there may be locked or secured areas. The
owner’s presence will also help with compliance and the setting of compliance dates where Orders are issued. When contacting the owner the Inspector will inquire of the owner’s views of the reasonableness of the inspection timing and details. The Inspector will consider the reasons for needing the inspection and circumstances, as compared to the owner’s concerns. In the event the inspection request is unreasonably refused, consideration will be given for enforcement through obstruction charges. While warrants for search and seizure are available for the Act and By-law, these are of limited usefulness for regulatory inspections. Generally such inspections are carried out in advance of having reasonable grounds to believe that an offence has already been committed or that evidence of the breach may be available, but the application for a warrant must satisfy the Court both that there are reasonable grounds to believe that an offence has been committed and that the entry will provide evidence of the offence. The existence of an Emergency or binding Orders under either the Act or By-law, and applications for permits under the Act, may give additional entry rights for inspection purposes or to carry out work on the property.

The Fire Protection and Prevention Act allows a similar process for entry for the purposes of fire safety and obstruction, but this Act includes a warrant power to allow regulatory inspections where necessary to assess fire safety, as well as extensive emergency powers for fires and immediate risks of fire and explosion. It is important to note that the powers of entry under the Fire Protection and Prevention Act cannot be used to investigate Property Standards or Building Code Act concerns, and vice versa. The rights of entry under the Property Standards By-law, the Building Code Act, and the Fire Protection and Prevention Act must be independently exercised, but Officers in each area will routinely pass on observations for investigation by their respective Enforcement staff.

Role and Responsibilities of the Chief Building Official (CBO)

The Chief Building Official (CBO) is provided authority by the Ontario Building Code Act in the carrying out of his / her duties. This position is considered an Officer of the Province in decisions made under this Act and these decisions, particularly those that involve public safety, cannot be interfered with or changed by senior Municipal staff or City Council. The principle of applicable law as defined in the Ontario Building Code Act, governs the issuance of permits, including Demolition Permits. With an Emergency Unsafe Order for a building or structure, this would override the requirement for other City approvals such as a Heritage Permit for a property designated under the Ontario Heritage Act.

The City’s CBO / Building Inspectors have issued a number of Orders to Comply in the past several weeks for buildings and structures located in the Lister Block. Copies of these have been included in Appendix C. Regarding the Balfour Building, immediately following the first collapse on April 16, 2008, an Order to Comply was issued requesting a Professional Engineer’s (P. Eng.) Report to establish / verify the building’s structural adequacy. Responding to the second collapse of the building on the morning of April 17, 2008, the CBO issued an Emergency Order pursuant to Section 15.10(1) of the Building Code Act requiring immediate demolition of the Balfour Building in order to “terminate the danger to health or safety of persons on or about the premises”.
The Ontario Ministry of Labour (MOL) is the agency that reviews and approves the contractor’s demolition plan / demolition methodology. The owner must file a Notice of Project with the MOL prior to commencing demolition. This includes the planned removal of any designated substance such as asbestos-containing material (ACM) as noted in Appendix B and the plan to control dust emissions from the demolition activity.

The City’s Building Services Division does not have expertise in destruction of buildings or structures, nor is it its role / responsibility. Its primary responsibility is to ensure new buildings and structures are designed and constructed in accordance with the Ontario Building Code (OBC). Thus, the demolition methodology plan and demolition actions on site are not approved by the CBO. The City will continue to have its Inspectors monitor the demolition from a public safety perspective but not to the extent where we direct the activities of the demolition contractor or have 24 hour / day Inspectors on site during the demolition.

When the façade bulged in the afternoon of April 19, 2008, the decision to raze it was that of the demolition contractor having an overriding concern for safety of the workers and general public. It was unfortunate that the decorative lintels could not be salvaged from the wall as they had planned to, however, we are thankful that the collapse and demolition of the Balfour Building concluded with no apparent property damage to other buildings, with no environmental impact (air monitoring equipment was operational) and no personal injury.

On April 18, 2008, an Unsafe Order was also issued related to the upper portion of the chimney stack located to the rear of the collapsed Balfour Building and associated with the Lister Building itself. Verified by the P. Eng. Report (included in Appendix B), the CBO agreed and directed that the upper portion of the chimney stack was in a condition that could be hazardous to the health and safety of persons outside the building and must be removed. As mentioned previously, this decision / authority of the CBO in declaring unsafe situations does not contravene the Ontario Heritage Act in terms of first having to require a Heritage Permit for a structure associated with the designated Lister Building.

On April 23, 2008, an Order to Comply was issued by the Building Inspector for the building east of the demolished Balfour Building at 25 King William Street. This building has the Thai Memory Restaurant on the main floor and book store / warehouse on the upper floor. The Order to Comply required the submission of a Professional Engineer’s Report to the City to verify the building and its components are structurally adequate. Details of this investigation and reasons for this Order are summarized in Appendix A. The CBO’s concern necessitating this Order related to the condition of the now exposed west wall of the building, the condition of the roof and, most importantly, the structural sufficiency of the building related to the apparent, grossly overloaded floor system of the second storey which contains floor-to-ceiling, wall-to-wall book storage (estimated 100,000 books).

The Building Services Division, at the time of writing this report, continues to wait for the final P. Eng. Report from the property owner. Staff has been advised by this owner that her insurance company that hired the Professional Engineer will not release this report.
to the City until the books, or most of the books, have been removed. Although staff is certainly sensitive to the personal situation of the restaurant and book store tenants and disruption to these businesses, the greater and overriding issue here is the safety of the building’s occupants. Actions taken by the CBO are absolutely necessary precautions to be taken for the sake of public safety. Allowing reoccupancy of the building prematurely without the submission and review of the P. Eng. Report would be foolish and negligent on the City’s part.

With all that has occurred on the various properties in the Lister Block, uncertainties regarding the structural sufficiency of other buildings must be investigated. City staff has made a decision that we are not leaving this block until we are satisfied with matters of structural integrity of other buildings including the Lister Building itself and the abutting William Thomas Building on James Street North. We have asked LIUNA to submit Professional Engineering Reports for these buildings as well.

Regarding the building at 30-35 King William Street, on the basis of information received from the demolition contractor and LIUNA on April 29, 2008, the CBO issued an Order to Comply for this building requiring the submission of a P. Eng. Report regarding structural sufficiency. This Report was submitted to the Building Services Division on May 6, 2008, (see Appendix F) and concluded that “the building is unsafe and costs of remediation would be excessive”. Some interior collapsing has already occurred; the roof had partially collapsed some time in the past, allowing water to penetrate to the interior resulting in extensive wood rot. The Professional Engineer has since clarified the reference to unsafe refers only to occupancy safety. It is the opinion of the Engineer that the “collapse of the total structure is not imminent and normal procedures for removal of services can be carried out prior to scheduling of actual demolition”.

Accordingly, the City’s CBO made the decision not to issue an Emergency Order to Comply (Demolition) on the basis of this Engineer’s Report and that the situation was not an imminent danger to public safety. LIUNA, property owner of 33-35 King William Street, has submitted a Demolition Permit Application to the Building Services Division. This Application is being processed now including waiting for confirmation that all utilities have been shut off and rerouted where necessary. The issuance of this Permit is likely to occur in the next 4-5 days.

### ANALYSIS/RATIONALE:

#### Heritage Considerations

The previous section of this report provided details regarding if and how the Ontario Heritage Act applies to properties located in the Lister Block. Again, only the Lister Building itself is covered by the Reasons for Designation in By-law No. 97-175 designating the property under the Ontario Heritage Act. The balance of the properties referred to in this report are only listed properties in the City’s Heritage Inventory. In summary, there have been no actions taken by staff, the CBO or any property owners in the last several weeks that have contravened the Ontario Heritage Act or any City by-laws.
Recommendation (b) of this report identifies an interest by staff in having Council consider designating the William Thomas Building on 46-53 James Street North under the Ontario Heritage Act. This consideration would await an expedited report requested in the recommendation by the City’s Heritage Planning staff and the Municipal Heritage Committee. It is important to note that Mr. J. Mancinelli, LIUNA International Vice-President and Central & Eastern Canada Regional Manager, has verbally indicated to the General Manager of Planning and Economic Development that he would have no issue with an appropriate Heritage Act designation for this property owned by LIUNA.

There have been many comments made by the media, public and our community heritage advocates in recent weeks. The following speaks to some of the inaccuracies or misunderstandings regarding several issues.

The Balfour Building Façade

As mentioned previously, this (former) building or any part of it was:

- not designated under the Ontario Heritage Act;
- not approved for conservation as part of Council’s acceptance of the Provincial Facilitator’s Report in September of 2006;
- not required to be retained as part of the demolition process (although the ornamental lintels were planned to be salvaged);
- not issued a Stop Order by the Minister of Culture in respect to the demolition required by the CBO’s Emergency Order;
- always planned to be demolished with this action referenced in any public presentations by LIUNA and staff during the meetings / considerations dealing with the City’s interest in leasing / purchasing the Lister Building; and,
- referenced in the September 23, 2006 Heritage Report by Julian Smith and Clinton Brown (see Appendix E) as a building that “would not be an appropriate candidate for preservation, restoration or rehabilitation… as it would need to be in much better structural condition to be economically viable”. This Heritage Report did recommend that the “decorative stone elements of the façade be carefully removed and retained…..”.

“Demolition by Neglect By-law”

This is in reference to the proposed amendments to the City’s Property Standards By-law recommended by the Planning and Economic Development Department to the Economic Development and Planning Committee in September 2007. This recommended By-law was not supported by the Committee, however, was “resurrected” by Council on January 9, 2008, and referred back to Committee on February 5, 2008. The Economic Development and Planning Committee directed staff to consult with all property owners directly affected.

This By-law amendment, if approved, is intended to give added Property Standards authority to inspect and enforce improved maintenance of special heritage features or attributes of a building / structure which are set out in the Reasons for Designation
applying only to properties designated under the Ontario Heritage Act. Since the Balfour Building was not a designated property, the "Demolition by Neglect By-law" would not have applied even if the By-law had been previously enacted by Council.

**Built Heritage Emergency Management Protocol**

This is a Council policy and procedure approved in February 2005 following the incidents surrounding the collapse / demolition of the Tivoli Theatre. This protocol is attached to this report as Appendix D.

As referenced in Section 1.1, this protocol applies to all properties designated under Parts IV, V and VI of the Ontario Heritage Act, buildings of national significance and buildings with an Ontario Heritage Foundation (OHF) easement on title. As the Balfour Building is not designated under the Ontario Heritage Act; is not of national significance; or does not have a registered OHF easement on title; this Council approved protocol does not, and did not, apply to the collapse and actions taken regarding this King William Street property.

**Enforcement Effectiveness**

As referenced several times in the preceding section, the current regulatory / legislative framework does not afford the flexibility in types of action or time frames a municipality may need or desire to have in terms of being more effective and successful in our property standards efforts.

This is not intended to mean we cannot do better and be more effective. One example is the area of Open for Trespass applying to vacant buildings. Section 6(1) of the Property Standards By-law requires the owner to protect vacant buildings against the risk of accident or intentional damage arising from the entry of unauthorized persons to the building. The typical enforcement practice of our Inspectors, upon receiving a complaint or upon referral of a potential issue from Fire or Building Services, would be that we react on these as a priority, within 24 hours maximum, but immediately if we can. If a by-law (open to trespass) violation is observed, an Order to Comply (OTC) is issued within a 19-day period to comply, as prescribed by legislation. Upon expiry of the OTC, the property is again inspected. If the property is not secured we by-pass the usual "last chance" letter and immediately contract a contractor to do the work and then invoice for cost and administration is added to the tax roll. The problem we have is that this is a constant and repeated violation for many buildings, particularly if the remedy of the violation is simply to install plywood boarding to the openings. Often this is removed by trespassers shortly after it is installed.

Section 6(2) and (3) of the Property Standards By-law states:
“6(2) For the purpose of subsection (1) doors, windows, hatches and other openings through which entry may be obtained are required to be kept in good repair and secured from unauthorized entry, or entry shall be prevented by closing and securing the opening with:

(a) boarding which completely covers the opening with at least 12.7 mm (0.5 inches) weatherproofed sheet plywood securely fastened to the building;

(b) rigid composite panels, securely fastened to the building;

(c) sheathing boards installed within the reveal of the exterior cladding and securely fastened to the building;

(d) brick and mortar securely fastened to the building; or,

(e) concrete blocking and mortar securely fastened to the building.

6(3) The options available in 6(2) shall be considered progressively more secure with (e) being the most secure, and the minimum standard imposed by subsection 6(2) shall be considered not to include the use of a less secure option which has, more than once, failed to exclude unauthorized entry, and further where the owner’s control, attendance or lack of security measures to protect the property suggest a more secure option be used, then the owner shall supply such measure including such improved security of closures as may be necessary beyond the options listed in subsection 6(2).”

To increase enforcement effectiveness we are finalizing new policies and procedures that will provide direction to our By-law Inspectors to be diligent in using the progressively more secure options for dealing with vacant building openings subject to trespass by unauthorized persons.

It is recognized that this more progressive action regarding building openings is only a small part of the entire problem the City faces with abandoned, derelict buildings. It is hoped that with the implementation of the proposed new team-based approach and new policies and procedures being implemented in the Parking and By-law Services Division that this will result in other enforcement effectiveness.

For example:

A small group of staff / team specializing in Property Standards issues will provide:

- a specialized team providing more consistent and effective approaches to Property Standards enforcement;
- better opportunities for continuous improvement of processes with participative management by a smaller group of dedicated staff;
- development of comprehensive policies / procedures (eg: consistent use of fee for service, hierarchal application of securing buildings under Property Standards, etc.);
- opportunities for more / better training because smaller numbers are required to be trained;
- a smaller, tight knit group for better linkages / communication with Building Services; and,
- better accountability to management and in turn, management reporting to Councillors on results / efforts.

Property Standards is currently enforced on a complaint only basis, due primarily to staff resource limitations to do anything but react. It is worthy of repeating again; it is the property owner’s responsibility to maintain their properties. Enforcement staff in the past (twice we understand) carried out proactive enforcement in the Downtown in the former City of Hamilton in the 1990s. While this did result in some repairs being carried out, many complaints to Councillors and staff and other issues resulted from this blitz. Owners complained they did not have the resources to undertake costly repairs, taxes were too high, and other properties outside the Downtown were not being “picked on”. The most prevalent remedy many property owners chose in complying to City Orders was to apply for Demolition Permits. This then created major issues for the City in terms of protecting our heritage resources.

Demolition is a legal remedy provided for in our Property Standards By-law and in response to Unsafe Orders issued under the Building Code Act. The City cannot refuse to issue a Demolition Permit (other than for residential properties under the Demolition Control By-law) where such Permit complies with applicable law. Thus, we need to be careful as we move forward in finding more effective ways to enforce our by-laws, particularly for abandoned, vacant buildings.

Recommendation (a) of this report directs staff to investigate Best Practices of other municipalities and report back to Council on improved enforcement practices and protocols for dealing with vacant buildings, including the possibility of proactive enforcement. We do believe there are some practices we can learn from and improve our effectiveness in Hamilton.

The City of Winnipeg has been cited as a good model to review. Staff has the information from Winnipeg and is reviewing it. The City of Winnipeg has its own Charter under Manitoba law and we need to understand what Hamilton can and cannot do under the authority given to us. We do know, however, that organizationally we are far ahead of Winnipeg in terms of one-stop shop, consolidation of Enforcement responsibilities.

One aspect we really like in Winnipeg’s new Enforcement Plan are the goals related to community outreach which strives to instil civic pride in property owners to look after their property and partners with community groups to assist the City in advancing its By-law Enforcement effectiveness. Some of Winnipeg’s goals are:

- To develop initiatives to deal with specific incidents and recurring events where community standards are weakening;
- To achieve a high degree of voluntary compliance by building on existing community standards;
To ensure that the City’s expectations related to By-law adherence are promoted;
To improve community support programs that encourage By-law adherence by formalizing community support programs; and,
To work collaboratively with Community Resource Co-ordinators, Police and Fire Inspectors who are active in the community.


Through all the extensive e-mails, media coverage and public comments, reference to these two reports have been made in the context that the City did not adequately respond to or act on. The relevant excerpts from these reports are attached as Appendix E. Staff feels it is important that we provide comments and our perspective on these references and corresponding issues raised.

The McCormick Rankin Report dated April 2006 was a peer review of the Lister Block Heritage Impact Assessment (HIA) submitted by LIUNA, the owners of the property. McCormick Rankin did not undertake any structural / architectural analysis of the building directly. As well:

• The review was based on the submitted document and a “ cursory visual inspection”;
• There is only brief reference to the condition of the interior frame of the building;
• The frame appeared to be in “excellent condition”;
• The condemnation of the condition of the terracotta is based on a report by Construction Control Incorporated “from a street level visual inspection”;
• Formal information questioning the structural stability of the terracotta was completed in November 2005 and no record of any emergency repairs, no record of follow up on a more detailed investigation. The report concluded that the owner's lack of action indicated that they did not perceive the condition as an immediate danger;
• Report indicates that the HIA exaggerated the extent of deterioration;
• Report summarized that "more investigation is required to determine the condition and the method of anchorage of the pieces of terracotta", "without this information it is hard to see the justification for the statement that 80 to 85 percent of the material is deteriorated to the point where it is structurally unsound"; and,
• There is reference to a building at 15-21 King William in the HIA and that it will be dismantled and reconstructed using new and original materials. There was, however, no information about the history, condition or heritage value of this building.

In the Guidance and Recommendations to the City section of the report, it is stated that the report was written based on the material provided and a brief site visit. It was not intended as a comprehensive assessment of the buildings but was intended to evaluate if the submitted HIA provided sufficient information. The perspective of why the HIA submitted by LIUNA, timing of it and the McCormick Rankin Study is also worthy to note and somewhat relevant. The HIA was submitted in justification / support by LIUNA to demolish the entire Lister Building. The report was framed around the principle that it
was not economically feasible to restore / conserve / rehabilitate. Council’s decision in June 2006 agreed with this and approved the Heritage Permit to demolish the building. Thus, immediate enforcement action by Building Services and Property Standards at that time when the building was to be demolished certainly would not have been a priority or possibly not even appropriate. The City’s Building Services Division has no record of any reports of any of the discussed features failing or falling on the street.

With respect to the Julian Smith / Clinton Brown Report and its statements relating to structural problems with the building at 15-21 King William Street, it should be recognized that there is no statement as to the specific structural problems, only a general statement based on evidence of cracks. Such cracking could be the result of a number of conditions, none of which are expanded upon by these Architects (a settlement of the footing that took place any number of years previous, physical damage, freeze / thaw movement) that would not necessarily make the structure unsafe. Generally, if a professional provides comment in this regard and they felt that a building was unsafe, they would (and have a professional obligation to do so) make such a statement of being unsafe or caution the City of some imminent danger to public safety.

As well, the fact that all prior indications, public references and even agreement by the Smith / Brown Architect Team that the 15-21 King William Street building was appropriate to be demolished is relevant to consider. Based on the foregoing, it is assumed that the City’s former CBO felt that maintenance / repair Orders were not deemed appropriate to act upon at that time.

Compensation to Businesses

There have been inquiries concerning available City compensation for businesses along King William Street that have had disruptions to their business caused by the building collapse, and its related Order on adjacent buildings, street closures, etc.

The issue of the City providing some form of compensation to business on King William Street between James and Hughson Streets is a delicate one. It must be noted that individual businesses have the ability to purchase commercially available business interruption coverage as part of their insurance. Each business has to make its own determination about whether to invest in paying the premiums for this type of coverage in order to protect themselves from this type of eventuality. The City has no direct knowledge at present as to which of these businesses, if any, had business interruption coverage at the time of the incident.

Staff recommends against any compensation payments being made to any of the businesses which may have closed temporarily as a result of the collapse / demolition of the Balfour Building. Given the potential for litigation, the City Solicitor recommends that any discussion of the basis for that recommendation be done in camera as it involves solicitor-client advice.

Council does need to be aware that the commercial nature of the businesses in question would raise issues of bonusing under Section 106 of the Municipal Act in the
event that Council wished to consider making any payments to those businesses as a result of this incident. The City Solicitor recommends that if Council wishes to consider such payments that an in camera discussion take place so that Council can receive necessary legal advice on that issue.

**ALTERNATIVES FOR CONSIDERATION:**

N/A.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

No financial or staffing implications result from this report at this time. This may change, however, depending on any Council direction in the future regarding new protocols for vacant building or proactive enforcement measures. Legal Services staff has been consulted extensively in matters relating to various aspects of this report and relevant comments have been included.

**POLICIES AFFECTING PROPOSAL:**

Ontario Building Code Act  
Ontario Heritage Act  
Built Heritage Emergency Management Protocol  
Vacant Building Monitoring Protocol

**RELEVANT CONSULTATION:**

Hamilton Emergency Services Department  
- Fire Division

Planning and Economic Development Department  
- General Manager’s Office  
- Building Services Division  
- Parking and By-Law Services Division  
- Planning Division – Community Planning and Design Section (Heritage)

Public Health Services Department  
- Health Protection Division

Corporate Services Department  
- Legal Services Division

**CITY STRATEGIC COMMITMENT:**

By evaluating the “Triple Bottom Line”, (community, environment, and economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced.  ✓Yes  ☐No
A more effective enforcement protocol for vacant buildings would add benefit to protecting our built heritage. Public safety has been a primary concern in properly carrying out demolitions.

Environmental Well-Being is enhanced.  ☑Yes  ☐No

Waste is reduced and reused through heritage designations and reusing our existing buildings.

Economic Well-Being is enhanced.  ☑Yes  ☐No

Cultural industries and tourism can be enhanced through conserving our built heritage and reusing / repairing vacant buildings.

Does the option you are recommending create value across all three bottom lines?  ☑Yes  ☐No

Do the options you are recommending make Hamilton a City of choice for high performance public servants?  ☐Yes  ☑No

TM:cad
Attachs. (6)

Appendix A – SUMMARY OF RELEVANT DEPARTMENTAL ACTIONS / COMMENTS DURING PRE-Collapse; DURING COLLAPSE AND POST-COLLAPSE – STATUS OF BALFOUR BUILDING AND ADJACENT BUILDINGS

Appendix B – COPPER CLIFF METALS & WRECKING CORP., APRIL 20, 2008 – DEMOLITION REPORT / DEMOLITION METHODOLOGY

Appendix C – COPY OF ORDERS TO COMPLY ISSUED BY THE CHIEF BUILDING OFFICIAL (CBO) UNDER THE BUILDING CODE ACT

Appendix D – FEBRUARY 2005, BUILT HERITAGE EMERGENCY MANAGEMENT PROTOCOL, CITY OF HAMILTON

Appendix E – RELEVANT EXCERPTS FROM SEPTEMBER 23, 2006 HERITAGE REPORT BY JULIAN SMITH & ASSOCIATES, ARCHITECTS / CLINTON BROWN COMPANY ARCHITECTURE AND FROM APRIL 2006 LISTER BLOCK HERITAGE IMPACT ASSESSMENT (HIA) PEER REVIEW BY MCCORMICK RANKIN CORPORATION

Appendix F – P. ENG REPORT FROM STRUCTURAL INSPECTIONS LIMITED, MAY 2, 2008 AND SUPPLEMENTAL REPORT, MAY 6, 2008, 33-35 KING WILLIAM STREET
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>February 17/06</td>
<td>An employee from the City Centre noticed a window and frame hanging only by caulking from the Lister Block building on James Street side.</td>
</tr>
<tr>
<td>February 20/06</td>
<td>Called owner - Window frame removed.</td>
</tr>
<tr>
<td>May 9/06</td>
<td>Unsafe: At the rear of the Lister Block there is a chimney that is leaning precariously.</td>
</tr>
<tr>
<td>May 15/06</td>
<td>Area barricaded around chimney.</td>
</tr>
<tr>
<td>November 30/06</td>
<td>Unsafe situation at the Lister Block on the James Street North side, second level, Pioneer Cleaners sign dangling from a piece of wood. Property Manager removed that afternoon.</td>
</tr>
<tr>
<td>March 13/08</td>
<td>The entire Lister Block, including the Balfour Building on King William Street and the Thomas Building on James Street North, was involved in the vacant building monitoring process established in 2003. Hamilton Emergency Services – Fire (HES-Fire) personnel would perform an exterior visual inspection to ensure that the buildings were not open to unauthorized access. This inspection would take place on a 21-day frequency.</td>
</tr>
<tr>
<td>March 8/06</td>
<td>History of complaints investigated and actions taken for entire address of 28–50 James Street North which for inspectors includes the Balfour Building (Majority of complaints were found to be on the rear portion of the building, however from the rear of building Inspectors cannot deifier which complaints / actions occurred for the Balfour Building in particular: 15 – 21 King William. In relation to Lister Block, Balfour Building is described as rear south-east portion):</td>
</tr>
<tr>
<td>April 10/06</td>
<td>Open to Trespass Order To Comply (OTC) issued March 8/06 Compliance: March 27/06</td>
</tr>
<tr>
<td>April 11/06</td>
<td>Owner was contacted Compliance: April 12/06</td>
</tr>
<tr>
<td>September 27/06</td>
<td>COW received Report of the Provincial Facilitator on the Lister Block, along with a Heritage Report (dated September 23, 2006). Heritage Report, prepared Building at 15-21 King William Street listed on City of Hamilton’s Inventory of Buildings of Historical and / or Architectural Value.</td>
</tr>
</tbody>
</table>

**PRE COLLAPSE**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 12/06</td>
<td>Committee of the Whole (COW) meeting regarding Heritage Permit 2006-017 for the demolition of the designated property at 28-44 James Street North (Lister Block) (Report PED06169). Permit Application did not clearly define the implications of the proposed demolition on those listed properties adjacent to the Lister Building, including the property at 15-21 King William Street. (Council – Amended by Council June 14, 2006 – Report 06-013)</td>
</tr>
<tr>
<td>September 27/06</td>
<td>COW received Report of the Provincial Facilitator on the Lister Block, along with a Heritage Report (dated September 23, 2006). Heritage Report, prepared Building at 15-21 King William Street listed on City of Hamilton’s Inventory of Buildings of Historical and / or Architectural Value.</td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>December 1/06</td>
<td>Confirmed unsafe condition removed. Remainder of sign to be dealt with under property standards (see 4th column: December 4/06).</td>
</tr>
<tr>
<td>September 25/07</td>
<td>Two wall signs (banners) have been installed without a permit.</td>
</tr>
<tr>
<td>September 27/07</td>
<td>Spoke to LIUNA, advised them that the sign required a Building Permit due to its size and that an OTC would be issued for no permit. Their intent is to remove it.</td>
</tr>
<tr>
<td>October 10/07</td>
<td>Sign removed.</td>
</tr>
<tr>
<td>February 25/08</td>
<td>Unsafe condition at the Lister Block. Large plate glass window has shards of glass hanging above street in possible danger of falling onto street. Needs to be boarded up.</td>
</tr>
<tr>
<td>April 27/06</td>
<td>Open to Trespass: No violation</td>
</tr>
<tr>
<td>May 9/06</td>
<td>Open to Trespass Staff contacted Property Management Company Compliance: May 10/06</td>
</tr>
<tr>
<td>June 6/06</td>
<td>Open to Trespass Staff contacted Property Management Company Compliance: June 14/06</td>
</tr>
<tr>
<td>July 19/06</td>
<td>Open to Trespass OTC issued Compliance: August 20/06</td>
</tr>
<tr>
<td>September 20/06</td>
<td>Open to Trespass and Graffiti Inspectors requested by City Manager to temporarily suspend enforcement, Inspector closed file.</td>
</tr>
<tr>
<td>October 3/06</td>
<td>Posters on the Building OTC issued October 3/06 Compliance: November</td>
</tr>
<tr>
<td>January 24/08</td>
<td>Municipal Heritage Committee (MHC) made a motion to consider designation of the buildings</td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>3/06</td>
<td>Contacted Fengate Management. Glass removed.</td>
</tr>
<tr>
<td>April 16/08</td>
<td>There are broken windows with glass falling to the street below endangering passerbys.</td>
</tr>
<tr>
<td>Contacted Fengate Management to remove remaining broken windows. Voluntary compliance.</td>
<td></td>
</tr>
</tbody>
</table>
| October 30/06 | Open to Trespass  
No Violation                                                    |
| December 4/06 | Property Standards Issue  
(signage not in good repair on James Street side of building. Sign was for Pioneer Cleaners)  
OTC issued January 9/07  
Compliance: January 23/07 |
| March 8/07  | Posters on the Building  
OTC issued March 9/07  
Compliance: March 28/07 |
| April 2/07  | Graffiti Complaint  
OTC issued May 9/07  
Compliance: June 26/07  
File closed |
| August 8/07 | Open to Trespass  
OTC issued August 8/07  
Compliance: August 22/07  
File closed |
| February 19/08 | The MHC report (as per above) was received ED&P  
(Report 08-001). |

adjacent to the Lister Block, including 15-21 King William Street.
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>November 21/07</td>
<td>Compliance: Check for Property Standard violations</td>
</tr>
<tr>
<td>November 23/07</td>
<td>No violation</td>
</tr>
<tr>
<td>March 3/08</td>
<td>Unsafe, complaint: pedestrian claimed a piece of metal fell on top of him. Inspector followed up with pedestrian, but complainant never called back. Initially investigated by Building Inspector no violation per Building Services found.</td>
</tr>
<tr>
<td>March 4/08</td>
<td>Investigated by staff - no violation.</td>
</tr>
<tr>
<td>March 18/08</td>
<td>Inspected again, no violation cited.</td>
</tr>
</tbody>
</table>

**DURING COLLAPSE**

<table>
<thead>
<tr>
<th>April 16/08</th>
<th>FIRST WALL COLLAPSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balfour building began to collapse.</td>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>April 16/08</th>
<th>Building collapse and gas</th>
</tr>
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<tbody>
<tr>
<td>On Wednesday, April 16, 2008 at 7:42 p.m., HES-Fire responded to a building collapse and gas</td>
<td></td>
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<thead>
<tr>
<th>April 16/08</th>
<th>Open to trespass</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff attended that evening, smelled gas odour and falling brick - called Fire</td>
<td></td>
</tr>
</tbody>
</table>

**PUBLIC HEALTH SERVICES - HEALTH (AND PUBLIC SAFETY) PROTECTION**
Staff informed at approximately 7:50 p.m. from emergency callout centre (call to Police and Fire originated from By-law Services staff) that there was a partial collapse of an adjacent building to Lister Building and Planning and Economic Development staff was on site immediately.

By approximately 8:20 p.m., Fire, Union Gas, Police Services, Building, Licensing and Standards were all present. At that point Fire informed P&ED staff of a partial building collapse at the extreme north-east side of building. Further inspection revealed unsafe conditions as per the Ontario Building Code Act.

Staff commenced efforts to locate owner of building (LIUNA Local 837).

Building Inspector leak at the Balfour Building on King William Street. Initial arriving crews reported a partial wall collapse at the rear (north side) of the structure and a strong odour of natural gas. Union Gas, Hydro and Building Services personnel were requested to attend. Fire crews made forcible entry to the Balfour Building from the King William Street side. They reported a floor collapse on the 4th floor which collapsed the 3rd floor which collapsed the 2nd floor. Fire crews completed a search of the areas that they could safely access. While performing the search, the Fire crews reported elevated explosive levels of gas on the 1st and 2nd floors. Crews were unable to make access to the basement area. Fire crews were then ordered out of the building due to and Police.

NOTE: No Property Standards By-law enforcement during emergency building collapse.
declared the building to be unsafe and issued an Order requiring that the building and property be secured to prevent access.

City contractor was called to respond to site with a P. Eng. to establish possible remedial work to commence in order to make the building safe.

Shortly after City contractor and Engineer arrived on scene to establish building conditions, building could not immediately be accessed as readings of natural gas in the area made entry unsafe.

Union Gas confirmed that gas line was secured, noting, however, that gas meter was inside building and upon collapse of the floors, the gas line may have been severed.

By approximately 10:30 p.m. Union Gas officials arrived and conducted air monitoring. Readings of 500 ppm of natural gas were found in the air outside the building. Union Gas recommended that the buildings on the north side of King William between James and Hughson Streets be evacuated. Police and Fire personnel completed the evacuation. Union Gas investigated the source of the gas and determined that the valves at the street level for the building were still on. The valves were closed and the gas in the April 17/08

Public Health Services staff met on site with Ministry of Labour staff, City Building Services staff, and contractors hired to perform demolition.

Ministry of Labour (MOL) to be on site daily and providing guidance to the site staff.

Contractors are experienced in dealing with this type of demolition. They will be using wet down techniques to control dust. Concerns that asbestos may be present.

The steps to be taken by the contractor in conjunction with the MOL will control dusts and exposure to the public.

April 17, 2008

Following partial collapse of building, Heritage staff responded to Building staff as follows: “While the subject four-storey brick building beside the Lister Block is listed, approval of a Demolition Permit does not require a Heritage Permit…”

Heritage staff referred to the Heritage Emergency Protocol (Council approved protocol) which applies to buildings that are designated under the Ontario Heritage Act. The City protocol can be used in two situations: 1) in any situation where the City has served an Emergency Order or an Unsafe Order under the Ontario Building Code Act and the owner has declined to act on that Order, and the City has assumed responsibility for the building’s compliance; and 2) the protocol may also be partially invoked at the discretion of the CBO to advise on any situation.
<table>
<thead>
<tr>
<th>PLANNING AND ECONOMIC DEVELOPMENT - BUILDING SERVICES</th>
<th>HAMILTON EMERGENCY SERVICES</th>
<th>PLANNING AND ECONOMIC DEVELOPMENT - PARKING AND BY-LAW SERVICES</th>
<th>PUBLIC HEALTH SERVICES - HEALTH (AND PUBLIC SAFETY) PROTECTION</th>
<th>PLANNING AND ECONOMIC DEVELOPMENT - PLANNING DIVISION (HERITAGE AND URBAN DESIGN)</th>
</tr>
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<tbody>
<tr>
<td>allowed access to the interior of the building. At that point firefighters, Engineer and P&amp;ED staff entered building. A short while after, Engineer suggested remedial work to be completed to make the building safe. Upon further advisement by Engineer the rear of the property (north-east side) was barricaded and security posted onsite for 24 hour watch until permanent remedial work is completed. Front of the building (south-east side) was secured to prohibit trespassers from accessing the unsafe building interior.</td>
<td>building was allowed to vent over time and subsequently the readings dissipated. Building Inspector Glen McCrory arrived and advised that the building was not safe to enter. The Building Inspector requested a structural Engineer to attend the scene. Once the structural Engineer, Richard Featherston, arrived and had an opportunity to view the building from the exterior; Fire personnel along with the Engineer entered the Lister Building and viewed the damage of each floor via the connecting passage ways. Based on his observations, the Engineer advised that all buildings evacuated with the exception of the building directly to the east of the Balfour Building (Thai Memory Restaurant) could be exposed. No potential public health hazards exist at this time.</td>
<td></td>
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</tr>
<tr>
<td><strong>April 17/08</strong> <strong>SECOND PORTION OF WALL COLLAPSES</strong> At approximately 2:30 a.m. City contractor conforms to the Engineers suggested</td>
<td></td>
<td></td>
<td></td>
<td>where an owner has assumed responsibility and is acting on an Unsafe Order that has been issued. In the “Optional Use of the Protocol” the protocol may also be used by owners of listed property as a guideline, to assist in following procedures and sound conservation practice. On a request from Building Services regarding the ability to include the chimney in the demolition permit, it was determined that the chimney is directly associated with the designated portion of the Lister Block and should be excluded from demolition unless an Emergency Unsafe Order for the chimney was issued.</td>
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remedial work and building is deemed "safe" as per the OBC with respect to securing access.

First e-mail update on building's retaining wall collapse sent to Council by Tim McCabe.

Second portion of retaining wall collapsed in the morning.

Upon receiving a report from the Engineer (approximately 10:30 a.m.) CBO issued an Emergency Order pursuant to Section 15.10(1) of the Ontario Building Code Act, requiring immediate demolition of easterly building on property known as 28 James Street North in order to terminate the danger to health or safety of persons on or about the premises. Building owners (LIUNA) reoccupied.

April 17/08
At the request of Police on April 17, 2008 at 9:38 a.m., Fire responded back to the Balfour Building. There had been a further collapse at the rear of the building involving part of the roof structure and back wall. Buildings to the east of the Balfour Building were evacuated. The Chief Building Official was requested to attend the scene. Gas and Hydro were requested to confirm both utilities were off to the building. Due to the concerns of the condition of the building, Fire requested that Police arrange for the removal of the two (2) vehicles closed.

City Health and Safety and Public Health Services staff are working with MOL regarding employee and public safety during this process. The operation on King William will be a carefully controlled process that will mitigate any potential safety concerns to employees and the public.

Throughout the demolition, MOL will continue to monitor the process and liaise with City officials.

April 23/08
PHS staff met City with Building Services staff, MOL and site contractors on site.

Environmental air monitoring happening, with no extraordinary findings. The only asbestos found so far is in floor tiles. No asbestos found in the friable material. Dust control via spraying occurring regularly when
<table>
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<tr>
<td>were immediately contacted and committed to carry out required demolition. LIUNA’s demolition contractor arrived on site shortly before noon and expected to commence with the erection of hoarding along King William frontage that afternoon. Ministry of Labour (MOL) reviewed and approved demolition contractor’s process plan (ie: dust etc.). Crews were on site to commence demolition. <strong>April 18/08</strong> Second e-mail update sent to Council from Tim McCabe. On encouragement of City staff, LIUNA instructed their contractor to take special care in removing, by hand, lintels from King William façade as these represent parked directly in front of the building on King William Street. Fire provided the use of a ladder truck to the structural Engineer to gain a visual of the building roof and walls. Fire left the scene at 12:40 p.m. <strong>April 19/08</strong> At the request of Police, Fire responded back to the Balfour Building on April 19, 2008 at 3:55 p.m. Upon arrival it was determined that there was imminent failure to the front brick façade of the Balfour Building and Building Services personnel was requested to the scene. Police had concerns of airborne contaminants being released if the building front failed. The building front collapsed onto King William Street. Demolition contractors minimized dust plume with hose lines. It was needed, especially during excavation and removal of debris. Waste water from dust control is being controlled on site so no runoff into storm sewer. No public health hazards exist.</td>
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<tr>
<td>heritage attributes that would be important for re-use. Removal in accordance with this instruction was included in demolition plan by contractor (refer to Appendix B). Demolition expected to take approximately one week – extra time needed to remove lintels. Over the following weekend, contractors were planning to work on removing collapsed / unstable portions of building to make the building sufficiently stable so that they could begin removal of lintels from front façade (demolition plan). MOL on site during entire process. MOL responsible for authorizing and monitoring who could enter premises, street and construction site.</td>
<td>determined that there was no airborne contaminant issue. At 5:18 p.m. Fire left the scene in the hands of the Building Inspector and the contractor.</td>
<td></td>
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</tr>
</thead>
<tbody>
<tr>
<td>It was expected that Thai Memory Restaurant (and other King William Street businesses) would reopen once the demolition proceeds past the roofline of adjacent buildings.</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>East wall of collapsed building adjoining Thai Memory Restaurant determined to be a separate wall from the restaurant building.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure heritage preservation of Lister Building scaffold bracing was put in place to protect terracotta on the Lister Building.</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>Chimney stack / structure monitored at the rear of property, which had crumbling bricks and was noticeably leaning – Building Inspector issued an Order pursuant to Section 15.9(2) of the Ontario Building Code Act requiring the barricading</td>
<td></td>
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<td></td>
</tr>
<tr>
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<tr>
<td>of the area around the chimney to prevent access and requested P. Eng. report.</td>
<td></td>
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</tbody>
</table>
| **April 19/08**  
THIRD COLLAPSE:  
FRONT WALL  
Front wall of Balfour building collapsed late afternoon. | | | | |
| Shortly following collapse  
CBO, John Spolnik; John Lane, Manager of Building Inspections; Jim Kay, Fire Chief and Glen Peace, City Manager were all on site and  
reported back to Tim McCabe.  
(Not normal practice to have Inspector on site). | | | | |
<p>| CBO confirmed with contractor that collapse of front wall was somewhat controlled. While removing debris at rear, floor shifted and front wall bulged. Work immediately stopped, Police called, road and area kept clear | | | | |
| <strong>POST COLLAPSE</strong> | <strong>April 20</strong> Tim McCabe updated Council on front wall collapse as per above. Contractors continued work to ensure preservation of heritage features of Lister Building (ie: terracotta). <strong>April 23/08</strong> Building Manager received phone call from the City of Hamilton Fire Prevention (Frank and closed. Workers watered down front wall section with hoses and contractor pulled a beam and final collapse of wall. Could not salvage lintels from wall they had planned to for future reuse. (Original plan was demolition and special care in removing, by hand, the lintels from the King William façade to take place on Monday, April 21). |
| <strong>PLANNING AND ECONOMIC DEVELOPMENT - BUILDING SERVICES</strong> | <strong>HAMILTON EMERGENCY SERVICES</strong> | <strong>PLANNING AND ECONOMIC DEVELOPMENT - PARKING AND BY-LAW SERVICES</strong> | <strong>PUBLIC HEALTH SERVICES - HEALTH (AND PUBLIC SAFETY) PROTECTION</strong> | <strong>PLANNING AND ECONOMIC DEVELOPMENT - PLANNING DIVISION (HERITAGE AND URBAN DESIGN)</strong> |
| <strong>April 18/08</strong> On April 18, 2008 Deputy Chief Dave Cunliffe directed Fire crews to check all properties on the vacant buildings list to ensure site security. This task was completed by <strong>April 21, 2008</strong> and documented. | <strong>April 22/08</strong> Graffiti on Main Floor and 2nd Floor and on April 23/08 investigated by inspector. | <strong>Note:</strong> Worked with Building Services Division on reviewing / inspecting other buildings in Lister Block area. | Public Health staff has contacted the owner of the closed restaurant (Thai Memory) located next to the Balfour Building, and have indicated that a Public Health Inspection must take place prior to reopening of this premise. |</p>
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<tr>
<td>Biancucci, Assistant Chief Fire Prevention Officer), regarding his concerns about 25 King William Street (Thai Memory Restaurant) building.</td>
<td>Frank Biancucci advised that his staff had inspected.</td>
<td>Two major issues outlined by Biancucci and City's district Building Inspector, Debbie Eydt:</td>
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<td>1. Grave concerns about “grossly overloaded” floor system of second storey storage area of building: floor-to-ceiling, wall-to-wall book storage.</td>
<td>1.</td>
<td>2. Exit stairwell was being used to store propane tanks.</td>
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<tr>
<td>2. Exit stairwell was being used to store propane tanks.</td>
<td>2.</td>
<td>It was decided between Biancucci and Lane (Manager of Inspections) that Fire Prevention regarding the covering of the towing costs for the two (2) vehicles that were moved from King William Street on April 17, 2008. The two (2) parties involved have been notified by Police and were advised that they would be reimbursed for any towing costs incurred. Police will be forwarding the invoices to HES for payment. Exposure reports were filed for all firefighters who attended the scene due to the asbestos confirmed to be in the building.</td>
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would take care of propane tank storage issue and Building Inspector would investigate floor loading problem.

Building inspector and Manager of Building Inspections both had concerns about structural sufficiency of certain parts of building.

Primary concern for overall health and safety of the public - safety of the building's occupants (which includes the owner, workers, patrons, etc.).

Inspector Eydt also inspected exterior face of west exterior wall of building. This wall has only been recently exposed (as the result of the removal of the east wall of the adjacent building being demolished) and had never been seen by
human eyes before. Inspector Eydt noted much of brick work was substandard, with mortar missing in several locations and many of the bricks were not 'face brick', but rather 'backer brick' (which is not intended to be exposed to the elements, and, up to now, has been protected by the adjoining wall).

Workmanship of brick generally poor and, in conjunction with overloaded floor and possible vibrations associated with the collapse / demolition of the Balfour Building. It was decided that assurances of structural sufficiency should be submitted to the Building Services Division prior to reoccupancy of the restaurant building.

Inspector Eydt issued an OTC to owners of 25 King William Street (Thai
Memory Restaurant is tenant).

Property owner required to provide a P. Eng. report to verify building and its components are structurally adequate.

Qualified P. Eng. (expert in determining building safety) must be contracted by property owner to determine structural integrity of building once books are removed and propane tanks are taken care of to determine reoccupancy of building.

April 26/08
King William reopened to one lane.

On-street parking available with exception of immediate front of collapsed building. Parking in rear of building remains closed for public safety during construction.
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<td>Parking lot in the rear of buildings from James to Hughson remains closed to all traffic except construction vehicles to facilitate removal of debris from collapsed Balfour Building. Debris removal expected to take no more than 30 days (estimated date: May 26/08); however, chimney and associated underground boiler room demolition may commence shortly (upon further heritage approvals) and if permitted demolition work will continue for an undetermined amount of time. <strong>April 28/08</strong> Updates and questions answered by City staff to BIA Executive Director who would pass along summary to business community.</td>
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<td>Business community’s immediate concerns: road access, parking, power (street lighting) and safety of their own buildings. Provided updates re: road access – King William reopened on the weekend to one lane, on street parking is available with the exception of front of collapsed building and parking in rear of building is closed for public safety during construction. Staff investigated answers to all questions from businesses that they could not immediately address.</td>
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<td>April 29/08 Demolition Permit issued for 15-21 King William Street (Balfour Building) and remaining demolition work will be performed under auspices of permit. Although Ontario Building Code does not prescribe timelines or deadlines for</td>
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<td>demolition work, it is anticipated that site will be clean and clear within the next 30 days. (estimated date: May 29/08).</td>
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<td>33 King William building inspected and found to be in a condition of severe deterioration and may be structurally deficient.</td>
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<td>OTC issued to 33 King William Street (Labourers’ Union Local 837).</td>
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<tr>
<td>Owner (LIUNA) required to provide P. Eng. report to verify building and its components are structurally adequate.</td>
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<td><strong>April 30/08</strong> BIA issued communication update for King William Street businesses – information provided by P&amp;ED (Business owners also advised of the May 12 COW meeting where full report will be presented.)</td>
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Maintenance on street lighting will be completed after hoarding is relocated to the back of the sidewalk so as not to compromise safety and security of the area.

**May 1/08**
CBO personally visited 37 King William Street business owner whose business is next door to 33 King William to let proprietor know about the OTC on 33 King William.

Owner of 25 King William Street advised staff that she sent a registered letter to her second floor tenant on the afternoon of April 30/08.

Letter advised that due to the Order to Comply and the advice of their insurance company’s Engineers, the removal of the books is required. Therefore, expect removal by no later than Friday, May 9/08. Failure
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<td>will leave no recourse but to seek an Order through the Courts.</td>
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<td><strong>May 6/08</strong> Building Services received report from LIUNA’s P. Eng. which stated the building was unsafe primarily on the interior of the building with no immediate danger to the public cited.</td>
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<td>Building Services received an application for a Demolition Permit (via LIUNA representative).</td>
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<td>LIUNA has taken necessary measures to prevent public access to the interior of the building.</td>
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<td>Building Services staff are monitoring the site on a daily basis to ensure safety.</td>
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<td>Review of the Permit Application continues in consideration of</td>
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<td>confirmation of utility shutoff, heritage designation as applicable.</td>
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<tr>
<td>May 7/08 City staff contacted King William businesses - continuing to keep businesses informed as information comes available.</td>
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<tr>
<td>May 8/08 Books still not removed from second floor of Thai Memory Restaurant.</td>
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Copper Cliff Metals & Wrecking Corp.

April 20, 2008

LIUNA
Laborer's International Union of North America
Central and Eastern Canada
44 Hughson Street South
Hamilton, Ontario

Attention: Mr. Joseph S. Mancinelli

Reference: Lister Building
28 – 44 James Street North

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STRUCTURAL FAILURE and DEMOLITION

As requested the writer responded to an emergency call from LIUNA on the morning of April 17th, 2008, following the partial collapse of the Annex portion of the Lister Block at James Street North and King William Street in Hamilton. The initial collapse had occurred on the evening of April 16th, 2008 and secondary collapse of the roof occurred on the morning of April 17th, 2008. The secondary collapse also caused the fourth floor of the front facade to lean slightly to the north (inwards).

The writer spent several hours with Richard Featherstone, P. Eng. of Structural Inspections Limited (“SIL”). The only access available to the Annex building was through the attaching corridor on the 2nd to 4th floor of the Lister Building. Our inspection noted that the Annex consisted of two brick masonry demising walls running north-south considered to be load bearing. Short sections of structural steel lintels across the corridor where only attached on the south side of the bearing walls as the north portion of the walls had collapsed. It remains unknown as to whether the short sections of structural steel lintels were resting on masonry or wood bearing walls. (SIL report attached as Appendix A to the contractors Methodology Report).

Also on seen was Thomas McGowan, C.E.T. of EnviroCore Inc. to coordinate and design the designated substance abatement program. The following reports were on hand and reviewed:

Pinchin Project E11084 — Designated Substance and PCB Report — Lister Block Hamilton

Pinchin Project E11084 — Phase I Environmental Site Assessment — Lister Block Hamilton

Trow Consulting Engineers — Phase II Environmental Site Assessment — Lister Block
The Designated Substance and PCB Report was completed without having carried out any sampling of plaster materials which were suspected to contain asbestos ("ACM"). As the SIL had deemed the building unsafe and time was of the essence to “make safe” the structure, there was no opportunity to complete sampling to determine the existence of ACM. Upon further consultation with Paul Van Heertum, Occupational Health and Safety Inspector with the Minister of Labour; there was a consensus that the demolition would be carried out on the assumption that the plaster did contained asbestos and therefore would be carried out in accordance with Asbestos Control Measure report (attached as Appendix B to the contractors Methodology Report).

The contractor prepared Methodology Report is attached hereto and provides a detailed sequence of events and proposed timelines for the “make safe” aspects of the project and the methodology for complete demolition.

At approximately 3:00pm on April 17th, 2008 the City of Hamilton issued an Order to Comply requiring the owners to “Demolish under the direction of a Professional Engineer the four storey building (as described), level and clear site.”

**Events of April 19th, 2008**

The demolition and abatement crew working on Saturday April 19th, 2008 were working within the protocol and timelines set out in the Contractor’s Methodology. The plan for the day was to demolish the building, working from the rear of the building to the south (front) wall of the corridor. This was part of the “make safe” aspect of the plan which would result in the unsupported east wall and chimney being reduced to the level of the roof of the building immediately to the east (TAI Restaurant).

At approximately 3:00pm the crew had reached the prescribed boundary of the demolition plan for the day and were preparing to stop work, as the excavator operator pulled back some debris a collapse occurred which caused the third and fourth floor of the front facade to buckle.

Upon further investigation, it was determined that the two masonry demising walls which were believed to masonry bearing walls from the basement to the fourth floor were actually resting on I-beams above the first floor commercial area. It is believed that the masonry column supporting the I-beams collapsed, and said column was approximately ten feet south of the failed support column which resulted in the initial collapse on Wednesday night.

It was clear at this time that there would be no opportunity to salvage the window lintels as previously planned, and furthermore the facade must be razed immediately. The contractor called the structural engineer, City of Hamilton Building Department and the Ministry of Labour. Police were called in for crowd control and EMS and Hamilton Fire Department were alerted.
All interior plaster walls were now down and thoroughly soaked with water. Officials were informed by the contractor that as the facade is razed there will be a red cloud of masonry dust which will contain silica sand. This type of dust is a heavy particulate and settles fast and with the contractor utilizing two fire hoses mounted to the aerial man-basket and three additional lines from the ground the plume of dust would only last one to two minutes.

In consultation with the Police Sergeant Bennett, it was determined that James Street from Rebecca to King would be closed to car and pedestrian traffic. The Contractor had already closed King William from James to Hughson earlier in the morning and at 3:00pm merchants on this area of King William were evacuated for one hour. Police and other emergency response personnel were equipped with PPE.

Save and accept for salvaging of the lintels and being a day or two ahead of schedule, the razing of the facade was occurring as per the methodology. At approximately 4:00pm the contractor ordered the excavator operator to remove the one remaining masonry support column of the east demising wall. Although the razing of facade caused some damage to the contractor's hording the falling debris landed north (within the foot print of the building area) and the balance of debris was contained within the horded area. Dust was squelched within a minute and half and no damage was caused to the Lister Building or the neighbouring TAI Restaurant.

James Street was reopened to pedestrian and vehicle traffic and shop owners returned to their business along King William. The contractor removed debris from the sidewalk and washed down the road before erecting steel security fence. All activity came to an end at 8:30pm at which time City of Hamilton Manager of Building Inspections, John W. Lane attended the premises and was satisfied with conditions in which the demolition was being left.

**Summary**

The building was substantially razed within 48 hours of receiving the City of Hamilton's Order to Comply, there was no property damage to buildings on either side of the subject property, there was no environmental impact (air monitoring equipment was operational) and no personal injury.

The demolition crew sincerely regret that circumstances did not permit the opportunity to salvage the ornamental lintels. Efforts are already being made to pull the lintels from the rubble to be evaluated and stored as LIUNA deems necessary. As you are aware, the contractor has worked on other historically significant projects such the old Courthouse and the Royal Connaught and has successfully demolished around and preserving historical architectural components. The contractor was working simultaneously on another demolition project for the Ministry of Transport in which the 1880 building was being razed but all of the field stone was being salvaged and the lintels and date stone were successfully preserved intact by the demolition crew.
April 20, 2008 – Lister Block  - page 4 –

The writer looks forward to meeting with LIUNA and its development partners to discuss the options available to enclose the exposed east wall of the Lister Building and backfilling of the subject property to protect the footings of the Lister Building and the TAI Restaurant from frost (assuming that new construction will not commence before next winter).

Should you require any additional information please feel free to contact the writer at (905) 320-5609 or email: tdepasquale@cogeco.ca

Copper Cliff Metals & Wrecking Corp.

[Signature]
Tony DePasquale
Chief Executive Officer

cc:  John Spolnik
     Chief Building Officer
     Acting Director, Building Services
     City of Hamilton

cc:  Paul Van Heertum
     Provincial Offences Officer
     Ministry of Labour

cc:  Thomas McGowan, C.E.T
     EnviroCore Inc.

cc:  Richard W. Featherstone, P.Eng.
     President
     Structural Inspections Limited
PROJECT: DEMOLITION of LISTER BLOCK ANNEX
CITY of HAMILTON ORDER to COMPLY No.: 08-260576-00 EN
SITE: 28 JAMES STREET NORTH
OWNER: L.I.U.N.A LABORERS UNION LOCAL 837 (HWP)
CONTRACTOR: COPPER CLIFF METALS & WRECKING CORP.

DEMOLITION METHODOLOGY

1.0 Order to Comply

City of Hamilton, Planning and Economic Development Department, Building Services Division issued an Order to Comply on April 17, 2008. As a result of the partial collapse of the subject property the Owners were ordered to “Demolish under the direction of a Professional Engineer the four storey building (as described), level and clear site.”

Structural Inspections Limited has completed several inspections of the subject building and the Lister Building and concurs with the methodology as set forth in Section 5.0 herein. The Engineer’s Report is attached hereto as Appendix A.

2.0 Designated Substance

Pinchin Phase I Environmental Site Assessment Project No.: E11084 dated July 19, 1999 and Pinchin Designated Substance and PCB Report Project No.: E11084 dated February, 1999 identified the presence of vinyl floor tile presumed due to their age to contain asbestos. Although no testing was carried out, the report calls for the plaster to be treated as asbestos-containing until sampling indicates otherwise. The interior trim throughout the residence contains lead based paint. The thermostat(s) contain mercury and the mortar in the brick walls contain silica sand.

Due to the instability of the building, the ACM cannot be removed prior to demolition. EnviroCore Inc. and the Ministry of Labour have come to a consensus on the methodology for handling ACM as an “outdoor remediation” as set forth in EnviroCore’s Asbestos Control Measure and attached hereto as Appendix B. EnviroCore shall remain on site to oversee and to assist in the containment of ACM and to monitor air quality.

3.0 Mobilization and Removal of Designated Substance

City of Hamilton Building Department has agreed to allow the Contractor to proceed with the demolition without a permit. Contractor will meet with the City Building Department once the building has been made safe and complete all necessary documentation. Contractor to obtain all locates for all utilities, and file a Notice of Project with the Ontario Ministry of Labour. A pre-demolition meeting with hydro will be required to schedule disconnection of services to adjoining buildings and the relocation of overhead wires to 30’ east of their current location.
The rear parking lot of the site will be the main staging area and shall be secured on the east entrance with a minimum six foot (6') steel fence and gates and appropriate signs posted relating to “ACM abatement” and “No Trespassing” and the requirement for Personal Protection Equipment (PPE). The facade along King William will have scaffolding and plywood hording erected 30' beyond the east and west perimeter of the subject property.

Contractor has arranged for 24 hour security for the duration of the demolition project.

EnviroCore shall provide a mobile decom-station in the rear parking lot. The Contractor will ensure that the decom-station has access to hot and cold water and 15amp/120V power supply. All demolition personnel shall be provided site specific training by the Environmental Engineer and Hygienist.

The staging must be equipped with a minimum of one portable toilet.

The stack in the staging area is weak and has been ordered demolished subsequent to the demolition to the subject building. However, during demolition of the subject building a perimeter fence around the stack shall be erected to prevent contractor personnel from working on the north side of the stack.

4.0 Pre-Demolition

Ensure the disconnection of all services including bell, water, gas and hydro (including relocate of overhead lines) has been completed. The Pre-demolition Inspection Report is attached hereto as Appendix C.

It is almost certain that two trees on City property along King William will be damaged during the demolition. Meet with City of Hamilton Forestry Coordinator to establish compensation for the trees.

Remove the damaged portion of the north wall to allow the Contractor and Structural Engineer to view the remaining demising bearing walls.

Ensure that there is an adequate amount of fire hoses, nozzles, etc. and sufficient water pressure with all lines full on to control dust.

Owner wishes to salvage the decorative masonry lintels on the front facade along King William. Utilizing a man-lift, investigate the condition of the lintels and a methodology to remove said lintels by hand prior to demolition of the facade.

Remove the parapet flashing on the TAI Restaurant to examine the connection or lack thereof to the subject building. Special care must be take while removing the decaying chimney of the TAI restaurant. The roof is in poor condition (spongy) and must be covered with 5/8” plywood prior to demolition.
5.0 Demolition

Utilizing an excavator, the Contractor will remove the one storey addition (walk-in freezer) on the north wall of the subject building. Subsequently remove the north masonry wall of the entire building (non-bearing) and then reach in to remove all interior walls (bearing and non-bearing) and remove all floors.

Debris will be pushed into the basement and piled within the north portion of the building acting as a ramp and platform for the excavator to sit on. Working from the elevated position on the pile of debris will allow the operator greater reach and cushion any vibration caused by the excavator.

The operator is to work from the north wall of the building to south wall of the corridor and then stop demolition. The unsupported east wall and chimney shall be reduced to the level of the roof of the adjoining TAI Restaurant as the excavator moves south.

The two demising, load bearing walls running north to south ay a ninety degree angle to the facade shall be left in place to brace the facade. Working from a man-lift with a two-man basket, workers are to remove all of decorative masonry lintels. This shall be accomplished by air chiselling the bricks above the key-stones allowing said key-stones to be force up and out. Once the keystones are removed the lintels on either side of the keystone can be lowered (may be necessary remove some wood brick mould around the window frames). The lintels are not all the same, some are three piece while others are five piece, with largest individual piece weighting about 40lbs.

The terracotta decorative pieces on the Lister Building are irreplaceable and must be preserved. A plywood cover is to be constructed to protect the most eastern 12 feet of the lower floor of the Lister Building facade. Special attention shall be given to the protection of the terracotta corner piece of the cornice moulding. When constructing the protection wall do not fasten any materials to the terracotta.

Once the lintels etc, have been removed demolition of the balance of the subject property can continue. Police, fire and the building department should be notified prior to proceeding with the demolition of the facade. Despite the plaster being removed, a cloud of red dust from the brick and mortar will be created as the facade falls. Only commence demolition of the facade if all fire hoses are manned and the wind direction and speed are ideal. King William must be closed to pedestrians and vehicles. Sky Dragon should be evacuated and the other store owners to the east along King William should keep their doors closed while the facade is razed.

Once the above precautions have been taken, the excavator operator will continue to remove the remaining non-load bearing partition walls, floors and roof. Once all plaster material has been removed (to eliminate plaster dust), the operator will pull back debris from the front of the building to create a cavity into the basement. Remove the remaining two demising bearing walls causing the facade to fall back and the ensuing debris to fall into the cavity.
**Methodology - page 4 -**

There is the possibility of the third floor to buckle forward but this will not cause the debris to go beyond the hording on King William. In the event that the entire facade does not fall at the same time; reach over the facade and pull it back with the excavator until the entire faced has been razed.

Clean up any debris and hose down the road and sidewalk on King William and reopen the road to pedestrian traffic.

Continue to remove the lower three floors of eastern perimeter wall which rest against the TAI Restaurant. Under instruction from the Contractor in consultation with the owner and structural engineer, demolition of the common wall of the Lister Building will take place. The extended concrete floors may need to be supported and wood-framed/plywood walls built to close up the opening created by the removal of the common wall.

The Environmental Engineer will take samples of the debris to an independent laboratory for analysis to determine if ACM’s are present in the debris. The findings will be shared with the Ministry of Labour and disposal option will be discussed before any debris is removed from the site.

**6.0 Backfill of subject building and demobilization.**

The Contractor will meet with the owner to determine the type of fill required to back fill the basement of the subject building. Fill will be required to protect the foundation and footings of the Lister Building and the adjoining TAI Restaurant from frost.

The foundation walls shall remain at this time to prevent the need for shoring of the side walk and prevent under cutting the footing of adjoining buildings. It is to be determined if the contractor will break the concrete basement floor to allow for drainage.

Contractor must give 24 hour notification to the Owner to obtain an inspection of the excavation(s) prior to backfilling.

The Contractor will grade the site, and top dress with rakeable earth or ¾” aggregate.

The Contractor will remove all temporary security fencing and then commence demobilization.

Submitted by:
Copper Cliff Metals & Wrecking Corp.

Approved by:
Engineer: (sign & print name)

Tony De Pasquale - CEO
APPENDIX A

ENGINEER'S REPORT

Structural Inspection Limited
Short Term Stability of Partially Collapsed Structure

Report: E08-04017
April 18, 2008

Copper Cliff Metals & Wrecking Corp
2906 South Grimsby Rd. 8, P.O.Box 914
Smithville, ON
L0R 2A0

CONTRACT: 7542: LISTER BUILDING
28-44 JAMES ST, HAMILTON, ON

REPORT: E08-04017: SHORT TERM STABILITY OF PARTIALLY
COLLAPSED STRUCTURE.

As requested the writer responded to an emergency call on April 16, 2008 following the
partial collapse of the Lister Block at James St N & King William St in Hamilton.
The building, originally constructed in 1886 and rebuilt in 1924, has been unoccupied for
an extensive period of time (since 1995) and the ground floor level has been hoarded up.
The Lister Block consists of two sections, the major portion is a 6 storey reinforced
concrete structure and the second portion (annex) is a 4 storey brick and frame structure
to the east. The collapse was limited to the north section of the annex. It is our
understanding that the collapse occurred in the early evening and we arrived on site at
approximately 11 pm.

Firefighters had completed a cursory search but a strong odour of gas prevented a
thorough investigation. At the time of our arrival the gas company representatives felt
that gas levels were still too high for personnel to enter the annex.

The upper stories of the annex can be accessed by corridors on each floor from the main
building or by a stair well located along the east side. We were advised by the district
fire chief that no damage was present in the east stairwell but this was not confirmed by
the writer due to gas levels.

Exterior

There is a one storey garage along the north wall of the annex. This may be an addition.
There are relatively few openings in the wall until the fourth floor level. At this level the
wall is basically of celestly construction with three narrow brick panels along the center
of the wall and wider panels at either end. The center panel had collapsed and some
damage to the masonry of the storey below had occurred. The glass in the windows

continued ...
beyond the missing windows adjacent to the collapsed panel was undamaged. There is no evidence of structural damage to the building along King William St.

Interior

The extent of the collapse on the interior is much more extensive than suggested from the exterior but is limited to the areas north of the corridors.

The corridors from the main building continued through fire doors into the annex. The south corridor wall is still standing and appears to be in a good state of repair, from the middle of this wall there is a brick masonry demising wall running to the south. It is likely that this is a bearing wall. Short sections of structural steel are present leaning against the centre of the south corridor walls. These were probably lintels across the corridor.

To the north of the corridor the floor joists above are completely collapsed to the second floor level. The joists immediately above the corridor are partially resting on the corridor floors. While nailing beams are present for support of the joists in the masonry wall it appears the nails were not fastened as the joists pulled free from the joist pockets without affecting the masonry.

Comments & Conclusions

In other older multi storey buildings in the city of Hamilton we have found that the construction of the interior bearing walls were of mixed construction i.e. some walls were masonry and some were frame from foundation to roof.

It is possible that the centre bearing wall north of the corridor was of frame construction. However, it is not common practice to bear steel lintels on wood frame construction.

There is no significant damage to the east and west walls. The east wall extends 2 stories above the adjacent property. The west wall is common to the larger building. The north wall is damaged in the center and extends 3 stories above the 2nd floor level. The undamaged section acts as a buttress for the north end of the east wall up to the roof level.

Based on our examination on the night of the 16th to 17th we concluded that the collapse was generally completed and stable. A relatively small section of masonry below the fourth floor level may collapse into the barricaded areas. Further collapse of the roof would be inward and not result in damage to the adjacent property.
We recommended a manned security barrier be installed at the rear of the building to prevent access in the event of the damaged masonry falling.

On the morning of April 17th we were advised by City officials that a further collapse had occurred. On arrival at the site it was apparent that only the roof over the collapsed section and the severely damaged masonry had fallen. A closer examination of the south section of the building was carried out from an aerial ladder. There is no displacement of either the south or east walls and our evaluation of the previous night remains valid.

Based on our examinations we conclude that there is no danger of further imminent collapse. However, the height of the unsupported east wall should be reduced to the level of the roof of the building immediately to the east. This should be carried out in the next few days as higher winds are forecast during the middle of next week.

When the debris is removed a closer examination of the interface between the two sections of the Lister Block should be carried out.

There was no apparent cause for the collapse as the building was empty and no snow loads were present on the roof also there were no high winds on the night of the collapse. Since the building has been abandoned for an extensive period it is probably deterioration of the structural components are taking place. For this reason we would recommend complete demolition of the structure be carried out in the near future.

It is likely that a building permit would be required for the demolition of the safe portions of the building.
APPENDIX B

ASBESTOS CONTROL MEASURE

EnviroCore Inc.
Notification to Ministry of Labour
Occupational Health and Safety Inspector

Notice of Project No.: 772865
Ministry of Labour  
Ellen Fairclough Building  
119 King Street West, 14th Floor  
Hamilton, Ontario L8P 4Y7  

Attention: Mr. Paul Van Heertum  
Occupational Health and Safety Inspector  

Re: Asbestos Control Measure  
Location: 33-35 ½ King William St. Hamilton  
Notice of Project No.: 772865

April 18, 2008

Dear Paul:

Further to our site meeting yesterday please review the following:

CONDITION FOUND
In its current state, the building has been deemed ‘unsafe to enter’ according to structural engineer Richard Featherstone. Therefore, asbestos-containing-material cannot be removed prior to demolition.

METHOD OF REMEDY
While carrying out all required Ministry notifications, all work shall be conducted in strict compliance with the ‘Regulation respecting Asbestos on Construction Projects and in Buildings and Repair Operations’ – made under the Occupational Health and Safety Act, Ontario Regulation 278/05. All asbestos-containing-materials will be disposed of at an authorized landfill site as covered in Regulation 309, under the Environmental Protection Act.

The following measures shall be varied pursuant to Section 23:

Section 18(3) 2:
The building shall be demolished utilizing an excavator and subsequently there will be free-falling material. All falling debris shall be wetted with fire hoses from above utilizing aerial equipment and from ground level in order to provide adequate dust suppression.

Section 20:
Demolition contractors to be provided with site specific training including all measures outlined in Section 19.

Yours truly,

Thomas McGowan CET
APPENDIX C

PRE-DEMOLITION INSPECTION

Copper Cliff Metals & Wrecking Corp.
Site in section April 18th, 208
### PRE-DEMOLITION INSPECTION REPORT

**SITE:** Lister Building  
28-44 James Street North, Hamilton ON.  
**START DATE:** April 18th, 2008  
**(demo)**

**OWNER:** L.I.U.N.A.  
Laborer's Union Local 837 (HWP)  
44 Hughson Street South  
Hamilton, Ontario  
Joseph Mancinelli Tel: (905) 522-7177

**PERMIT HOLDER:**  
Copper Cliff Metals & Wrecking Corp  
2906 South Grimsby Road 8  
Smithville, Ontario LOR 2A0  
Tony De Pasquale Tel: (905) 320-5609

### DISCONNECTION of SERVICES and NOTIFICATIONS:

<table>
<thead>
<tr>
<th>Disconnection of Services Form attached</th>
<th>Completed:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emergency Services - Fire</td>
<td>X</td>
</tr>
<tr>
<td>Water &amp; Sewer Services and/or Well Abandonment Record</td>
<td>X</td>
</tr>
<tr>
<td>Natural Gas</td>
<td>X</td>
</tr>
<tr>
<td>Union Energy or other rentals (no known hot water heater rental)</td>
<td>X</td>
</tr>
<tr>
<td>Hydro (require relocation of overhead wires)</td>
<td>X</td>
</tr>
<tr>
<td>Bell Canada &amp; Cable</td>
<td>X</td>
</tr>
<tr>
<td>Forestry (Scott Plante Arborist - 2 trees on King William $2,574)</td>
<td>X</td>
</tr>
<tr>
<td>Other: erect hording 12' south of building facade on King William temp 8' steel fence on sidewalk of Hughson (rear parking lot).</td>
<td>X</td>
</tr>
<tr>
<td>Underground service locates</td>
<td>X</td>
</tr>
</tbody>
</table>

### POTENTIAL HAZARDS INSPECTION

<table>
<thead>
<tr>
<th>Potential Hazards Inspection</th>
<th>Completed:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pinchin Designated Substance Report</td>
<td>Phase I</td>
</tr>
<tr>
<td>Troy Consulting Engineers</td>
<td>Phase II</td>
</tr>
</tbody>
</table>

### INSPECTION FINDINGS:

<table>
<thead>
<tr>
<th>Inspection Finding</th>
<th>Hazard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asbestos: suspected in plaster (requires further investigation and analysis)</td>
<td>See EnviroCore - Asbestos Control Measures</td>
</tr>
<tr>
<td>Lead: low level lead paint - do not remove by hand</td>
<td>Wear respiratory PPE for duration of demolition</td>
</tr>
<tr>
<td>Mould: throughout entire building (rotting wood and plaster)</td>
<td>XX</td>
</tr>
<tr>
<td>Mercury or PCB: unable to enter to remove thermostat(s), freon, ballasts</td>
<td>X</td>
</tr>
<tr>
<td>Septic: City water</td>
<td>X</td>
</tr>
<tr>
<td>Well: City water</td>
<td>X</td>
</tr>
<tr>
<td>Other: all exterior lintels to be preserved, special care in working close to Terracotta stone on Lister building. Mortar contains Silica - wear respiratory PPE while handling stone</td>
<td>Pigeon excrement on third floor (Type 3 asbestos removal methods)</td>
</tr>
</tbody>
</table>

Pre-demolition Report completed:  
**Date:** 18-Apr-08  
**Inspector:** Tony De Pasquale
APPENDIX D

PROJECT SCHEDULE

Copper Cliff Metals & Wrecking Corp.
Project Schedule dated April 18th, 2008
April 18, 2008

Copper Cliff Metals & Wrecking Corp
2906 South Grimsby Rd. 8, P.O.Box 914
Smithville, ON
L0R 2A0

CONTRACT 7542  LISTER BUILDING
28-44 JAMES ST, HAMILTON, ON

REPORT: E08-04018  EVALUATION OF FREE STANDING STACK

As requested the writer visited the Lister Block on April 18, 2008 to examine the free standing stack. The upper portion of the stack has a pronounced lean with severe cracking and spalling of the cap and brick works is present. Given the probability of vibration due to heavy construction equipment used to demolish the collapsed section of the Lister Block it is our opinion that the stack is unsafe and should be demolished.

Since the stack is within 20 feet of the single storey section of the Lister Block and is close to an active overhead power supply we recommend that hand demolition be employed down to a level 20 feet above the adjacent single storey roof.

STRUCTURAL INSPECTIONS LIMITED

R.W. Featherstone, P.Eng
President
Order Number: 08-260525-00 EN

Address to which Order applies:
28 JAMES ST. N

formerly HAMILTON now The City of Hamilton

Order issued to:
LIUNA LOCAL 837
44 HUGHSON ST. S
HAMILTON ON  L8N 2A7

The inspection on or about April 16, 2008 at the above-referenced address found the following contravention(s) of the Building Code or the Building Code Act, 1992.

You are hereby ordered to correct the contraventions itemized below immediately.

<table>
<thead>
<tr>
<th>Item</th>
<th>Reference</th>
<th>Description and location</th>
<th>Required action and compliance date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Subsection 15.9-(2) of the Building Code Act, 1992</td>
<td>The building is a) structurally inadequate or faulty for the purpose for which it is used; or b) in a condition that could be hazardous to the health or safety of persons outside the building or persons whose access to the building has not been reasonably prevented causing the building to be unsafe.</td>
<td>Prevent access to persons from accessing the building or property adjacent to the building damaged by partial collapse</td>
</tr>
</tbody>
</table>

Order issued by:

Name: Glen McCrory
BCIN: 15299

Signature: [Signature]

Telephone No.: 905.546.2424 ext. 3906

Note:
- It is illegal to obstruct the visibility of a posted Order. It is also illegal to remove a posted Order unless authorized by an inspector or Registered Code Agency. [Building Code Act, 1992 s. 20]
- An Order may be appealed to the Superior Court of Justice. [Building Code Act, 1992 s. 25]. It may also be appealed to the Building Code Commission concerning the sufficiency of compliance with the technical requirements of the Building Code. [Building Code Act, 1992 s. 24]
- Failure to comply with this Order may result in an Order to prohibit the use or occupancy of the building and the Chief Building Official may cause the building to be renovated, repaired or demolished to remove the unsafe condition.
- Failure to comply with this Order is an offence which could result in a fine. [Building Code Act, 1992 s.36]
- No construction affected by this Order is to be covered until inspected and approved. [Building Code Act, 1992 s.13]
Order to Comply

Pursuant to Subsection 15.9(4) of the Building Code Act, 1992

Order Number: 08-260576-00 EN

Address to which Order applies:
28 JAMES ST. N

formerly HAMILTON now The City of Hamilton

Order issued to:
LIUNA LOCAL 837 LISTER PROPERTY CORPORATION
44 HUGHSON ST. S
HAMILTON ON  L8N 2A7

The inspection on or about April 17, 2008 at the above-referenced address found the following contravention(s) of the Building Code or the Building Code Act, 1992.

You are hereby ordered to correct the contraventions itemized below immediately, by the dates listed below, or by FORTHWITH.

<table>
<thead>
<tr>
<th>Item</th>
<th>Reference</th>
<th>Description and location</th>
<th>Required action and compliance date</th>
</tr>
</thead>
</table>
| 1.   | Subsection 15.10-(1) of the Building Code Act, 1992 | As a result of the partial collapse at rear of south - east portion of the four storey building (east of the portion known as the Lister Building), the building is,
  a) structurally inadequate or faulty for the purpose for which it is used; or
  b) in a condition that could be hazardous to the health or safety of persons outside the building or persons whose access to the building has not been reasonably prevented
  therefore, causing the building to be unsafe and causing an immediate danger to the health or safety of persons in or around the building. | Demolish under the direction of a Professional Engineer the four storey building (as described), level and clear site. |

Order issued by:

Name: JOHN SPOLNIK

Signature: [Signature]

BCIN: 15125

Telephone No.:905.546.2424 ext. 2586

Note:

• It is illegal to obstruct the visibility of a posted Order. It is also illegal to remove a posted Order unless authorized by an inspector or Registered Code Agency. [Building Code Act, 1992 s. 20]
• An Order may be appealed to the Superior Court of Justice. [Building Code Act, 1992 s. 25]. It may also be appealed to the Building Code Commission concerning the sufficiency of compliance with the technical requirements of the Building Code. [Building Code Act, 1992 s. 24]
• Failure to comply with this Order may result in an Order to prohibit the use or occupancy of the building and the Chief Building Official may cause the building to be renovated, repaired or demolished to remove the unsafe condition.
• Failure to comply with this Order is an offence which could result in a fine. [Building Code Act, 1992 s.36]
• No construction affected by this Order is to be covered until inspected and approved. [Building Code Act, 1992 s.13]

This form is authorized by the Minister of Municipal Affairs and Housing under the Building Code (O.Reg 403/97)
Order to Comply
Pursuant to Subsection 15.9(4) of the Building Code Act, 1992

Order Number: 08-260752-00 EN

Address to which Order applies:
28 JAMES ST. N

formerly HAMILTON now The City of Hamilton

Order issued to:
LIUNA LOCAL 837 LISTER PROPERTY CORPORATION
44 HUGHSON ST. S
HAMILTON ON L8N 2A7

The inspection on or about April 18, 2008 at the above-referenced address found the following contravention(s) of the Building Code or the Building Code Act, 1992.

You are hereby ordered to correct the contraventions itemized below immediately, by the dates listed below, or by FORTHWITH.

<table>
<thead>
<tr>
<th>Item</th>
<th>Reference</th>
<th>Description and location</th>
<th>Required action and compliance date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Subsection 15.9-(2) of the Building Code Act, 1992</td>
<td>The upper portion of the chimney stack at rear of collapsed building is a) structurally inadequate or faulty for the purpose for which it is used; or b) in a condition that could be hazardous to the health or safety of persons outside the building or persons whose access to the building has not been reasonably prevented causing the structure to be unsafe.</td>
<td>Temporarily barricade area to prevent access by workers and equipment and remove upper portion of chimney stack as per the Professional Engineer’s recommendations.</td>
</tr>
</tbody>
</table>

Order issued by:

Name: Deborah Eydt

BCIN: 15087

Signature: [Signature]

Telephone No.: 905.546.2424 ext. 2586

Note:
- It is illegal to obstruct the visibility of a posted Order. It is also illegal to remove a posted Order unless authorized by an inspector or Registered Code Agency. [Building Code Act, 1992 s. 20]
- An Order may be appealed to the Superior Court of Justice. [Building Code Act, 1992 s. 25]. It may also be appealed to the Building Code Commission concerning the sufficiency of compliance with the technical requirements of the Building Code. [Building Code Act, 1992 s. 24]
- Failure to comply with this Order may result in an Order to prohibit the use or occupancy of the building and the Chief Building Official may cause the building to be renovated, repaired or demolished to remove the unsafe condition.
- Failure to comply with this Order is an offence which could result in a fine. [Building Code Act, 1992 s.36]
- No construction affected by this Order is to be covered until inspected and approved. [Building Code Act, 1992 s.13]
Order to Comply
Pursuant to Subsection 12(2) of the Building Code Act, 1992

Date Order Issued: April 29, 2008
Application/Permit Number:

Order Number: 08-261665-00 EN
Address to which Order applies: 33 KING WILLIAM ST. HAMILTON

Order issued to: LABOURER’S UNION LOCAL 837 44 HUGHSON ST. S HAMILTON ON L8N 2A7

The inspection on or about April 29, 2008 at the above-referenced address found the following contravention(s) of the Building Code or the Building Code Act, 1992.

You are hereby ordered to correct the contraventions itemized below immediately, by the dates listed below, or by May 6, 2008.

<table>
<thead>
<tr>
<th>Item</th>
<th>Reference</th>
<th>Description and location</th>
<th>Required action and compliance date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Subsection 18.1(c) of the Building Code Act, 1992</td>
<td>The above referenced building is in a condition of severe deterioration and may be structurally deficient.</td>
<td>Provide a Professional Engineer’s report verifying that the building and its components are structurally adequate.</td>
</tr>
</tbody>
</table>

Order issued by:
Name: Deborah Eydt
Signature: [Signature]

BCIN: 15087
Telephone No.: 905.546.2424 ext. 2586

Note:
- It is illegal to obstruct the visibility of a posted Order. It is also illegal to remove a posted Order unless authorized by an inspector or Registered Code Agency. [Building Code Act, 1992 s. 20]
- An Order may be appealed to the Superior Court of Justice. [Building Code Act, 1992 s. 25]. It may also be appealed to the Building Code Commission concerning the sufficiency of compliance with the technical requirements of the Building Code. [Building Code Act, 1992 s. 24]
- Failure to comply with this Order could result in a Stop Work Order. [Building Code Act, 1992 s. 14]
- Failure to comply with this Order is an offence which could result in a fine. [Building Code Act, 1992 s.36]
- No construction affected by this Order is to be covered until inspected and approved. [Building Code Act, 1992 s.13]

This form is authorized by the Minister of Municipal Affairs and Housing under the Building Code (O.Reg 403/97)
Built Heritage Emergency Management Protocol

February, 2005.

Heritage and Urban Design
Community Planning and Design Section
Development and Real Estate Division
Planning and Development Department

City of Hamilton

February 2005
Built Heritage Emergency Management Protocol


This protocol is divided into two sections, a glossary, and six appendices.

Section 1 comprises an introduction with subsections identifying what the protocol applies to and when it will apply.

Section 2 specifies the principles that will guide action and provides general actions to be taken.

Glossary containing the definitions of words or phrases italicized throughout the text.

References

Appendix A: Hamilton's Heritage Volume 1: List of Designated Heritage Properties and Heritage Conservation Easements under the Ontario Heritage Act


Appendix C: Optional Use of the Protocol

Appendix D: Ontario Heritage Act Provisions

Appendix E: Post-Intervention Activities and Conservation Strategies

Appendix F: List of pre-qualified Contractors with heritage expertise

See glossary for definitions of words or phrases italicized throughout the text.

Disclaimer
This protocol will be used in conjunction with other existing procedures and protocols already in place in the City of Hamilton and is not meant to replace the City of Hamilton Emergency Plan or other accepted practices. In the case of owner initiated use of this protocol, the City of Hamilton will not incur any costs.
BUILT HERITAGE EMERGENCY MANAGEMENT PROTOCOL

1.0 Introduction

The following protocol outlines the appropriate procedures to be followed when an emergency adversely affects a heritage resource within the City of Hamilton. The purpose of this protocol is to:

- ensure protection of heritage resources without compromising public safety;
- educate local decision makers and emergency personnel of the special requirements of these resources; and,
- provide a consistent approach to the management of emergency situations involving heritage resources.

The integration of heritage resource management and disaster preparedness has been discussed extensively at both the national and international level (ICOMOS, 2003; Library and Archives Canada, 1996). Many organizations and researchers agree that the greatest protection of heritage resources comes from the education and preparedness of local decision makers (Donaldson, 1995). Currently the City of Hamilton Emergency Plan (Hamilton, 2004) makes no provisions for the conservation of built heritage. In the event of an emergency, the following protocol will provide information and direction to first responders, and later will guide restoration, salvage, and/or demolition of the resource.

1.1 What does this protocol apply to?

The protocol applies to all properties designated under Parts IV, V and VI of the Ontario Heritage Act, buildings of national significance as designated by the Historic Sites and Monuments Board of Canada (HSMBC), and buildings with an Ontario Heritage Foundation (OHF) easement on title (See Hamilton’s Heritage Volume 1: Inventory of Designated Properties and Heritage Easements under the Ontario Heritage Act attached as Appendix A).

1.2 When does this protocol apply?

This protocol applies in any situation where the Municipality has served an Emergency Order or an Unsafe Order under the Ontario Building Code Act on a property listed in Appendix A, the owner has declined to act on that Order, and the City has assumed responsibility for the building’s compliance.

This protocol may also be partially invoked at the discretion of the Chief Building Official (CBO) to advise on any situation where an owner has assumed responsibility and is acting on an Unsafe Order that has been issued on a property listed in Appendix A to this protocol.
Appendix D to Report CM08017
Page 4 of 19

Built Heritage Emergency Management Protocol

There are several additional situations in which the owner and the City may use the protocol as a guideline (See Appendix C to this protocol).

1.3 Under what authority does this protocol operate?

This protocol operates within the authority and powers outlined in the Ontario Heritage Act (see Appendix D to this protocol) and the Ontario Building Code Act (OBCA).

1.4 Who covers the costs of actions taken under this protocol?

Costs incurred by the municipality to undertake this protocol may be recoverable from a building owner as per the OBCA as follows:

Subsection 15.10 Emergency Order provides that where there is Immediate Danger, item (4) stipulates that:

"The... municipality..., or a person acting on behalf of them is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the Chief Building Official (CBO) or an inspector in the reasonable exercise of his or her powers under subsection (3);"

Subsection 15.10 items 7 through 11 of the Ontario Building Code Act provide that the CBO must apply to the Superior Court of Justice to determine the costs recoverable by the municipality, in whole, in part or not at all. Any recoverable cost may be recovered via a lien on the subject land.

2.0 Appropriate Course of Action during an Emergency

2.1 Assessment of Situation Prior to Intervention

Where an imminent threat:

- compromises the structural integrity of a heritage resource;
- compromises the designated features of a heritage resource; or
- may have the potential to compromise the structural integrity or designated features of a heritage resource

the following course of action will be followed:

Step 1

The imminent threat to public health and safety will be assessed by the first responders within the existing City of Hamilton Emergency Plan and applicable standards. This protocol will be invoked once the imminent threat has been responded to and an Unsafe or Emergency Order has been issued.
that may result in action that directly or indirectly compromises the structural integrity or designated features of a heritage resource.

Step 2
The Chief Building Official (CBO) is the first person to be notified of an emergency involving the integrity of any structure within the City of Hamilton. The CBO, or their representative, will contact the second tier of the Heritage Emergency Response Team (HERT) (See Figure 2.1) when the structure falls under the scope of this protocol (See Sections 1.1 and 1.2). The second tier members of HERT shall assemble on site as soon as it is safe to do so.

Where a pre-qualified structural engineer with heritage experience has been retained by the consultant, the engineer is the key advisor at this point. Once City heritage staff has been notified staff will assume the responsibility for notifying other third tier members of the HERT as required. The Contractor will have the authority to sub-contract other professionals (e.g., an architect) when it is deemed necessary by both the Structural Engineer and HERT.

Figure 2.1: The Heritage Emergency Response Team (HERT)
2.2 Assessment of degree of intervention and appropriate strategy

Once HERT is on site, its immediate role is to assess the situation and to develop a strategy to remove the unsafe condition while minimizing damage to the heritage resource, in a reasonable, cost-effective and timely manner.

An appropriate strategy for intervention will be proposed by HERT based on the following principles:

1. ensure public health and safety;
2. minimize immediate (short-term) damage to or loss of the heritage resource;
3. ensure that the proposed intervention minimizes any threat to the long-term structural integrity and survival of the resource;
4. ensure that the scope and cost of any intervention is reasonable in relationship to the threat to public health and safety presented by the situation;
5. if required, recommend suitable artifacts for documentation and recovery from the site with permission of the owner and with an agreement with the owner or others to cover all protection, storage and transportation costs; and,
6. ensure any action is based on appropriate professional expert advice.

2.3 Implementation of Appropriate Strategy

Guided by the above principles and the Appleton Charter (Appendix B to this protocol) the Structural Engineer, in consultation with HERT, will provide to the CBO a written strategy to remove the unsafe condition. The CBO will review the strategy and implement it as the CBO deems fit under their powers as described in the Ontario Building Code Act. The final decision on the appropriate strategy will rest with the CBO.

2.4 Follow-up

City planning staff comprising cultural heritage planners and managers shall, where appropriate, monitor and evaluate ongoing works and activities to ensure compliance with all applicable legislation and municipal by-laws.
Glossary

Definitions of words or phrases italicized throughout the text.

**Designated Feature**
Specific feature of the building mentioned within the reasons for designation in the designating By-Law (see Hamilton’s Heritage Volume 5: Reasons for Designation under Part IV of the Ontario Heritage Act).

**Emergency Order or Unsafe Order**
These are Orders under Section 15 of the Ontario Building Code Act that require the owner of a property to repair or make good a condition that is unsafe and could be hazardous to the health and safety of the building users and or the public. It may allow for municipal intervention with compensation by the owner to remove an unsafe condition.

**Emergency**
An emergency is an abnormal situation which, to limit damage to persons, property or the environment, requires prompt action beyond normal procedures (Health Canada, 2004).

List of Possible Emergencies:
- **Accidents** (Air Crashes, Marine/Motor/Rail Accidents, Explosions, Hazardous Spills/Leaks)
- **Weather Events** (Snow, Ice, Hail, Lightening, Hurricanes, Tornados, Drought, Flooding, Wind, Rain)
- **Structural Collapse**
- **Fire** (including Wildfires)
- **Earthquakes**
- **Geological** (Landslides, Land Subsidence, Erosion, Avalanches)
- **Civil Disobedience** (Riots, Vandalism)
- **War/Terrorism**

**First Responders**
The first City representative(s) at the scene of an emergency is considered to be the first responder. In most cases this will be the fire department or a representative of the Chief Building Official.

**Heritage Emergency Response Team (HERT)**
A group of individuals who have knowledge and expertise in dealing with heritage buildings, emergency situations, and/or structural engineering. The City of Hamilton Heritage Response Team will consist of the Chief Building Official, Cultural Heritage Staff, and at least one structural engineer with expertise in heritage.
Heritage Resource
A heritage resource for the express purposes of this protocol is considered to be any property, building, or cultural heritage landscape located in the City of Hamilton and designated under parts IV, V and VI of the Ontario Heritage Act, owned or protected by easement by the Ontario Heritage Foundation, or of national significance as designated by the Historic Sites and Monuments Board of Canada (HSMBC), listed in Appendix A.

Imminent Threat
An impending threat to human health and safety and/or property.

Listed Property
Any building listed in Hamilton’s Heritage Volume 2: Buildings of Architectural and/or Historical Interest (see Appendix C).

Mothballing
A comprehensive plan for maintaining the integrity of a heritage resource over an extended period of time. Mothballing can involve measures to ensure adequate weatherproofing, ventilation, security, fire prevention, structural soundness, public safety, etc. (see Appendix E).

Order
Under the Ontario Building Code Act, Section 12(2) an inspector who finds a contravention of the Act or the building code may make an order directing compliance with the Act or the building code. Also referred to as an Order to Comply.

Owner(s)
The owner(s) of the property and/or the registered corporation or holding company responsible for the property.

Reasons for Designation
The specific reason(s) that the property has been granted designation. The reasons for designation are text descriptions contained within the designating bylaw for each designated property and outline the features that are to be protected. The reasons for designation for each property in the City of Hamilton can be found in Hamilton’s Heritage Volume 5: Reasons for Designation under Part IV of the Ontario Heritage Act.
Built Heritage Emergency Management Protocol

References:


Ontario Heritage Act. R.S.O. 1990, c. O.18
Appendix A:

Hamilton’s Heritage Volume 1: List of Designated Heritage Properties and Heritage Conservation Easements under the Ontario Heritage Act

Available at http://www.hamilton.ca/cultural-heritage
Appendix B:

Appleton Charter for the Protection and Enhancement of the Built Environment – national statement of heritage conservation practices

Appleton Charter for the Protection and Enhancement of the Built Environment

Published by ICOMOS Canada under the auspices of the English-Speaking Committee, Ottawa, Canada, August 1983

A. Preamble

This charter acknowledges The International Charter for the Conservation & Restoration of Monuments & Sites (Venice, 1964), the Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (the Burra Charter of February 23, 1981), and the Charter for the Preservation of Quebec’s Heritage (Declaration of Deschambault), without which it could not exist.

It further recognizes that the sound management of the built environment is an important cultural activity; and that conservation is an essential component of the management process.

B. Framework

Intervention within the built environment may occur at many levels (from preservation to redevelopment), at many scales (from individual building elements to entire sites), and will be characterized by one or more activities, ranging from maintenance to addition.

Though any given project may combine intervention scales, levels and activities, projects should be characterized by a clearly stated goal against which small scale decisions may be measured.

The appropriate level of intervention can only be chosen after careful consideration of the merits of the following:

- cultural significance,
- condition and integrity of the fabric,
- contextual value,
- appropriate use of available physical, social and economic resources.

Decisions concerning the relative importance of these factors must represent as broadly based a consensus as possible.

City of Hamilton Planning and Economic Development Department February, 2005
Legitimate consensus will involve public participation and must precede initiation of work.

The relationship between scales of intervention levels of intervention and intervention activities is summarized below.

<table>
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<tr>
<th>Levels of Intervention</th>
<th>Maintenance</th>
<th>Stabilization</th>
<th>Removal</th>
<th>Addition</th>
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<th>Blggs &amp; Settings</th>
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**Levels of intervention:**

- **Preservation:**
  - retention of the existing form, material and integrity of site.

- **Period Restoration:**
  - recovery of an earlier form, material and integrity of a site.

- **Rehabilitation:**
  - modification of a resource to contemporary functional standards which may involve adaptation for new use.

- **Period Reconstruction:**
  - recreation of vanished or irreversibly deteriorated resources.

- **Redevelopment:**
  - insertion of contemporary structures or additions sympathetic to the setting.
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Built Heritage Emergency Management Protocol
Appendix B: Appleton Charter

Activities:

Maintenance:
- continual activity to ensure the longevity of the resource without irreversible or damaging intervention.

Stabilization:
- a periodic activity to halt deterioration and to put the existing form and materials of a site into a state of equilibrium, with minimal change.

Removal:
- a periodic activity: modification which involves the subtraction of surfaces, layers, volumes and/or elements.

Addition:
- a periodic activity: modification which involves the introduction of new material.

C. Principles

Respect for the existing fabric is fundamental to the activities of protection and enhancement.

The process of protection and enhancement must recognize all interests and have recourse to all fields of expertise which can contribute to the study and safeguarding of a resource.

In intervening at the scales, levels and activities described, measures in support of the protection and enhancement of the built environment will involve adherence to the following principles:

Protection:
Protection may involve stabilization; it must involve a continuing programme of maintenance.

Artifactual value:
Sites of the highest cultural significance are to be considered primarily as artifacts, demanding protection as fragile and complex historical monuments.

Setting:
Any element of the built environment is inseparable from the history to which it bears witness, and from the setting in which it occurs. Consequently, all interventions must deal with the whole as well as with the parts.

Relocation:
Relocation and dismantling of an existing resource should be employed only as a last resort, if protection cannot be achieved by any other means.

City of Hamilton Planning and Economic Development Department

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Enhancement:
The activities of removal or addition are characteristic of measures in support of enhancement of the heritage resource.

Use:
A property should be used for its originally intended purpose. If this is not feasible, every reasonable effort shall be made to provide a compatible use which requires minimal alteration. Consideration of new use should begin with respect for existing and original traditional patterns of movement and layout.

Additions:
New volumes, materials and finishes may be required to satisfy new uses or requirements. They should echo contemporary ideas but respect and enhance the spirit of the original.

Environmental Control:
Systems of insulation, environmental control and other servicing should be upgraded in ways which respect the existing and traditional equilibria and do not set in motion processes of deterioration.

D. Practice

Documentation:
The better a resource is understood and interpreted, the better it will be protected and enhanced.

In order to properly understand and interpret a site, there must be a comprehensive investigation of all those qualities which invest a structure with significance.

This activity must precede activity at the site. Work on site must itself be documented and recorded.

Conjecture:

Activities which involve the recovery or recreation of earlier forms must be limited to those forms which can be achieved without conjecture.

Distinguishability:

New work should be identifiable on close inspection or to the trained eye, but should not impair the aesthetic integrity or coherence of the whole.

Materials and techniques:

Materials and techniques should respect traditional practice unless modern substitutes for which a firm scientific basis exists, which have been supported by a body of experience and which provide significant advantage can be identified.

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Patina:

Patina forms part of the historic integrity of a resource, and its destruction should be allowed only when essential to the protection of the fabric. Falsification of patina should be avoided.

Reversibility:

The use of reversible processes is always to be preferred to allow the widest options for future development or the correction of unforeseen problems, or where the integrity of the resource could be affected.

Integrity:

Structural and technological integrity must be respected and will require attention to performance as well as to appearance.
Appendix C: Optional Use of the Protocol

1. This protocol may also be partially invoked at the discretion of the Chief Building Official (CBO) to advise on any situation where an owner has assumed responsibility and is acting on an Emergency Order or Unsafe Order that has been issued on a property listed in Appendix A. This will allow the CBO to be in communication with heritage staff and the Municipal Heritage Committee to advise the CBO on appropriate interventions and process as per the Reasons for Designation and the Ontario Heritage Act.

2. The protocol may be used by owners of heritage properties to assist in the formulation of a strategy to fulfill their obligations under the Ontario Heritage Act and the Ontario Building Code Act. Accordingly, if the owner of a property listed in Appendix A accepts responsibility for compliance with any order issued under the Ontario Building Code Act then the protocol may be used as a guideline, at the owner’s expense.

   If the owner is to undertake emergency work they must notify the City Clerk of their intent to undertake the required work and the reason for it in order to meet the requirements of the Ontario Heritage Act. Otherwise a heritage permit is required (see Appendix D).

3. The protocol may also be used by owners of a listed property (listed in “Hamilton’s Heritage Volume 2: Inventory of Buildings of Architectural and/or Historical Interest” in print or online at www.hamilton.ca/cultural-heritage) as a guideline, at the owner’s option and expense.
Appendix D: Ontario Heritage Act Provisions

Under normal circumstances, alterations to properties designated under Parts IV, V, and VI of the Ontario Heritage Act are managed under the City of Hamilton Heritage Permit process. Permit applications are evaluated and reported on by heritage staff to the Hamilton LACAC (Municipal Heritage Committee), which in turn makes recommendations to Council. The implementation of approved permits is monitored by staff, and the Ontario Heritage Foundation is informed on permit approval. Anyone who contravenes the Act (i.e. alters a property without a permit) under the Ontario Heritage Act, Section 69(1) can be charged with an offence.

However, under Section 69(4) a permit to alter a heritage building is not required in emergency situations where risks to public health or safety, or property are present.

Section 69(4) stipulates as follows:

A person is not guilty of an offence under subsection (1) for altering or permitting the alteration of a property designated under Part IV in contravention of section 33 or for altering or permitting the alteration of the external portions of a building or structure located in a heritage conservation district designated under Part V in contravention of section 42, if the alteration is carried out for reasons of public health or safety or for the preservation of the property, building or structure, after notice is given to the clerk of the municipality in which the property, building or structure is situate. 2002, c.18, Sched. F, s. 2(46)
Appendix E: Post-Intervention Activities and Conservation Strategies

Once the heritage resource of concern has been stabilized and Section 69(4) of the Ontario Heritage Act no longer applies, any other work must follow the requirements of the Ontario Heritage Act (i.e. heritage permit). However, HERT may continue to advise on the continued management of the resource until further notice.

Where the intervention strategy and preferred technical solution call for stabilization/shoring and/or mothballing of the heritage resource the following should be applied wherever possible.

Methods should be consistent with those standards and guidelines located within the Heritage Emergency Protocol Kit, most notably:


ii) The professional guidance of a restoration architect/structural engineer or other qualified person contracted by the owner and approved by the Heritage Emergency Response Team; and,

iii) Be consistent with the principles identified in section 2.2.

Where an intervention strategy calls for the restoration, salvage, and/or demolition of a designated feature of a heritage resource the following procedures, in addition to requirements under the Ontario Heritage Act, should be performed prior to any action:

i) the heritage resource shall be documented and photographed by the Heritage Emergency Response Team or a representative thereof; and,

ii) whenever feasible and necessary to prevent further damage designated features shall be carefully removed from the heritage resource, and stored in an appropriate location for conservation with the permission of the owner and an agreement in place as to who will pay for protection, transportation and storage.
Appendix F: Pre-qualified Contractors with Heritage Expertise

A list of pre-qualified contractors will be compiled and incorporated through the roster process into this document as part of the Built Heritage Emergency Management Protocol initiative.
LISTER BUILDING
HAMILTON, ONTARIO

HERITAGE REPORT

23 September 2006

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Clinton Brown Company Architecture
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Fax: (716) 852-3132
cbca@buffnet.net
APPENDIX

ADJACENT PROPERTIES

1. 15-21 King William Street
The adjacent four-storey retail and commercial building on King William Street is a late
nineteenth century building that has undergone considerable alteration. The original
symmetrical, three-storey façade is now an asymmetrical, four-storey façade with three
different periods of brickwork and window detailing. The original portion has large retail
openings at the sidewalk level, and an Italianate style upper façade with arch-top and
square windows marked by decorative stone sills, lintels, and window hoods. The fourth
storey is a more Edwardian or later pattern of simple tripartite windows not aligned with
the openings below. The eastern bay is a simple brick infill structure with unadorned
window openings, built as infill after the original bay collapsed during construction of the
Lister Block.

The building interior is marked by internal brick bearing walls and a wooden joist
system. The building has continued to have structural problems, evidenced by major
cracks in the internal brick walls running up from the basement through several storeys.
The cracking of the plaster indicates that these problems are continuing.

After viewing both the exterior and interior conditions, it is our feeling that this building
is not an appropriate candidate for preservation, restoration, or rehabilitation. It is not
known whether it has any important historical associations, but these would have to be
overwhelming to justify the costs for restoration. As a candidate for rehabilitation, it
would need to be in much better structural condition to be economically viable.

We agree with the proposal to demolish this building and to build a new building to the
same vertical plane, possibly incorporating elements of the existing façade. It our
recommendation that the decorative stone elements be carefully removed and retained,
and that consideration be given to reconstructing a portion of the original three-storey
Italianate façade as part of a building of otherwise contemporary design. The precedent
has already been established, with the infill bay, of creating a separation between this
original façade and the Lister Block. Such a separation could be repeated in a more
contemporary design. We do not recommend salvaging and reusing the brick. Because
of the way brick facades discolor over time, reused brick becomes a false patchwork
unless the bricks are replaced in exactly their original locations. This is not feasible in a
façade of this scale, nor is it warranted given the three stages of brickwork already used
on the building. A consistent new brick for the reconstructed Italianate portion would be
more in keeping with the original design intentions.

An alternative approach would be to brace and retain the original three-storey portion of
the façade, demolishing the rest of the building and attaching this façade element to a
new building. This would have to be examined for cost-feasibility.
Another alternative would be a fully contemporary façade, with reuse of the decorative stone elements as a lobby element or other feature. Whatever the direction, the new building would have to respect the existing rhythm, scale and articulation of the King William streetscape. The primary plane of the façade should be at the sidewalk edge, and the ground floor should be open as retail and/or entrance space.

2. 46-53 James Street North
This adjacent property presents a complicated preservation problem. Designed by William Thomas and erected in 1855-56, it has both architectural significance because of its association with one of Upper Canada’s more celebrated architects, and historical significance because of its age as the oldest surviving building on this block. The exterior of this building was examined but not the interior.

Despite its historical interest, its value and its viability have been compromised by several interventions and alterations. It is assumed that the ground floor facades in the original construction were divided into smaller bays to carry the weight of the ashlar masonry above. It is assumed that the current storefronts bear little resemblance to the original appearance, with the possibility of major steel beams spanning the openings to allow 20th Century retail facades.

On the upper storeys, the most significant change has been the removal of all the projecting cornices, window pediments, sills, and other stone decorative elements, in the middle and north bays of the primary façade. It appears that this destruction of architectural character was carried out for the sole purpose of installing a flat, three-storey high, metal cladding to create a ‘modern’ aesthetic. This reflects an unfortunate and fairly widespread trend across Canada in the 1950s and 1960s, although not usually accompanied by such intricate and selective demolition.

The one surviving bay that does retain its original features on the upper storeys shows considerable structural movement in the façade. This deformation suggests structural instability that may have been caused by changes at the retail storefront level.

All three bays have lost their crowning stone cornice, as visible in historic images.

There are a number of options for the treatment of this building.

The first would be preservation of the existing façade, removing the metal cladding and accepting the evolution of the façade with the ground floor changes. This would respect the surviving evidence of William Thomas’ design, but would be aesthetically unsatisfying because of the desecration of the ashlar masonry in the 60s and the loss of the cornice.

A second option would be restoration. This would involve stabilizing the cut stone cornice, both at the base of the façade and at the intermediate storeys. More detailed investigation would be required to analyze the source of these problems and design a solution. A full height steel structure might be required to tie back the stone blocks. The
trimmed back masonry features at all the window openings on the southern bays could be
removed and replaced with new limestone blocks carved to match the surviving evidence
on the north bay. The stone cornice could also be rebuilt using historic photographs for
evidence. The interior of the building could be retained in full, or the internal bearing
walls between each bay could be preserved back 20 feet or so to provide buttresses for
the primary façade. The rest of the building could be dismantled and the restored façade
could act as an entry to an internal atrium between this surviving remnant and some
contemporary midblock development. The problem with the restoration option would
likely be the economic viability of this approach. Many of the more intact works of
William Thomas have been preserved and restored, but usually with more of their
original features intact and with their structural condition more secure.

The third option would be an adaptive reuse project involving dismantling the present
façade and incorporating all or part of it into a contemporary building. Unlike brick, cut
stone in an ashlar façade such as this can be numbered, dismantled, and reassembled with
relatively little loss of character or appearance. The advantage of this approach would be
that the structural problems of the building would no longer be an issue. The rebuilt
stone façade would become part of an entirely new structure. The question of whether to
rebuild the whole façade or only one bay would depend on the condition of the remaining
stonework currently hidden behind the metal façade, and the cost of restoration. It is
impossible to tell how minimal or extensive the damage is in these other bays. It would
not be worth recreating a William Thomas façade in new stone to imitate the old, since
this would give a false sense of the history of the building. It is very possible that
recreating the one intact bay in an otherwise contemporary façade would draw more
attention to the true surviving evidence of Thomas’ handiwork, and at the same time
acknowledge the ongoing evolution of this part of the commercial streetscape of James
Street North.
LISTER BLOCK
HERITAGE IMPACT ASSESSMENT
PEER REVIEW

Our File: 6436

Prepared by:
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Email: mrc-kingston@mrc.ca
4. STRUCTURAL ASSESSMENT

As the member of the peer reviewers charged with the review of structural aspects the following review based on the submitted document and a cursory visual inspection is presented to review the information presented within the report.

For the purposes of structural assessment, the building can be divided into two main sections; the exterior façade and the interior frame. Within the HIA there is only brief reference to the condition of the interior frame of the building. No specific areas of significant deterioration are identified and during the site inspection the frame appeared to be in excellent condition.

Under the section on structure, a discussion of the floor heights is presented. The floor heights are listed from the first floor at 12'-9" to the second at 10'-10" and floors three to six at 9'-10". It is also indicated that the concrete beams reduce the clear height by approximately 14" thus the respective space under the beams is 11'-7", 9'-8" and 8'-8". During the inspection, the floor slabs and the beams in general appeared pristine. No indication of significant patterns of cracking or any distress was noted. Nowhere in the HIA does it indicate that any structural deficiencies related to condition affect the decision making process. The issues with the concrete frame are completely based on floor to floor heights.

Included in the HIA are construction photographs illustrating the progress of construction in 1923. In addition to the photographs a set of structural drawings was provided which show that the building is constructed with a steel frame encased in concrete. While there is no hard evidence to the contrary, the presence of the steel should be confirmed if the frame is to be reused as the steel is not specifically visible in any of the small sample of construction photographs that were provided.

Without the benefit of detailed calculations, only an impression of the strength of the structure can be provided. The structure appears to be robust and it is quite possible that it is capable of carrying the loads required by the current building codes. There may be issues with the lateral load carrying capacity in earthquake or the structural detailing associated with this loading however, there are methods to address these deficiencies. This may not be disputed by the owner as all of the issues related to the frame that have been illustrated in the HIA relate to the floor to floor height and geometry.

5. FAÇADE CONDITION

Most people’s interaction with the Lister Block is from the outside and is specifically related to the appearance of the façade. In the HIA as presented, a significant amount of material develops options where the façade is retained or reused. After the amendment, this premise was abruptly changed to the point where new construction would be used to sympathetically reflect the original structure. The basis for this shift appears to be related to condition and cost. The condemnation of the condition of the terracotta is based on a
report by Construction Control Incorporated from a street level visual inspection. The report concludes that, "The state of deterioration of the existing masonry is in many locations beyond economical repair and some locations the decorative terracotta moulding, parapets and cornices are in immediate danger of collapse. We strongly recommend that a detailed inspection of the exterior be undertaken to identify locations where removal of loosened or damaged material is required to ensure pedestrians are not in danger by pieces of falling masonry". This evaluation paints a picture of crisis however, no record of further action is provided to confirm that the suggested inspections occurred or that an effort was made to protect the public from the perceived danger. Later in the inspection report, the author states that, "Though it's decorative value still exists, conservative estimates would indicate that approximately 80 to 85 percent of this material has deteriorated to a condition which renders it, for the most part, structurally unsound and past its anticipated service life". While the heritage materials reviewer will discuss the feasibility of repairing and restoring the terracotta, the method for determining the estimate that 85 percent of the material is unusable and the resulting associated costs with reusing it are not described or alluded to in any way. In the pictures within this report, there would appear to be more than 15 percent of the material that is in pristine condition and given the heritage value of the structure and specifically the terracotta, one would expect that after the initial review that a more pedantic and documented process would be followed before condemning the structural soundness of the material. Some of the pictures used in the report were submitted in the original HIA and it appears that the evaluator, as stated in his report, only completed a visual survey from the ground. While from a structural perspective, it is reasonable to assume that the material is unsound until proven sound, the HIA later uses these statements as justification to preclude the reuse of any of the material and the requirement to demolish the entire building. Within the structure report, an additional investigation is suggested and it would appear that this investigation should have been completed before the HIA was submitted to definitively determine the likelihood of reuse of the material as well as the safety of the public.

There is a statement on page 12 of the original submission that some stabilization work was halted by the city on July 18th 2005. It is unclear exactly what transpired but I would assume if a detailed methodology and scope had been submitted to the Heritage Planning Department and was reviewed by the Heritage Committee a limited investigation and stabilization plan that conserved the material and did not alter the façade unnecessarily could have been approved. The formal information questioning the structural stability of the terracotta was completed in November of 2005 and no record of emergency repairs or a documented trail of pursuing approval to react to a perceived danger was provided. In addition the inspection from the ground that was completed recommended further investigation and no record of this work being pursued, reference to an application to the City of Hamilton to complete this work or the results was provided. This inspection should be completed to ensure that the public is not in danger and the information regarding the anchorage and condition of the terracotta that is required should be determined. The owner's lack of action would indicate that they do not perceive the current condition as an immediate danger.
Within the cost estimates that are provided as Appendix C to the HIA, cost estimates for restoration of the terracotta are provided by Clifford Restoration. Clifford Restoration is a respected contractor with experience in repairing terracotta. Within the details provided as part of their estimate, 175 pieces of terracotta are identified as requiring replacement and methods of repair are described. While this is an estimate from January 2000, even if a significant allowance for an increase in deteriorated units is included, one would not approach the 82 to 85 percent level described in the structural report. Based on a visual inspection from the ground, I would anticipate that the number of pieces requiring replacement is somewhere in the low 200’s however this cannot be definitively determined until the method of anchorage and the condition of the rear of the terracotta pieces is established. Based on our visual inspection, the detailing of the capped terracotta pieces is such that diligent maintenance is required to ensure that the butted cornice pieces are sealed against the entry of water. This appears to be the root cause of the deterioration that is visible in the cornice and will be of the greatest concern if the terracotta can be conserved.

In summation, more investigation is required to definitively determine the condition and the method of anchorage of the pieces of terracotta. It is believed that the pieces are anchored due to the fact that although water has been allowed to penetrate behind the surface, the alignment of the pieces has remained more or less straight. Without the knowledge of the method of anchorage, one cannot determine whether the pieces could be removed and salvaged or if during removal significant additional damage will occur. Also without this information it is hard to see the justification for the statement that 80 to 85 percent of the material is deteriorated to the point where it is structurally unsound. The most puzzling thing about the conclusions of this report is that no record of additional actions since the time of the report has been presented. This would appear to indicate that this danger is not perceived as an immediate danger. The condition of the terracotta is used as the key element in rejecting any efforts to salvage this material for reuse and therefore is critical to the evaluation of the Heritage Impact Assessment.

There are structural standards for the City of Hamilton which would indicate that regardless of whether the building is occupied or unoccupied that the owner is required to maintain the building. In researching the information regarding the building, there was a website found which listed the perceived infractions of the property standards for the City of Hamilton for the Lister Block. Until such time as a decision regarding the façade is made at minimum an effort to seal the building against the entry of water should be made. Skyward facing joints of the terracotta must be sealed to prevent the entry of water. This would slow the deterioration of this heritage feature. The standards include a requirement that the exterior of the building be kept weather resistant through the use of caulking and other appropriate weather resistant materials. If this had been done in the past, the condition of the terracotta may have been significantly better than it currently is.

Nowhere in the report did I find any mention of the condition of the chimney which appears to have a significant lean and should be evaluated.
May 2, 2008

Copper Cliff Metals &
Wrecking Corp.,
2906 South Grimsby Rd. 8
P.O. Box 914
Smithville, ON
L0R 2A0

CONTRACT: 7550: COMMERCIAL BUILDING
33 1/2 - 35 KING WILLIAM ST., HAMILTON, ON

REPORT: E08-05006: BUILDING CONDITION

As requested by Mr. T. DePasquale, the writer visited the above site on May 1, 2008 to examine the condition of the existing three storey commercial building.

The structure is of masonry bearing wall on stone foundations with wood framing for floors and roof. The roof is flat and is a built up felt and asphalt roof. The building is in the order of 100 years old and has been abandoned for an extensive period.

The roof had partially collapsed some time in the past, allowing water to penetrate to the interior. This has resulted in extensive wood rot.

Access to the third floor is extremely hazardous due to partial collapse of the second to third floor stairs. Large sections of the third floor have collapsed. Wood rot is visible in the framing in areas exposed by ceiling collapse.

The area of actual collapse on the second floor is less but extensive rot is still obvious from below.

The ground floor is mainly carpet covered but local areas of collapse can be noted and the floor can be negotiated only with care.

continued ...
The mortar in the foundation walls has deteriorated and a significant accumulation of mortar aggregate is present along the base of the walls.

Mould was noted throughout the structure. Based on our examination, we conclude that the building is unsafe. Costs of remediation would be excessive.
DATE: May 6, 2008

TO: CITY OF HAMILTON BUILDING DEPT.

ATTENTION: Doug Hardie

FAX NO: 905-546-2764

RE: Structure, 33 1/2 – 35 King William St., Hamilton

Addendum to Report E08-05006

Further to our report E08-05006 regarding the above site, the term 'unsafe' refers to occupancy safety. At the present time, it is our opinion that collapse of the total structure is not imminent and normal procedures for removal of services can be carried out prior to scheduling actual demolition.

R.W. Featherstone, P.Eng. President

IF ALL PAGES NOT RECEIVED, PLEASE CALL 905-693-1864/
888-388-5041