

Innovation



**Pipeline Routing in
Landslide-prone
Terrain**

**Residential
Heritage
Conversion**

**2010/2011
Project Highlights**

PM0065271

Residential Heritage Conversion

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Making Sense of the Recent Amendments to the Homeowner Protection Act

Recent clarifications to regulations governing new home construction are intended to address the issue that the *Homeowner Protection Act* (the *Act*) has sometimes come into conflict with heritage legislation, especially in residential heritage conversions.

Background

The Homeowner Protection Office (HPO) defines a new home as “a building, or portion of a building, that is newly constructed or being constructed and is intended for residential occupancy, and includes...a home that is, or is being, substantially reconstructed.”

In BC, new homes or substantially reconstructed homes require HPO registration which mandates licensed builders and new home warranty insurance. This ensures new homes and substantially reconstructed residential building projects are designed to meet the building codes that currently regulate construction in BC.

In BC, heritage homes have generally stood up to the elements rather well over the past century, but because of an unfortunate perceived risk associated with old building fabric, especially in single-family to multi-family heritage house conversions, insurers have required large-scale replacement of building components such as shingle siding and sash windows to secure a warranty. The conflict with heritage legislation

arises because retention of proven existing fabric, especially in the building envelope, is often critical in maintaining a historic place's community heritage value.

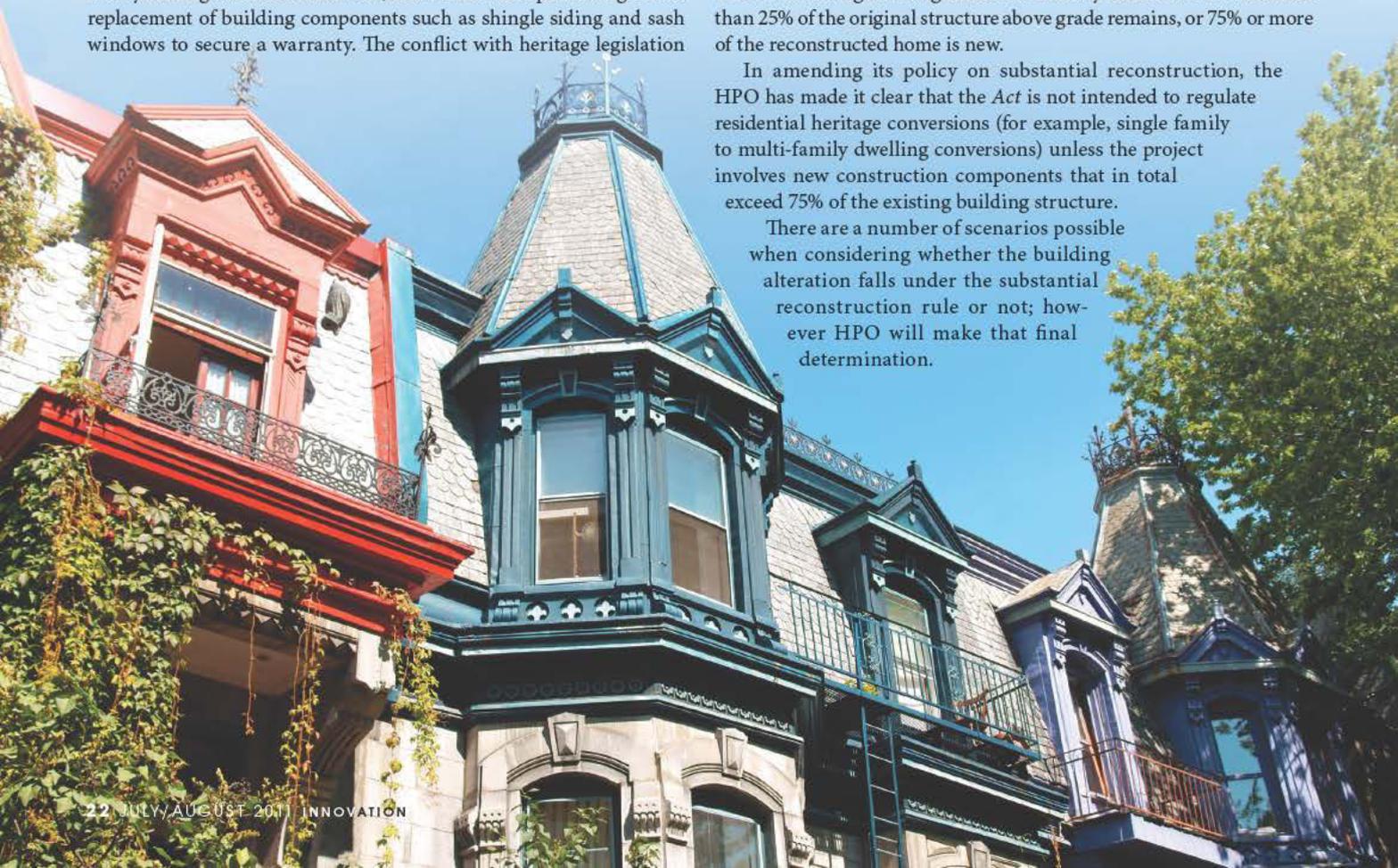
This has been an issue for municipal planning departments for almost a decade as they have tried to reconcile heritage protection with these legal imperatives and best new construction practices. However, two recent improvements have been made to facilitate the conservation of heritage building envelopes: a policy change clarifying the threshold at which the *Act* comes into effect on residential rehabilitations (substantial reconstruction) and a regulatory amendment that permits an exclusion from warranty insurance for certain heritage assemblies in commercial to residential conversions.

Substantial Reconstruction Threshold

Under an HPO policy change on the *Homeowner Protection Act*, an existing building that is being altered does not trigger the requirement for HPO registration unless the project is deemed to be either a new home, or a substantial reconstruction. Generally speaking, the *Act* considers an existing building to be substantially reconstructed when less than 25% of the original structure above grade remains, or 75% or more of the reconstructed home is new.

In amending its policy on substantial reconstruction, the HPO has made it clear that the *Act* is not intended to regulate residential heritage conversions (for example, single family to multi-family dwelling conversions) unless the project involves new construction components that in total exceed 75% of the existing building structure.

There are a number of scenarios possible when considering whether the building alteration falls under the substantial reconstruction rule or not; however HPO will make that final determination.



The HPO has produced a regulatory bulletin that explains substantial reconstruction www.hpo.bc.ca/files/download/Report/Substantial_Reconstruction_Homes.pdf, and the BC Heritage Branch is in the process of preparing a guidance note on the subject.

Amendment to the Homeowner Protection Act

A recent amendment to the *Act* recognizes that existing heritage components on renovations or conversions of non-residential to residential heritage buildings, such as a warehouse or commercial building to multi-unit loft conversion may be retained, and are exempt from new home warranty insurance.

This new provision (*Homeowner Protection Act Regulation s.10(1)(j)*) permits some or all components of a *designated heritage building* (see definition below) that have heritage value and do not conform to the BC Building Code to be excluded from new home warranty insurance.

Note that the substantial reconstruction rules do not apply in converting non-residential buildings to residential use.

Definition of a Designated Heritage Building

The *Homeowner Protection Act Regulation s.10(1.1)* defines a “designated heritage building” as a building that is:

- (a) a Provincial heritage site within the meaning of the *Heritage Conservation Act* or included in the Provincial heritage register under that Act, or
- (b) protected through heritage designation or included in a heritage register under the *Local Government Act*, the *Vancouver Charter* or the *Islands Trust Act*.

The above noted legal definition captures most formally recognised historic places, but there are some exceptions. For instance, federally owned National Historic Sites; properties within heritage conservation areas that are not on a register; and properties that may be formally recognised, but through an administrative error have not been included on a heritage register.

Given the intent of the amendments to the *Act*, the HPO acknowledges that these situations should be considered on a case-by-case basis and invites enquiries.

The Role of Local Governments

It is important to note that the heritage conversion or renovation project will

still require the existing structure to be made safe respecting hazardous materials, current life safety, structural (including seismic) aspects, and brought up to a reasonable standard for energy conservation.

In practice, the local government is the “gatekeeper” of the level to which the *Homeowner Protection Act* applies to a home-building project. It is often at the planning and inspections counter that there is a regulatory requirement to provide evidence of pre-approval for a new home warranty before plans can move forward.

Given this key role, local governments may wish to consider procedural changes to ensure that building permits for formally recognised historic places are monitored, and that the staff person responsible for heritage is notified of those permit applications—thus giving them chance to promote the new provisions.

Ultimately it is the local government that administers the heritage value of the historic places within its boundaries, and it may well be local government staff that needs to press for the new heritage exclusion provisions described above to be used to protect the public value of heritage property.

The Role of Heritage Professionals

Heritage professionals in BC come from diverse backgrounds. Whether they are materials technologists, architects, or

engineers, there is an appreciation that heritage buildings provide a general opportunity to showcase good rehabilitation practices.

BC’s heritage professionals need to become conversant with the nuanced approach that the HPO has taken to amending the regulations around heritage buildings and new homes. It is hoped that the forthcoming Heritage Branch guidance note on this subject will provide an enhanced understanding of that role.

More Information

For further information about the heritage exclusions in the Homeowner Protection Act, or the substantial reconstruction rules, contact:

Homeowner Protection Office:

www.hpo.bc.ca,

BC Heritage Branch:

www.for.gov.bc.ca/heritage/index.htm ☒

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