

NEW YORK
THE
HISTORIC
CITY

A REPORT PREPARED
FOR THE NEW YORK
CITY LANDMARKS
PRESERVATION
COMMISSION
BY THE HISTORIC
CITY COMMITTEE
6 FEBRUARY 1989

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William J Conklin, *Chairman*

Carol Clark
Ian Bruce Eichner
Harold D. Fredenburgh
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John J. Kerr, Jr.
Denis G. Kuhn
Matthew Nimetz
Otis Pratt Pearsall
Cesar Pelli
Charles A. Platt
Richard M. Rosan
David F.M. Todd
Susan Tunick
Anthony C. Wood
Michael H. Zisser

John R. Fawcett, *Administrative Director*

Jeffrey Simpson, *General Editor*

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*The Municipal Art Society created the
Historic City Committee as an
independent entity charged with studying
the Landmarks Law and its
administration. The recommendations
made in this report are solely those of the
Historic City Committee.*

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The J.M. Kaplan Fund, the National
Trust for Historic Preservation,
Edmund G. Stanley, Jr., the Vinmont
Foundation and the Norman and Rosita
Winston Foundation.*

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EXECUTIVE SUMMARY

The Historic City Committee was organized in January 1988 as an independent entity under the auspices of the Municipal Art Society at the request of Gene Norman, Chairman of the Landmarks Preservation Commission. The Committee, chaired by William J Conklin, examined the workings of the Commission and proposes a series of recommendations.

The theme which has emerged from a year's study is that the Landmarks Preservation Commission is in a time of transition from concentration on designation to concentration on regulatory activity with designation continuing as a large and essential part of the Commission's work. When the Commission was formally created by the City Council on April 6, 1965, there were many buildings and districts which called for protection for architectural, aesthetic, cultural, and historic reasons. The pressing need for identification, designation and protection was the consensus of the city. The Commission has sought to strike a balance between the rights of the owners of private property and preservation of landmarks as a matter of the public good.

As the number of designated properties has increased, the Commission has spent a greater proportion of its time regulating designated properties and enforcing compliance. Identification and designation of landmarks must remain a priority. The Commission, however, must adjust its procedures to allow it to master both its designation mandate and the growing regulatory task. A challenge faced by the Historic City Committee in studying the Commission was to make recommendations which will accommodate this dual requirement.

RECOMMENDATIONS

The Committee proposes that the Landmarks Preservation Commission be established as a separate full-scale city agency, independent of the Parks Department.

The majority of the members of the Historic City Committee believe that the unpaid status of ten of the eleven Commissioners, excluding the Chairman, should be maintained.

It is felt that reappointments to the Commission should be made in a timely fashion. In addition, the Committee believes that no Commissioner should serve more than two consecutive three year terms without a year's lapse before a third term.

The staffing and budgets of the Commission must be increased for it to accommodate its mandated activities.

Problems concerning the functioning of the staff should be addressed:

1. The organizational structure needs to be more clearly defined with more promotional paths created and improved management training provided.
2. There is a marked lack of computer equipment and a need for a comprehensive computer systems strategy.
3. There is a lack of an adequately staffed and funded Public Information Office.

The operations of the Commission can be divided into three principal areas: DESIGNATION, REGULATION, and ENFORCEMENT. The Historic City Committee has the following recommendations:

Mandated time limits have forced a continuous flow of regulatory decisions. But the absence of time limits for the DESIGNATION process has permitted postponement of designation decisions.

The Committee therefore proposes that the Commission publish an annual report which reviews and explains the survey and designation work of the Commission and its staff during the preceding fiscal year. Then, during the month of September the Committee proposes that the Commission hold a public forum to hear the views of the constituency on potential survey and designation priorities for the coming year. On December 1, the Commission should publish a plan of the geographical areas and building types they will be concentrating on for the coming year; and four times from that point on -- December 1, March 1, June 1, and August 1 -- the Commission should publish its quarterly calendar of designation hearing items.

Once the quarterly designation calendar is issued, the Department of Buildings would work with the Commission to ensure that permits for proposed work on calendared buildings are withheld until one year after the designation hearing is closed, in the case of an individual landmark, and two years, in the case of an historic district.

These periods can be extended briefly by a vote of six or more Commissioners and the building can still be designated if the protection period has lapsed; however, if the designation vote has not occurred within the appropriate time limits, the owner would once again be able to obtain permission from the Department of Buildings for alterations or demolition based on new or previously filed applications. After three years a new hearing would be required for the building to

be reconsidered for designation. Properties not identified in the published calendar could be scheduled for a hearing, but in that case the protection periods would be limited to 9 months for an individual item and 18 months for a district.

The Committee has several proposals for expediting the REGULATORY work of the Commission. One would be the creation of special hearings at which a reduced number of Commissioners could hear the permits for minor work denied by the staff with a Commission vote reserved for a later public meeting, thus freeing the full hearing agenda of these items.

The Committee proposes that the Commission prepare Preservation Policy Statements that describe the special character and historic significance of each historic district to aid and guide the Commission in its regulatory work.

Another recommendation relating to regulation is that guidelines should be drafted and published for the use of the Commission and the public on such subjects as replacement and repair of windows, installation of storefronts, etc., thus offering the public clear directives for their applications.

The appointment of an experienced, registered architect to the staff could help expedite the preparation of guidelines and the processing of applications involving new design.

The Committee also proposes implementation of a fee structure for the consideration of Certificate of Appropriateness items.

In terms of ENFORCEMENT, first, the Committee recommends the enlargement of the present enforcement staff, now consisting of but one full-time member, that monitors landmarks and districts for violations; second, consideration of expanding the jurisdiction of the Environmental Control Board and adding landmarks violations to the area of environmental violations; third, the Committee proposes exploring the possibility of amending the Landmarks Law to permit private right of action suits to be brought against violators by *bona fide* groups with a recognized preservation interest.

In its RELATIONSHIP WITH OTHER AGENCIES OF CITY GOVERNMENT, the Committee proposes that the Mayor take a strong stand on re-enforcing complementary policy making by the Commission and the City Planning Commission.

In addition, the Commission and the Buildings Department do not have compatible computer systems, and communications between them should be improved.

The Committee further recommends that an existing provision in the Landmarks Law whereby "the LPC may at any time make recommendations to the City Planning Commission with respect to amendments of the provisions of the ZONING resolution applicable to improvements in historic districts" be implemented to encourage the City Planning Commission to adjust zoning provisions, so that the zoning policy and district designations are consistent. The Committee also calls for the City Planning Commission to review the zoning of areas adjacent to historic districts and to consider transitional zoning for such peripheral areas.

Finally, both zoning changes and landmark designations currently require the review of the BOARD OF ESTIMATE. Under the Landmarks Law, the Board of Estimate must approve, modify, or deny the landmark designation within ninety days of the Commission's action. In the event of the Board of Estimate being abolished, the Committee recommends that if the Board of Estimate's present role in the landmark process is to be transferred to another body, it should be given to an elected representative body with a city-wide overview of the importance of landmarks preservation so that landmarks decisions are not unduly influenced by localized interests.

A C K N O W L E D G E M E N T S

This study would not have been possible without the cooperation and aid of the management, staff, and commissioners of the Landmarks Preservation Commission. Chairman Gene Norman, opened the Commission's doors to us and devoted a great deal of his own time to aiding the work of the Committee. Joseph Bresnan, Alex Herrera and Dorothy Miner were very helpful throughout the study. The Committee and management consultants from Touche Ross & Co. were able to survey, interview or consult many of the staff at all levels. The Commissioners, well represented on the Committee by two of their own, also provided us with critical information.

The Committee was very fortunate to receive *pro bono* assistance from two firms: Touche Ross & Co. provided management research services and Simpson Thacher & Bartlett provided legal advice and support.

Special thanks is due to the Municipal Art Society for generously providing our committee with meeting space and equipment. We were aided in our efforts by the encouragement of President, Kent Barwick, the support work of staff members Courty Andrews, Paul Gunther and Blythe Merrill as well as by the dependable breakfasts of receptionist Walter Doulin.

The funding for our work was provided by The J.M. Kaplan Fund, the National Trust for Historic Preservation, Edmund G. Stanley, Jr. and the Vinmont Foundation. General support from the Norman and Rosita Winston Foundation helped make the publication of this report possible.

Conklin Rossant lent both office space and services to the Committee.

The Committee members themselves gave their time tirelessly to a project that proved to be lengthy and complex. Over the course of a year's work, the full committee met 41 times and there were another two dozen subcommittee meetings. We held an all day public hearing that drew some 40 speakers and in private sessions, we heard the testimony of 16 experts in the fields of preservation and planning. In addition, the Committee met several times with both the staff members and the management of the Landmarks Preservation Commission. Through this process of investigation, education and discussion, the Committee became familiar with the full range of issues concerning the operations of the Commission, its role within the larger context of city government and land use policy, and the likelihood of future trends in these areas for the year 2000 and beyond.

Committee member Carol Clark prepared drafts of the sections, "Commission Issues and Committee Proposals" and "Commission Role in City Government" for the Committee.

The work of the Committee was immeasurably enriched by the diverse professional backgrounds and interests of its membership:

William J Conklin, the Committee's chairman, is a partner in the architectural firm of Conklin Rossant and a former Vice Chairman of the Landmarks Preservation Commission.

Carol Clark is Director of The Planning Center at the Municipal Art Society and is a Visiting Associate Professor at Pratt Institute School of Architecture.

Ian Bruce Eichner is a developer and principal of Eichner Properties. He is a former New York State Assistant District Attorney.

Harold D. Fredenburgh is an associate partner at I.M. Pei & Partners, a Director of the New York Chapter of the American Institute of Architects and Chairman of the Architectural Review Board of Bronxville, NY.

David A. Garcia, a member of the New York City Landmarks Preservation Commission, is the rector of St. Mark's Church in-the-Bowery.

John J. Kerr, Jr. is a partner of the law firm, Simpson Thacher & Bartlett, counsel to the New York Landmarks Conservancy and a Director of the Landmarks Conservancy and the National Center for Preservation Law.

Denis G. Kuhn is a principal at the architectural firm, Ehrenkrantz Group and Eckstut, and First Vice President of the Executive Committee of the New York Chapter of the American Institute of Architects.

Matthew Nimetz, a partner at the law firm Paul, Weiss, Rifkind, Wharton & Garrison, is a Director of the Landmarks Conservancy and Chairman of the United Nations Development Corporation.

Otis Pratt Pearsall is a partner at the law firm Hughes Hubbard & Reed who helped create the original New York City Landmarks Law and the Brooklyn Heights historic and limited height districts.

Cesar Pelli is an architect and principal at Cesar Pelli and Associates.

Charles A. Platt, an architect and principal of Charles A. Platt Partners, is a board member of the Municipal Art Society and a former New York City Landmarks Commissioner.

Richard M. Rosan is Senior Vice President for New Development at Silverstein Properties and a past president of the Real Estate Board of New York.

David F.M. Todd, an architect, is a member of the New York City Landmarks Preservation Commission.

Susan Tunick is an artist and president of the New York Chapter of Friends of Terra Cotta.

Anthony C. Wood is President of the Historic Districts Council and the program officer for The J.M. Kaplan Fund.

Michael H. Zisser is the Executive Director of the University Settlement House and a former chairman of the Department of City and Regional Planning at Pratt Institute.

Public Hearing Speakers:

Robert Alpern (Charter Revision Commission), Elizabeth Ashby (Carnegie Hill Neighbors), Benjamin Baxt (architect), Mary Brendle (citizen), Paul Byard (architect), Laurence Cohn (Central Park West Preservation Committee), Diedre Carson (Brooklyn Heights Association), Giorgio Cavaglieri (architect), Mrs. Gilmore D. Clark (citizen), Eugenie C. Cowan (Exploring the Metropolis, Inc.), Mary B. Dierickx (citizen), Robert J. Dryfoos (Council Member, 7th District), George Ennenga (Soho Alliance), Adele Filene (Women's City Club), Margot Gayle (Friends of Castiron Architecture), Christabel Gough (The Society for the Architecture of the City), William Hall (architect), Richard Hayes (Cobble Hill Association), Michael Heisler (citizen), Edward Kirkland (Chelsea Historical Society), Anne Lowenstein (Historic Preservation Committee of the Tudor City Association), Norman Marcus Esq. (citizen), Allen F. Maybee (Metropolitan Historic Structures Association), Al McGrath (Friends of LaGuardia Place), Margaret Moore (The Committee to Save the City, Inc.), Annette Rosen (Women's City Club of New York), Terry Rosen (Landmark West!), Joseph Rosenberg (Historic Districts Council), Halina Rosenthal (Friends of the Upper East Side Historic Districts), Frank E. Sanchis III (National Trust for Historic Preservation), William Shopsin (architect), Robert Silman (structural engineer), Teri Slater (East 78th Street Block


Association), Louis Smadbeck (Wm. A. White/Tishman East, Inc.), Richard Southwick (architect, for John Belle), Deidre Stanforth (Landmark West!), Jack Taylor (Union Square Park Community Coalition, Inc.), William H. Whyte (New York Landmarks Conservancy) Bernice Yazbek (The Committee to Save the City, Inc.) and Nancy Zuger (Landmarks Committee, Community Board #6, Manhattan).

Persons Interviewed by the Committee:

Robert Alpern, Kent Barwick, Laurie Beckelman, Paul Byard, Sylvia Deutsch, James Marston Fitch, William Ginsberg, Christabel Gough, Hugh Hardy, Frank Havlicek, Tony Hiss, Joseph Rosenberg, Halina Rosenthal, Arlene Simon, Robert A.M. Stern, Adele Chatfield-Taylor.

The Historic City Committee claims full responsibility for the material contained in the accompanying report.

Mr. Conklin joins me in expressing thanks to all of the above contributors, and others not mentioned, who educated the Committee and in effect made this report possible.



John R. Fawcett, Administrative Director

February 6, 1989

Hon. Gene Norman, Chairman
New York City Landmarks Preservation Commission
225 Broadway
New York, NY 10007

Dear Chairman Norman:

It is a pleasure to transmit to you this study prepared for the Landmarks Preservation Commission. It contains primarily short term recommendations concerning operating procedures for the Commission, and also long term goals for historic preservation here in New York. This year-long study has been prepared with the cooperation of the Commission and its staff, and also with the assistance of several organizations, both public and private, who have devoted pro bono effort toward this Landmarks cause. The report represents the conscientious effort of an extraordinary civic committee containing some of the city's leading preservationists, real estate developers, architects, lawyers and public servants. Our procedure has been to review carefully the many important proposals which have previously been made concerning the Landmarks Preservation Commission, to listen to the testimony of experts, to hold a general public hearing on the subject, to review the laws and procedures of landmarks preservation, including the workings of the Landmarks Preservation Commission, and finally to reach a committee consensus. This thorough-going procedure has had an extraordinary result - a unanimous report.

It is our understanding that the Commission and its staff, as well as civic groups, will now review the report and will make recommendations to you concerning the adoption of our proposals.

Sincerely yours,



William J Conklin, Chairman

C H A I R M A N ' S P R E F A C E

This study comes at a time when New York's self image is without doubt undergoing a profound change. A generation ago every believer in the city's ego bragged that he or she lived in the city whose skyline changed every morning. Now their sons and daughters want most to inhabit the ever-old, never-changing, constant-profile portions of the city. The promise of Urban Renewal with its sparkling and spacious image of a new city has beat a full retreat. The works of Robert Moses now appeal to us not really because of their derring-do, but because of their deco architecture and the antique cars on the old parkway photographs.

Preservation has scored an astonishing acceptance fueled to a remarkable degree by a populist base. Everyone, it seems, has become a preservationist.

But every student of urban history knows that enthusiasms can wane, that reformers can overstep as in urban renewal days, or lose their way before the reform is actually accomplished. The goal for New York, as it swings wildly through these phases in its changing self imagery, surely is to reach a kind of equilibrium -- to find a way to keep on growing, to keep on changing, to be the home of the ever new, but to do so within the rich context of the incredible architectural and cultural heritage of the city.

And incredible it is indeed. The Landmarks Preservation Commission has been in the process of identifying this heritage of our city now for nearly 25 years, and the good news is that the end is not yet in sight. In fact there is no real end, for the identification of both the facts and the artifacts of New York's heritage will be a continuing process. Continuing not only because technically every year brings onto the market a new crop of eligible products but also because every generation sees our urban history in a slightly different way, finding values in the overlooked buildings of a previous generation, and possibly in the process of refining the collection, changing the lesser old for the greater new.

As the city's historic heritage continues to be identified and to mature, thought should be given to the provision of rewards to certain extraordinary landmarks which promote neighborhood stability and have attained special significance in the life of the city. Such structures might be those which are more than a century old, are privately owned, and have their original non-residential functions either still intact or in a restored state. More detailed formal requirements and exclusions should be developed by the Commission.

Such landmarks, for example a neighborhood hardware store or drug store, which not only appears as it did but also functions as it did, deserve special notice. These might be called New York City Living Landmarks -- a designation to be conferred jointly by the Landmarks Preservation Commission and by the City Planning Commission and to be accompanied by a reduction in city real estate taxes.

Our appreciation for this heritage is only beginning. New York in the late 19th and 20th century was the premier city of the country, leading the nation over the decades by its urbanity in city construction as well as in style and culture -- Soho with its cast iron spell, Ladies Mile with its first department stores and luxury shopping strip, Midtown with the world's first penthouses and those rich and classy deco office buildings. The profile of Manhattan formed the very image of the 20th century city. In the less dense areas of the city, critical 20th century housing experiments like the Amalgamated development and Sunnyside Gardens were also pacesetters. It seems quite possible that eventually many artifacts of that history will be of interest to someone. And our obligation, as participants in preservation, is to make that process an orderly one, an accessible one and a fair one.

The success of preservation is usually measured in terms of the number of buildings saved, and this report, in part, also uses that quantitative system. But the values of the movement actually go far beyond the quantitative. Astonishingly, through some associative magic, old American governing methods seem to come back to life when the old American landmarks are restored. In the last decade the Landmarks Preservation Commission has come to occupy a unique place in the spirit of the city; in an urban atmosphere which frequently seems to be competitive and unresponsive, the Commission is known to be a governmental agency which takes constituents' interest seriously and the result is an extraordinary degree of participatory engagement from the citizenry. In communities around the city, when buildings and their histories begin to be respected and understood, then other neighborhood values seem to fall into step.

And in a city of manifold public and private problems, the Landmarks Preservation Commission has emerged as a center of respected justice, preserving and restoring not only respected objects but also the respected values of the past.

So the charge which this committee has undertaken, to improve the operations of the Landmarks Preservation Commission, is a very serious one indeed. The goals of the committee are largely short term in their nature, the committee believing that to get beyond the year 2000, one must first actually get to that new turn-of-the-century. Our recommendations must therefore be seen largely as ones which can be accomplished now, as ones which do not fundamentally reorient the

preservation effort, but as ones which will, we hope, make for a more efficient and orderly processing of the landmark decisions yet to be made in New York in this century. In spite, though, of this disclaimer of long term goals, it would be fair to ask whether or not the committee has a vision of the role of landmarks in the future New York. Our self adopted title provides a clue. Our beginnings were as "The Committee on New York - the Historic City, - a Study of Landmarks for the Year 2000," which quickly became shortened to our current sobriquet as "The Historic City Committee". Obviously everyone has already begun to sense what city that refers to, and although we meant this title to be a shock, its ready acceptance is proof of preservation's at-homeness in our city.

Though it is not an issue which the committee has chosen to vote on, it would be fair to say that the Committee does indeed have an image for the historic city which New York is rapidly becoming. Preservation in New York is not concerned just with individual buildings or even individual districts, as in most American cities. Here, like it or not, a significant portion of the city's fabric is of great historic value. Though only two percent of the property in New York currently falls under landmarks protection, a much larger percentage of the buildings in Manhattan are under some form of landmark protection, and significant new areas are under study. Within such areas, it could easily be argued that the Commission is one of the City's most influential instruments of government, and currently the processes utilized are not adequate for that responsibility.

So having an image of that future historic city is critically important - an image of artifacts, but also an image of operations. The goal for our historic city should not be restricted to historic districts, but rather should include the whole city and be concerned with the relation between the individual districts and the city. In the days of Urban Renewal, the artists' renderings always had the sun shining only on the new building through a miraculous hole in the clouds, an image which was unfortunately predictive of the purposeful disruption between new and old. The historic city of New York must have a vision where history continues but also continues to evolve.

New York needs its own image. Its past has been a unique act on the world's stage, and its future as the world's leading 20th century historic city should also be its own. Its 250 year urban history must become the unifying theme of the city with every building new or old, seen as an element in that history. The city must be seen as being its own library of its urban history, where every building is one book, and every street is one aisle. There are big books, and little books, there are paperbacks, and there are some leather bindings. Some sections of the library are amazingly intact from the old days, with that portion of the story of New York there for the reading. Like a library, if there were not a section for new books, this Ville Bibliotheque would fall into disuse and become irrelevant.

But in contrast to a library of books, this library of buildings, is seen, used, and read every day by every citizen of the city.

Such is something of the nature of the holistic image which is needed and also something of the nature of our future responsibility. The Committee sees the first stage in the accomplishment of a more complete vision for our Historic City as the creation of a more effective and efficient, legally tighter, New York City Landmarks Preservation Commission. But the Commission and all its procedures and valued laws must be seen ultimately as only tools to be used in the creation of a city which makes full use of its rich historic resources as critical parts of the powerful, culturally-mature urban environment which New York must become in the 21st century.



William J Conklin, Chairman

I. BACKGROUND AND DEVELOPMENT
OF THE NEW YORK CITY
LANDMARKS PRESERVATION COMMISSION

The beginnings of the historic preservation movement in New York City grew out of a century of increasing interest in historic preservation in Western Europe and America. Coincidental with the Industrial Revolution of the first two thirds of the 19th century, with its accelerated cycle of destruction and reconstruction of urban spaces, there came an interest in preserving buildings from the past. In mid-19th century France, Baron Haussman who created new boulevards through medieval Paris was the contemporary of the architect Viollet-le-Duc who was busy restoring, albeit somewhat to his own fancy, Notre Dame and the walls around Carcassonne. In America, as vestiges of the Revolution and the nation's beginnings faded from living memory, shrines such as Washington's headquarters at Newburgh-on-the-Hudson had been bought and restored as early as 1850.

The real flowering of historic preservation in America, however, came in the decades after World War II as a building boom began to actively threaten historic buildings across the nation. In 1945 very few American cities had any legal protection for landmarks, and of 6,400 historic buildings identified nationwide in a 1941 study, 2,560 would be gone by 1963. In Manhattan the modernist glass and steel skyscrapers which had begun to fill midtown and the white brick apartment buildings interrupting residential rowhouse blocks, coupled with the cumulative effect of thirty years of Robert Moses's urban renewal work in all boroughs, began to generate citizen interest in the cityscape as it stood. In 1951 Edward Steese, chairman of the Committee on Historic Architecture at the Municipal Art Society, presented a list to the Society's Board of historically and architecturally significant buildings in New York. It was compiled by Talbot Hamlin, a noted architectural historian at Columbia University. This initiated a series of exhibitions over the next few years which were intended to heighten public awareness of New York's architectural heritage and consolidate a constituency for preservation.

Another action taken at the same time which was to prove essential for further legal steps toward landmarks preservation was undertaken by Albert Bard, an eminent elderly lawyer with strong preservation interests. He initiated New York State legislation in 1956 which empowered municipalities to provide special regulations for the protection of buildings and objects of historical and/or aesthetic value.

In the late 1950s, the Brooklyn Heights Association drafted legislation proposing landmark protection for its historic neighborhood. This initiative, representing the interests of a cohesive district, made it clear to the city's political powers that historic preservation would be supported by the grass-roots citizenry.

In 1961 Geoffrey Platt, an architect who was chairman of the Municipal Art Society's zoning committee, and Harmon Goldstone, President of the Municipal Art Society, were appointed by Mayor Robert F. Wagner to a new Mayor's Committee for the Preservation of Structures of Historic and Aesthetic Importance. This was accomplished with the help of James Felt, Chairman of the City Planning Commission. In May of 1964 an Advisory Landmarks Preservation Commission presented the Mayor's Office with proposed legislation for a Landmarks Preservation Commission which was passed by the City Council on April 6, 1965. The Commission was the product of not only the Advisory Landmarks Commission, but was also created with the input of citizens' groups, ranging from labor unions and real estate investors to citizens' groups from Greenwich Village and, of course, the Brooklyn Heights preservationists.

The law directed the Commission to "effect and accomplish the protection and enhancement and perpetuation of such improvements and landscape features and of districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history." The Commission was to be comprised of eleven members, among whom there must be at least three architects, one historian, one city planner or landscape architect, and one realtor. A resident of each of the five boroughs must also be included among the membership.

The City Planning Commission shortly after this, in December of 1966, enacted zoning regulations, which included limitations on the heights of buildings in historic districts. It also provided for the transfer of development rights from an historic building to a neighboring site, which would serve as important complements in the overall preservation efforts.

The first two chairmen of the Commission were Geoffrey Platt (1965-68) and Harmon Goldstone (1968-73). During their administrations the Commission concentrated on designating buildings which, by consensus, were regarded as worthy of legal designation, and the Commission designated such districts as Brooklyn Heights and Greenwich Village, where there had been strong local support for designation. While working towards consensus, the Commission strove to find a balance between preservation for the public good and the rights of individual property owners. For example, under the hardship provision of the law, the Commission let the Jerome mansion be torn down because its maintenance presented a hardship to the owners and no buyer could be found.

Under the administration of Beverly Moss Spatt (1973-78), there was a marked emphasis at the Commission on designating buildings and districts in boroughs other than Manhattan, especially Brooklyn. This administration sought to coordinate the landmark process with broader Federal and city-wide planning objectives such as the stabilization of neighborhoods. Thus a number of individual landmarks and districts were designated in moderate and low income areas, particularly in Brooklyn.

In the late 1970s and early 1980s under the administration of Kent Barwick (1978-1983) a major new district, The Upper East Side, came into being and was accompanied by the formulation of regulatory policy. More buildings, districts, interior and scenic landmarks were designated in this time than in any other except the administration of Harmon Goldstone.

Gene Norman, the most recent Chairman (1983-1989), has carried on many of the programs and policies of his predecessors with a greater emphasis, out of necessity, on regulation. The Commission has concentrated their designation efforts on various special undertakings, such as the Broadway Theaters, and on the broad area surveys. Many sites, already reviewed in public hearings, await designation action.

Throughout the more than two decades of the Commission's existence, particularly in the last ten years, certain ancillary citizen's groups have also provided supplementary work relating to the identification and regulation of landmarks. In addition to the Municipal Art Society and the Brooklyn Heights Association, The New York Landmarks Conservancy, founded in 1973 with Brendan Gill as Chairman, was one of these, as was the Historic Districts Council. Over the years many other local groups have infused necessary energy into the process.

The involvement of citizen groups in preservation efforts in New York reflects one of the movement's most valuable contributions to the city, namely the revitalization and stability which preservation brings to neighborhoods where it is practiced. The citizen involvement in Brooklyn Heights and the economic potential represented by the preservation interests there had the effect of encouraging economic commitment, both residential and commercial, in adjacent neighborhoods. This led to the revitalization of such neighborhoods as Cobble Hill and Park Slope and the new growth of downtown Brooklyn itself.

Furthermore, the general desirability of neighborhoods where preservation efforts are underway is testimony to the essential role of historic preservation in buttressing the city's continued economic health. The quality of life in a historic district is often sufficiently attractive to enhance life in the

city generally, and maintaining that quality is absolutely essential to the survival of a city like New York in the future. According to recent studies, the second largest industry in New York today is tourism, and it is predicted that by the year 2000 it will be the city's largest industry. As *New Yorker* writer Tony Hiss has pointed out, tourists come to New York to see what is already here. Greenwich Village, the Empire State Building, Rockefeller Center, the Broadway Theaters, the view of Manhattan from Brooklyn Heights, Ellis Island in its new restoration, all are mythic in the imagination of every American. These sites and the many individual landmarks and historic neighborhoods across the five boroughs are part of a fabric of one of the most richly textured urban environments in the world, and the warp of that fabric is the buildings and neighborhoods created over time and protected by landmarks designation.

In short, we believe that:

1. Preservation has strengthened, rebuilt, and rejuvenated neighborhoods and the housing stock in them;
2. Preservation has contributed to the economic base of the city; and because of the quality of life it creates, it will continue to do so in the future;
3. Preservation plays a strong iconographic role in tourism which will continue to grow as one of the city's leading industries.

II. COMMISSION STRUCTURE AND OPERATIONS

THE LANDMARKS LAW

MANDATE

In 1965, New York City amended the New York City Charter to establish a Landmarks Preservation Commission. The law provided for an eleven member commission with an executive director, but did not specify further about a staff. The purpose of the new commission was to:

"(a) effect and accomplish the protection and enhancement and perpetuation of such improvements and landscape features and of districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history; (b) safeguard the city's historic, aesthetic and cultural heritage, as embodied and reflected in such improvements, landscape features and districts; (c) stabilize and improve property values in such districts; (d) foster civic pride in the beauty and noble accomplishments of the past; (e) protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided; (f) strengthen the economy of the city; and (g) promote the use of historic districts, landmarks, interior landmarks and scenic landmarks for the education, pleasure and welfare of the people of the city."

CRITERIA

The law identifies a landmark as "Any improvement any part of which is 30 years old or older, which has a special character or special historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation and which has been designated as a landmark pursuant to the provisions of the Landmarks Preservation Law." Each potential individual landmark is evaluated according to these criteria. Historic district criteria recognize "periods or styles of architecture", especially as they cause an area "to constitute a distinct section of the city." In addition to an individual building or an historic district, a publicly accessible building interior, scenic landscape, monument or other structure can be designated a landmark.

The criteria for designation are broadly stated so as to encompass landmarks as divergent as a cast

iron street clock and Central Park. Determinations are made on a case by case basis by commissioners who evaluate potential candidates through a combination of site visits, written and oral testimony from owners, the public, academic research by a trained staff, and discussions held at public hearings and public meetings.* In making their evaluation, Commissioners consider "... among other things, architectural significance, whether national, regional or local; uniqueness of design; status as the work of a noted architect; its place in the continuity of architectural development in New York City; and special historical associations with individuals or events."

APPLICATION

Since its enactment in 1965, the Landmarks Law has enabled the City to preserve for the economic and cultural benefit of its citizens many individual buildings and historic districts. The simple elegance of the law and its enormous success has made it a legislative model for other cities.

Early in its history, the Landmarks Law was challenged as an unconstitutional restriction on the use of private property. Its critics argued that the restrictions imposed on landmark properties were burdensome and unfair to the owner and constituted an unconstitutional "taking" of property under the Fifth and Fourteenth Amendments to the United States Constitution. In the celebrated case of Penn Central Transportation Corp. v. City of New York, 438 U.S. 104 (1978), the United States Supreme Court upheld the Landmarks Law against this constitutional attack. The Court ruled that preservation of historic, architectural and cultural features of a city by preservation laws such as New York's is a legitimate and laudable exercise of government authority.

Despite past successes, the Landmarks Law continues to be challenged in new ways by those who oppose the designation of their property. For example, in the St. Bartholomew's Church case, the claim has been made that the designation of religious properties violates the First Amendment guarantee of freedom of religion. Such cases strain the Commission's limited resources. However, the number of litigation challenges is very small compared to the number of properties preserved by the Landmarks Law, which continues to shine as an outstanding model of legislation, tested and upheld by the United States Supreme Court.

*The former term "executive session" was recently replaced by the term "public meeting" at the Commission. Where appropriate, this report employs the new term.

T H E C O M M I S S I O N E R S

To encourage balanced and informed decisions, the law calls for the membership of the Commission to have a particular blend of expertise and background. Among the eleven members,

there must be "... at least three architects, one historian qualified in the field, one city planner or landscape architect, and one realtor." The law also stipulates that the membership include at least one resident from each of the five boroughs. Commissioners are appointed by the Mayor for terms of three years with reappointments coming at staggered intervals. The Mayor also designates one member to be Chairman and another to be Vice Chairman. Commissioners are not compensated, with the exception of the Chairman. An Executive Director is appointed, who like all other staff is compensated according to the civil service guidelines.

DESIGNATION

For the Commission, the process of designating a landmark begins with the work of a subcommittee of Commissioners who screen a pool of designation candidates compiled by the staff on an ongoing basis. Selected items are then calendared for a public hearing, by a majority vote of the Commissioners during a public meeting. Currently, designation hearings are held approximately four times a year. The hearings offer the public and owners an opportunity to testify before the Commission in a participatory process that is rare among city agencies. At the conclusion of the public hearing, the Commission may vote to continue the public hearing, hold open the hearing record or close the record. Subsequently, in a public meeting, the Commission votes either to designate or to deny the item in question. Any final action requires a vote of the majority of the Commission (6). Public hearings may be conducted without a quorum. While not obligated to do so, it is the practice of the Commission to rehear an item if no action has been taken within approximately three years of the hearing, except in cases when contact with the owners has been maintained. Items are recognized as landmarks from the moment of designation, though they are subject to subsequent review and approval by the Board of Estimate.

REGULATION

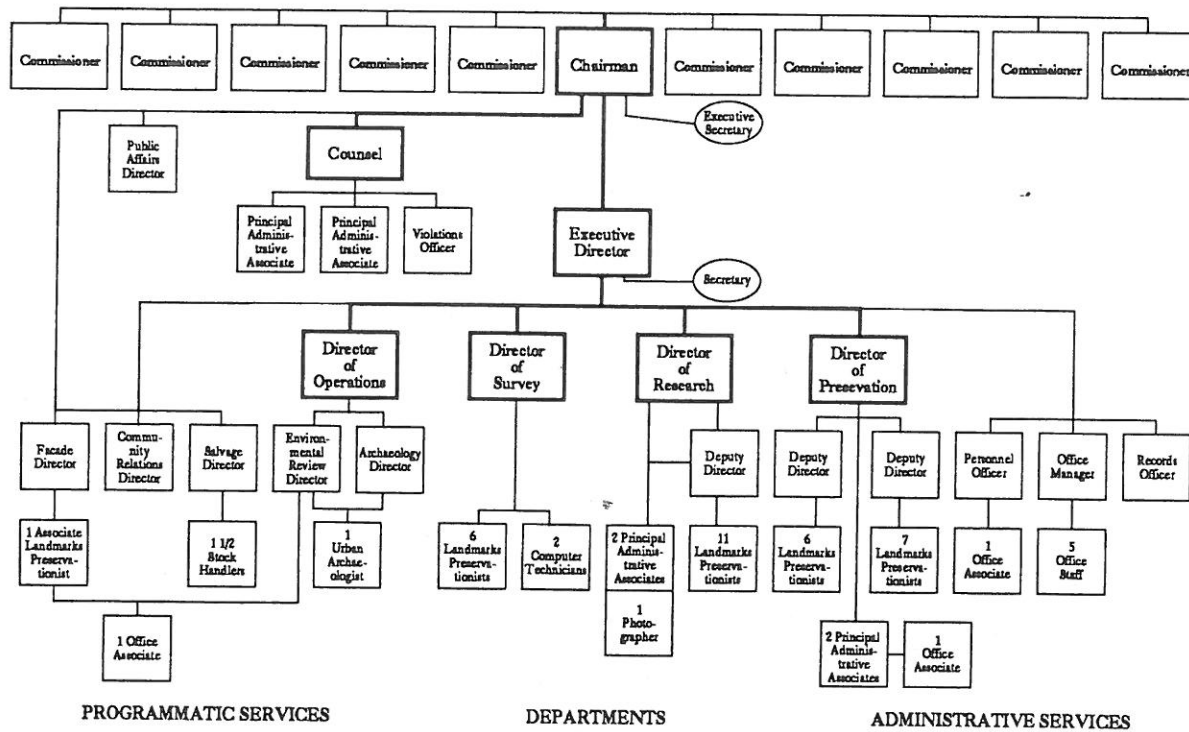
The Commissioners also have considerable regulatory responsibilities, which include considering Certificate of Appropriateness (C of A) applications, advising the City on work proposed for its property and formulating design policy, particularly for historic districts. All applications for work that would have a major effect on the protected features of a designated property are brought before

the Commission for review and approval. A monthly public hearing is held for each proposal. The Commission votes to approve, modify or deny the proposal, usually at the hearing or public meeting. In the 1980s, the number of C of A's handled by the Commission grew dramatically. On the average, the Commission now holds two meetings a month relating to regulation.

THE STAFF

The staff of the Commission has expanded considerably over its twenty-three year history. Today, there are 62 full time staff members. The principal staff departments are Survey (6), Research (14) and Preservation (15). Smaller departments in terms of numbers of employees include Legal, Archaeology and Environmental Review, Facade Improvement, and a salvage operation. For the fiscal year 1989, the City approved a total of 72 staff positions for the Commission.

TABLE OF ORGANIZATION: LANDMARKS PRESERVATION COMMISSION



72 Approved Full Time Lines. Managers Shown in Bold. SOURCE: Landmarks Preservation Commission

Table No. 1

SURVEY

The Survey Department is responsible for locating and cataloging important structures and landscapes (generically called items) for potential consideration by the Commissioners. At any given time, the Department may be surveying a number of areas throughout the five boroughs at the direction of the chairman. Surveys have been conducted by car, known as "windshield surveys", or on a much more detailed level by site visit, which includes written descriptions and photography. Potential candidates for designation may also be identified by the public, which may petition the Commission by written request.

RESEARCH

The Research Department refines and expands on the work of the surveyors, following, for the most part, designation hearings. On an ongoing basis, the staff researches particular questions for individual Commissioners and staff of the other Commission departments. The main thrust of their work, however, involves conducting detailed investigations into the aesthetic merit and cultural and historical interest of all potential landmarks and preparing presentations to Commissioners based on field research and information from primary and secondary sources.

Research staff prepare designation reports on all items that are heard by the Commission and these reports must be largely complete by the time of designation. Once an item is designated, the staff has five days to finish its report and deliver it to the City Planning Commission, the Board of Estimate and other pertinent agencies. The Board of Estimate may, without stated reason, approve, modify or deny the designation.

PRESERVATION

The Preservation Department is responsible for preparing reports for the Commission relating to the regulation of changes to the protected features of the 824 individual landmarks, 54 historic districts, 75 interior landmarks, and 9 scenic landscapes that currently constitute the City's landmark inventory (source: The Mayor's Management Report, Sept. 15, 1988.) Most preservation staff work involves determining whether owner applications for physical changes to a landmark are appropriate. All proposed restorations of and alterations or additions to a landmark must receive Commission approval and require an official permit. Since all applications for work must be processed by the staff within specified time limits (90 days for a C of A) and owners may file at any time and submit any kind of proposal, the schedule of the Preservation Department is determined by external forces.

PERMITS

The Preservation staff on behalf of the Commission can issue a Certificate of No Effect (for work that will not negatively affect the protected features of the item) and a Permit for Minor Work (for minor work that may affect protected features, but does not require a Department of Buildings permit). The staff can also judge an application to require a Certificate of Appropriateness (for major work affecting the item's protected features), which involves extensive preparation on the part of the staff for the mandatory hearing before the Commission. Approval by vote of the Commission is required before such a permit can be issued.

For all permits, if approval is forthcoming, the staff must continue to work with applicants and review additional submissions, supervise the completion of working drawings, attend on-site meetings and make on-site inspections when necessary. Finally, in the case of City-owned landmarks where the Commission has an advisory role only, the staff prepares a report for the appropriate City agencies following a hearing and determination by the Commission. The staff may also write staff level reports for work that does not require the approval of the Commission. Beyond helping applicants complete their applications, signing off on work and issuing permits, the Preservation staff spends a great deal of time presenting individual C of A and City -owned building cases at hearings of the Commission and answering questions posed by the public.

ENFORCEMENT

A single staff member from the Legal Department monitors individual landmarks and historic districts for work initiated without a permit or authorized work carried out inappropriately, both of which constitute landmark violations. In addition, the staff member in this area investigates reports of such violations that may be communicated by the Commissioners, other Commission staff members or the general public. When a violation is discovered the Commission issues a Notice of Violation to the owner. This notice does not have the power of a Department of Buildings citation. Nevertheless, since an owner cannot get a Department of Buildings Certificate of Occupancy (C of O) or an amended C of O without first obtaining the necessary Landmarks approval, the Commission can effectively prevent owners from obtaining a valid C of O by not issuing a Landmarks permit to an owner whose building has outstanding Landmarks violations. Over half of all violations are legalized at staff level. Staff decisions can be appealed to the Commission. These appeals constitute a significant percentage of the regulatory matters brought before the Commissioners.

ENVIRONMENTAL REVIEW, SALVAGE & FACADE IMPROVEMENT

The Commission also has small staff departments in the areas of environmental review, salvage and facade improvement assistance. One staff member is assigned to review proposals and develop projections concerning the effect new development might have upon historically important structures, including landmarks, in response to the City Environmental Quality Review Act (CEQRA). A related department is that of archaeology, which is staffed by one planner and one archaeologist. The Commission's involvement in archeological matters is often precipitated by the environmental review process.

The Commission salvage program, which employs one full time preservationist and two part time assistants, salvages useable historical building components such as doors and architectural cast iron from demolition sites, mainly of City owned buildings. These items are stored in a warehouse in Williamsburg, Brooklyn and sold from there at a reasonable price to homeowners for reuse, largely in historic districts.

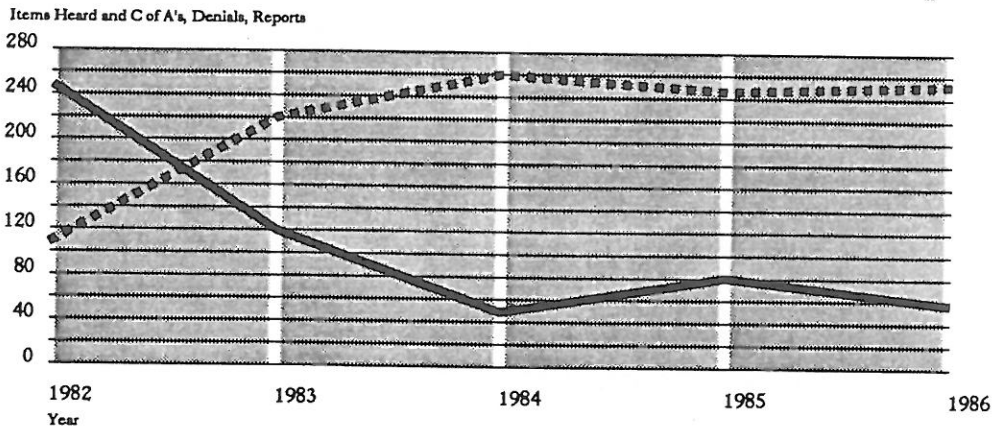
A Facade Improvement Program, dependent on Community Development Act funds is available for lower-income landmark owners, mainly in historic districts. The Commission has an additional facade program which provides assistance to landmark structures owned by not-for-profit organizations.

III. COMMISSION ISSUES AND COMMITTEE PROPOSALS

MANAGEMENT

THE COMMISSIONERS: ISSUES

Many of the actions of the Commission, including both designations and regulation of landmarks, require the formal attention of the Commissioners. Over time, as the number of designated items has increased, the regulatory burden has grown. Approximately 10-15 percent of all regulatory applications require Commission action. Between 1980 and 1986, total regulatory items heard rose from approximately 900 per year to over 2,000 per year, a substantial increase. Due to statutory time limitations, completed regulatory applications requiring Commissioner review must receive a response within specified time periods (90 days for a C of A). No such statutory limit exists for designation items. Thus, the Commission's agenda has been burdened by a need to deal with a rising number of regulatory applications, while also addressing designation matters.



COMMISSIONER ACTIVITY

Designation
 Regulation

COMMISSIONER ACTIVITY: The number of items heard for designation and those regulatory applications requiring disposition by the Commission.

SOURCE: TOUCHE ROSS & CO.

Table No. 2

Evidence suggests that the number of individual landmarks and historic districts worthy of future designation is large, although the precise number of potential landmarks is indeterminate. We assume that the process of designating new landmarks will continue unabated. This potential volume of work has implications for the workload of present and future Commissioners. Productive management of Commissioner time is the single most important challenge the Commission faces today. Members of the Commission serve as volunteers. The quality of individual Commissioners has been essential to the Commission's success as an independent, rational and highly competent public agency. Although in its twenty-four year history, well qualified, dedicated people have been willing to serve on the Commission, in recent years, delays in timely reappointments have caused the Commission to have vacant seats. Such delays can cause serious operational problems.

Both the Commission's Chairman and its Executive Director are involved deeply in the day-to-day business of the Commission. Specific training or experience in public policy is not required of the Chairman, nor is professional managerial training required of the Executive Director. A clearer division of responsibilities between these two titular heads of the agency would be appropriate. Ideally, a strong Executive Director, preferably with professional managerial training, should be responsible for much of the day-to-day running of the Commission, permitting the Chairman to deal largely with policy matters, the public and the press.

THE COMMISSIONERS: PROPOSALS

1. MAINTAIN THE VOLUNTEER STATUS OF MEMBERS OF THE COMMISSION OTHER THAN ITS CHAIRMAN.

Volunteer service for the Commission has worked well throughout its history and, assuming timely reappointments are made, volunteerism should remain viable at the Commission. The Committee debated at length the merits of paying Commissioners.

Although some Committee members were in favor of paying Commissioners, the majority concluded that payment might encourage development of a patronage system and that it would be impossible to compensate Commissioners adequately for income they lose in their professions. Another persuasive argument in favor of the *status quo* is that volunteer service in itself has not been an obstacle to finding outstandingly qualified people. We support continuing this system with the addition of a *per diem* payment to Commissioners of \$100 per day of service.

2. MAKE TIMELY REAPPOINTMENTS TO THE COMMISSION.

The Landmarks Law provides for staggered terms for the Commission to assure an ongoing institutional memory and consistency over time in the Commission's actions. Recently, Commissioners have been serving well past the expiration of their terms because of a slowness in the appointment process. This practice invites operational problems for the Commission, raising the possibility that a majority of Commissioners could conclude their terms at the same time. Consequently, it is of utmost importance that the Mayor, his appointments staff, and the Mayor's Appointment Committee, work expeditiously to ensure that the intentions of the framers of the Landmarks Law be respected by timely reappointments when terms expire. Regardless of the timeliness of appointments, the present system of staggering the Commissioners' terms should be maintained.

As written, the Landmarks Law does not limit the number of terms a Commissioner may serve. We believe that no Commissioner should be eligible for more than two consecutive terms. After the expiration of one year, subsequent to serving two terms, a Commissioner would be eligible for one or two more terms.

3. REDUCE UNNECESSARILY LONG PUBLIC HEARINGS AND PUBLIC MEETINGS.

Efforts should be made to reduce unnecessarily long public hearings and public meetings, where it can be done without affecting the requirements of such hearings and meetings. For example, parts of the public record of Commission hearings and public meetings, such as letters from the public, are read aloud at hearings. Particularly at public meetings when there are rereadings and repetitive staff presentations, this practice is extremely time consuming. If documents to be included in the record are made available to Commissioners and the public for review, preferably in advance of the hearings, it should be possible for the Chairman or Executive Director to note for the record the items included in the record without reading the documents aloud. The Chairman and legal counsel to the Commission should dispense with the practice of reading aloud such material in the record and consider similar adjustments in order to save time on the Commission's public agenda.

4. CLARIFY AND SEPARATE JOB DESCRIPTIONS OF THE CHAIRMAN AND EXECUTIVE DIRECTOR.

The separate responsibilities of the Chairman and Executive Director must be carefully defined. The Committee recommends that the Chairman delegate managerial matters to the Executive Director, reserving sufficient time to address policy matters with the Commission, and to attend to

intergovernmental issues, the public and the press. The Executive Director should be required to have managerial training. He or she should report to the Chairman, direct staff involvement in Commission proceedings and act as the chief liaison between the staff and Commission. In this work, the Executive Director should be reinforced by an Executive Assistant, currently one of the partial duties of the Director of Operations.

The organizational structure should reflect a single line of command from the Chairman to the Executive Director within whose purview falls all of the Commission's day-to-day operational concerns. The Executive Director should be in regular frequent contact with staff department heads. The Executive Director should sit at all Commissioner meetings, represent the Commissioners to the staff, handle all Commissioner requests and assign any work related to them.

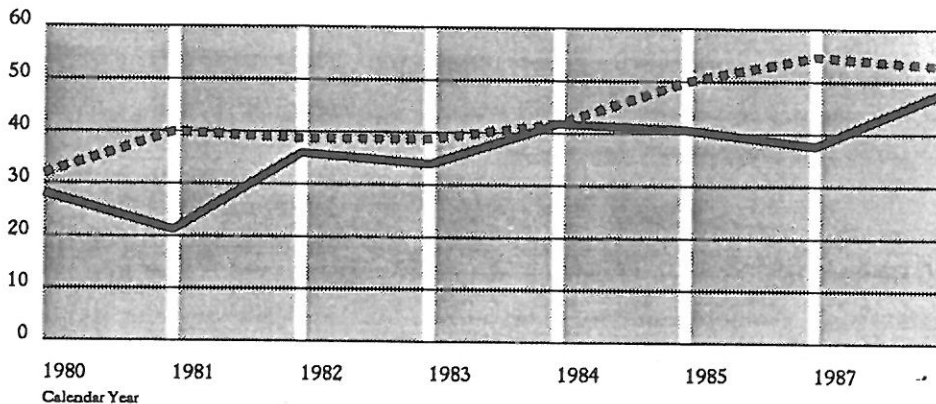
THE STAFF: ISSUES

Management consultants at Touche Ross & Co., who interviewed staff at the request of the Historic City Committee found a remarkably well educated and devoted staff, whose increased productivity over time has paralleled their increasing numbers. But Touche Ross & Co. also reported that there is evidence of a lack of communication between management and staff and between staff in different departments. Among the principal complaints of the staff are low salaries and the constraints on professional development and promotion at the Commission. Though a career and promotional path to management exists in theory, upward mobility into management is limited by the organization's size. Those in management positions typically have greater seniority and, without any alternative advancement path, other staff members perceive limited prospects for promotion within the organization. Since the Commission experiences a relatively high staff turnover, there are few existing members of medium tenure (four years of service), normally the largest component of such an organization's staff. This high rate of turnover is particularly severe in the Preservation Department which, with its permit responsibilities and enforcement role, has the greatest contact with the public.

The Commission is also burdened by familiar but nonetheless significant administrative problems. The organization has few computer facilities and a limited computer systems strategy. Its reliance on six stand alone-personal computers and conventional typewriters limits staff productivity, reduces the sharing of resources, restricts data retrieval and requires excessive time on redundant tasks which could be automated. According to the staff, for example, the Research Department can use only a portion of its existing research largely because of a lack of accessibility and ready retrieval. Although new offices have improved file storage capacity, filing systems for each

department could be improved. In addition, more effective sharing of information by the staff with other city agencies could make the Commission's operations more efficient.

Serving the Commissioners in their designating and regulating functions is the most important job of the staff. However, providing the public with information about landmarks and historic preservation is another important function of the staff. Currently, public relations is a primary responsibility of the public affairs director, but management and staff also participate regularly in the Commission's interaction with the public. Every staff member answers inquiries, principally through a rotating "phone day" which accounts for approximately one tenth of each professional staff member's job. Providing information to the public is an area in which the staff could become more



DESIGNATION AND REGULATORY HEARINGS TO STAFFING

Activity to Staff ■ ■ ■ Total Staff
 ACTIVITY TO STAFF: Ratio of designation and regulatory hearings per staff.
 SOURCE: TOUCHE ROSS & CO.

Table No. 3

effective. In particular, reliance on "phone day" is an inefficient use of technical staff time. Moreover, inconsistent responses to similar inquiries, the result of differing staff opinions and interpretations of policy and practice, is perceived to be a persistent problem. In providing answers to queries from the public, staff rely largely on their education and training, rather than on documented precedents indicating the Commission's position on a given question.

THE STAFF: PROPOSALS

1. ADDRESS THE ORGANIZATION'S NEED FOR IMPROVED MANAGEMENT AND STAFF TRAINING.

Like most organizations, the Commission could benefit from formal management training, from a clarification of the specific responsibilities of individual staff positions, and from an improved employee orientation program. Improved training of supervisors should be a priority. Finally, development of an improved staff procedures manual would help in orienting new staff and in encouraging consistency in staff performance.

2. PURSUE ADMINISTRATIVE IMPROVEMENTS.

Filing systems for each department should be improved. Management should seek closer relations with other City agencies to encourage the sharing of information. For example, since the Department of Finance has photographs of each property in the city, the Commission survey staff could make better use of that resource, particularly if had the equipment to read video disks.

3. EXAMINE STAFF PROMOTIONAL PATHS AND PROFESSIONAL DEVELOPMENT OPPORTUNITIES.

Every effort should be made to retain and groom professional staff. Criteria for job performance reviews should be communicated clearly to the staff by management. Alternative promotional paths to technical expert positions rather than manager should be established so that staff members with interests or skills outside of management have better advancement opportunities. Professional development opportunities, such as attendance at relevant seminars and conferences should be made available in recognition of valued staff performance.

4. OBTAIN ADDITIONAL COMPUTER EQUIPMENT AND DEVISE A COMPUTER SYSTEMS STRATEGY.

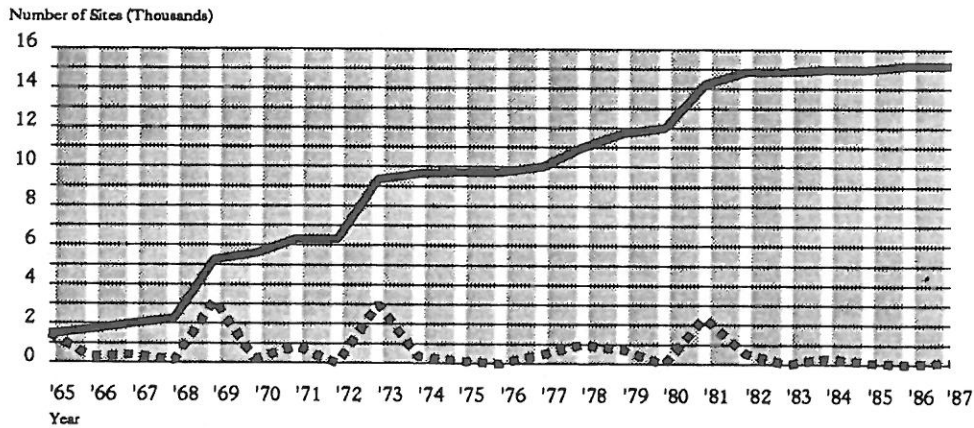
There should be sufficient computer stations in each department to make computerization a real tool serving to enhance the efficiency of the Commission and the timeliness with which it can deal with outstanding and new matters.

A computer system should provide for the cataloging of factual and photographic data concerning historic properties; it should be designed to file information in regulatory applications, enforcement violations, and the status of designation -- and integrated with a system to flag critical path items and action deadlines; and it should allow material to be cross-referenced to facilitate an efficient flow of information between departments and to enable similar matters or categories of information

to be quickly referred to and compared.

5. CREATE A PUBLIC INFORMATION OFFICE.

We recommend expanding the current public affairs office to include public relations staff and other persons skilled in responding to information requests by the public. "Phone day" for individual staff members should be eliminated and incoming requests for information should be handled by the public information staff. A public information and procedures manual should be developed to ensure consistency in response to questions and to eliminate the practice of repeatedly asking technical staff for answers to similar questions. Part of the staff archivist's work should involve compiling separate public information master files.



SITES DESIGNATED

— Cumulative Sites Approved ■ Sites Approved per Annum
 SITES: All items designated by the Commission including the number of buildings in historic districts.
 SOURCE: TOUCHE ROSS & CO.

Table No. 4

DESIGNATION

ISSUES

The pace of landmarks designation has slowed considerably in recent years, but not because the Commission has completed its survey and designation work.

To the contrary there are many more *bona fide* landmarks than have been granted official designated status. But a decrease in designation activity has been widely recognized. The Commission's increased regulatory workload has contributed to the slow down in designation activity, as have the consideration of complex, time consuming matters such as the designation of the Broadway theaters, the much publicized Certificate of Appropriateness and hardship applications from St. Bartholomew's Episcopal Church, and the consideration of new historic districts. In addition, unexpected items have been scheduled for designation hearings, throwing off the Commission's planned work schedule. In examining this situation, the Historic City Committee has concluded that adoption of a more systematic approach to the survey and designation process is necessary. A large number of worthy properties not yet designated comprise a so-called "backlog" of items previously heard but never designated. The precise number of items in the back log is calculated differently by different observers. The Commission's Executive Director estimates that these potential landmarks number 50 to 60 individual items plus 8 to 10 historic districts, but this calculation contemplates only the items heard in the recent past. If one looks back over a period of years and counts every item heard but not designated, the number is much greater. The problem it represents is very serious as owners are expected to tolerate designation uncertainty for long periods. Moreover, there is no projected work plan with a time frame which would give owners and others a clear understanding of when particular properties might be reconsidered.

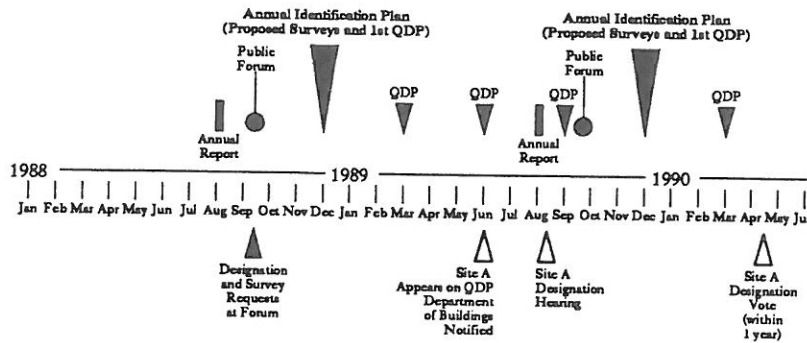
A central question to which the Committee has returned several times without finding a satisfactory answer is: How are the Commission's survey and designation priorities established? The recent division of staff into separate Research and Survey Departments and the establishment of a Designation Sub-Committee of Commissioners appears to have improved the movement of potential designation items on the Commission's agenda, but public understanding of this process is lacking. Although the discretion of the Chairman, Commissioners and staff in such matters should guide the organization, measures need to be implemented to ensure the public of notice of this process. A more systematic approach to the establishment of priorities through the survey and calendaring of potential designation items will increase the accountability of the Commission, particularly the real estate and preservation communities in the City.

DESIGNATION: A PROPOSAL

TO ADDRESS THESE ISSUES, THIS COMMITTEE HAS PREPARED A PLAN FOR THE PUBLIC DISCLOSURE OF THE COMMISSION'S DESIGNATION PROCESS AND PROGRAM (SEE APPENDIX I). PROPOSED ARE PROCEDURES FOR MAXIMIZING THE PREDICTABILITY OF THE DESIGNATION PROCESS BY DEVELOPING AND

PUBLISHING IN ADVANCE PLANS FOR PROSPECTIVE WORK, PROVIDING A FRAMEWORK FOR PRE-DESIGNATION PROTECTION OF POTENTIAL LANDMARKS FOR REASONABLE TIME PERIODS, AND CLARIFYING THE ROLE OF THE DEPARTMENT OF BUILDINGS IN PRE-DESIGNATION SITUATIONS.

The proposal calls for the Commission to publish an annual report which reviews and explains the survey and designation work of the Commission and its staff during the preceding fiscal year. In



IDENTIFICATION PROCESS CALENDAR

QDP = Quarterly Designation Plan SOURCE: Historic City Committee

Table No. 5

September of each year, the Commission would hold a forum at which the public would be invited to offer its views regarding the potential survey and designation work for the coming year. On or before December 1st of each year, the Commission would publish a survey plan for the coming calendar year which describes geographical areas and/or building types which the staff would survey in order to identify potential individual landmarks and historic districts. Four times each year, on or before December 1st, March 1st, June 1st and August 1st, the Commission would publish its quarterly designation hearing calendar. Designation hearings would not be held over beyond the end of the quarter except at the written request of the owner of a potential individual landmark.

Once the quarterly designation calendar is issued, the Department of Buildings would work with the Commission to ensure that permits for proposed work on calendared buildings are withheld until one year after the designation hearing is closed in the case of an individual landmark and two years subsequent to the closing of the hearing of an historic district. Should the Commission decide

at any time that a potential landmark property does not merit designation, it would promptly inform both the owner and the public. If the one or two year periods have elapsed and no action regarding designation has been taken, but the Commission believes additional time is required to consider the matter, an affirmative vote of six or more Commission members can extend the predesignation protection period for three months. An application for a permit for the alteration or demolition of a potential landmark can be filed and processed during this pre-designation period but no permit could be issued by the Buildings Department until the conclusion of the protection period, unless an owner has received the appropriate permit for the desired work from the Commission as though the building was an individual landmark or part of an historic district. If no final action on designation is taken before the conclusion of the predesignation protection period, the Commission would still have the right to designate, but the building would no longer have pre-designation protection. An owner could apply to the Department of Buildings for a permit or request a permit on a previously filed application, and a permit may issue pursuant to any such application filed prior to the date of designation so long as it is not amended subsequent to designation to provide for the alteration, reconstruction or demolition of any protected architectural feature. The Commission must recalendar an item if it wishes to reconsider an item three years or more after the end of the quarterly designation hearing period, assuming no changes to the property have occurred which would exclude the possibility of designation.

Additionally, the proposal also contains a provision for accelerated calendaring which permits a potential landmark subject to imminent demolition or substantial alteration to be evaluated for designation. In these emergencies, properties which are not identified in the quarterly designation program could be scheduled for a public hearing. Predesignation protection in these instances would be limited to nine months for an individual building and eighteen months for an historic district, with an affirmative vote of six Commissioners extending either period by three months.

In addition to listing calendared buildings subject to pre-designation protection, the Commission on an ongoing basis would convey the results of its survey and research work to the Department of Buildings, identifying potential landmarks. If the Department receives an application to alter or demolish an identified property, it would then contact the Commission for a determination of whether the Commission wishes to take any action, such as accelerated calendaring of the identified property, prior to the issuance of a building permit.

The proposal seeks to institutionalize practices to assure protection of properties during the landmark designation process, and, at the same time, to give owners and the public an understanding of the framework in which designation actions are evaluated and the assurance that

designation decisions will be made within a reasonable period of time.

R E G U L A T I O N

ISSUES

Each year, the number of applications for permits requiring Commission review has grown. This is due not only to an increase in the number of designated properties, but also to economic conditions which in recent years have fostered an unprecedented number of rehabilitation projects throughout the city. The Commission's Preservation Department reports that the number of regulatory applications jumped from 3,100 in 1987 to 3,800 in 1988. Of these, approximately ten percent required a public hearing, in turn requiring the staff to evaluate the application, formulate a recommendation, and make a presentation to the Commission.

The Commission's regulatory processes include the review required for the issuance of one of three types of permits: a Certificate of No Effect, a Permit for Minor Work and a Certificate of Appropriateness. In addition, there is a review procedure for the advisory report the Commission prepares concerning proposed work on City-owned landmarks. Issuance of a Certificate of No Effect, a Permit for Minor Work and minor Reports require only staff action, but a Certificate of Appropriateness or a comparably complicated Report on a City-owned landmark necessitates a public hearing.

A Permit for Minor Work is considered when the staff receives an application for exterior alterations that do not require a permit from the Department of Buildings, such as the installation of replacement windows or a new brownstone surface on the facade of a designated property. The Commission procedure allows the applicant in these instances to seek a Certificate of Appropriateness if the staff denies the issuance of a Permit for Minor Work. For example, if an owner wishes to install windows in violation of accepted historic preservation standards, he can seek a public hearing for full Commission review of a staff determination. This *de facto* appeal process is a significant factor in loading the Commission's public hearing calendar each month.

If Commission guidelines for concerns such as window treatments, storefront designs, air conditioners, and rooftop additions were adopted and promulgated, and preservation policy for each historic district was to be articulated, the load on both the Preservation Department and the Commission would be lighter.

In its deliberations concerning Certificate of Appropriateness items, the Commission has been said to spend excessive time evaluating matters on which analogous decisions have been made previously. With the exception of the Madison Avenue guidelines, the Commission has not articulated preservation policy for specific historic districts. If such preservation policy statements were prepared, describing the features of a given district deemed most important to its historic appearance and character, the number of debates on specific design issues could be reduced as a body of articulated policy became incorporated within the Commission's institutional memory.

The Committee has discussed and rejected the idea that the designation reports can be drafted or amended to describe every item of significance in an historic district or every protected feature of an individual landmark. New facts come to light as time passes and the public's appreciation of what constitutes historic building fabric grows. For example, when the Brooklyn Heights historic district was designated in 1965, the art deco and *moderne* style variations on many district facades were not considered noteworthy. Now, however, with scholarship on the architectural history of the 1930s and 40s advanced to encompass this period, it is widely recognized that art deco and *moderne* variations in this predominantly nineteenth century district add to its special character and historical significance. If a preservation policy statement were prepared for Brooklyn Heights, it would express this idea and guide owners and preservationists who might not recognize that the district's period of significance now extends well beyond the World War I cut off point initially described in the designation report.

The Commission, unlike the Buildings Department, does not require the payment of fees by applicants. Implementation of a graduated fee structure for those applications which require the greatest amount of Commissioner time would not only generate revenue but would also convey to applicants the idea that the public hearings are conducted at a cost to the city. A regulatory fee structure could help to establish in the public's eye the importance of the Commission's work, and would bring the Commission in line with many other governmental agencies that charge fees for processing purposes.

The integrity of the regulatory process requires that reasonable effort be made to ensure continued fairness and efficiency in the review process of the Commission and its staff. The regulatory workload is bound to grow with the number of designated properties, subject to changes in general economic conditions. The fundamental approach to regulation set forth in the Landmarks Law -- a three-tiered permit system -- functions well. What is necessary are measures, such as adoption of guidelines and preservation policy statements, to expedite this complex process wherever possible.

For the long term, the Committee considered ways of creating incentives for owners to preserve their historic buildings. The Committee strongly urges support of legislation to permit tax abatements or exemptions for landmark properties through local option. Steps should be taken to recognize that economic benefits will help attain the goals of preservation while at the same time mitigating the perception of economic burden. One such step involves tax incentives. It may be timely to reintroduce the concept of tax incentives for historic properties which was dropped from the Preservation Act of 1980. Such relief has been requested by many members of the public, particularly those owners of small multiple dwellings whose rental incomes are controlled. Requirements of the Commission often involve major restoration which, if treated as capital improvements rather than ordinary maintenance, would also offer relief to owners and would therefore enhance the ability of the Commission to carry out its regulatory mission. In many residential neighborhoods, historic preservation would be aided if some form of economic relief existed for owners of landmark properties under rent control or stabilization and provided an incentive for owners to invest in their buildings. Further study is needed in this area.

PROPOSALS

1. ADOPT GUIDELINES THAT DESCRIBE THE COMMISSION'S PRESERVATION STANDARDS CONCERNING SPECIFIC TYPES OF REHABILITATION.

The staff is now preparing, for Commission and public review in 1989, guidelines for the repair and replacement of windows in historic buildings. Window guidelines are indeed the greatest immediate need, but other subjects such as the installation of storefronts, signage, roof top additions and air conditioning sleeves deserve immediate attention as well. Evidence of the success that guidelines can bring to bear on regulatory decision-making is apparent not only in the work of many other preservation agencies, but also in the Commission's own efforts in considering alterations to storefronts along Madison Avenue in the Upper East Side historic district. It should be noted that the Commission has adopted many procedures over the years which reflect policy developed from precedent. These include some 25 directives that involve, for example, fire escape removal, rear yard development, ironwork standards, security gates and awnings. These and any similar directives should be made easily available to the public.

2. CREATE A PERMANENT STAFF POSITION FOR A EXPERIENCED, REGISTERED ARCHITECT.

The Committee proposes that an experienced, registered architect be added to the Commission staff to assist the Preservation Department, particularly in the are of developing guidelines for use as a regulation tool. It is felt that architectural expertise would serve as a helpful resource for complicated projects, especially involving design guidelines and proposals for new additions or infill construction.

3. PREPARE PRESERVATION POLICY STATEMENTS.

The special character and historic significance of each historic district should be described in the Preservation Policy Statements. The issues that the Commission has considered in evaluating proposed changes to each district would be reflected in the policy statements which would serve as general guidelines to the public and staff. For example, if an essential characteristic of a district is its low-rise configuration, the policy statement would spell out the Commission's sense that it is important to preserve this condition, with the result that applications for tall structures would be discouraged. The experience of years of regulatory review in previously designated districts would provide a basis for drafting the statements.

4. ESTABLISH A SEPARATE HEARING SCHEDULE FOR CERTIFICATE OF APPROPRIATENESS APPLICATIONS WHICH ARISE OUT OF APPEALS FROM STAFF DENIALS.

The typical calendar for the present Certificate of Appropriateness schedule involves many items that stem from staff denials of Certificate of No Effect and Permit for Minor Work applications that have been issued in carrying out Commission policy. Such applications could be heard at special hearings with a reduced number of Commissioners present, with action to be taken at a later public meeting, thereby making more time available for the full Commission to hear major Certificate of Appropriateness applications in a timely and expeditious manner. This type of hearing could be expanded, if found to be useful, to other types of cases, such as signage, awnings, flagpoles, and storefront work.

5. CONSIDER IMPLEMENTATION OF A FEE STRUCTURE FOR THE CONSIDERATION OF CERTIFICATE OF APPROPRIATENESS ITEMS.

The Committee proposes adopting an application fee schedule modeled on that of the Department of Buildings. Such a fee structure would apply to Certificate of Appropriateness items only and would be graduated so as to avoid discouraging homeowners who might undertake smaller scale rehabilitation work. The purpose of the fee system is to generate revenue and to possibly diminish

the number of appeals that follow staff denials of Permits for Minor Work.

6. INCREASE STAFF ASSISTANCE IN THE PRESERVATION DEPARTMENT.

Train paraprofessionals to assist with the processing of regulatory applications and add support staff, as required, to assist with timely consideration of the department's paperwork. Since the regulatory work of the Commission mandates acting within limited processing time and significant paperwork is required, the training of qualified paraprofessionals in preservation could extend the effectiveness of the professional staff at a lesser cost to the city.

E N F O R C E M E N T

ISSUES

Enforcement of the landmarks law should be a priority of the Commission and, by extension, of the City's Law Department. But because of the limitations of staff and budget resources at the Commission, and because of competing demands on the agenda of the City's lawyers, enforcement of the Landmarks Law has suffered. Under the present structure the City's Corporation Counsel must go to court to enforce the Landmarks Law, seeking civil action or criminal penalties. The court system is so overburdened, and the Law Department so busy with other litigation that it is difficult for the Commission to pursue in court any but the most egregious violations. Moreover, the Landmarks Law provides for weak fines, widely perceived as inadequate deterrents to anyone committed to making illegal alterations to a designated property.

It should be noted that the Commission's one staff member assigned to violations has worked energetically in pursuing compliance with the law. The Commission staff issued approximately 800 violations last year, 20 percent of which were accompanied by notices of "stop work", based on the receipt of 1,200 complaints from individuals, community groups or from colleagues in the Preservation Department. One very effective mechanism the Commission currently employs to encourage compliance is to withhold the issuance of any new Landmarks permits on buildings subject to an uncorrected violation. The Commission's staff spends a great deal of time working with community preservation organizations, often the source of information about a violation, and working with the Department of Buildings, ensuring that Department of Buildings citations are issued. In addition, the staff devotes substantial energy to the extensive file documentation and correspondence system developed to protect the Commission's interest in pursuing violators.

The present enforcement capability of the Commission is inadequate to the task. However, it is indeed the City that is the best vehicle for enforcement. The need for more revenue and personnel in this area must be met. If these additional resources are not provided, other procedures would have to be considered, including possible enforcement through the Environmental Control Board (ECB) or through private right of action law suits, both of which the Committee explored.

The ECB is a panel appointed pursuant to state authority by the Mayor with City Council approval.

The ECB has the power to docket judgements as if they were docketed in Civil Court. Among the quality of life violations which the ECB handles are those pertaining to the cleanliness of streets, the disposal of wastes, air and water quality, noise pollution, regulation of street peddlers, the prevention of fire and certain aspects of the inspection of buildings. The Commissioners of Buildings and Sanitation are represented on the ECB which is chaired by the Commissioner of Environmental Protection. Violations of the Landmarks Law could be added to the ECB's agenda and the Chairman of the Landmarks Preservation Commission could join the ECB, measures which can be accomplished by amending the state jurisdictional legislation establishing the ECB. It should be emphasized that this additional enforcement tool would not be intended to supplant the existing landmarks staff mechanisms for handling violators, particularly the practice of withholding new permits for those properties where outstanding violations remain. The ECB is envisioned quite simply as another appropriate avenue through which the City can enforce the Landmarks Law. The clear advantage of the ECB procedure is that judgements can be docketed at the ECB; thus the law can be enforced without going to civil court. In addition, the assets of a judgement debtor can be seized, meaning that fines can be collected.

Another possible enforcement tool would be to establish a private right of action whereby interested groups can bring a suit against a violator of the Landmarks Law. Throughout the City, local organizations concerned with historic preservation and related topics are those usually first aware of violations of the Landmarks Law. Currently, their only recourse is to call the Commission staff and seek the writing of a violation notice. If the problem is exceptionally egregious, the local group might persuade the Commission to work with the Law Department in going to court to enforce the Landmarks Law. These limited options leave groups frustrated and many violations unchecked. A private right of action would allow *bona fide* groups to go to court to seek enforcement of the Landmarks Law. The right of private action to enforce the law has been very effective in many areas of the law, such as federal securities and antitrust laws. The goal with the Landmarks Law is to enhance enforcement capacity by relying upon the community to employ its resources if it deems an uncorrected violation so unacceptable as to merit the considerable expenditure of time and

money required to take the matter through a litigation proceeding. The Landmarks Preservation Commission would be allowed to participate in such cases as intervener or as *amicus curae*, thereby bringing to the courts' attention the Commission's views on the merits of the case. The court would be empowered to award costs and reasonable attorneys fees to a private plaintiff who is successful in obtaining a permanent injunction. One little used provision of the Landmarks Law that provides for penalties to be levied against owners who in effect promote demolition by neglect of designated properties could be addressed effectively by concerned organizations or individuals once the private right of action in landmarks marks matters was instituted (see Appendix II). It should be noted that some members of the Committee were reluctant to advocate a procedure that might result in abuse.

PROPOSAL

EXPAND THE ENFORCEMENT STAFF OF THE LANDMARKS PRESERVATION COMMISSION.

It is critical that appropriate budget lines be made available to expand the Commission's enforcement (violations) staff. If the Commission were to supplement its enforcement resources through the Environmental Control Board, additional staff would certainly be necessary. The private right of action, if implemented, would not require additional staff.

STAFFING AND BUDGET IMPLICATIONS

The staffing and budgets of the Commission must be increased to accommodate its mandated activities. The Commission cannot estimate the exact staff or dollar requirements, a definition best made by the Commission itself, but the Committee, after its yearlong study can clearly attest to the need in four important categories:

1. DESIGNATION: Funding and staffing must increase for the accomplishment of the designation of the bulk of New York City's irreplaceable landmarks. It is the opinion of the Committee that the rate of designation in recent years has not kept up with the pace required in order to have in place by the year 2000 the substantial body of the City's landmarks.
2. REGULATION: Funding and staffing must continue to keep pace with the constantly increasing burden of legally mandated regulatory activity. Improved regulatory procedures will

be of assistance, but the constant increase in applications will more than compensate for increased efficiencies.

3. ENFORCEMENT: Violations of Commission decisions are now enforced on a city wide basis by a single person. Though other enforcement procedures were explored, it is the recommendation of the Committee that a substantial increase in the enforcement staff is necessary for the accomplishment of even minimal justice.
4. COMPUTERIZATION: The strengthening of both graphic and data management capabilities with improved public access and increased communication with other City agencies is completely dependent upon improved computer funding.

While increases in funding and staff will be required in the future to keep pace with the increased activity of the Commission, the Committee believes that many improvements can be achieved through changes in the organization and management of the current Commission, as outlined in this report.

LEGAL IMPLICATIONS

The Committee finds that the Landmarks Law continues to provide protection for the city's heritage with efficiency and justice. Most of the Committee's proposals can be accommodated by administrative changes. Those that cannot can be accomplished by minimal legislative revisions without any restructuring of the Law.

I V . C O M M I S S I O N R O L E I N C I T Y G O V E R N M E N T

I N T E R R E L A T I O N S H I P W I T H O T H E R A G E N C I E S

While the Landmarks Preservation Commission is the sole City agency authorized to designate and regulate architectural and scenic landmarks, it has many relationships with other agencies of City government. Certain inter-agency relationships are specified in the Landmarks Law, such as the responsibility of the City Planning Commission to prepare a report concerning the effect of a landmark designation upon the master plan, the zoning resolution, projected public improvements and any area renewal plans. Other relationships have evolved in response to non-landmarks legislation, such as the environmental laws which oblige the Commission's staff to comment on sections of Environmental Impact Statements dealing with projects undergoing environmental review. Equally significant are the informal dialogues which are carried on between the chairman and staff of the Commission and the executives and staff of other City agencies.

Under the Landmarks Law, the Commission must notify other agencies following certain decisions and initiatives. Within five days of a designation, the Commission is required to file copies of the designation report with the Secretary of the Board of Estimate, the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, the Fire Department and the Health Services Administration. On the regulatory side, the Commission must notify the Buildings Department when the Commission grants permits.

Information and notification flows in the other direction when the Commission reacts to the initiatives of its fellow agencies. In cases where an owner applies for a special permit with the City Planning Commission or the Board of Standards and Appeals, the Commission must transmit appropriate notice to those agencies upon taking any action which is referred to them. When plans are developed which call for physical change to a designated property owned by the City, the agency responsible for the proposal is required to obtain an advisory report from the Commission, which in turn is submitted to the Mayor and the City Council and published in the City Record.

In another instance, the Buildings Department, in accordance with a provision of the Administrative Code, cannot approve a permit on a private designated property unless the proposed work has been reviewed favorably by the Commission. The Buildings Department also notifies the Commission when permit applications are received for buildings not yet designated which the Commission has identified as potential landmarks. Finally, under the environmental laws, Commission LPC staff

must comment on sections of Environmental Impact Statements that concern historic properties.

The Commission and the Buildings Department do not have compatible computer systems, and communication between them could be improved. As noted in the previous section of this report relating to Identification, better communication would allow protection when a proposed landmark was calendared for a public hearing; compatible computer programs would formalize and expand the current informal communication between the two agencies concerning pending designations.

PROPOSAL

The Committee proposes that the Landmarks Preservation Commission become a full-scale agency, separate from the Parks Department, in recognition of its *de facto* operational independence.

LAND USE

ISSUES

Sometimes, the Commission and other City agencies represent competing public purposes. We have examined proposals, such as one advanced during earlier Charter Revision discussions, to reorganize and combine certain functions of city government under a single "super-agency" responsible for all planning and land use matters. We believe that such a consolidation would be a mistake. Although conflicts do arise from time to time between agencies with different mandates, resolutions are reached after competing points of view are aired in a process in which public participation is often a key element. Our concern is that creation of a "super-agency" for land use matters would tend to place one policy goal above another, thereby promoting a narrower view which would fail to accommodate a fair resolution of the different objectives of agencies with different mandates.

PROPOSAL

1. WE URGE THE MAYOR TO TAKE A STRONG STAND ON REINFORCING COMPLEMENTARY POLICY-MAKING BY LANDMARKS PRESERVATION AND CITY PLANNING COMMISSIONS. WE FURTHER RECOMMEND THAT PROPOSALS TO CREATE A SUPER-AGENCY FOR PLANNING AND LAND USE MATTERS BE WITHDRAWN.

COMPATIBLE ZONING

ISSUES

Although historic district designation potentially limits the building scale of a given neighborhood, the City Planning Commission rarely reconsiders the area's zoning following historic district designation. This implies a conflict in City policy; is the permissible bulk of the district to be governed by the landmark designation or the zoning? As a practical matter, historic district designation generally takes precedence in these situations, but the disparity remains.

The Landmarks Law provides that "the Landmarks Preservation Commission may at any time make recommendations to the City Planning Commission with respect to amendments of the provisions of the zoning resolution applicable to improvements in historic districts." The Historic City Committee believes that the Commission must make use of this existing provision to encourage City Planning to adjust zoning provisions so that the zoning policy and district designations are consistent.

It should be noted that the Department of City Planning has a capability which could be a useful tool in preserving the character of certain areas, particularly where neighborhood preservation is a desirable objective, but which are not of sufficient quality to merit historic district designation. This is the "Special Purpose Districts" section of the Zoning Resolution. Planners could use this special district tool to accomplish "neighborhood preservation" goals, as distinct from those of landmarks preservation.

PROPOSALS

1. WE RECOMMEND THAT THE COMMISSION USE THE EXISTING PROVISION OF THE LANDMARKS LAW TO ENCOURAGE THE CITY PLANNING COMMISSION TO ADJUST ZONING PROVISIONS SO THAT ZONING POLICY AND HISTORIC DISTRICT DESIGNATIONS ARE CONSISTENT.

The purpose is to achieve zoning policy which is harmonious with the essential character of the designated historic district. Such a provision will obligate the City Planning Commission to respond in a formal way to Commission designation action, and can follow a procedure similar to section 74-711 of the Zoning Resolution in which the Commission applies to City Planning for a special permit.

An immediate initiative should be launched by the Department of City Planning to study the 54

existing historic districts, amend district zoning where necessary, and create appropriate transitional zones. The Mayor should establish a timeframe of four years during which these adjustments will be made.

2. THE COMMITTEE RECOMMENDS THAT THE ZONING RESOLUTION BE AMENDED TO MANDATE THE CITY PLANNING COMMISSION TO UNDERTAKE, UPON DESIGNATION, THE STUDY, DEFINITION AND ENACTMENT OF ZONING CHANGES BOTH WITHIN HISTORIC DISTRICTS AND IN AREAS AFFECTING THEM.

E N V I R O N M E N T A L R E V I E W

ISSUES

The City complies with environmental laws relating to historic preservation by requiring the LPC to prepare a statement identifying historic resources that might be affected by proposed projects, such as new buildings erected adjacent to landmarks. For the most part, this is a routine procedure handled by the Commission's staff. The Commission's role is advisory; unless a development is taking place at a designated landmark site where a permit is required for work to proceed, pursuant to the Landmarks Law or the Zoning Resolution, the Commission is limited to making comments and has no authority to bring about adjustments in proposed plans. The practical purpose of the Commission's comments is undermined when the review takes place far too late in the planning process for the Commission's recommendations to be incorporated readily into the development plans.

PROPOSAL

1. THE CITY'S LAND USE PLANNING PROCESS SHOULD BE REVISED SO THAT A CONCERN SUCH AS LANDMARKS PRESERVATION CAN BE ADDRESSED AT THE OUTSET BEFORE DEVELOPMENT PROPOSALS ARE ADVANCED.

The staff of the Commission would provide information about designated properties and potential landmarks to be factored into the planning process at an early stage. A local land use plan would be prepared for each neighborhood of the city; landmarks preservation would be one among many public concerns to be addressed in it.

MUNICIPAL IMPROVEMENTS IN HISTORIC DISTRICTS

ISSUES

The City's lack of a coordinated policy in dealing with municipal improvements in historic districts and its own landmark buildings presents a troublesome situation. Historic district improvements carried out by the city include projects as diverse as street lighting, paving, curb cuts and sidewalk replacement. Currently, no preservation plan is followed in these actions; historic districts are not intelligible units in the capital budget or in the maintenance plans of agencies that routinely affect the city's built environment. We believe that the special character of historic districts deserves the attention of the City in each of its efforts to maintain or improve the physical setting.

The Landmarks Law provides that when another agency which has jurisdiction over a designated property plans to make changes to it, the Commission is asked to prepare a report although its comments on the proposed work are only advisory. In certain instances, other agencies will solicit guidance from the Commission's staff while preparing plans for the landmark. But in far too many cases, the agency will fashion plans without sharing them with the Commission until the planning process is very near completion. It is much easier to resolve preservation issues in maintenance, rehabilitation or even redevelopment scenarios if the preservation objectives are understood as the architectural program is prepared rather than when schematics or working drawings are under way.

The Department of General Services (DGS) has recently employed a preservation officer whose task it is to identify the landmarks -- both designated and potential -- in that agency's inventory and to work toward ensuring that the values of preservation and adaptive reuse are considered as building plans are formulated. This is an important first step, but DGS, even though it represents some thirteen sponsor agencies, does not include under its jurisdiction many City property types in which there are numbers of landmarks, such as schools, parks, hospitals and transportation facilities.

PROPOSALS

1. WE RECOMMEND THAT THE COMMISSION BE INVOLVED IN THE DESIGN OF EVERY PHYSICAL CHANGE UNDERTAKEN BY THE CITY IN ITS HISTORIC DISTRICTS.

This means that the design of street signs, benches and other street furniture, of roads, sidewalks,

and even curb cuts -- each of which has a discernable impact upon the character of any district -- can be carried out with appropriate respect for a district's landmark qualities and consistent with its Preservation Policy Statement. Such subtle changes in historic districts on a monthly or yearly basis often go unnoticed, but over time, replacing bluestone with concrete, or hooked cast iron lamp posts with large new steel ones, for example, can erode the very character of an historic district. That the fragmented jurisdictional responsibility of various City agencies hastens this gradual deterioration of the special character of districts citywide is already evident. Coordination of these changes can be achieved in the near term through better communication between the pertinent agencies and the Commission.

2. WE RECOMMEND THAT THE COMMISSION BE CONSULTED DURING THE FIRST STAGE OF PROPOSED CITY-SPONSORED PROJECTS INVOLVING DESIGNATED PROPERTY. WE FURTHER RECOMMEND THAT ALL CITY AGENCIES BE URGED TO WORK WITH THE COMMISSION TO DETERMINE WHICH OF THE PROPERTIES UNDER THEIR JURISDICTION ARE EITHER DESIGNATED OR LIKELY CANDIDATES FOR DESIGNATION SO THAT PHYSICAL PLANS FOR THESE PROPERTIES SEEK TO ACCOMMODATE PRESERVATION GOALS.

DESIGNATION REVIEW BY REPRESENTATIVE BODY

ISSUES

Both zoning changes and landmark designations currently require the review of the Board of Estimate. Under the landmarks law, the Board of Estimate must approve, modify or deny the landmark designation within ninety days of the Commission's action.

Review by the Board of Estimate is in effect the final step of landmark designation. Given that the City Charter and reformulation of the Board of Estimate are under discussion now, consideration has been given to how the landmark designations should be treated if the Board of Estimate is abolished.

PROPOSAL

1. WE RECOMMEND THAT IF THE BOARD OF ESTIMATE'S PRESENT ROLE IN THE LANDMARKS PROCESS IS TO BE TRANSFERRED TO ANOTHER BODY, IT BE GIVEN TO AN ELECTED REPRESENTATIVE BODY WITH A CITY-WIDE OVERVIEW OF THE IMPORTANCE OF LANDMARK PRESERVATION AND THAT SUCH A BODY SHOULD AVOID HAVING ITS ACTIONS ON A GIVEN ITEM BE UNDULY INFLUENCED BY LOCAL INTERESTS.

OBSERVATIONS FOR THE FUTURE

This report has been primarily concerned with ways of adjusting the operating procedures of the Landmarks Commission, of restoring the balance between regulation and designation, and with ways of providing more effective and consistent regulatory and enforcement procedures. But along with such strengthening of Commission operations, mention of larger studies of landmarks preservation would be wholly appropriate.

To insure the positive growth of historic preservation as the context for the Commission's work in the coming decades, it will be necessary to develop governmental assistance programs and other economic incentives; it will be necessary to promote the quality of life which historic preservation contributes not only to the citizens of the city but to the rapidly expanding industry of tourism, and it will be necessary to create a considerably expanded program of education about the specific maintenance, cultural values and historic interest of preserved properties.

Another such study would concern the historical and geographical relationships among districts. Presently the city's historic districts are not appreciated as being the shards of urban history which they in fact are, with the missing fragments waiting to be identified, so that the larger form of the city's history can be readily perceived. Seeing each district as an illustration of the urban material culture of the last 300 years will assist greatly in the identification of gaps in the historical record and in the development of long term regulation policies. Such an intellectual structure for the city's preservation policies, can be of great assistance in preparing relevant educational policies, in the identification of development areas and in generating support for preservation.

A P P E N D I X I

PROPOSAL FOR PUBLIC DISCLOSURE OF COMMISSION'S DESIGNATION PROCESS AND PROGRAM

1. Survey and Calendaring Plans

To promote the awareness of the public, interested groups and other governmental agencies concerning the decision-making processes and programs employed by the Landmarks Preservation Commission ("Commission") and its staff ("Staff") in identifying and designating individual landmarks and historic districts, and to maximize so far as practical the predictability thereof, the Commission shall develop and publish in advance plans for prospective work. These work plans shall cover initial survey and identification of potential landmarks and districts, and calendaring of specific landmarks and districts for public hearing on proposed designation. In developing such plans, the Commission shall provide policy guidance to the Staff which, based thereon, shall propose options for the Commission's consideration in adopting final plans.

(a) Annual Report

On or before August 1st each year the Commission shall publish a report reviewing and explaining the work of the Commission and its Staff during the preceding fiscal year with respect to survey, designation hearings, and designation of potential landmarks and districts, in relation to the Commission's plans therefor applicable to such period.

(b) Public Forum

During the month of September each year the Commission shall hold a public forum at which all interested persons shall be invited to offer views regarding the work of the Commission and its Staff during the past fiscal year and the next calendar year with respect to survey, designation hearings and designation of potential landmarks and districts.

(c) Annual Survey Plan

On or before December 1st each year the Commission shall publish a survey plan for the next calendar year that describes the geographical and topological areas and subjects that the Commission has directed its staff to survey during such year for the purpose of preliminarily

identifying potential individual landmarks and districts for possible further review and ultimate consideration for designation.

Omission from or inclusion in such descriptions shall not preclude the Commission from subsequently supplementing the survey plan to add or delete one or more areas or subjects so long as descriptions of any such addition or deletion are published as soon as practicable following any such Commission determination to supplement.

Any areas and subjects included in any annual survey plan may also be included in any subsequent annual survey plan.

(d) Quarterly Designation Plan

On or before December 1st, March 1st, June 1st and August 1st each year the Commission shall publish a calendar setting for hearing each potential individual landmark and district that the Commission proposes to hear during the next calendar quarter for possible designation. No such hearing, nor the close thereof, may be adjourned beyond the end of such quarter except in the case of an individual landmark at the owner's written request, although following the close of such hearing the record thereon may remain open for an additional sixty days. Following promulgation of a quarterly plan calendaring for hearing any potential individual landmark or district, the Department of Buildings shall not issue a permit for the alteration or demolition of any such potential landmark or for any improvement in any such potential district pending a timely hearing hereunder, or thereafter until the expiration of one year from the close of such hearing in the case of an individual landmark or two years in the case of a district, unless at any time following close of the hearing the Commission determines not to proceed with its consideration of designation, in which case it shall promptly so advise the owner, in the case of an individual potential landmark, and the public. These one and two year periods may be extended for three months by the affirmative vote of six or more of the Commission members.

A permit for the alteration or demolition of any potential landmark or any improvement in a potential district calendared for hearing under this section or section 2 below but not timely heard, or heard but not designated within the applicable time period, may be issued pursuant to an application therefor filed prior to the date on which such landmark or district is thereafter designated, provided, however, that subsequent to designation such application may not be renewed and may not be amended to provide for the alteration, reconstruction or demolition of any protected architectural feature.

Any such potential landmark or district that is calendared for hearing but not designated within three years following the close of the period within which such hearing is required under this section or section 2 below may not be designated unless it is first recalendared for hearing pursuant to this section in which event the limitations provided in this section on issuance of a permit to alter or demolish reapply.

2. Accelerated Calendaring

The Commission may at any time calendar for accelerated hearing any potential individual landmark or potential district threatened by imminent risk of alteration or demolition that it proposes to consider for possible designation. No such hearing, nor the close thereof, may be scheduled or adjourned later than three months following such calendaring except in the case of an individual landmark at the owner's written request, although following the close of such hearing the record thereon may remain open for an additional sixty days. No later than thirty days following the close of the record on such hearing, the Commission must make a preliminary determination on the basis of such record whether or not to proceed with its consideration of designation.

Following the accelerated calendaring, the Department of Buildings shall not issue a permit for the alteration or demolition of any such potential land mark or for any improvement in any such potential district pending a timely hearing hereunder, or thereafter without approval of the Commission until the expiration of nine months from the close of such hearing in the case of an individual landmark or eighteen months in the case of a district, unless at any time following close of the hearing the Commission determines not to proceed with its consideration of designation, in which case it shall promptly so advise the owner, in the case of an individual potential landmark, and the public. These nine month and eighteen month time periods may be extended for three months by the affirmative vote of six or more of the Commission's members.

3. Pre-Designation Availability of Procedures Applicable Upon Designation

During any period provided by sections 1 or 2 hereof in which the Department of Buildings may not issue a permit for the alteration of a potential landmark or an improvement in a potential district, each such potential landmark or improvement shall be deemed to have been designated for certificating, permitting and all other purposes under the Landmarks Law for which designation has legal significance.

4. Notification By Buildings Department

The Chairman of the Commission or members of the Staff designated by the Chairman shall identify for the Buildings Department on an on-going basis buildings in which it has an interest as potential individual landmarks or as contributing to a potential district. In the event that an application is filed for a permit to alter or demolish any such building, the Buildings Department within five days of such filing shall give written notice thereof to the Commission which shall have thirty days from receipt of such notice to calendar on an accelerated basis such building under section 2 above. No permit shall issue without approval of the Commission until the expiration of such thirty day period without accelerated calendaring.

A P P E N D I X I I

PROCESS FOR PRIVATE RIGHT OF ACTION AMENDMENT

A simple amendment to language in section 207-16(e) of the Landmarks Law will accomplish adding the private right of action to the Commission's enforcement capability. In the sentence beginning "whenever any person has engaged in an act or practice...constitutes violation..."; after the words "the Commission", insert:

or any ten registered voters of the city or any membership corporation or association that has existed for more than one year.

In the subsequent wording which states "to the Supreme Court...and upon a showing by the Commission", the phrase "by the Commission" should be deleted. Finally, at the end of the subsequent sentence containing the words "that such person", the following should be added:

and, in the case of a permanent injunction, a private applicant shall be awarded the costs of suit, including a reasonable attorney's fee.

REPORT GRAPHICS: PETER X(+Z) LIMITED