A Proven Success: How the New York City Landmarks Law and Process Benefit the City

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A Proven Success: How the New York City Landmarks Law and Process Benefit the City

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1.0 Executive Summary

The purpose of this study is to analyze the New York City Landmarks Law and its economic, social, and environmental impact on the city and its residents, and in doing so, respond to the recent spate of allegations by the Real Estate Board of New York (REBNY) against the New York City Landmarks Preservation Commission and its Commissioners (LPC) concerning the designation and regulation of historic properties in New York City.[1] REBNY's long history of opposition to the New York City Landmarks Law and to LPC limits its capacity to offer a fair and objective analysis of the local designation and regulatory processes affecting historic properties. Entitled "An Analysis of Landmarked Properties in Manhattan" (June 2013) and "The Impact of Landmarking on Housing Production in Manhattan" (September 2013), REBNY reports belie credibility due to their pronounced bias and lack of specificity, context, and comprehensiveness.

Accordingly, here is a synopsis of this study's findings:

Regulatory Purview (Section 4.1.1)

- §25-304 and §25-307 of the New York City Administrative Code empower LPC to impose regulations, limitations, determinations or conditions that are more restrictive than those prescribed by other provisions of the law.

- LPC has a history of approvals related to new additions to historic properties, whether they are additions to individual landmarks or buildings located within historic districts.

Criteria for Designating Properties in Historic Districts (Section 4.1.2)

- §25-302 of the New York City Administrative Code empowers LPC to delineate a historic district boundary that embodies a "distinct section of the city" as enumerated under the law.

- Vacant lots, parking lots, and "no-style" (insignificant) buildings are a typical feature of any urban landscape and are thus likely to be included in historic district boundaries. The designation of such parcels does not preclude future redevelopment and LPC has a history of approvals related to new construction in historic districts.

Permit Timeframes and Costs to Property Owners (Section 4.2.1)

- Over the past several years LPC has introduced FasTrack Service and Expedited Certificate of No Effect Service programs to expedite permit approvals. This has resulted in improved timeframes for all staff-level approvals, ranging from 87% of approvals for Permits for Minor Work within 10 days to 100% approvals for Expedited Certificates of No Effect issued within 2 days.

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[1] For the purposes of economy, the New York City Landmarks Preservation Commission (agency) and New York City Landmarks Preservation Commissioners (independent review board) are referred to as "LPC" unless additional clarification is warranted. In such cases, the New York City Landmarks Preservation Commissioners are referred to as the "Commissioners."

- To streamline the permit approvals process, LPC promotes the creation of master plans for entire historic districts and large commercial and residential buildings to enable landlords, tenants, and residents to obtain staff-level permits for changes that would normally require Commissioner-level approvals.

- LPC may require original replacement materials, though it also allows for modern substitute materials depending on the building and the particular element proposed for replacement.

New York City Landmarks Law and Urban Planning (Section 4.2.2)

- The New York City Landmarks Law mandates the protection of historic resources as part of a comprehensive urban planning process through a system of identification and designation that is intended to be pro-active and not reactive. The legitimacy of this process and its public purpose has been upheld by the U.S. Supreme Court.

- As of October 2013, only 3.20% of all the properties in New York City had been designated: 25.67% of the properties in Manhattan had been designated; 4.50% in Brooklyn; .85% in Queens; .97% in the Bronx; and .23% in Staten Island.[2] As for the higher percentage of designated properties in Manhattan, New York County is inarguably the most significant county in the entire United States, and as such, not only warrants protection of its existing historic resources, but also those that have not yet been identified.

- Since the New York City Landmarks Law imposes no limits on the number of historic districts that can be designated, LPC is acting in accordance with the law in designating all types of historic properties on an ongoing basis.

- Any limitations or restrictions on development incurred by historic district designation have been counter-balanced by upzonings over the past decade, enabling large swaths of the city to accommodate new high-density development. These upzonings have occurred in neighborhoods such as the Far West Village, West Chelsea, Hell's Kitchen, and East Harlem in Manhattan; Greenpoint-Williamsburg and DUMBO in Brooklyn; Jamaica, Hunters Point South, and Willets Point in Queens; and St. George in Staten Island.

Housing and Affordable Housing (Section 4.2.3)

- Because LPC does not regulate use, historic district designation does not prevent the development of new and/or affordable housing on existing soft sites or impede the redevelopment of a designated property into affordable housing units.

- The tension between supply and demand for Manhattan housing, exacerbated by its highest per-square-mile population density of any county in the United States and limited developable land area, pre-dates the New York City Landmarks Law and continues into the present. Further, the

[2] Percentages regarding designated properties reflect potentially developable parcels and do not reflect bridges, parks, and cemeteries since they do not constitute potentially developable land; individual properties located in historic districts were only counted once in order to avoid redundancies in number of designated property totals.

exorbitant cost of housing in Manhattan has the capacity to skew any analysis pertaining to the effects of landmark/district designation on housing and affordable housing since it is not representative of the market conditions of the city-at-large.

- There is no direct correlation between affordability, availability, and historic districts within Manhattan's exorbitant real estate market, as evinced by a sampling of neighborhoods where apartments are selling for $1 million or less. In spite of the high number of designated properties on the Upper West Side and Upper East Side, there are comparable sales prices and availability in both designated and non-designated neighborhoods within this price range.

- New and affordable housing can be constrained by a variety of factors irrespective of historic district designation that include: zoning, land availability, high land costs, development costs, transactional costs, alternate highest-and-best-use scenarios, and/or a lack of owner interest in pursuing redevelopment, as well as a lack of sufficient government incentives for affordable housing production.

- New York City agencies and academic institutions focused on housing policy maintain that the loss of affordable housing is just as serious an issue as the production of new affordable housing. Accordingly, the retention of affordable housing must be an integral part of any public housing policy initiative to address this crisis.

- New York City's affordable housing crisis is more pronounced in its outer boroughs, where there has been minimal designation by LPC. Thus, the focus on the lack of affordable housing in Manhattan due to district designation trivializes a very complex and serious issue.

- Numerous government-sponsored economic incentives exist to promote the rehabilitation of affordable housing through and state and federal historic tax credits, coupled with a host of federal credits conducive to the production of affordable housing.

- REBNY's long history of opposition to the New York City Landmarks Law and LPC is matched by its even longer history of opposition to affordable housing by advocating for higher rents on rent-regulated apartments, de-regulation, and vacancy decontrol, suggesting that it is trying to undermine the former by pitting one public purpose (affordable housing) against another (historic preservation).

Claims of Rapid Gentrification (4.2.4)

- Gentrification is endemic to both designated and non-designated areas, as evinced by sweeping changes in the city's commercial areas over the past decade.

- Many market-based factors can lead to gentrification irrespective of historic district designation. Further, a great majority of advocates for local designation are neighborhood residents who seek to preserve their communities from the forces of gentrification.

Sustainable Benefits of Historic Preservation (Section 4.2.5)

- It takes many years for a new, energy efficient building to overcome the negative climate change impacts related to the demolition of a historic building and new construction.

- The renovation and reuse of existing buildings of comparable functionality, size, and equivalent energy efficiency levels to new, consistently yield fewer environmental impacts than demolition and new construction over a 75-year period.

- Free resources exist to help property owners of all building types address issues of historic preservation and sustainability to the extent that LPC requires such measures.

Tax Revenue and Job Creation (Section 4.2.6)

- There has been significant reinvestment in communities nationwide since 1978, when the Historic Tax Credit (HTC) program began. Information from the New York State Office of Parks, Recreation and Historic Preservation indicate that New York City has greatly benefitted from this program through private reinvestment.

- On the local level, the HTC program has resulted in substantial reinvestment in locally designated individual landmarks such as the Empire State Building ($550 million reinvestment), Battery Maritime Building ($145 million reinvestment), Public School 64 ($28 million reinvestment), and the Williamsburgh Savings Bank ($6.5 million reinvestment) and in properties located in locally designated historic districts such as The Mark Hotel ($159 million reinvestment), Johnson Building ($77.5 million reinvestment), Hanan & Son Shoe Company Building ($53.7 million reinvestment), and 101 Spring Street ($27 million reinvestment).

- The Ladies' Mile Historic District has emerged as a thriving market for commercial office rentals, outpacing average asking rents for the borough-at-large, while retail rents in the district have begun to escalate on par with other thriving commercial areas.

- Jobs created by rehabilitation projects, such as those referenced through the Historic Tax Credit program and produced by reuse projects for new owners and tenants in the Ladies' Mile Historic District, can vary depending on the scale of the project, but often entail architects, engineers, interior designers, artisans, conservators, craftsmen, contractors, mechanical engineers, structural engineers, plumbers, and various historic tax credit specialists, including preservation consultants. New construction typically constitutes 50% materials and 50% labor, whereas rehabilitations typically constitute 30-40% materials and 60-70% labor. As a result, rehabilitations benefit local and state economies more than new construction in two ways: labor is usually locally sourced so more local workers are hired for a project, and labor typically spends locally, whether that entails buying lunch at a neighborhood bodega or running errands after the workday, which in turn can generate local and state sales tax revenue.
- Many new onsite jobs typically accompany these buildings' rehabilitations. New residents and worker groups are highly likely to patronize neighborhood amenities in one form or another as part of their daily routine which has the capacity to substantially boost the economy through additional sales tax revenue.

- Designated landmarks and historic districts support New York City's tourism industry. In 2013 there was an estimated $39.4 billion in local spending as a result of 54.3 million tourists visiting the city. In 2012 this translated into $93.3 billion in local and state taxes and 363,050 hospitality and leisure jobs.

- According to a 2012 study by NYC & Company, 50% of international cultural visitors visited landmarks and/or historic sites versus 27% percent of domestic cultural visitors. In addition, 36% of international cultural visitors took guided tours and 89% of them went on sightseeing trips.

- The majority of New York City's premiere tourist attractions are protected under New York City's landmarks law. These include the Statue of Liberty, Empire State Building, Rockefeller Center, Central Park, Grand Central Terminal, Metropolitan Museum of Art, New York Public Library, Guggenheim Museum, Cooper-Hewitt Museum, Museum of Natural History, Museum of the City of New York, Grand Army Plaza/Prospect Park, and numerous Broadway theatres.

- Designated properties throughout the five boroughs attract both international and domestic tourists. Beyond the fact that some of the city's most popular shopping destinations are in its historic districts (SoHo, Ladies' Mile), there are also historic districts where tourists gravitate for history (South Street Seaport, Historic Richmondtown), culture (Upper East Side: art/design institutions, Brooklyn Academy of Music: performance, Jackson Heights: multi-ethnic experience), architecture (Tribeca, Brooklyn Heights, Sailors' Snug Harbor), trendiness (NoHo, DUMBO), or a specific attraction (Washington Square Park in Greenwich Village, the High Line in Gansevoort Market, the Dakota on the Upper West Side/Central Park West). LPC protects these objects, buildings, sites, and structures to ensure that the most valuable assets of the city's tourism industry are properly maintained.

- New York City plays host to production crews memorializing these locations in film, television, and digital media. Between 2002 and 2012 the film and television industry spent $60 billion alone on production in New York City, and in doing so, stimulated the local and state economies, while also creating new entertainment to promote the city as a multi-faceted destination to future tourists.

2.0 Introduction

2.1 Purpose of Study

The purpose of this study is to analyze the New York City Landmarks Law and its economic, social, and environmental impact on the city and its residents. In recent years there has been heightened opposition to historic preservation by real estate interests and a handful of academics, elected officials, and civic leaders. The Real Estate Board of New York (REBNY) has issued two reports criticizing the New York City Landmarks Preservation Commission and its Commissioners (LPC) and the designation and regulation of historic properties in New York City.[3] This study looks at each of the allegations enumerated by REBNY to determine their veracity. These allegations include unjustified and overzealous historic district designations; restrictive approvals for new construction in districts that exceed LPC purview; and onerous development and permitting costs incurred by landmark and district designation. Further, REBNY contends that historic districts hamper economic growth, limit the production of new and/or affordable housing, and exert negative impacts on the economic viability of neighborhoods. Accordingly, this investigation explores both quantitative and qualitative data to determine the actual impact of local designation on the city.

2.2 Background

Over the past 50 years the Real Estate Board of New York has actively opposed the New York City Landmarks Law and the activities of LPC. Given its long-standing opposition to the law, agency, and its commissioners, it is instructive to understand the organization's history, activities, and statements about LPC's designation and regulatory processes. REBNY was founded in 1896 as a non-profit real estate trade association for commercial brokers, and has evolved into a powerful lobbyist, advocating on behalf of its constituents for lower property taxes, tax incentives to create affordable housing and promote building maintenance, rent de-regulation, higher rents on rent-regulated apartments, vacancy decontrol, zoning legislation and changes, and broker licensing and building code reform.[4] According to a profile in *The Real Deal*, REBNY "holds enormous sway in Albany and New York City when it comes to real estate policy. But some critics—both members and nonmembers—say it favors the large owners, developers and several of the bigger brokerage firms when it comes to the competing interests among its members."[5] As of 2011 it had an operating budget of $9,000,000, and currently numbers over 12,000 members that include residential and commercial brokers and agents, building owners and developers, and other associated real estate professionals with a mission to promote economic growth in New York City through real estate activities.[6]

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3 For the purposes of economy, the New York City Landmarks Preservation Commission (agency) and New York City Landmarks Preservation Commissioners (independent review board) are referred to as "LPC" unless additional clarification is warranted. In such cases, the New York City Landmarks Preservation Commissioners are referred to as the "Commissioners."

4 Adam Pincus, "Reassessing REBNY," *The Real Deal*, December 1, 2011.

5 *The Real Deal* estimated that owners and builders only represent 4% of REBNY's membership, contrary to REBNY's reporting of 30% represented by these member types. Ibid.

6 Ibid.

Over the years REBNY has been an outspoken critic of the New York City Landmarks Law, Landmarks Commission, and its Commissioners. Testifying for REBNY at a City Council hearing in 1964, John R. O'Donoghue stated that REBNY opposed the landmarks law's passage because it contained "many objectionable provisions which would be disastrous if enacted into law," specifically taking issue with the law's definition of what constituted a landmark or historic district and the occasional tax subsidies that it would provide.[7] It was also during this time that a REBNY representative was quoted as saying that the law "would seriously impede the modern expansion and progress of the city."[8] Similarly, in 1973 when City Council heard a proposal to amend the landmarks law so that LPC could designate landmarks and historic districts on a continual basis rather than within the existing law's prescribed six-month timeframe every three years, REBNY opposed the amendment on the grounds that the landmarks law was already "extending protection to too many buildings and preventing development."[9] The following year REBNY President D. Kenneth Patton characterized the law as "clearly confiscatory" in cases where the building had no economic use, instead favoring a "principle of selective preservation."[10]

During the building boom of the 1980s REBNY was particularly outspoken in its opposition to historic district designation, claiming that such designations were motivated by an anti-development agenda and would prevent revitalization. Opposing the Ladies' Mile Historic District in 1986, REBNY President Steven Spinola predicted in a letter to *The New York Times* that "Landmark restrictions on this commercial area will have a chilling effect on the renovations and adaptations of long-vacant buildings, which have helped transform the area into a vibrant retail and commercial district," and instead recommended an alternate type of designation via a "protected-buildings list" which would only protect select buildings within the proposed district.[11] Regarding the proposal for the Upper West Side/Central Park West Historic District, Spinola testified in 1988 that "We are often criticized for our unwillingness to accept historic districts. And it's true, that in the past we have opposed, rather than supported, most districts. Our opposition really began with the Upper East Side Historic District, and has continued to the other large districts such as Ladies' Mile and this one. And our opposition will continue, as long as we believe that historic districts are proposed as development control mechanisms."[12]

By the early-mid 1990s REBNY appears to have taken a reprieve from its hardline stance. Responding to a question about the organization's original opposition to the landmarks law,

7 "City Holds Landmarks Bill Hearing," *The New York Times*, December 4, 1964.

8 David Dunlap, "Change on the Horizon for Landmarks," *The New York Times*, April 29, 1990.

9 Glenn Fowler, "Frick Drops Plan For Its New Wing," *The New York Times*, November 28, 1973.

10 It bears noting that Patton did not articulate how the subject of use—or for that matter, reuse—was not more relevant to the City Planning Commission, which regulates such activities, than to LPC. "Issue and Debate: Preservation of City Landmark Buildings," The New York Times, October 22, 1974.

11 Steven Spinola, "Ladies' Mile Landmark Net Would Catch Many Nondescript Fish" Letter to the Editor, *The New York Times*, October 4, 1986.

12 REBNY President Steven Spinola, Upper West Side/Central Park West Historic District hearing testimony, January 12, 1988. More recently, in an opinion entitled "REBNY Has Been a Loyal Friend to Preservation," Spinola cited two instances where REBNY had supported historic district designation: Lamartine Place and the Park Slope Extension. However, LPC's designation reports for the districts only identified REBNY's support for one: Lamartine Place, which consists of twelve mid-19th-century rowhouses. Steven Spinola, "REBNY Has Been a Loyal Friend to Preservation," *New York Observer*, February 24, 2014; "Designation Report Database," Neighborhood Preservation Center, accessed 3/5/14, www.neighborhoodpreservationcenter.org/designation_reports/index.

REBNY First Senior Vice President Warren Wechsler offered, "We certainly don't feel that way now. We think that in many instances properties have ascended in value because more attention has been focused on their architectural merits."[13] However, Wechsler was also careful to note REBNY's concerns "about a misuse of the law to thwart needed development" and the "shadow of uncertainty" that arises between the time the property is initially heard and it is designated.[14] Several years later REBNY Senior Vice President for Research Michael Slattery voiced concern about the role of district designation within the larger context of urban planning, stating, "The worry at our end is that preservation is determining what planning goals should be…They've got things upside down," thus implying that the identification and protection of historic properties was not a fundamental component of a comprehensive urban planning process.[15] While Slattery's statement was informative about REBNY's priorities, REBNY Assistant Vice President Eric Deutsch's statement was informative about its motives. Testifying against the proposed Carnegie Hill Historic District Extension in 1994, Deutsch offered no comment on the merits—or lack of—of the proposed district extension but instead declared, "Now three historic districts along Fifth Avenue between 59th and 98th Streets have removed a large portion of Manhattan from future as-of-right development."[16]

Since 2012 REBNY has intensified its opposition to local historic district designation by forming an alliance with special interest groups and by sponsoring two in-house studies on the subject of designation. In June 2012, REBNY formed the Responsible Landmarks Coalition in partnership with property redevelopment, ownership, management, and special interest groups as a means of proposing a "pro-active policy agenda" for LPC.[17] One year later REBNY's Research Department released "An Analysis of Landmarked Properties in Manhattan," and in September 2013 it released "The Impact of Landmarking on Housing Production in Manhattan."[18] These reports have in turn have provided the basis for its own opinion pieces and for the opinions, editorials, and articles of other individuals reporting on or sharing in its opposition, including those of economist and high-density advocate, Edward L. Glaeser.[19] Given the timing of REBNY'S two reports, it is highly likely that this more intensified effort to combat local historic district designation has come in response to LPC's designation of the Borough Hall Skyscraper Historic District in Brooklyn and the calendaring and designation of the three West End Avenue Extensions on the Upper West Side, all of which

13 Dunlap, April 29, 1990.

14 Ibid.

15 David W. Dunlap, "A Balancing Act for TriBeCa Zoning," *The New York Times*, February 14, 1993.

16 Marvine Howe, "Neighborhood Report: East Side; Carnegie Hill: From Shanty to History," *The New York Times*, April 3, 1994.

17 The Responsible Landmarks Coalition consists of REBNY, Building and Construction Trades Council of Greater New York, New York Building Congress, Building Trades Employers Association of New York City, Manhattan Chamber of Commerce, and 32BJ Service Employees International Union, as well as the Community Housing Improvement Program, Council of New York Cooperatives and Condominiums, and Rent Stabilization Association. Among the agenda items posted on its website are for LPC to: "provide an open and transparent system, apply consistently high standards, promote growth and success in New York City, and administer the laws in a sensible manner." Responsible Landmarks Coalition, accessed 4/6/14, www.responsible-landmarks-coalition.org.

18 "An Analysis of Landmarked Properties in Manhattan," Real Estate Board of New York, (June 2013); "The Impact of Landmarking on Housing Production in Manhattan," Real Estate Board of New York, (September 2013).

19 Among the newspapers that have either covered or weighed in on the subject of historic district designation are *The New York Times, Wall Street Journal*, *Crain's New York Business*, *Real Estate Weekly, New York Post*, *New York Observer*, and *New York Daily News*.

REBNY stridently opposed. Following City Council's vote on February 1, 2012 to uphold the Landmarks Commissioners' vote to designate the Borough Hall Skyscraper Historic District, REBNY President Steven Spinola stated, "In New York City, there are over 28,000 properties that are now subject to the arbitrary, unaccountable and bureaucratic Landmarks Preservation Commission and the onerous costs that it imposes."[20] Additionally, as the New York City Department of City Planning's initiative to rezone Midtown East began to move forward, a coalition known as Midtown 21C, comprised of REBNY and other real estate, business, and labor interests, released a report entitled "Midtown East Report: Icons, Placeholders & Leftovers" (February 2013) specifically to preclude any designation proposals in the study area by LPC before the rezoning was to be enacted.[21]

Given this history of opposition, it is not surprising that the city's most powerful real estate lobbyist has adopted a more aggressive approach toward the activities of LPC as a means of preventing future district designations. This has been especially apparent in REBNY's fixation on Manhattan, where any regulatory oversight of a property can affect its redevelopment potential. Nevertheless, the onslaught of REBNY-driven allegations on this subject, compounded by the extensive coverage they have received in the media, require a response that more fully considers the intent, administration, and ramifications of the New York City Landmarks Law and the agency and commissioners who uphold it, independent of REBNY's special interests.

2.3 Basis for Study

This study was commissioned by the Citizens Emergency Committee to Preserve Preservation (CECPP) to evaluate the New York City Landmarks Law and its various effects, and in doing so, respond to a host of allegations by REBNY. The CECPP is a preservation coalition under fiscal sponsorship of the non-profit Open Space Institute's Citizen Action Program. It was formed in 2008 to protect and reform the system of preserving historic resources in New York City by advocating for a fair and open LPC designation and regulatory process, the re-assertion of LPC independence, and the allocation of appropriate resources for the agency.

2.4 Dates the Study Was Conducted

Research, analysis, and writing for this study were conducted between March and June 2014.

[20] "Brooklyn skyscraper district joins city's historic list," *Real Estate Weekly*, February 10, 2012.

[21] In addition to REBNY, Midtown 21C consists of the New York Building Congress, Building Trades Employers Association, Manhattan Chamber of Commerce, Hotel Trades Council, and the 32BJ Service Employees International Union. "Midtown East Report: Icons, Placeholders & Leftovers," which was completed by a firm known as CivicVisions based in Philadelphia, evaluated all of the historic properties contained within the proposed rezoning area. Applying its own evaluative criteria, the study found that there were no properties in the entire 73-block study area that merited designation beyond the individual landmarks that had already been designated. Augmenting its survey, CivicVisions also offered a rationale for the demolition of many of the large-scale early- and mid-20th-century office buildings and hotels in the proposed rezoning area, citing operational and maintenance deficiencies that it substantiated through an integrated yet separate analysis by the New York City-based engineering firm of Thornton Tomasetti. CivicVisions, "Midtown East Report: Icons, Placeholders & Leftovers," Midtown 21C: Coalition for a Globally Competitive NYC, and Joel S. Weinstein, P.E., Thornton Tomasetti, "Engineering Appendix," (February 27, 2013). Currently, the debate over the proposed rezoning of Midtown East has temporarily subsided as a result of its failure to pass in City Council at the end of the last mayoral term.

2.5 Acknowledgments and Citation

Gregory Dietrich Preservation Consulting (GDPC) would like to especially thank Jeffrey A. Kroessler, Ph.D., and Anthony C. Wood, both of the Citizens Emergency Committee to Preserve Preservation, for their assistance. In addition, GDPC would like to acknowledge the following individuals for their assistance with this study:

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Jacqueline Peu-Duvallon, Jacqueline Peu-Duvallon Historic Preservation Consulting, LLC
Anthony M. Tung

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2.6 Location of Report Copies

Copies of the report are on file at the office of the Citizens Emergency Committee to Preserve Preservation, New York, NY, and in Avery Library, Columbia University, New York, NY.

3.0 Scope and Methodology

3.1 Scope

The scope of this study was determined through discussions with the Citizens Emergency Committee to Preserve Preservation (CECPP) and Gregory Dietrich Preservation Consulting (GDPC). It is intended to evaluate the New York City Landmarks Law and its impact, and examine and respond to the series of allegations about LPC regarding local landmark and district designation as enumerated in the Real Estate Board of New York's reports "An Analysis of Landmarked Properties in Manhattan" and "The Impact of Landmarking on Housing Production in Manhattan."

3.2 Methodology

Research for "A Proven Success: How the New York City Landmarks Law and Process Benefit the City" entailed interviews, and a review of published studies, articles, editorials, opinions, and data sets. Interviews were conducted with Jeffrey A. Kroessler, Ph.D., and Anthony C. Wood, Citizens Emergency Committee to Preserve Preservation; Julian Adams, New York State Office of Parks, Recreation and Historic Preservation; Erica C. Avrami, Ph.D., World Monuments Fund; Santiago Grullon, NYC & Company; Alex Herrera, New York Landmarks Conservancy; Lisa Kersavage, Van Alen Institute; Jacqueline Peu-Duvallon, Jacqueline Peu-Duvallon Historic Preservation Consulting, LLC; and Anthony M. Tung. In addition, research for this study included a review of New York City data, as it pertains to LPC statistics, the landmarks law, property values, zoning, economic development, retail, sustainability, housing, and affordable housing.

Beyond local data published by New York City, research entailed a review of quantitative studies pertaining to demographics and housing in New York City, and both quantitative and qualitative studies concerning Historic Preservation and economic development, reinvestment, downtown revitalization, and sustainability, as well as articles, editorials, and opinions pertaining to LPC. Regarding REBNY's allegations about historic district designation, "An Analysis of Landmarked Properties in Manhattan" and "The Impact of Landmarking on Housing Production in Manhattan" were reviewed, along with newspaper opinions, editorials, and articles citing these studies.

4.0 Analysis

Section 4 evaluates a range of topics, some related and others unrelated to the New York City Landmarks Law.

4.1 New York City Landmarks Preservation Commission and Commissioners

4.1.1 Regulatory Purview

LPC is charged with evaluating and regulating new additions and new buildings in historic districts by gauging their appropriateness in relation to the historic building that is being altered and/or the new building that is being introduced. As fully articulated in §25-304 of the New York City Administrative Code:

> **Scope of commission's powers.** a. Nothing contained in this chapter shall be construed as authorizing the commission, in acting with respect to any historic district or improvement therein, or in adopting regulations in relation thereto, to regulate or limit the height and bulk of buildings, to regulate and determine the area of yards, courts and other open spaces, to regulate density of population or to regulate and restrict the locations of trades and industries or location of buildings designed for specific uses or to create districts for any such purpose.
> b. <u>Except as provided in subdivision a of this section,</u> <u>the commission may, in exercising or performing its powers, duties or functions under this chapter with respect to any improvement in a historic district</u> or a landmark site or containing an interior landmark, or any landscape feature of a scenic landmark, <u>apply or impose, with respect to the construction, reconstruction, alteration, demolition or use of such improvement or landscape feature or the performance of minor work thereon, regulations, limitations, determinations or conditions which are more restrictive than those prescribed or made by or pursuant to other provisions of law applicable to such activities, work or use.</u> [author's underline][22]

Further, Article b. of §25-307 **Factors governing issuance of certificate of appropriateness** of the New York City Administrative Code states:

> (1) In making such determination with respect to any such application for a permit to construct, reconstruct, alter or demolish an improvement in an historic district, the commission shall consider (a) the effect of the proposed work in creating, changing, destroying or affecting the exterior architectural features of the improvement upon which such work is to be done, and (b) the relationship between the results of such work and the exterior architectural features of other, neighboring improvements in such district.
> (2) In appraising such effects and relationship, the commission shall consider, in addition to any other pertinent matters, the factors of aesthetic, historical and

[22] New York City Administrative Code Title 25: Land Use, §25-304.

architectural values and significance, architectural style, design, arrangement, texture, material and color.
(3) All determinations of the commission pursuant to this subdivision b shall be made subject to the provisions of section 25-304 of this chapter, and the commission, in making any such determination, shall not apply any regulation, limitation, determination or restriction as to the height and bulk of buildings, the area of yards, courts or other open spaces, density of population, the location of trades and industries, or location of buildings designed for specific uses, other than the regulations limitations, determinations and restrictions as to such matters prescribed or made by or pursuant to applicable provisions of the law, exclusive of this chapter; <u>provide, however, that nothing contained in such section 25-304 or in this subdivision b shall be construed as limiting the power of the commission to deny a request for a certificate of appropriateness for demolition or alteration of an improvement in an historic district (whether or not such request also seeks approval, in such certificate, of construction or reconstruction of any improvement), on the ground that such demolition or alteration would be inappropriate for and inconsistent with the effectuation for the purposes of this chapter, with due consideration for the factors hereinabove set forth in this subdivision b.</u> [author's underline][23]

The New York City Administrative Code empowers LPC to approve or reject proposed modifications to historic buildings and the construction of new buildings in historic districts based on all aspects of appropriateness. While questions of height and bulk are regulated by the Department of City Planning and enforced by the Department of Buildings, the NYC-LPC rules on the distribution of height and bulk for new construction on designated properties. By contrast, REBNY's claim that LPC is exceeding its regulatory purview by prohibiting the full development potential of underdeveloped sites is unsubstantiated by the law. For example, REBNY cites the Commissioners' rejection of a 10-story addition proposed for a 5-story building at 40 East 72nd Street.[24] But the decision was not only consistent with the Commissioners' mandate to evaluate all aspects of appropriateness as articulated above, but also to consider impacts as they relate to both the historic building proposed for expansion and the historic district in which it is located.[25] Beyond LPC's legal authority, it bears noting that the Commissioners have certainly shown a willingness to consider and approve substantial additions to designated properties (Photographs 1-4).

[23] New York City Administrative Code Title 25: Land Use, §25-307.
[24] "An Analysis of Landmarked Properties in Manhattan," 1.
[25] Ibid.

Photo 1. 241-243 Water Street
Rooftop addition (left) &
new construction (right),
South Street Seaport Historic District.
Polshek Partnership Architects, 1991
Gregory Dietrich, photographer, 3/2/2014

Photo 2. 300 West 57th Street
Tower addition,
Hearst Magazine Building Individual Landmark.
Foster and Partners, 2006
Gregory Dietrich, photographer, 3/2/2014

Photo 3. 980 Madison Avenue
Approved rooftop addition (not yet built),
Upper East Side Historic District.
Foster and Partners, 2009
Source: "Crowning 980 Madison Avenue,"
Architect's Newspaper, 10/13/09

Photo 4. 837 Washington Street
Approved rooftop addition (under way),
Gansevoort Market Historic District.
Morris Adjmi Architects, 2014
Gregory Dietrich, photographer, 3/2/14.

4.1.2 Criteria for Designating Properties in Historic Districts

In evaluating and designating historic districts, LPC is charged with considering the distinct sense of place derived from a grouping of historic properties. As articulated in §25-302 of the New York City Administrative Code, a historic district is defined as:

> Any area which: (1) contains improvements which: (a) have a special character or special historical or aesthetic interest or value; and (b) represent one or more periods or styles of architecture typical of one or more eras in their history of the city; and (c) cause such area, by reason of such factors, to constitute a distinct section of the city; and (2) has been designated as a historic district pursuant to the provisions of this chapter.[26]

Thus, the task of LPC entails delineating a district boundary that captures this "distinct section of the city" to the greatest extent possible. Although one can make the argument for excising certain insignificant properties from a district boundary proposal—just as one can make an argument for extending a district boundary based on the significance of historic properties that lies beyond them—their inclusion is ultimately justified by their location within the context of the district and whether their exclusion would potentially compromise the future district's distinct sense of place. More often than not, a district boundary will include vacant lots, parking lots, and "no style buildings" in one manifestation or another since they are a typical feature of any urban landscape.[27]

REBNY contends that LPC is including insignificant properties in their historic district designations, and in doing so, controlling the "future bulk and look of buildings adjacent to historic properties" while also enabling "those seeking to oppose the creation of housing and/or jobs with the opportunity to block what would otherwise be as-of-right developments."[28] As proof of this allegation, REBNY cites a BP gas station on the border of the proposed SoHo-Cast Iron Historic District Extension that could have been easily omitted.[29] However, such an omission would have failed to consider the context of this parcel within both the extension and the surrounding area, consisting of the (proposed) SoHo-Cast Iron Historic District Extension to the south, its proximity to the original SoHo-Cast Iron Historic District to the west, the NoHo Historic District to the north, and the individually designated Puck Building to the east. All of these factors most likely informed LPC's decision to include the BP gas station site in the SoHo-Cast Iron Historic District Extension. It also bears noting that the Commissioners recently approved the demolition of this gas station and approved the construction of a 7-story mixed-use office building on the property (Photographs 5-6).[30]

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26 New York City Administrative Code Title 25: Land Use, §25-302, Article h.

27 A "no style building" (aka a non-contributing resource) is a term used by LPC to characterize a building that falls within, but does not contribute to the significance of, a historic district. It also bears noting that the very existence of an underdeveloped building, parking lot, or vacant lot does not mean that it is a natural candidate for development by its owner, regardless of the interests of any non-affiliated developers.

28 "An Analysis of Landmarked Properties in Manhattan," 2.

29 Ibid.

30 According to *CityLand*, on January 28, 2014, Marcello Porcelli, developer of the proposed 7-story mixed-use office building at 300 Lafayette Street, testified at the City Council Land Use Subcommittee on Zoning and Franchises that it was "an absolutely beautiful building" that will "stand the test of time in this historic district," while expressing his

Regarding the report's assertion about "those seeking to oppose the creation of housing and/or jobs with the opportunity to block what would otherwise be as-of-right developments," there is no explanation in the report as to who "those" are. If the report is referring to LPC, then this allegation regarding their motives needs to be corroborated. If the report is referring to "those" as members of the public who support the inclusion of insignificant properties within a district, then this is irrelevant since they are not the decision-makers in the district designation process.

Photo 5. BP Gas Station Site
300 Lafayette Street.
SoHo-Cast Iron Historic District Extension, with Puck Building IL (left), SoHo-Cast Iron HDE (above center), SoHo-Cast Iron HD (right), and NoHo HD (below left).
Source: Bing Birds-Eye View, www.bing.com/maps. Accessed 4/28/14

Photo 6. 300 Lafayette Street Proposal (center)
Approved new construction,
SoHo-Cast Iron Historic District Extension.
COOKFOX Architects, LLP, 2014
Source: "SoHo BP Gas Station Could be Replaced by 7-Story Gas Station"
DNA Info New York, 4/2/13

pride in receiving "unanimous approval from the Landmarks Preservation Commission…" Jennifer Baek, "New Land Use Committee Approved Commercial Development to Replace SoHo BP Gas Station," *CityLand,* February 6, 2014.

4.2 Landmark and Historic District Designation

4.2.1 Permit Timeframes and Costs to Property Owners

As of the writing of this report, LPC has designated 1,332 individual landmarks, 109 historic districts, 20 extensions to existing historic districts, 115 interior landmarks, and 10 scenic landmarks.[31] LPC is the largest municipal preservation agency in the country, with 67 employees that include preservationists, researchers, architects, historians, attorneys, archaeologists, and administrative employees. In addition, there are eleven appointed Commissioners who are not compensated except for the Chair.[32] According to the "Preliminary Fiscal 2014 Mayor's Management Report," LPC staff has processed over 10,000 work permit applications since Fiscal Year 2011 (Table 1). In addition, there were 14% more permits filed in the first four months of Fiscal 2014 and a 14% increase in the number of actions taken by LPC staff in responding to them.[33]

Table 1. Work Permit Applications Received and Actions Taken[34]

Activity	FY 2011	FY 2012	FY 2013	FY 2014 1st Qtr
Work Permit Applications Received	10,753	11,823	11,886	4,480
Actions Taken on Work Permit Applications Received	11,738	11,238	11,767	4,377

As a means of expediting two types of staff-level permits, the Bloomberg Administration introduced two programs: the FasTrack Service and the Expedited Certificate of No Effect Service. The FasTrack Service offers a streamlined approvals process within 10 days of filing for permit applications entailing interior alterations, window replacement, and HVAC installation on non-visible facades, provided the application is complete and there are no outstanding LPC violations on the building.[35] The Expedited Certificate of No Effect Service offers a streamlined approvals process within 3 days of filing for specific kinds of interior work on an individual landmark or a building located within a historic district.[36]

Over the past several years, the agency has maintained and/or increased its efficiency in its review and approval of staff-level permits as summarized in the statistics from the "Preliminary Fiscal 2014 Mayor's Management Report" (Table 2).

31 "Preliminary Fiscal 2014 Mayor's Management Report: Landmarks Preservation Commission," NYC Mayor's Office of Operations.
32 "About the Landmarks Preservation Commission," NYC Landmarks Preservation Commission, accessed 4/10/14, www.nyc.gov/html/lpc/html/about/about.
33 "Preliminary Fiscal 2014 Mayor's Management Report: Landmarks Preservation Commission."
34 Ibid.
35 "Apply for a Permit: Expedited Reviews," NYC Landmarks Preservation Commission, accessed 4/10/14, www.nyc.gov/html/lpc/html/permit/reviews.
36 Ibid.

Table 2. LPC Staff-Level Permits Approval Statistics[37]

Permit Type/Approval Timeframe	FY 2011	FY2014
% of Expedited Certificates of No Effect issued within 2 days	100%	100%
% of Certificates of No Effect issued within 10 days	85%	92%
% of Permits for Minor Work issued within 10 days	81%	87%

Master Plans
In addition to the time-saving initiatives noted above, the agency has promoted the creation of master plans for individual buildings and historic districts as a means of streamlining the permitting process.[38] Similar to a set of design guidelines, a master plan offers design criteria for a particular feature of a building that, when agreed upon by the applicant, can result in a staff-level approval instead of a public hearing requiring the Commissioner approval. To date, historic district master plans have been completed in Fieldston, Douglaston, Jackson Heights, Reglas-Distrito Histórico de Jackson Heights, Stone Street, and the Madison Avenue storefronts for Carnegie Hill, Metropolitan Museum, and the Upper East Side.[39]

Certificates of Appropriateness
By their very nature, Certificate of Appropriateness (CofA) applications, which include any proposals for additions, demolitions, new construction, and/or the removal of significant architectural features, require a more intensive review for their effects on the designated property or properties. As such, CofAs require a staff-level review to ensure that the application is technically complete followed by a presentation to the local Community Board, and then a public hearing entailing a presentation by the applicant, public testimony, and review, comment, and a vote by the Commissioners. Pending the appropriateness of the proposal, the Commissioners may approve or deny the application, or request revisions, whereupon the applicant may have to return with a revised proposal.

In all cases, the applicant has the opportunity to consult with LPC staff beforehand in order to understand what the Commissioners will be evaluating in considering the proposal, as well as the viability of the overall project. Although the staff can offer guidance and insight to the applicant, it ultimately has no control over what the applicant proposes. This is an important distinction as it means that the applicant has the ability to either work within the parameters of appropriateness, as advised by staff and/or guided by the precedent of similar projects in other parts of the city, or not. Taken within this regulatory context, CofA project delays and costs can be attributable to any host of applicant-driven factors that include:

- A failure to submit all of the requisite materials to satisfy the technical completion of the application;

[37] "Preliminary Fiscal 2014 Mayor's Management Report: Landmarks Preservation Commission."
[38] LPC-approved master plans for individual buildings can be particularly effective in reducing time and costs, especially for shareholders in a co-op, as it enables any shareholder proposing window replacement to obtain quick approvals from the agency. Jim Rendon, "High-Mileage Alterations," *The New York Times*, June 20, 2013.
[39] "Rules and Reports: Current Master Plans," NYC Landmarks Preservation Commission, accessed 4/10/14, www.nyc.gov/html/lpc/html/publications/rules.

- An addition or alteration proposal to a historic building that is not informed by and/or deferential to its design;
- A new construction proposal within a historic district that is not informed by and/or contextual to the neighboring properties in the historic district; and/or
- A presentation at a subsequent hearing with revisions that do not incorporate the Commissioners' previous comments.

Maintenance of Historic Buildings

Landmark or district designation does not force an owner to perform work on their property unless: a) the owner is willfully neglecting his/her property; or b) has completed alterations to its protected exterior features since the time of its designation that were not approved by LPC. Issues pertaining to maintenance and operational efficiencies of a historic building dating to the 1920s versus a building from the 1950s can vary widely, though they are often conflated. For example, there is widespread acknowledgment within the Preservation field that there are issues with some mid-20th-century-modern office buildings whose glass curtain wall systems have not successfully withstood the test of time, owing to material and fabrication limitations compounded by weather conditions. However, this particular issue should not be conflated with 1920s masonry construction whose failures are typically due to inappropriate maintenance initiatives over time that have compromised these buildings' ability to function and operate efficiently.[40] Ultimately, these latter failures can be remedied by brick repair and/or replacement and repointing, combined with proper flashing and coping, and the reintroduction of an adequate drainage system, enabling them to work in harmony with the environment (i.e., allowing the masonry and its joints to breathe) instead of against it (i.e., trapping moisture within). In fact, steel-reinforced masonry buildings continue to be a popular construction technology because of their qualities of endurance and sustainability.

Replacement Materials

Regarding the limitations of mid-20th-century-modern office buildings whose materials and technologies have not withstood the test of time, the Commissioners have already shown a willingness to endorse new technologies in this regard. For example, their approval of a comprehensive replacement of the landmark Lever House's exterior with a new thermally efficient glass curtain wall system was particularly noteworthy in signaling a progressive response. This new system has not only made the building more sustainable by reducing energy consumption—and by extension lowering the building's carbon footprint—but also inspired the stewards of other mid-20th-century-modern icons, such as the United Nations facilities team in rehabilitating the Secretariat, to follow suit. In addition, LPC has not been adverse to the application of other modern replacement materials when an architectural element is deteriorated beyond repair and the replacement can match it in terms of configuration, details, and finish. Examples include the allowance for aluminum-sash replacement windows on large-scale hotels, and large-scale commercial and residential buildings, the application of brown-colored stucco instead of brownstone on

[40] For example, one popular treatment to prevent water from infiltrating a masonry building has been to cover its walls with stucco instead of repairing and/or replacing the bricks and repointing where needed. The unintended consequence of this treatment can trap moisture within the building's walls which in turn freezes and expands, causing steel infrastructure to erode and brick walls to bulge and buckle, thus resulting in a more intensified maintenance issue.

rowhouses and other buildings, fiberglass to replace pressed-metal cornices, glass fiber reinforced concrete (GFRC) to replace terra cotta and carved stone ornamentation, and composite siding to approximate wood siding for new construction. These are all lower-cost alternatives to original materials, though not necessarily as durable over the long term.

In instances where original materials are required, the additional expense of such items can be justified by several factors:

- The original material is of a higher quality and therefore higher durability, enabling a longer term solution than what otherwise might be accomplished through other types of replacement materials[41]
- The authenticity of the original material enhances the brand recognition of an individual landmark, whether it is under the banner of an institution, company, house museum, or multi-family residence that can ultimately enhance its economic value and value to the city
- The original material enhances the special character of a building in a historic district, and in doing so, enhances the character of the district-at-large

[41] A *New York Times* article noted that in spite of a higher cost for historically appropriate windows, Park Slope brownstone rowhouse owner, Arthur Michel, was in favor of having to adhere to LPC standards, stating that the district blocks were "nicer" and that designation "safeguards the character and atmosphere of the block." Rendon, June 20, 2013.

4.2.2 New York City Landmarks Law and Urban Planning

Role of Historic Preservation in Urban Planning

For most of its history, historic preservation in the United States has been a reactive rather than pro-active movement, responding to threats to a range of resources, from significant individual properties (e.g., the proposal to convert George Washington's Mount Vernon into a hotel in the 1850s) to entire neighborhoods (e.g., the proposal to bisect Brooklyn Heights with the Brooklyn-Queens Expressway during the 1940s). The significance of the New York City Landmarks Law was the fact that it established an ongoing system of protections whereby LPC could pro-actively identify, evaluate, and designate historic neighborhoods and individual buildings, landscapes, and sites for preservation as part of a comprehensive municipal planning process. In fact, this process was upheld by the U.S. Supreme Court in its ruling regarding Penn Central's proposal to erect a fifty-story tower atop Grand Central Terminal and LPC's rejection of the proposal based on its inappropriateness. In offering the Court's opinion upholding the city's denial of Penn Central's proposal, U.S. Supreme Court Justice Brennan stated:

> [L]andmark laws are not like discriminatory, or "reverse spot," zoning: that is, a land-use decision which arbitrarily singles out a particular parcel for different, less favorable treatment than the neighboring ones…In contrast to discriminatory zoning, which is the antithesis of land-use control as part of some comprehensive plan, the New York City law embodies a comprehensive plan to preserve structures of historic or aesthetic interest wherever they might be found in the city…[42]

As such, the intent of the law is to ensure that the city's historic properties are considered—and if found to be significant, protected—in advance of development and redevelopment activities which may compromise them. Today, the New York City Landmarks Law has not only been effective in implementing this system of ongoing identification and protection, but also has served as a model for other municipalities across the United States intent on preserving their built heritage.

As of October 2013, only 3.20% of all the properties (i.e., developable tax lots) in New York City were designated: 25.67% of the properties in Manhattan were designated; 4.50% in Brooklyn; .85% in Queens; .97% in the Bronx; and .23% in Staten Island (Tables 3-7).[43] In addition, an overwhelming number of these designated properties are located in historic districts which is justifiable given the fact that:

1. Historic districts by their very nature are comprised of multiple properties and as such will reflect a higher number of designated properties than individual landmarks;

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[42] William J. Brennan, Jr., "Penn Central Transportation Co. et al. v. New York City et al." Majority Opinion, June 26, 1978. 19.

[43] Contrary to REBNY report, this analysis calculated that as of October 2013, 25.67% of the properties in Manhattan had been designated. Numbers and percentages regarding designated properties do not reflect bridges, parks, and cemeteries since they do not constitute potentially developable land; individual properties located in historic districts were only counted once in order to avoid redundancies in number of designated property totals. "PLUTO: September 2013-October 2013," New York City Department of City Planning, accessed 4/28/14, www.nyc.gov/html/dcp/html/bytes/applbyte.

2. There are many properties located in historic districts that are also individual landmarks so there are some redundancies among designated properties; and
3. The New York City Landmarks Law imposes no limits on the number of historic districts that can be designated so LPC is acting in accordance with the law in designating all types of historic properties on an ongoing basis.[44]

Table 3. Percentage of Designated Properties by Community District – Manhattan	**Total Properties**	**Total Designated Properties**	**% of Designated Properties**
Manhattan	**42,820**	**10,993**	**25.67%**
CD 1 - Lower Manhattan/Tribeca	1,486	739	49.73%
CD 2 - West/Greenwich Village/SoHo	4,756	3,139	66.00%
CD 3 - East Village/Lower East Side	4,260	362	8.50%
CD 4 - Clinton/Chelsea/Hell's Kitchen	3,520	310	8.81%
CD 5 - Midtown	3,112	625	20.08%
CD 6 - Midtown East/Murray Hill	2,852	299	10.48%
CD 7 - Upper West Side	4,444	2,635	59.29%
CD 8 - Upper East Side	5,599	1,714	30.61%
CD 9 - West Harlem	2,496	594	23.80%
CD 10 - Central Harlem	4,411	461	10.45%
CD 11 - East Harlem	3,172	26	0.82%
CD 12 - Washington Heights/Inwood	2,712	89	3.28%

Table 4. Percentage of Designated Properties by Community District - Brooklyn	**Total Properties**	**Total Designated Properties**	**% of Designated Properties**
Brooklyn	**277,271**	**12,467**	**4.50%**
CD 1 - East Williamsburg, Greenpoint, Northside, Southside, Williamsburg	15,099	418	2.77%
CD 2 - Boerum Hill, Brooklyn Heights, Clinton Hill, Downtown Brooklyn, DUMBO, Farragut Houses, Fort Greene, Fulton Ferry, Brooklyn Navy Yard, Vinegar Hill	8,205	3,653	44.52%
CD 3 - Bedford-Stuyvesant, Stuyvesant Heights, Tompkins Park North	17,044	1,302	7.64%
CD 4 - Bushwick	11,231	10	0.09%

[44] It bears reiterating that for the first eight years of LPC's existence, the agency could only designate historic properties within a six-month timeframe every three years, which resulted in the early designations of a host of individual landmarks that were later subsumed into historic districts once the law was amended to enable ongoing designations.

Table 4. Percentage of Designated Properties by Community District - Brooklyn	Total Properties	Total Designated Properties	% of Designated Properties
CD 5 - Broadway Junction, City Line, Cypress Hills, East New York, Highland Park, New Lots, Spring Creek, Starrett City	20,886	3	0.01%
CD 6 - Carroll Gardens, Cobble Hill, Gowanus, Park Slope, Red Hook	13,839	3,569	25.79%
CD 7 - Industry City, Sunset Park, Windsor Terrace	13,372	27	0.20%
CD 8 - Crown Heights, Prospect Heights, Weeksville	8,107	1,918	23.66%
CD 9 - Crown Heights South, Prospect Lefferts Gardens, Wingate	6,963	872	12.52%
CD 10 - Bay Ridge, Dyker Heights, Fort Hamilton	17,069	3	0.02%
CD 11 - Bath Beach, Bensonhurst, Gravesend, Mapleton	21,840	6	0.03%
CD 12 - Borough Park, Kensington, Ocean Parkway	19,369	0	0.00%
CD 13 - Brighton Beach, Coney Island, Gravesend, Homecrest, Sea Gate, West Brighton	6,933	5	0.07%
CD 14 - Ditmas Park, Flatbush, Manhattan Terrace, Midwood, Ocean Parkway, Prospect Park South	11,790	672	5.70%
CD 15 - Gerritsen Beach, Gravesend, Homecrest, Kings Highway, Manhattan Beach, Plumb Beach, Sheepshead Bay	23,489	3	0.01%
CD 16 - Broadway Junction, Brownsville, Ocean Hill	8,203	1	0.01%
CD 17 - East Flatbush, Farragut, Flatbush, Northeast Flatbush, Remsen Village, Rugby	18,261	1	0.01%
CD 18 - Bergen Beach, Canarsie, Flatlands, Georgetown, Marine Park, Mill Basin, Mill Island, Paerdegat Basin	35,571	4	0.01%

Table 5. Percentage of Designated Properties by Community District – Queens	Total Properties	Total Designated Properties	% of Designated Properties
Queens	**323,549**	**2,751**	**0.85%**
CD 1 - Astoria, Astoria Heights, Dutch Kills, Long Island City, Ravenswood, Rikers Island (BX), Steinway	19,431	4	0.02%
CD 2 - Blissville, Hunters Point, Long Island City, Sunnyside, Sunnyside Gardens, Woodside	10,799	668	6.19%
CD 3 - East Elmhurst, Jackson Heights, North Corona	14,688	520	3.54%
CD 4 - Corona, Corona Heights, Elmhurst, Lefrak City, South Corona	11,878	6	0.05%
CD 5 - Glendale, Maspeth, Middle Village, Ridgewood	31,440	343	1.09%

Table 5. Percentage of Designated Properties by Community District – Queens	Total Properties	Total Designated Properties	% of Designated Properties
CD 6 - Forest Hills, Forest Hills Gardens, Rego Park	10,353	2	0.02%
CD 7 - Auburndale, Bay Terrace, Beechhurst, Clearview, College Point, Downtown Flushing, Flushing, Kissena Park, Malba, Murray Hill, Queensboro Hill, Waldheim, Whitestone	34,710	2	0.01%
CD 8 - Briarwood, Fresh Meadows, Hillcrest, Holliswood, Jamaica, Jamaica Estates, Jamaica Hill, Kew Gardens Hills, Pomonok, Utopia	19,368	1	0.01%
CD 9 - Kew Gardens, Ozone Park, Richmond Hill, Woodhaven	20,428	4	0.02%
CD 10 - Howard Beach, Lindenwood, Old Howard Beach, Ozone Park, South Ozone Park	25,079	0	0.00%
CD 11 - Auburndale, Bayside, Douglaston, Hollis Hills, Little Neck, Oakland Gardens	25,666	740	2.88%
CD 12 - Hollis, Jamaica, Jamaica Center, Rochdale, St. Albans, South Jamaica, North Springfield Gardens	41,405	459	1.11%
CD 13 - Bellaire, Bellerose, Brookville, Cambria Heights, Floral Park, Glen Oaks, Laurelton, New Hyde Park, Queens Village, Rosedale, Springfield Gardens	43,585	1	0.00%
CD 14 - Arverne, Bayswater, Belle Harbor, Breezy Point, Broad Channel, Edgemere, Far Rockaway, Hammels, Mott Creek, Neponsit, Rockaway Park, Roxbury, Seaside, Somerville, The Rockaways	14,719	1	0.01%

Table 6. Percentage of Designated Properties by Community District - Bronx	Total Properties	Total Designated Properties	% of Designated Properties
Bronx	**89,449**	**870**	**0.97%**
CD 1 - Melrose, Mott Haven, Port Morris	4,023	170	4.23%
CD 2 - Hunts Point, Longwood	2,965	146	4.92%
CD 3 - Claremont, Crotona Park East, Melrose, Morrisania	3,797	54	1.42%
CD 4 - Concourse, Concourse Village, East Concourse, Highbridge, Mount Eden, West Concourse	3,354	109	3.25%
CD 5 - Fordham, Morris Heights, Mount Hope, University Heights	3,300	40	1.21%
CD 6 - Bathgate, Belmont, Bronx Park South, East Tremont, West Farms	4,194	3	0.07%
CD 7 - Bedford Park, Fordham, Kingsbridge Heights, Norwood, University Heights	3,638	9	0.25%

Table 6. Percentage of Designated Properties by Community District - Bronx	Total Properties	Total Designated Properties	% of Designated Properties
CD 8 - Fieldston, Kingsbridge, Marble Hill (MN), North Riverdale, Riverdale, Spuyten Duyvil	4,775	329	6.89%
CD 9 - Bronx River, Castle Hill, Clason Point, Harding Park, Parkchester, Soundview, Soundview-Bruckner, Unionport	10,842	0	0.00%
CD 10 - City Island, Co-op City, Country Club, Edgewater Park, Pelham Bay, Schuylerville, Throgs Neck, Village of Baychester, Westchester Square	15,226	7	0.05%
CD 11 - Bronxdale, Indian Village, Laconia, Morris Park, Pelham Gardens, Pelham Parkway, Van Nest	12,702	2	0.02%
CD 12 - Baychester, Eastchester, Edenwald, Olinville, Wakefield, Williamsbridge, Woodlawn	20,633	1	0.00%

Table 7. Percentage of Designated Properties by Community District - Staten Island	Total Properties	Total Designated Properties	% of Designated Properties
Staten Island	**121,932**	**277**	**0.23%**
CD 1 - Arlington, Castleton Corners, Clifton, Elm Park, Fox Hills, Graniteville, Grymes Hill, Howland Hook, Livingston, Mariner's Harbor, New Brighton, Old Place, Park Hill, Port Ivory, Port Richmond, Randall Manor, Rosebank, Shore Acres, Silver Lake, Stapleton, St. George, Sunnyside, Tompkinsville, Ward Hill, West Brighton, West New Brighton, Westerleigh, Willowbrook	38,988	192	0.49%
CD 2 - Arrochar, Bloomfield, Bulls Head, Chelsea, Concord, Dongan Hills, Egbertville, Emerson Hill, Grant City, Grasmere, Heartland Village, Lighthouse Hill, Manor Heights, Midland Beach, New Dorp, New Dorp Beach, New Springville, Old Town, South Beach, Travis, Todt Hill, Willowbrook	34,284	53	0.15%
CD 3 - Annadale, Arden Heights, Bay Terrace, Butler Manor, Charleston, Eltingville, Great Kills, Greenridge, Huguenot, Oakwood, Oakwood Beach, Pleasant Plains, Prince's Bay, Richmond Town, Richmond Valley, Rossville, Sandy Ground, Tottenville, Woodrow	48,660	32	0.07%

Although district designation may play a role in limiting the full development potential of an underdeveloped site, so does the city's zoning which regulates height, massing, bulk, and use, especially through downzonings and contextual zonings. Moreover, designation does not mean that an owner or developer cannot build at all. In fact, there are many examples throughout the five boroughs where the Commissioners have approved new construction on vacant lots and parking lots, and the replacement of "no style buildings" with new buildings.[45] The following projects attest to the range of new construction occurring in historic districts that met with approval by the Commissioners. These examples are not only contextual, but also distinctive in their own right (Photographs 7-18).

Photo 7. 119 Columbia Heights
New construction that replaced a 4- and 1-story building, Brooklyn Heights Historic District.
Ulrich Franzen and Associates, 1970
Gregory Dietrich, photographer, 4/5/14

[45] As noted, a "no style building" (aka a non-contributing resource) is a term used by LPC to characterize a building that falls within, but does not contribute to the significance of, a historic district. It also bears noting that the very existence of an underdeveloped building, parking lot, or vacant lot does not mean that it is a natural candidate for development by its owner, regardless of other development interests.

Photo 8. 24 Peck Slip
New construction that replaced a series of ruins and vacant lots,
South Street Seaport Historic District.
Cook + Fox Architects, 2005
Gregory Dietrich, photographer, 3/2/14

Photo 9. 254 Front Street (right)
New construction that replaced a garage,
South Street Seaport Historic District.
Morris Adjmi Architects, 2012
Gregory Dietrich, photographer, 3/2/14

Photo 10. 47 East 91st Street
New construction that replaced a 1-story building,
Carnegie Hill Historic District.
Platt Byard Dovell White, 2003
Gregory Dietrich, photographer, 3/9/14

Photo 11. 40 Mercer Street
New construction that replaced a parking lot,
SoHo-Cast Iron Historic District.
Jean Nouvel, 2006
Gregory Dietrich, photographer, 3/2/14

Photo 12. 177 Ninth Avenue (center)
New construction that replaced a 5-story building,
Chelsea Historic District.
Polshek Partnership Architects, 2008
Gregory Dietrich, photographer, 3/2/14

Photo 13. 122 Greenwich Avenue
New construction that replaced a parking lot,
Greenwich Village Historic District.
Kohn Pederson Fox, 2009
Gregory Dietrich, photographer, 3/2/14

Photo 14. 34 Leonard Street (left)
New construction that replaced 2 parking garages,
Tribeca West Historic District.
Beyer Blinder Belle Architects & Planners LLP, 2009
Gregory Dietrich, photographer, 3/2/14

Photo 15. 311 West Broadway (left)
New construction that replaced a parking lot,
SoHo-Cast Iron Historic District.
Gwathmey Siegel & Associates Architects, 2008
Gregory Dietrich, photographer, 3/2/14

Photo 16. 30-15 Shore Road
New construction that replaced a vacant lot,
Douglaston Historic District.
Mitropoulos Architects, 2012.
Gregory Dietrich, photographer, 4/26/14

Photo 17. 720 Madison Avenue (center)
New construction that replaced a vacant lot,
Upper East Side Historic District.
Beyer Blinder Belle Architects & Planners LLP, 1996
Gregory Dietrich, photographer, 3/9/14

Photo 18. 27 Wooster Street (left)
New construction that is replacing a parking lot,
SoHo-Cast Iron Historic District.
Kohn Pederson Fox, 2014
Gregory Dietrich, photographer, 3/2/14

Simultaneous Rezoning Efforts
Beyond the fact that historic district designation does not prevent the introduction of new development is the fact there have been a series of initiatives under the Bloomberg Administration to promote new high-density growth in a host of neighborhoods throughout the city. Focusing largely on underutilized manufacturing areas, the Department of City Planning over the past decade has rezoned portions of the city to facilitate high-density construction in neighborhoods that include, among others, the Far West Village, West Chelsea, Hell's Kitchen, and East Harlem in Manhattan; Greenpoint-Williamsburg and DUMBO in Brooklyn; Jamaica, Hunters Point South, and Willets Point in Queens; and St. George in Staten Island. Even *New York Post* columnist, Steve Cuozzo, who has been more sympathetic to REBNY's interests than the activities of LPC and preservationists, noted:

> Nor can Bloomberg be accused of trying to preserve the city in aspic, [having] opened up vast swaths to the five boroughs to new development by rezoning—part of a visionary strategy to 'grow' the city within its own borders. Much more city land has been opened up to new construction than has been placed off-limits to it. His subtle strategy has been to let the LPC enshrine much of the built environment in developed districts, while using his zoning powers to establish new neighborhoods in parts of town long underused. It's worked remarkably well, despite grumbling by property owners and preservationists alike.[46]

It should be noted that the majority of rezonings under the Bloomberg Administration have been contextual zonings and downzonings, which are certainly as restrictive on properties as those that are located in historic districts. According to a 2010 study by New York University's Furman Center for Real Estate and Urban Policy, between 2002 and 2006 approximately 18%, or 188,000 lots, of the city's total lot area was rezoned, of which almost 63% were subject to contextual rezoning, 23% were downzoned, and 14% were upzoned.[47]

Gansevoort Market Historic District
Striking a balance between preservation of architecturally, historically, and culturally significant properties, while also facilitating new development where it does not encroach upon these resources, is a function of comprehensive urban planning. Perhaps one of the best examples of balancing municipal planning and preservation objectives is the designation of the Gansevoort Market Historic District in tandem with the rezoning of the Far West Village and West Chelsea neighborhoods along the High Line. Although the rezoning can be criticized for not facilitating a significant number of affordable housing units, it can be praised for its role in contributing to the revitalization of the neighborhood, with three historic industrial properties (the High Line, Nabisco Factory (now Chelsea Market), and Gansevoort Market Historic District) serving as its anchors. Today, this area is not only an attractive place to live, but also an extremely popular retail destination, catering to locals and tourists alike, and in doing so, boosting New York City's economy.

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46 Steve Cuozzo, "Opinion: Landmark Backlash," *New York Post*, June 8, 2012.
47 Amy Armstrong, Vicki Been, Josiah Madar, and Simon McDonnell, "Policy Brief: How Have Recent Rezonings Affected the City's Ability to Grow," Furman Center for Real Estate and Urban Policy, New York University, (March 2010), 8.

Significance of Manhattan

As for the number of historic properties designated in Manhattan, New York is inarguably the most significant county in the entire United States owing to its historic prominence in the areas of finance, commerce, and culture which spans nearly two centuries.[48] Further, Manhattan offers one of the most diverse cityscapes of historic resources of anywhere in the world, boasting monumental public and private buildings and infrastructure, distinctive institutional complexes, an eye-filling array of residential, commercial, and industrial neighborhoods, signature civic spaces, and even street plans that range from 17th-century Colonial to late-19th-century Beaux Arts, among others. Based on this exceptionally significant collection of historic resources in Manhattan alone, it is understandable that the most recent addition of the *AIA Guide to New York City* begins its introduction to the borough by declaring, "Distinguished architecture is everywhere on the island, and not just in the obvious places: the Financial District, the Village, SoHo, Midtown, and the Upper West and East Sides. Harlem will delight as well, as will the Lower East Side, Chinatown, Little Italy, Yorkville, and the far reaches of hilly Upper Manhattan."[49] The sheer volume of historic properties in Manhattan alone explains why as of October 2013, just 25.67% of its building stock had been designated. Moreover, it also offers justification for the potential identification and protection of historic properties that have not yet been identified.

REBNY alleges that "the landmarks law is being used as a sword instead of a shield as it was originally intended" and historic district designation functions as large-scale rezoning that affects New York City's long term growth and planning needs.[50] However, as detailed above, the law was originally intended to incorporate preservation objectives into a comprehensive planning process whereby historic properties would be considered in advance of development and redevelopment activities which could potentially compromise them. Further, this system of identification and protection has been upheld by the U.S. Supreme Court. Otherwise, REBNY's reports focus largely on Manhattan which is clearly not representative of the city-at-large when it comes to designation activities, nor do they acknowledge the exceptional significance of the borough which warrants past and future designation activities.

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48 The opening of the Erie Canal in 1825 is considered one of the signal events in New York City's history that transformed it into an economic power and led to its national prominence in the areas of finance, commerce, and culture. Dell Upton, "Inventing the Metropolis: Civilization and Urbanity in Antebellum New York," in *Art and the Empire City: New York, 1825-1861*, ed. Catherine Hoover Voorsanger and John K. Howat (New York: The Metropolitan Museum of Art, 2000), 3.

49 Norval White, Elliot Willensky, with Fran Leadon, *AIA Guide to New York City*, (New York: Oxford University Press, 2010), 2.

50 "An Analysis of Landmarked Properties in Manhattan," 2.

4.2.3 Housing and Affordable Housing

One of the most serious allegations contained in REBNY's "The Impact of Landmarking on Housing Production in Manhattan" is the notion that historic district designation adversely affects the production and retention of housing and affordable housing. However, there is a fundamental flaw in the logic of this assertion: LPC does not regulate use. Nevertheless, in substantiating its claim, the REBNY report notes that in Manhattan over the past 10 years:

- 1.9% of the new residential units (998 units) were constructed on landmarked properties
- 5 affordable housing units were newly constructed on landmarked properties since 2003
- 0 affordable units constructed or rehabbed on landmarked properties since 2008[51]

Analysis Bias

The objectivity of REBNY's "The Impact of Landmarking on Housing Production in Manhattan" is severely undermined by REBNY's long-standing agenda to actively oppose both local designation and the retention of affordable housing, and as such, dilutes the seriousness and complexity of the affordable housing issue. As noted in Section 2.2, REBNY has had a history of opposition to local designation dating back to the proposal for a New York City Landmarks Law in 1964. Also as noted, this opposition was compounded most recently following LPC's designation of the Borough Hall Skyscraper Historic District in Brooklyn and the agency and Commissioners' calendaring and ongoing designation of the three West End Avenue Extensions on the Upper West Side of Manhattan, all of which REBNY stridently opposed. It also bears reiterating REBNY President Steven Spinola's statement in response to the designation of the Borough Hall district: "In New York City, there are over 28,000 properties that are now subject to the arbitrary, unaccountable and bureaucratic Landmarks Preservation Commission and the onerous costs that it imposes."[52] Since 2012 REBNY has intensified its opposition to local historic district designation by forming an alliance with special interest groups and by sponsoring two in-house studies on the subject of designation. In June 2012, REBNY formed the Responsible Landmarks Coalition in partnership with property redevelopment, ownership, management, and special interest groups as a means of proposing a "pro-active policy agenda" for LPC.[53] One year later REBNY's Research Department released "An Analysis of Landmarked Properties in Manhattan," and in September 2013 it released "The Impact of Landmarking on Housing Production in Manhattan."[54]

Based on REBNY's fifty years of opposition, augmented by its more recent pro-active undertakings to curb the activities of LPC, it is difficult to interpret "The Impact of Landmarking on Housing

51 "The Impact of Landmarking on Housing Production in Manhattan," n.p.

52 "Brooklyn skyscraper district joins city's historic list."

53 The Responsible Landmarks Coalition consists of REBNY, Building and Construction Trades Council of Greater New York, New York Building Congress, Building Trades Employers Association of New York City, Manhattan Chamber of Commerce, and 32BJ Service Employees International Union, as well as the Community Housing Improvement Program, Council of New York Cooperatives and Condominiums, and Rent Stabilization Association. Among the agenda items posted on its website are for LPC to: "provide an open and transparent system, apply consistently high standards, promote growth and success in New York City, and administer the laws in a sensible manner." Responsible Landmarks Coalition, accessed 4/6/14, www.responsible-landmarks-coalition.org.

54 "An Analysis of Landmarked Properties in Manhattan," Real Estate Board of New York, (June 2013); "The Impact of Landmarking on Housing Production in Manhattan," Real Estate Board of New York, (September 2013).

Production in Manhattan" as anything other than yet another attackf on the local designation process—this time by pitting one public purpose (affordable housing) against another (historic preservation). Moreover, this latest analysis becomes all the more suspect—not to mention, ironic—for REBNY's newfound and inexplicable support for affordable housing when it has had an even longer history of antagonism to affordable housing (e.g., advocating for rent de-regulation, higher rents in rent-regulated apartments, and vacancy decontrol) than its opposition to the New York City Landmarks Law and the activities of LPC.[55] Accordingly, it is within the context of REBNY's opposition against local designation and affordable housing that this study is evaluated.

Housing Production Considerations

Given REBNY's mission to promote economic growth in New York City through real estate activities, it is not surprising that its housing production report focuses on Manhattan in order to make its case for new housing production by opposing local historic district designation. However, as its overall statistic shows (8,070 new affordable housing units out of 53,220 housing units created in Manhattan over a nine-year period, totaling 15%), there are clearly a host of issues confronting affordable housing production that transcend mere district designation. The report's omission of this very real problem in the city-at-large dilutes the seriousness and complexity of the affordable housing issue as it affects both low- and moderate-income individuals and families.

For example, there are a variety of factors to consider about housing production—market-rate or affordable, rental or owned—that transcend REBNY's perceived constraints incurred by historic district designation:

- Since LPC does not regulate use, there is no credibility to the claim that its regulation of improvements within historic districts constrains the development of new and/or affordable housing on soft sites, or for that matter, prevents the redevelopment of a designated property from being converted to residences.[56] In fact, to date LPC has designated three active public housing complexes as individual landmarks (Williamsburg Houses, Harlem River Houses, and First Houses) and none of them have resulted in any rent increases or evictions due to landmark designation.

- New York City's housing crisis is a product of its popularity among both Americans and foreign citizens as a place to live, work, and play. This is compounded by the fact that New York County in particular has the highest per-square-mile population density of any county in the

55 REBNY opposition to rent regulation: "Digest of Important Rent Profiteering Bills That Are Now Pending Before Legislature," *The New York Times*, March 28, 1920; "Realty Units Plan New Rent-Law Suit," *The New York Times*, May 12, 1949; "Rent Rise Limits of 10% and 15% Voted in Council," *The New York Times*, April 25, 1969; Anthony DePalma, "When Is Rent Control a Tenant Subsidy?" *The New York Times*, June 21, 1987. REBNY endorsement of Vacancy Decontrol: "Lindsay Protest Passage Of Vacant-Flat Decontrol," *The New York Times*, May 28, 1971; Alan S. Oser, "Perspectives: 'Luxury' Decontrol; Lifting Regulation While Aiding the Poor," *The New York Times*, July 12, 1987. When asked if he supported a proposal for tax abatements to motivate developers to opt into programs to construct affordable housing, REBNY Special Council Samuel H. Lindenbaum replied, "Generally the regulations are good, and they will result in many projects in the outer boroughs," while also expressing "certain reservations" that "regulations are not the whole answer. We need relief in other areas, especially in existing, strict zoning provisions." Edward C. Burks, "Tax-Abatement Plan Seeks To Stimulate City Housing," *The New York Times*, October 31, 1971.

56 New York City Administrative Code Title 25: Land Use, §25-304 and §25-307.

United States and a limited developable land area exacerbating its affordable housing issue.[57] In fact, tensions between limited housing supply and affordable housing demand both pre- and post-date the New York City Landmarks Law, suggesting that designation in and of itself is irrelevant to a discussion about affordable housing issues.[58]

- The deregulation of subsidized housing complexes by private investors poses a grave threat to the retention of affordable housing, irrespective of any intervention by a municipal agency such as LPC. In a 2008 article *New York Times* reporter Charles V. Bagli identified a host of private equity firms that had purchased affordable and moderate-income housing complexes throughout Manhattan, Brooklyn, and the Bronx with the intent of renovating the dwelling units and raising their tenants' rents.[59] In a follow-up article on the middle-income housing complexes, Stuyvesant Town and Peter Cooper Village, Bagli wrote of the acquisition, "The winning bid presumed the partnership could increase profits by renovating and deregulating apartments, but the owners have been unable to quickly convert apartments to market rates."[60] It bears noting that the intended conversion of these large-scale affordable housing complexes into market-rate rentals was a function of private real estate interests and not LPC, which had no jurisdiction over any of them.

- Manhattan's exorbitant housing prices are a function of its highest per-square-mile population density and limited developable land area, an anomalous combination within the context of the city's five boroughs. These aspects skew any findings about the effects of local designation on affordability since they do not accurately reflect the affordability of housing city-wide. For example, as of April 2014, the online real estate database streeteasy.com posted the following median house sales prices by borough: Manhattan: $1,450,000; Brooklyn: $599,000; Staten Island: $429,000: Queens: $369,000; and the Bronx: $275,000.[61]

- There is not a direct correlation between less affordability, availability, and properties located in historic districts within the context of Manhattan's exorbitant housing prices. According to *The New York Times*, the neighborhoods with the most apartments for $1 million or less were located in the Upper West Side (167 listings), Yorkville (140 listings), Lenox Hill (126 listings), the Upper East Side (115), and Murray Hill (112).[62] The REBNY report on landmarking maintains

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57 "State & County QuickFacts: New York County (Manhattan Borough), New York," United States Census Bureau, accessed 4/23/14, www.quickfacts.census.gov/qfd/states/36/36061.

58 A proposed resolution by the New York State Legislature in 1920 to impose rent regulations stated, "Whereas, The Housing shortage in the City of New York has reached an acute stage and rents have necessarily advanced…" "Digest of Important Rent Profiteering Bills That Are Now Pending Before Legislature." In a local proposal to introduce tax abatements to motivate the construction of affordable housing units in 1971, Housing and Development Administrator Albert A. Walsh stated, "We estimate that aside from Manhattan, where very little vacant land exists, there are enough buildable parcels to permit at least 150,000 units to be constructed under the program." Burks, October 31, 1971.

59 Charles V. Bagli, "Mortgage Crisis Is Foreseen in Housing Owned by Private Equity Firms," *The New York Times*, October 5, 2008.

60 Charles V. Bagli, "Buyers of Huge Manhattan Complex Face Default Risk," *The New York Times*, September 10, 2009.

61 "Sales," Streeteasy, accessed 4/23/14, www.streeteasy.com/for-sale. By contrast, *The New York Times* noted on April 18th of this year that the national median home sales price was $194,000. Michelle Higgins, "The Million-Dollar Manhattan Apartment," *The New York Times*, April 18, 2014.

62 Higgins, April 18, 2014.

that 70% of the properties on the Upper West and Upper East Sides are designated and yet these statistics show that there are comparable sales prices and availability in both designated and non-designated neighborhoods within this price range.[63]

- New housing production can be constrained by a variety of factors, exclusive of historic district designation, including: zoning, land availability, high land costs, development costs, transactional costs, alternate highest-and-best-use scenarios, and/or a lack of owner interest in pursuing redevelopment, among others. In spite of these constraints, it bears noting that in 2012 Manhattan ranked first in the number of new housing starts, while also seeing the greatest increase over 2011.[64] Further, the aggregate of rezoning policies (up-, down-, and contextual) under the Bloomberg Administration has resulted in a net increase of 1.7% of additional residential space or the capacity for 80,000 units able to house 200,000 people city-wide.[65]

- New *affordable* housing production can be constrained by a variety of factors, exclusive of historic district designation, that include: zoning, land availability, high land costs, development costs, transactional costs, alternate highest-and-best-use scenarios, lack of sufficient government incentives, and/or a lack of owner interest in pursuing redevelopment, among others. In fact, in a 1986 *New York Times* article detailing the lack of sufficient middle-income housing production, REBNY cited "costs, taxes, regulatory requirements and delays in making local housing more expensive than suburban construction and too expensive for most New Yorkers," while specifying that delays in obtaining permits, certificates of occupancy, sidewalk cuts and other requirements "add unnecessary dollars to the cost of constructing a desperately needed housing unit."[66] It bears noting that the REBNY report on housing and affordable housing production omits any discussion of costs, taxes, or Buildings Department permits impeding the creation of affordable housing for the middle class despite the continued legitimacy of these issues.

- Even if LPC stopped designating historic districts this still would not result in a substantial number of new affordable housing units being created due to the multiple reasons cited above. In fact, it is unclear as to exactly how affordable housing stock could be continuously expanded or renovated in every community in accordance with REBNY's recommendations without the state invoking eminent domain for new affordable housing production and the city issuing a law mandating affordable housing renovation.[67]

- As of October 2013, only 3.20% of the city's developable land had been designated by LPC, suggesting that REBNY's focus on the percentage of designated properties in Manhattan is

63 "An Analysis of Landmarked Properties in Manhattan," 1.

64 Vicki Been et al., "State of New York City's Housing and Neighborhoods: 2012," Furman Center for Real Estate and Urban Policy, New York University, (2012), 48.

65 Ibid.

66 Deirdre Carmody, "Group of Developers Offers new Housing If Rules Are Altered," *The New York Times*, March 7, 1986.

67 Taken to its extreme, REBNY's prescription for the production of affordable housing reads like an endorsement of the slum clearance and urban renewal policies of the past which would not only run contrary to REBNY's objectives of less regulatory oversight and control of privately-owned property, but also to the public purpose of historic preservation.

exaggerating the extent of LPC's regulatory oversight throughout the city-at-large and the resultant shortage of developable land parcels.

- New York City's affordable housing crisis is more pronounced in its outer boroughs, where there has been minimal designation by LPC. As of 2012, Queens had a lower rental vacancy rate (3.7%) than Manhattan despite the fact that Queens has a lower per-square-mile population density and larger developable land area than Manhattan, with less than 1% of its properties locally designated.[68] In 2012 Queens also had the highest rate of severe crowding in its rental units of the five boroughs.[69]

Housing Retention

Beyond the report's narrow focus on a borough that is not representative of the entire city is the fact that it completely disregards the pivotal role that retention plays in preserving the city's existing housing and affordable housing stock. As articulated in the Columbia University Center for Urban Real Estate's "NYC 2040: Housing the Next One Million New Yorkers":

> High-density, mixed-income, transit-oriented development is the key to solving the problems of uneven prosperity, environmental degradation and unequal opportunity. Development is also fundamentally about redevelopment, as historic preservation also plays a critical role in shaping the identity of our city and as a mechanism for the preservation of valuable affordable housing.[70]

Over the past several decades New York City has been steadily losing more affordable housing units than it has been creating, as reflected in the following statistics of rent-regulated units (Table 8).

TABLE 8. Percentage of Rent-Regulated Apartments in New York City for the Years 1981, 1991, and 2014[71]

Year	Rent-Regulated Apartments in NYC
1981	61%
1991	54%
2014	47%

68 "State of New York City's Housing and Neighborhoods: 2012," 5.

69 Ibid., 48. It also bears noting that the Furman Center for Real Estate and Urban Policy's two recent reports on the state of housing and affordable housing in New York City draw no conclusions about the effects of local designation on the production of housing or affordable housing. However, these reports do cite issues pertaining to limited government resources and high land acquisition costs. In its section entitled "3. The city designated new landmarks and historic districts," The Center's "State of New York City's Housing and Neighborhoods: 2012" offers an account to date of LPC's designation activities without drawing any conclusions about them, while its "State of New York City's Subsidized Housing: 2011" does not reference any of the activities of LPC. "State of New York City's Housing and Neighborhoods: 2012," 11-12; Jaclene Begley et al., "State of New York City's Subsidized Housing: 2011," Furman Center for Real Estate and Urban Policy, New York University, (2011).

70 Jesse M. Keenan and Vishaan Chakrabarti, "NYC 2040: Housing the Next One Million New Yorkers," The Center for Urban Real Estate, GSAPP, Columbia University, (2013), 2.

71 Mireya Navarro, "De Blasio Sets Ambitious Goal for Affordable Apartments," *The New York Times*, January 22, 2014.

Further, the New York City Housing Authority, which is the largest public housing authority in North America, oversees low- and moderate-income housing for 7.4% of New York City's population and 12.4% of the city's rental apartments.[72] However, it is suffering from a lack of federal funding that is preventing it from expanding its housing stock.

The steady increase in de-regulation and decrease in federal subsidy, compounded by New York City Mayor Bill de Blasio's pledge to build or preserve 200,000 affordable housing units over the next decade, suggests that his Administration will have to allocate its resources prudently in order to maximize the city's resources.[73] Given the fact that it is cheaper to preserve housing units than to create them, it is likely that the Administration will be focusing on retention as the most expedient means of honoring his pledge.[74] This view is shared by the Furman Center for Real Estate and Urban Policy, which stated, "In these days of limited government resources, targeted, highly efficient preservation efforts are critical if New York City is to maintain is extraordinary commitment to housing a diverse and growing population," rationalizing that, "It is generally more cost-effective for government agencies to reinvest in existing affordable housing than to build new units, especially in places like New York City, where developable land is expensive and scarce."[75] As part of the Mayor's objective to retain affordable housing, he has advised tenant groups that he will work to repeal the state law which gives state control over rent regulation.[76]

Economic Incentives for Affordable Housing Production

Regarding economic incentives to preserve existing affordable housing or to rehabilitate non-residential buildings for affordable housing, there are multiple tax credit programs that can be leveraged to offset the high costs associated with development. The federal historic tax credit program offers after-tax credits on 20% of all qualified expenses with no limits for income-producing properties that are rehabilitated in accordance with the standards of, and certified by, the federal government. In order to qualify for the federal historic tax credit program, a property must be either listed on the National Register of Historic Places if it is an individual property, or certified as a contributing resource to a National Register historic district.[77] In addition, if a property is located in a New York City historic district, it can also be certified without having to be listed on the National Register. In addition to the federal program, there are state historic tax credits in New York State that can be captured for both income-producing and privately-owned homes located in eligible (i.e., economically distressed) U.S. Census tracts. Similar to the federal program, these programs

72 "About NYCHA Fact Sheet," New York City Housing Authority website: www.nyc.gov/html/nycha/html/about/factsheet. Accessed 4/23/14.

73 Based on the affordable housing numbers of prior Administrations (190,000 new affordable units over a 13-year period under Mayor Koch; 165,000 new and retained affordable housing units over a 12-year period under Mayor Bloomberg), Mayor de Blasio's pledge is ambitious. Ibid.

74 Some of Mayor de Blasio's proposals to create new affordable housing include: allocating $1 billion of city pension funds for new construction; raising taxes on vacant land to close a tax loophole and encourage development; and implement mandatory zoning that requires low- and moderate-income housing units as part of new major housing projects. Ibid.

75 "State of New York City's Subsidized Housing: 2011," 8, 9.

76 Navarro, January 22, 2014.

77 Other program requirements include a minimum threshold for investment and a scope of work that is largely rehabilitative in accordance with federal standards.

offer after-tax credits on 20% of all qualified rehabilitative expenses but with limits.[78] It should also be noted that both federal and state historic tax credit programs allow for both hard and soft costs on a certified rehabilitation to be captured so that all aspects of the project (planning, design, consulting, construction) can be potentially claimed as qualified rehabilitative expenditures.[79] This can translate into a substantial economic benefit to the property owner or long-term lessee, either through a substantial reduction in their tax liability or through the creation of a substantial revenue stream that can help offset the project cost.[80]

In addition, the benefits of the federal and state historic tax credit programs can be combined with other incentive programs focused the production of affordable housing production. These programs include the Low Income Housing Tax Credit (LIHTC), HUD's HOME, Insured Loan Programs and the Community Development Block Grant, New Market Tax Credit Program, and Tax Increment Financing. Of these, the LIHTC has been the largest source of affordable housing development since the 1990s.[81] In fact, between 1999 and 2005 a non-profit developer known as Common Ground combined the LIHTC with the federal historic tax credit to rehabilitate the Prince George Hotel on 15 East 27th Street in the Madison Square North Historic District into low-income housing, an event space, an art studio and gallery, and a computer lab (Photograph 19). Currently these two programs are being leveraged by a private developer to redevelop a series of publicly owned tenements known as the A. Phillip Randolph Houses on West 114th Street in Harlem into low- and moderate-income housing (Photograph 20).[82] Following the rehabilitation, 147 of the units will remain public housing, while 167 units will be allocated to low- to moderate-income families.[83] Beyond multi-family redevelopment projects facilitated by the federal tax credits noted above, New York State's Homeowner Tax Credit Program enables owners of single-family homes in eligible (i.e., economically distressed) census tracts receive a 20% tax credit for up to $50,000 for repairs to properties that are listed on the New York State Register of Historic Places. Since 2010 there has been $14 million reinvested in the rehabilitation of single-family dwellings through this program statewide.[84]

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78 The limits for tax credit capture under the New York State historic tax credit program is $5,000,000 for income-producing properties and $50,000 for privately-owned homes. "Tax Credit Programs," New York State Office of Parks, Recreation and Historic Preservation website: www.nysparks.com/shpo/tax-credit-programs. Accessed 4/15/14.

79 Qualified rehabilitative expenditures are not afforded to non-restorative work such as rooftop and/or side additions, and site improvements outside of the building such as landscaping and parking lots.

80 Both federal and state tax credits can be sold (or syndicated) by the property owner or long-term lessee to a private investor, enabling the owner or lessee to potentially generate equity for the project and the investor to potentially reduce their federal and state tax liabilities.

81 "State of New York City's Subsidized Housing: 2011," 17.

82 Mireya Navarro, "Harlem Housing Relic From the 1800s Is Set for a Long-Promised Overhaul," *The New York Times*, March 30, 2014.

83 Navarro, March 30, 2014. On the national level, 25,121 new housing units were created through the federal historic tax credit program in fiscal year 2013, with 9,367 rehabilitated and 15,754 new units created. Of these, 7,097, or 28%, were low- and moderate-income units. "Federal Tax Incentives for Rehabilitating Historic Buildings: Statistical Report and Analysis for Fiscal Year 2013," U.S. Department of the Interior, National Park Service Technical Preservation Services, (March 2014), 13.

84 "Preservation Works in New York State," New York State Office of Parks, Recreation and Historic Preservation, (2013), n.p.

Photo 19. Prince George Hotel, 15 East 27th Street
Madison Square North Historic District.
Beyer Blinder Belle Architects & Planners LLP, 1999-2005
Gregory Dietrich, photographer, 6/15/14

Photo 20. A. Phillip Randolph Houses
West 114th Street between Adam Clayton Powell and Frederick Douglass Boulevards.
Gregory Dietrich, photographer, 6/15/14

4.2.4 Claims of Rapid Gentrification

Similar to the market-based factors affecting the production and retention of affordable housing, there are a host of market-based factors that can lead to gentrification that are irrespective of historic district designation. REBNY's housing and affordable housing report also asserts that district designation "exacerbates issues of rapid gentrification," though this is unsubstantiated by the report's analysis which fails to look at the larger context of the city.[85]

On the other hand, preservation and neighborhood advocates maintain that designation preserves communities rather than gentrifies them. In his assessment of redevelopment trends in the city, Andrew Berman, Executive Director of the Greenwich Village Society for Historic Preservation, noted:

> Without landmark protections, these buildings are rarely if ever demolished to make way for more affordable housing or cheaper retail space. Instead, they are almost always lost to new luxury housing, usually with retail space for chain or big-box stores, not small mom-and-pop shops. This is one of the reasons were are seeing neighborhoods clamor for landmark protections throughout the city, from Bedford-Stuyvesant to Bay Ridge, Ridgewood to Richmond Hill, and the South Bronx to Staten Island. These communities are not calling for landmarking because they want to make their neighborhoods unaffordable—but rather because they want to preserve and perpetuate what they love best about the communities they call home.[86]

Indeed, a survey of undesignated commercial districts from West 57th Street in Manhattan's Midtown to Atlantic Avenue in Brooklyn's Park Slope exemplify the most extreme forms of gentrification that can occur without the protections afforded by historic district designation.[87]

By contrast, Bedford-Stuyvesant, Bay Ridge, Ridgewood, Richmond Hill, and the South Bronx all have community groups who are actively pursuing district designation as a means of preserving their neighborhoods—and these represent just a small fraction of groups throughout the five boroughs. The Historic Districts Council, a citywide grassroots preservation advocacy organization, has a constituency of "over 500 neighborhood-based organizations to create an educated, active community of preservationists engaged in protecting and enhancing New York City's irreplaceable

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85 For example, the report offers a summary generalization implying a causal relationship between historic district designation and demographic shifts, presents a chart of U.S. Census data statistics for New York City and three unidentified census tracts in Manhattan containing a large percentage of designated properties, and then states, "The chart above does not imply that there is a causal relationship between landmarking and these demographic findings, but rather that there is a strong correlation that warrants further study," ultimately leading the reader to question the point of the analysis and its findings' accuracy and objectivity. "The Impact of Landmarking on Housing Production in Manhattan," n.p.

86 Andrew Berman, "Don't buy REBNY hype: Landmarking helps affordability," *The Villager*, August 3, 2013.

87 For example, a Nordstrom Department Store is going to be located on the fourth floor of a forthcoming high-rise at 217 West 57th Street; this portion of the building will cantilever over the adjacent Art Students League, an individual landmark. In Brooklyn, the Atlantic Yards redevelopment includes a sport and entertainment arena and several high-density mixed-use buildings that are substantially altering the historic character of the Park Slope neighborhood.

built and cultural heritage."[88] One such organization, known as the Bedford Stuyvesant Society for Historic Preservation, recently testified before LPC in support of the Bedford Historic District. Among them was preservationist and former Bedford resident, Suzanne Spellen, who stated, "Bedford-Stuyvesant is a hardworking community of proud people who, when the city and government failed them, took back the streets, one block at a time…Landmarking is an affirmation of that struggle…a reward for holding on tight to something of great value, and that is this remarkable community of brick and mortar, tradition and pride, flesh and bone. It will protect what has been preserved for the last 150 years so that it can be handed down for those who will come after us, without the dangers of overdevelopment or arbitrary tear-downs and alterations."[89]

88 Historic Districts Council website: www.hdc.org/neighborhood-partners. Accessed 6/18/14.
89 Constance Rosenblum, "Argument Over Brownstone Neighborhood," *The New York Times*, February 21, 2014.

4.2.5 Sustainable Benefits of Historic Preservation

Beyond the social benefits provided by the retention of historic buildings is the environmental benefit of sustainability. One of the goals of former Mayor Bloomberg's PlaNYC has been to reduce greenhouse gas emissions by more than 30% by 2030.[90] Although it is generally assumed that energy-efficient new construction can outweigh any negative climate change impacts associated with its construction, emerging research on the subject has disproven this assumption.

On the national level, the National Trust for Historic Preservation has taken the lead in creating a research center dedicated to exploring the intersection of preservation and sustainability known as the Preservation Green Lab. Established in 2009, the Preservation Green Lab has been engaged in pioneering "policy solutions that make it easier to reuse and green older and historic buildings."[91] Among the free publications posted on its website are "Realizing the Energy Efficiency Potential of Small [Commercial] Buildings," "Deep Energy Retrofits," "Green Windows," "The Environmental Value of Building Reuse," "District Energy & Eco-Districts," and "Older, Smaller, Better: Measuring How the character of buildings and blocks influences urban vitality," along with other information pertaining to environmental policy, sustainable communities, and reports that are currently in progress.[92]

According to Preservation Green Lab's 2011 study entitled "The Greenest Building: Quantifying the Environmental Value of Building Reuse," compared to an existing building with average energy consumption, it takes 10-80 years for a new building with 30% more energy efficiency to overcome through efficient operation the negative climate change impacts related to the construction process. Further, this analysis has been validated by a study of multiple building types, whether it is a single-family or multi-family dwelling, a mixed-use building, commercial office, warehouse-to-office conversion, or elementary school.[93] Moreover, retrofitting an existing building to perform at advanced efficiency levels has the capacity to result in additional reductions in climate change and resource impacts.[94]

Another consideration raised by the Preservation Green Lab analysis is the embodied energy of an existing building and the ramifications that its replacement has on the environment.[95] For example, it takes 35-50 years for a new energy-efficient home to recapture through efficient operations all of the carbon that was expended during the initial construction process.[96] The report concluded that the

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90 "We've come a long way since we launched PlaNYC in 2007," PLANYC website: www.nyc.gov/html/planyc2030/html/home/home. Accessed 4/25/14.

91 "Preservation Green Lab," National Trust for Historic Preservation, accessed 4/10/14, www.preservationnation.org/information-center/sustainable-communities/green-lab.

92 Ibid.

93 The only exception to the rule is a warehouse-to-residential conversion whose extent of climate change impact savings is dependent upon the extent and type of materials used for the conversion. Preservation Green Lab et al., "The Greenest Building: Quantifying the Environmental Value of Building Reuse," Preservation Green Lab, National Trust for Historic Preservation, (2011), x.

94 Ibid.

95 Embodied energy is defined as the "initial energy investment required to produce a material or product" and "includes the energy needed for the extraction of natural resources, manufacturing, transportation, and installation." Ibid., 20.

96 Ibid., 21.

renovation and reuse of existing buildings of comparable functionality, size, and equivalent energy efficiency levels to new, consistently yield fewer environmental impacts than demolition and new construction over a 75-year period.[97] Thus, the preservation of affordable housing and/or the redevelopment of most building types into affordable housing units provides social, economic, and environmental benefits beyond those derived from new construction.

In addition to the benefits of reusing a historic building, there are the multiple benefits accrued from replacing historic building materials in kind. In particular, buildings constructed before the early-mid twentieth century typically incorporated organic materials such as stone, clay, and wood into their designs. These materials are organic in their composition and therefore require less energy to process and manufacture for replacement than their synthetic counterparts (e.g., cast-stone, pre-fabricated brick, and/or vinyl or aluminum). REBNY claims that many historic buildings are comprised of inferior materials that are unsustainable for contemporary needs, resulting in an "inherent vice" that "threatens a building's integrity and has the potential to destroy the economic basis of its use," while also imposing economic burdens on their owners.[98] Yet, these organic materials are consistently more durable, resulting in less replacement, less impacts on the environment, and ultimately a better investment for their owners, all of which belie REBNY's claims.

Moreover, over the past five years there has been an evolving body of knowledge on the subject of preservation and sustainability concerning the implementation of measures that are cost-effective over the long term. Certainly the most relevant report as it pertains to sustainability, preservation, and affordability in New York City is a free publication sponsored by The Municipal Art Society of New York in collaboration with LPC entitled "Greening NYC's Historic Buildings: Green Rowhouse Manual."[99] This manual offers recommendations pertaining to virtually every aspect of rowhouse construction, systems, and livability to reconcile preservation and sustainable objectives that includes recommendations for: walls, roofs, windows, doors, heating, cooling, lighting, electrical wiring, plumbing, water efficiency, appliances, plug loads, indoor health, housekeeping, materials, sustainable site and outdoor amenities, fuel efficiency, renewable energy, and rating systems, along with economic incentives and programs to facilitate these upgrades.

[97] Ibid., 61.

[98] According to the report, "'inherent vice' refers to design and construction issues that are created by the nature of materials and the scale and methods of construction. It ranges from the physical issues of material incompatibility and the failure of no-longer-available manufactured material products to contextual issues of changing performance standards such as climate control, energy usage and sustainability." Ibid., 3.

[99] Terrapin Bright Green and Cook+Fox Architects, "Greening NYC's Historic Buildings: Green Rowhouse Manual," The Municipal Art Society of New York, (2012).

4.2.6 Tax Revenue and Job Creation

Lack of Economic Studies

In absence of any substantive studies to date pertaining to the effects of designation on tax revenue and job creation in New York City, it is difficult to quantify its economic impacts. For example, a study conducted in 2003 by the New York City Independent Budget Office for the years 1975-2002 found that house prices in historic districts were higher than those of similar homes outside of the district, and showed an overall greater appreciation over time than their non-designated counterparts.[100] Although the report did not find that historic district designation in and of itself created higher house prices or greater house price appreciation, the analysis did suggest that historic districts have a role in stabilizing and enhancing property values over time.[101] Thus, this report indicated a correlation and not causation between historic district designation and stabilized/enhanced property values which could ultimately result in increased tax revenues for the city. However, this assumption would need to be tested to ultimately show any correlation.

New York City is not alone in its lack of economic studies in these areas, and over the past decade there has been increased interest and activity by the federal government and the National Trust for Historic Preservation in developing an economic model to measure the impact of historic preservation on local, state, and national economies.[102] Most recently, University of Pennsylvania Professor Randall Mason's joint report with PlaceEconomics' Donovan Rypkema and Caroline Cheong entitled "Measuring Economic Impacts of Historic Preservation" (2011) sought to "identify a finite number of indicators that can be used to regularly, consistently, meaningfully, and credibly measure the economic impact of historic preservation over time."[103] The report identified "five areas of research demonstrating (directly or indirectly) the link between historic preservation and economics" that includes jobs, property values, heritage tourism, environmental measurements, and downtown revitalization.[104] Building on this idea, the U.S. Department of the Interior's National Park Service, which is the agency that oversees all federal preservation activities, recently commissioned the development of a comprehensive economic model known as the Preservation Economic Impact Model (PEIM) as a means of quantifying the economic impacts of its historic tax credit program.[105]

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100 Alan Treffeisen, "Background Paper: The Impact of Historic Districts on Residential Property Values," New York City Independent Budget Office, (September 2003), 8.

101 Ibid.

102 University of Pennsylvania Professor Randall Mason's "Economics and Historic Preservation: A Guide and Review of the Literature" is most likely the most comprehensive assessment to date of economic studies on the subject of measuring economic impacts of Historic Preservation and the strengths and weaknesses of existing metrics. Randall Mason, "Economics and Historic Preservation: A Guide and Review of the Literature," The Brookings Institution Metropolitan Policy Program, (September 2005).

103 Donovan Rypkema, Caroline Cheong, and Randall Mason, Ph.D., "Measuring Economic Impacts of Historic Preservation," Advisory Council on Historic Preservation, (November 2011): 1.

104 Ibid., 39.

105 Under the direction of the National Park Service, the Rutgers University Center for Policy Research developed the Preservation Economic Impact Model (PEIM) in 2012 as a means of measuring the economic impacts of the federal historic tax credit. "Annual Report on the Economic Impact of the Federal Historic Tax Credit for FY 2012: Executive Summary," National Park Service, U.S. Department of the Interior Technical Preservation Services and Rutgers Edward J. Bloustein School of Planning and Public Policy, (February 2013), 2.

National Economic Data for Federal Tax Credit Projects

Utilizing the PEIM, the National Park Service has quantified the economic impacts of the federal historic tax credit program in a variety of ways, both over the preceding fiscal year and cumulatively. For example, its Fiscal Year 2012 report, which is inclusive of New York City projects, offers national economic data pertaining to jobs, income, output, GDP, and taxes, among others (Table 9).

Table 9. Federal Historic Tax Credits Fiscal 2012 and 1978-2012 Cumulative Data[106]

Jobs: Employment, both part- and full-time, by place of work, estimated using the typical job characteristics of each industry.
Income: "Earned" or labor income; specifically, wages, salaries, and proprietor income.
Wealth: Value-added—the sub-national equivalent of gross domestic product (GDP). At the state level, this is called gross state product (GSP).
Output: The value of shipments, as reported in the Economic Census.
Taxes: Tax revenues generated by the activity, which includes taxes to the federal government and to state and local governments.[107]

Economic Impact	FY 2012	1978-2012
Jobs	57,800	2,315,300
Income	$2,500,000,000	$89,100,000,000
Output	$6,600,000,000	$245,200,000,000
GDP	$3,400,000,000	$121,000,000,000
Taxes (total)	$900,000,000	$35,500,000,000
Federal	$600,000,000	$25,900,000,000
State	$200,000,000	$4,900,000,000
Local	$100,000,000	$4,800,000,000

Its Fiscal Year 2013 report, also inclusive of New York City projects, offers national economic data pertaining to rehabilitation investment, jobs, housing units rehabilitated, and new and affordable housing units created (Table 10).

Table 10. Federal Historic Tax Credits Fiscal 2013 and 1977-2013 Cumulative Data[108]

Economic Impact	FY 2013	1977-2013
Rehabilitation investment	$10,120,000,000[109]	$69,490,000,000
Jobs	62,923	2,400,000
Rehabilitated housing units	9,367	247,625
New housing units	15,754	236,886
Low and moderate income housing units	7,097	131,438

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106 "Annual Report on the Economic Impact of the Federal Historic Tax Credit for FY 2012: Executive Summary," 3.
107 Ibid.
108 "Federal Tax Incentives for Rehabilitating Historic Buildings: Statistical Report and Analysis for Fiscal Year 2013," 3.
109 FY 2013 rehabilitation reinvestment figures are based on the rehabilitation costs contained in the historic tax credit applications submitted by the applicants, voluntary user profiles, and customer satisfaction questionnaires. Job numbers are based on figures from the Rutgers University Center for Policy Research. Ibid.

Job Creation and Taxes

These tables not only highlight the effectiveness of the federal historic tax credit program in stimulating local, state, and national economies, but also the range of economic benefits that can accrue to both individuals and government entities from such reinvestments. The types of jobs created by these projects can vary, depending on the scale of the project, but often entail architects, engineers, interior designers, artisans, conservators, craftsmen, contractors, mechanical, engineering, plumbing professionals, and various historic tax credit specialists, including preservation consultants and tax attorneys (Photographs 21-22). It bears noting that new construction typically constitutes 50% materials and 50% labor, whereas rehabilitations typically constitute 30-40% materials and 60-70% labor due to the intensity of labor required for these types of projects.[110] As a result, rehabilitations have the capacity to benefit local and state economies more than new construction in two ways: labor is usually locally sourced so more local workers are hired for a project, translating into more locally-sourced jobs; and labor typically spends locally, whether that entails buying lunch at a neighborhood bodega or running errands after the workday, which in turn can generate local and state sales tax revenue.

Photo 21. Vinnie's Italian Art Iron Works truck advertising its company as "Landmark Restoration Specialists"
Brooklyn-based restoration business.

Photo 22. Evergreene Architectural Arts, Inc.
Manhattan-based restoration business
Source: www.evergreene.com

[110] Donald Rypkema, "Economic Benefits of Preservation Session, 'Sustainability and Historic Preservation,'" Historic Districts Council Conference Presentation Excerpts, (March 10, 2007). Preservation Action Council of San Jose website: www.preservation.org/rypkema. Accessed 4/16/14.

Local Economic Data for Federal Tax Credit Projects

Further, a survey of the federal historic tax credit projects in New York City included in the figures above reveals substantial rehabilitation investment and job creation through the program over the past several years on a range of locally designated properties. These projects include: Macy's Department Store at West 34th Street (Five-phase rehabilitation resulting in a $350 million reinvestment and the creation of hundreds of project design and construction jobs and increased employment in professional fields and construction trades); Empire State Building (NYC landmark; 2010 rehabilitation with $550 million reinvestment and the creation of more than 1,000 design and construction jobs as well as increased employment in both professional fields and construction trades); Battery Maritime Building (NYC landmark; $145 million reinvestment); Public School 64 at 605 East 9th Street (NYC landmark; $28 million reinvestment), The Mark Hotel at 25 East 77th Street (NYC Upper East Side Historic District; 2011 rehabilitation with $159 million reinvestment and hundreds of jobs created for construction workers and new onsite employees), and the Park and Tilford Building at 310 Lenox Avenue ($20 million reinvestment and the creation of 50-75 design and construction jobs and 40 new onsite employees).[111]

Other historic tax credit projects under way and/or completed in Fiscal Year 2013 in New York City include: the Johnson Building at 1170 Broadway (NYC Madison Square North Historic District; $77.5 million reinvestment), First Battery Armory at 56 West 66th Street (NYC landmark; $40.5 million reinvestment), Keramos Building at 586 Manhattan Avenue in Brooklyn ($1.16 million reinvestment), Building 291 at the Brooklyn Navy Yard ($55 million reinvestment), Williamsburgh Savings Bank at 175 Broadway in Brooklyn (NYC landmark; $6.5 million reinvestment), Knickerbocker Hotel at 1466 Broadway (NYC landmark; $70 million reinvestment), Cities Service Building at 70 Pine Street (NYC landmark; $183 million reinvestment), Hanan & Son Shoe Company Building at 220 Water Street in Brooklyn (NYC DUMBO Historic District; $53.7 million reinvestment), U.S. Navy Fleet Supply Storehouse Number 2 in Brooklyn ($36.5 million reinvestment), Building 77 at the Brooklyn Navy Yard ($82 million reinvestment), and the Times Square Theatre at 217 West 42nd Street ($48 million reinvestment). Federal historic tax credit projects completed in 2014 include: the Colony Arcade at 65 West 38th Street ($33 million reinvestment), 116 John Street ($96 million reinvestment), 101 Spring Street (NYC SoHo-Cast Iron Historic District; $27 million reinvestment), Sohmer Piano Factory at 31-01 Vernon Boulevard in Queens (NYC landmark; $48 million reinvestment), and the Gair Building at 30 Washington Street in Brooklyn (NYC DUMBO Historic District; $11.6 million reinvestment) (Photographs 23-26).[112]

111 Locations are in Manhattan unless otherwise noted. "Preservation Works in New York State."

112 Interview with Julian Adams, New York State Office of Parks, Recreation and Historic Preservation, April 3, 2014.

Photo 23. The Mark Hotel, 25 East 77th Street
Upper East Side Historic District.
SLCE Architects and Spivak Architects, 2009
Gregory Dietrich, photographer, 6/15/14

Photo 24. The Johnson Building now NoMad Hotel, 1170 Broadway
Madison Square North Historic District.
Stonehill & Taylor, 2012
Gregory Dietrich, photographer, 6/15/14

Photo 25. 101 Spring Street
now Donald Judd Foundation
SoHo Cast-Iron Historic District.
Walter B. Melvin Architects, 2013
Gregory Dietrich, photographer, 6/15/14

Photo 26. The Gair Building
30 Washington Street
DUMBO Historic District.
WASA/Studio A, 2013
Gregory Dietrich, photographer, 6/15/14

Contrary to REBNY's claims about the adverse impacts of local landmark and historic district designation on taxes and job creation, these national figures and local rehabilitation projects show that local landmark and historic district designation do not discourage, constrain, or prohibit substantial reinvestment in communities. In fact, if anything, local designation can facilitate National Park Service certification for historic tax credit eligibility—either through the certification of a property in a New York City historic district to qualify for the historic tax credit program, or in having a designation report for a New York City landmark serve as the basis for National Register eligibility and listing. Either way, designation is not a hindrance to—but rather a facilitator of—enabling a property owner or long-term lessee to capture a substantial economic benefit from reinvestment, and in doing so, contribute multiple economic benefits to the local, state, and national economies.

Beyond the economic benefits afforded by historic tax credits, the aesthetic benefits of designation are self-evident, whether it is the transformation of a modest rowhouse in Queens or an entire block front in Manhattan (Photographs 27-30).

Photos 27 and 28. A rowhouse in the Sunnyside Gardens Historic District before designation (l) and after restoration (r) with LPC review and approval. Laura Heim Architect, 2009.
Laura Heim, photographer.

Photos 29 and 30. Water Street and Peck Slip, southwest corner, South Street Seaport Historic District in 1974 (l) and today (r) after LPC review and approval.
Edmund V. Gillon, Jr. and Gregory Dietrich, photographers, 1974 and 2014.

Ladies' Mile Historic District

An examination of the Ladies' Mile Historic District illustrates how designation, bolstered by changes in a neighborhood's zoning, can serve as the basis for its economic revitalization. As noted, in 1986 REBNY President Steven Spinola opposed the designation of the Ladies' Mile Historic District, predicting, "Landmark restrictions on this commercial area will have a chilling effect on the renovations and adaptations of long-vacant buildings, which have helped transform the area into a vibrant retail and commercial district."[1] However, following a review by the Department of City Planning in the early 2000s in which it was discovered that only 3% of the jobs in the zoned manufacturing area were derived from manufacturing, the agency proposed a rezoning of the area to:

- Update the zoning to reflect the current mixed-use character of the area
- Allow for residential development on underutilized lots
- Strengthen and preserve the area's built character[1]

The rezoning of the Ladies' Mile neighborhood has undoubtedly contributed to its revitalization as a vibrant mixed-use community, just as its distinct sense of place as a historic district has made it a highly desirable location to live, work, and shop. Following the district's rezoning, developers began converting many of its signature manufacturing buildings into condominiums. Such conversions have taken place at the Sohmer Piano Building at 170 Fifth Avenue, the O'Neill Building at 655 Sixth Avenue, and the Cammeyer at 650 Sixth Avenue, with new residential development occurring at 60 West 23rd Street and 27 West 19th Street (Photographs 31-32). In marketing the Cammeyer, CORE Group sales agent John Gomes stated, "We said, why only focus on the interiors? We decided our focus would be from the outside inward. We really celebrate the history of the building."[1] Similarly, Richard Cantor, principal of the real estate and marketing firm Cantor-Pecorella, noted that the reintroduction of the historic domes on the O'Neill "really make the building distinctive," giving further credence to the branding and marketing appeal of revitalized historic buildings.[1]

Photo 31. The Cammeyer
650 Sixth Avenue
Ladies' Mile Historic District.
Perkins Eastman, 2007
Gregory Dietrich, photographer, 6/15/14

Photo 32. The O'Neill Building
655 Sixth Avenue
Ladies' Mile Historic District.
Cetra/Ruddy Inc., 2004
Gregory Dietrich, photographer, 6/15/14

Regarding office and retail, an increasing interest by the tech sector to locate into the area over the past several years has led to a thriving market for both market sectors. In 2011 a host of tech companies signed leases in the Ladies' Mile Historic District west of Fifth Avenue, compelling *The Wall Street Journal* to nickname the area "Silicon Square" and the *Commercial Observer* to declare it one year later as the "hottest leasing district in the city."[1] This was further corroborated by the city's own market analysis which noted:

> Demand for retail real estate in Midtown south [which includes Ladies' Mile] and downtown has also grown thanks to the expansionary tech sector that has emerged in these parts of Manhattan, where increased office occupancy rates have generated higher foot traffic to the benefit of retailers and owners of retail space. New residential developments have further contributed to rising retail demand along this corridor.[1]

In fact, the demand for office space in Ladies' Mile (specifically in the Flatiron and Union Square areas) between November 2013 and March 2014 alone has resulted in a decrease in the availability (i.e., vacancy) rate from 9.7% to 8.3%, compared to 10.7% borough-wide, and an increase in average asking rents from $77.49 to $81.12 for Class A office space; from $61.98 to $64.12 for Class B space; and from $67.06 to $68.65 overall, compared with a borough-wide overall average asking rent of $67.04 psf.[1] Regarding retail activity, after a moderate decline between Spring 2010 and Spring 2012 in which average asking rents for ground-floor retail space in the Flatiron area of the Ladies' Mile district went from $300 psf to $250 psf, average asking rents began a marked increase to $400 psf by Spring 2013.[1]

Job Creation and Tax Revenue

The heightened demand for residential, office, and retail space in the Ladies' Mile Historic District has led to a flurry of design and construction projects to accommodate new users and uses. Beyond the myriad of project-specific jobs described above are the many regular onsite jobs that accompany these buildings' transformations. For example, a factory-to-condominium conversion or an office upgrade may result in the hiring of reception, security, and maintenance personnel. Similarly, a company locating, relocating, or expanding may result in additional office personnel working in a building, while the prospect of a new store introduced into an existing retail space can result in the hiring of security, sales, and management personnel. Further, new residents and worker groups are highly likely to patronize neighborhood amenities in one form or another as part of their daily routine which has the capacity to substantially boost the city and state's economy through additional sales tax revenue. Taken together, the Ladies' Mile Historic District is a powerful example of how sound urban planning initiatives, informed by district designation and appropriate zoning measures, can facilitate economic development.

Tourism

Another positive economic impact of landmark and district designation is the prominent role that New York City's designated properties play in its attraction as a global tourist destination. As the number one big city destination, generator in tourism spending, overseas market, and port of entry, New York City's tourism has evolved into a "cornerstone" of its economy.[113] In 2013 the city hosted

113 "New York City Tourism: A Model for Success," NYC & Company, (June 2013), 3, 6.

an unprecedented 54.3 million tourists, of which 11.4 million visited from overseas, resulting in a total estimated $39.4 billion in local spending.[114] Further, in 2012 tourism was responsible for generating $9.3 billion in local and state taxes, and supporting 363,050 hospitality and leisure jobs, with tourism-related jobs growing at a faster rate than any other major industry in the city.[115] According to NYC & Company, the city's public-private tourism division, part of the city's international appeal emanates from its 100% global brand recognition, making "the five boroughs an aspirational destination for millions of people from around the world—they want to come explore the city they have heard and seen so much about in books, songs, film and television."[116] In fact, NYC & Company notes that international tourists spend more, stay longer, and are "more intrepid than their domestic counterparts."[117]

Cultural Tourism

Surprisingly, NYC & Company has not studied the role that heritage tourism plays in contributing to New York City's larger tourism economy. However, it has produced an aggregate study as a means of gauging how both domestic and international cultural visitors spend their time and money.[118] According to an NYC & Company demographic analysis on cultural visitors, there were an estimated 26 million cultural visitors out of 52 million tourists visiting New York City in 2012.[119] As detailed in the data, the average annual household income for the domestic cultural visitor was $73,410 versus $95,773 for the international cultural visitor, while the average stay consisted of 1.7 days for domestic travelers versus 7.3 nights for international ones.[120] In addition, cultural visitors overall were 60% more likely to return to the city, and international travelers in general were nearly twice as likely to include cultural activities in their itinerary than their domestic counterparts.[121] Fifty percent of international cultural visitors visited landmarks and/or historic sites versus 27% percent of domestic cultural visitors.[122] In addition, 36% of international cultural visitors took guided tours and 89% of them went on sightseeing trips.[123]

The lack of specific data on heritage tourism should in no way diminish the fact that the city's designated properties have exerted a substantial economic impact on its tourism industry. Inarguably, some of the city's most popular tourist attractions are its locally designated landmarks, whether it is the Statue of Liberty, Empire State Building, Rockefeller Center, Central Park, or the Brooklyn Bridge. In regulating these properties, LPC is not only protecting objects, buildings, sites,

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114 "Industry Trends & Insights Exploring New York City's Economic Sectors: Retail in New York City," 5.
115 "New York City Tourism: A Model for Success," 13, 16.
116 Ibid., 25.
117 Ibid.
118 According to the National Trust for Historic Preservation, "heritage tourism" is defined as "traveling to experience the places, artifacts and activities that authentically represent the stories and people of the past." "Heritage Tourism," National Trust for Historic Preservation website: www.preservationnation.org/information-center/economics-of-revitalization/heritage-tourism. Accessed 4/16/14. Cultural activities are defined in the study as shopping, museums, theater, fine dining, landmark/historic sites, art galleries, nightlife, dance, rock/pop concerts, opera, and the symphony. "Cultural Visitors: Travel to New York City," Cultural Visitors Market Profile, NYC & Company (November 2013).
119 "Cultural Visitors: Travel to New York City."
120 Ibid.
121 Ibid.; "New York City Tourism: A Model for Success," 19.
122 "Cultural Visitors: Travel to New York City."
123 No numbers were offered for domestic cultural visitors. "Cultural Visitors: Travel to New York City."

and structures of international importance, but also ensuring that the most valuable assets of the city's tourism industry are properly maintained. Nevertheless, this short list does not begin to address the multitude of designated properties located throughout the five boroughs that both international and domestic tourists visit on an annual basis or the accompanying economic impact these visitations have on New York City's greater tourism economy.

Beyond the fact that some of the city's most popular shopping destinations are in its historic districts (SoHo, Ladies' Mile), there are also historic districts where tourists gravitate for history (South Street Seaport, Historic Richmondtown); culture (Upper East Side: art/design/cultural museums, Brooklyn Academy of Music: performance, Jackson Heights: multi-ethnic experience); architecture (Tribeca, Brooklyn Heights, Sailors' Snug Harbor); trendiness (NoHo, DUMBO); or a specific attraction (Washington Square Park in Greenwich Village, the High Line in Gansevoort Market, the Dakota on the Upper West Side/Central Park West). In addition, many of the city's most iconic buildings and landscapes are protected landmarks that draw hordes of tourists on an annual basis, such as Grand Central Terminal, Metropolitan Museum of Art, New York Public Library, Guggenheim Museum, Cooper-Hewitt Museum, Museum of Natural History, Museum of the City of New York, Grand Army Plaza/Prospect Park, and numerous Broadway theatres. Even NYC & Company clearly recognizes the diversity and appeal of these assets and more in stating, "Very few destinations can offer so many distinct experiences across multiple genres and throughout all geographical areas of the City."[124] Moreover, the allure of these places is evident in the fact that numerous tour guides leading bus, walking, and ferry tours capitalize on the popularity of these historic destinations on a daily basis year-round—as well as production crews memorializing them in film, television, and digital media. In fact, the film and television industry spent $60 billion alone on production in New York City between 2002 and 2012, and in doing so, stimulated the local and state economies, while ultimately creating new entertainment to promote the city as a multi-faceted destination to future tourists.[125]

Even in the absence of specific economic studies focusing on heritage tourism and dollars in New York City, it is clear that the vast number of tourists, their documented interest in cultural activities such as landmarks, historic sites, guided tours, and sightseeing, and their impact on the economy in terms of income, jobs, and tax revenue, affirm that historic properties not only have civic value, but also economic value as well. Further, the preservation and protection of these places—that is, LPC's role in ensuring the preservation of their distinct character—continues to be of vital public interest for New York City's cornerstone economy. Thus, contrary to the contention that local landmark and historic district designation has the capacity to exert "adverse impacts" on tax revenue and job creation, heightened economic activity in the city's designated areas as evinced in the construction, residential, retail, office, tourism, and television, film, and digital media sectors indicate that the ongoing preservation and protection of these places is fundamentally vital to New York City's economy.[126]

124 "New York City Tourism: A Model for Success," 19.
125 Miriam Kreinin Souccar, "Film, TV spent $60B in NYC since '02," *Crain's New York Business*, May 8, 2012.
126 "An Analysis of Landmarked Properties in Manhattan," 3.

5.0 Conclusion

Nearly a half century since its passage, the landmarks law has produced multiple benefits that have not only had a positive effect on New Yorkers, but also on the millions of visitors who flock to the city every year to experience its eye-filling landmarks and historic districts firsthand. At its most fundamental level, the law's safeguarding of the city's historic, aesthetic, and cultural heritage fosters education about history and enhances the quality of life for both the city's inhabitants and its visitors. Further, as an integral component of the municipal planning process, it provides an essential resource to ensure that these distinct places will endure for future generations to come. As the late Margot Gayle, who successfully led the campaign to preserve SoHo, said, "Why not let people in the future enjoy some of the things we thought were extremely fine?"[127]

Moreover, as this report shows, the landmarks law has generated far-reaching economic, social, and environmental benefits. Remarking on the proposed Stone Street Historic District in 1996, developer Tony Goldman noted, "It's a magnificent little enclave…Being an oasis, it has that much more differentiation, and differentiation is where it's at. You've got to have the only kind of product on the market to give yourself the marketing edge."[128] This has certainly been borne out by New York City's 109 historic districts and 20 district extensions which are a testament to the appeal of differentiation. Whether it is the charming vernacular streetscapes of Greenwich Village, the industrial grit of DUMBO, or the suburban idyll of Douglaston, it is these districts' distinct sense of place that compels individuals to want to live, work, and play in them. Similarly, highly successful districts like Ladies' Mile and SoHo are proof that designation is not a barrier to economic development, but rather an inducement for all the company and store owners who are drawn to these highly sought-after commercial areas based on consumer tastes and demand. Beyond the appeal of these districts to residents, workers, shoppers, and company/store owners, this analysis shows that there are property owners and real estate developers who understand the financial returns that follow substantial reinvestments in designated properties.

The success of New York City's Landmarks Law and the Landmarks Preservation Commission has been validated by the extensive benefits accruing to residents and visitors over the past fifty years. Comprehensive in scope and effective in implementation, the law has stimulated a series of neighborhood revitalizations that have boosted multiple sectors of the economy, while also ensuring that the city is a more enjoyable place to live. Beyond economics, New York City's preservation law and agency have yielded social benefits in preserving neighborhoods and environmental benefits in promoting sustainability. Thus, New York City's Landmarks Law has demonstrated that historic preservation not only plays a vital role as a municipal planning tool, but also yields significant benefits to its citizenry and to the world-at-large. It is a proven success.

[127] Joyce Wadler, "A Polite Defender from SoHo's Cast Iron Past," *The New York Times*, May 29, 1998, B2.

[128] David W. Dunlap, "Jump-Starting a Historic District," *The New York Times*, May 5, 1996.

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Appendix
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GREGORY DIETRICH PRESERVATION CONSULTING **June 2009 –**
PRINCIPAL & SOLE PROPRIETOR
CONSULTING FIRM SPECIALIZING IN ARCHITECTURAL HISTORY*, PRESERVATION PLANNING AND LAW, & CULTURAL RESOURCE MANAGEMENT

CULTURAL RESOURCE CONSULTING GROUP **June 2002 – May 2009**
MANAGER, NY OFFICE / DIRECTOR, HISTORIC PRESERVATION DEPARTMENT /PROJECT MANAGER & PRINCIPAL INVESTIGATOR
PERSONNEL/PROJECT MANAGEMENT ENTAILING PROJECT BUDGET OVERSIGHT & ONGOING COMMUNICATIONS WITH CLIENTS, REGULATORY AGENCIES, & ASSORTED STAKEHOLDERS RELATIVE TO INDIVIDUAL PROJECT NEEDS

PRIMARY INVESTIGATIVE RESEARCH & REPORT AUTHORSHIP; EXPERT TESTIMONY

FORMULATED COMPANY'S STANDARD OPERATING PROCEDURES

LANDMARK WEST! **June 2001 – November 2002**
PRIMARY AUTHOR
LINCOLN CENTER NATIONAL REGISTER NOMINATION

NYC LANDMARKS PRESERVATION COMMISSION **July 1999 – September 2000**
ACTING DIRECTOR, HISTORIC PRESERVATION GRANT PROGRAM
MANAGED $268,000 COMMUNITY DEVELOPMENT BLOCK GRANT-FUNDED RESTORATION PROGRAM OF LOCALLY DESIGNATED PROPERTIES OWNED BY NON-PROFIT AND LOW-INCOME HOMEOWNERS

REVIEWED AND ADMINISTERED GRANT APPLICATIONS FOR OVER 30 RESTORATION PROJECTS IN ACCORDANCE WITH NYC-LPC STANDARDS

*Meets Federal qualifications [36 CFR61] for Architectural Historian

EDUCATION
M.S. – HISTORIC PRESERVATION – COLUMBIA UNIVERSITY (2003)
M.S. – REAL ESTATE DEVELOPMENT – COLUMBIA UNIVERSITY (2003)
B.A. – ENGLISH LITERATURE – UNIVERSITY OF CALIFORNIA, LOS ANGELES (1985)

AWARDS
AUSTIN, NICHOLS & COMPANY WAREHOUSE LOCAL DESIGNATION COALITION
HISTORIC DISTRICTS COUNCIL GRASSROOTS PRESERVATION AWARD (2006)

UNION COUNTY PARK SYSTEM CULTURAL LANDSCAPE AND RESOURCE SURVEY
NEW JERSEY CHAPTER OF THE AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS RESEARCH AWARD (2005)

"AUSTIN, NICHOLS & COMPANY WAREHOUSE"
CLEO & JAMES MARSTON FITCH STUDENT PRIZE, COLUMBIA UNIVERSITY GSAPP (2001)