

# Judge KOs Suit to Save the Mansions

By ROBERTA R. GRATZ

Community efforts to keep two 19th-century mansions from the wreckers' ball ran into a legal roadblock today when Supreme Court Justice Wilfred A. Waltemade threw out an injunction action on a technicality without hearing arguments on the merits of the case.

The jurist was furious at attorneys for the plaintiffs

for failing to serve papers in the suit on all the defendants.

"This was such an emergency," he said, "that you could not even perfect service? That is wrong." He said that under these conditions the case could not even go on the court calendar and that he would not hear arguments on the issues.

The action had been brought against Sol Gold-

man, Wellington Associates and Chatham Associates, who plan to raze the two buildings on the corner of Fifth Av. and 823 St. and erect a new 24-story apartment house.

Partial destruction had begun on the buildings when work was halted by a temporary restraining order obtained Tuesday by neighborhood groups. Two other buildings of similar architec-

tural vintage on the site, across 8th Av. from the Metropolitan Museum of Art, are still occupied. But they, too, are scheduled for demolition to make way for the new building. There were no immediate indications what new steps might be taken to prevent destruction of the two buildings involved in today's case. But whether community efforts are temporarily or permanently successful, the plight of the four threatened "landmark quality" structures underscores the continuing difficulty in salvaging the treasures of the city's rapidly disappearing past.

"This case clearly highlights a critical weakness in New York City's landmark law," says Kent Barwick, director of the Municipal Art Society which has long been in the forefront of landmark preservation.

The problem, Barwick says, is that by law the Landmarks Preservation Commission—an 11-member body appointed by the Mayor—can only hold hearings on new landmark proposals for six-months every three years. It "has absolutely no power to work on an emergency basis during the interim period," Barwick says.

When the Neighborhood Assn. for the Preservation of the Fifth Avenue Houses appealed for help to the commission in July, they were told by chairman Harrison H. Goldstone that "the commission can only consider for landmark designation items that have had a public hearing."

Since the next hearings were not scheduled until July, 1974, the commission could do nothing to help in the current rescue attempt, Goldstone said. (The last hearings were held in January, 1970.)

Because of the three-year interim period, says Barwick, "it is impossible for them to even consider landmark protection for innumerable threatened buildings. The result is frequently the tragic and unnecessary destruction of buildings and districts that many New Yorkers just assume are landmarks."

The Municipal Art Society, Barwick notes, recently proposed legislation to enable the commission to hold hearings on its own schedule. The society recommended further changes to overcome other limitations after conducting an 18-month study of the law requested by the commission.

Asked if the commission would push for such changes, Goldstone said there had not yet "been any official move to do so. The commission has not taken any policy stand on this matter."

Councilman Carter Burden (D-Man), however, is planning to introduce City Council legislation to greatly expand commission power. "I very definitely get the feeling, however, that the commission is not anxious to have that power," Burden says.

"One problem is getting

the Council to act quickly is that there is no sense of urgency from the city Administration. Any landmark issue is a nest of vipers because you're dealing with very powerful real estate interests," he said.

Burden, Assemblyman Anthony Oliveri (D-Man), the art society and neighborhood groups initiated today's court action. The threatened mansions

are only three blocks from where the chateau-like Brokaw Mansions stood at 79th St. and Fifth Av. They were torn down in 1964, over the loud protests of the then powerless landmarks commission that had declared them a city landmark. A luxury apartment house now stands in their place.

Largely because of the public outcry over the loss of the Brokaw Mansions, legislation was passed in 1965 giving the commission greater — but still limited — authority to prevent similar loss of landmarks.

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