

Landmark case in top N. Y. court

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Today is the last stop in the long court fight over Grand Central Terminal's future.

At the State Court of Appeals in Albany, Penn Central is expected to argue — as it has throughout the eight-year-old case — that it has the legal right to do what it sees fit with its own property.

The city will argue that it's not quite simple, that an owner's right is not absolute and limitations on that right are more than appropriate when the public good is jeopardized.

Actually, Penn Central, owner of the terminal, is not seeking to demolish the 1913 Beaux Arts landmark. Rather, it wants to build a 59-story office tower above it and partly demolish the facade which would, in effect, obliterate the building's architectural integrity.

1976 DESIGNATION

The city's Landmarks Preservation Commission designated the terminal an official landmark in 1967. Under the landmarks law no designated structure can be demolished or externally altered without the commission's approval.

The commission denied two design proposals from Penn Central for office towers above the terminal. Penn Central then started the lawsuit which, if won by the railroad, would eliminate the landmark status from the building and could emasculate the city's 1965 landmarks law.

The case has been going back and forth in the courts ever since, with Penn Central winning the first round in State Supreme Court and the city winning the next in the Appellate Division.

The lower court upheld the constitutionality of the city's landmarks law in January 1975, but said it was wrong to apply it to the terminal because of the economic hardship placed on the property owners.

CITY VICTORY

In the Appellate Division, the city argued successfully that the economic burden the railroad was suffering was not, in fact, due to the terminal building but to the way it managed its service lines and real estate.

In a 3-2 decision, the judges affirmed the city's law and its specific application to the terminal.

The court noted that "Grand Central is unquestionably one of New York City's best-known buildings and, along with the Empire State Building and the Statue of Liberty, the image of its facade symbolizes New York City for millions of visitors and residents."

What cheered preservationists, planners and assorted civic groups was the fact that the court went further than it had to in reaffirming the terminal's landmark status.

But, observers note, the Court of Appeals is a new ball park. It is considered a conservative court with a record in recent years of strong support for undiluted property rights.

A decision is not expected for several months.