

THE CASE FOR PRESERVATION EASEMENTS



When Municipal Ordinances Fail to Protect Historic Properties

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May, 2005

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EXECUTIVE SUMMARY

Historic preservation today is one of the nation's great success stories. Forty years ago, the demolition of New York City's Penn Station – one of the city's and the country's finest civic monuments – helped awaken America to the tide of neglect and demolition stripping the country's cities and towns of their history and character. Citizen groups at all levels – local, state and national – lobbied for new laws and policies, and helped make the case for Federal protections. Preservation has helped reconnect Americans to their history, protect and restore grand works of architecture, and create an attractive environment, stable neighborhoods, economic development and urban revitalization. With its many benefits, both tangible and intangible, preservation has become a major cultural and economic force.

Yet each year, countless historic buildings and neighborhoods still fall to the bulldozers – to be replaced all too often by anonymous high-rise condominiums, chain stores, or parking lots. Even in cities with strong landmarks laws, the destruction continues. In Chicago, of 17,000 historic buildings identified by a twelve-year-long, citywide survey, nearly 800 have been destroyed. Historic buildings continue to disappear all across the country - from San Antonio, Texas to San Francisco, California; from Fort Collins, Colorado to Fort Lauderdale, Florida. And once historic buildings and sites are demolished, they don't grow back.

One major reason for the continuing losses is that most landmarks regulation takes place at the local level, and the hundreds of landmarks or historic district commissions across the country vary enormously in their ability to protect landmarks. An informal survey carried out for this report found that while some local commissions offer substantial protection to historic buildings, many more do not. Some local landmarks boards have final say, while others can be overruled and still others are strictly advisory. Some have operating budgets and staff, while others don't. Even the strongest commissions are hobbled by limited resources, political pressure, and weak enforcement powers. And many – perhaps most – communities still lack preservation ordinances of any kind.

At the same time, one of the major issues facing local communities is the price of preservation. Historic preservation is a public benefit that is often purchased at a private cost. Ultimately, owners of historic properties are the ones who bear that cost, either through lost development opportunities or through the extra costs associated with restoring or maintaining an historic property. While various states and cities attempt to offer a measure of financial relief, such attempts are invariably spotty and inconsistent.

Today there is only one tool available that both offers a level of protection for historic landmarks that is consistent across the country, and also provides a nationally available source of financial support for the owners of historic properties: historic preservation easements. In exchange for a one-time federal tax deduction, owners voluntarily give up – in perpetuity – the right to make inappropriate alterations to their historic properties.

Easements are not new – they were created in 1976 as part of a major national initiative to support historic preservation. They are a carefully constructed tool of great utility. On the one hand, easements help property owners pay the private cost of the public benefit of preservation. On the other, easements provide the only layer of protection for properties in communities that have either a weak landmarks commission or no commission at all. Even in municipalities

with stronger commissions, easements offer an additional layer of protection against short-term political pressure – including the potential weakening or dismantling of current landmarks regulations.

By their very nature, easements bring special benefits to historic preservation. Being national in scope, easements operate independently of local politics. Being voluntary, they eliminate the contentious issue of owner opposition to landmarks designation. And being financially attractive, they eliminate a major impediment to owner acceptance of preservation.

Easements also represent a bargain, on two fronts. The cost of an easement, in foregone federal tax revenues, is paid just once, but the easement continues in perpetuity – so over time the cost amortizes to very little. And the cost of monitoring and regulating those easements is borne not by the public, but by the non-profit easement-holding organizations – financed by property-owner donations.

Yet, despite their proven worth, preservation easements – and the protection and support they bring to the nation's historic resources – might disappear in whole or in large part. On January 27th of this year, the staff of Congress's Joint Committee on Taxation released a study, *Options To Improve Tax Compliance And Reform Tax Expenditures*, which includes a proposal to dramatically reduce the value of easements for non-residential properties, and to *eliminate completely* the availability of easements for residential properties.

Preservation easements make a major contribution to historic preservation, and therefore both to the livability of our towns and cities and to their economic development. Undoing such a successful – and in the long run economical – program would be a serious blow to the future of preservation. Given the minor savings that, at best, would accrue to the Treasury, the country is likely to lose far more than it would gain by eliminating preservation easements.

I. HISTORIC PRESERVATION: A WORK IN PROGRESS

An American success story

Historic preservation today is one of the nation's great success stories. Forty years ago, the demolition of New York City's Penn Station – one of the city's and the country's finest civic monuments – helped awaken America to the tide of neglect and demolition stripping the country's cities and towns of their history and character. Citizen groups at all levels – local, state and national – lobbied for new laws and policies, and helped make the case for Federal protections.

Preservation today is pursued in complementary ways within the private, the non-profit, and the public sectors. In the private sector, people buy historic houses and restore them, while developers buy historic buildings, both residential and commercial, and renovate them for re-use or re-sale. In the non-profit sector, advocacy groups promote historic preservation through educational and outreach programs, organize grass-roots efforts to protect threatened historic properties, offer technical support to owners of landmarks, and make grants and loans to non-profit owners of historic properties. And in the public sector, governments provide a regulatory framework to protect historic properties, and provide financial support through grants, loans, or tax relief.

All these efforts have made an enormous contribution to our country's quality of life. There is now a vast amount of literature documenting the contribution of preservation to a common sense of a shared American history, an attractive environment, stable neighborhoods, economic development, and urban revitalization. With its many benefits, both tangible and intangible, preservation has become a major cultural and economic force.

Landmarks still fall to the bulldozers

Yet each year, countless historic buildings and neighborhoods in metropolitan and rural areas throughout our country still fall victim to neglect or demolition – replaced all too often by anonymous high-rise condominiums, chain stores, or parking lots. Even in cities with strong landmarks laws, the destruction continues. In Chicago, in 2002, the *Chicago Tribune* spent nine months investigating the fate of 17,000 historic buildings identified by a twelve-year-long, citywide survey, published in 1996, only to discover that nearly 800 of them had been destroyed.

Chicago is not alone. Boston recently granted permission for demolition of the historic Gaiety Theater despite the objections of historians and preservation advocates. Historic buildings continue to disappear all across the country – from San Antonio, Texas to San Francisco, California; from Fort Collins, Colorado to Fort Lauderdale, Florida.

II. LOCAL LANDMARKS COMMISSIONS CAN'T DO IT ALL

Federal and state governments maintain preservation policies and programs, but in general, landmarks are regulated at the local level, usually through a municipality's landmarks or historic district commission.¹ Many local commissions offer substantial protection to historic buildings, but not all commissions are created equal. Local preservation laws and local governmental support for preservation vary enormously from one municipality to the next – even within the same state, and even within the same metropolitan area. Some local landmarks boards have final say, while others can be overruled and still others are strictly advisory. And many municipalities still lack landmarks ordinances of any kind.

Resources available to local preservation commissions

A 1998 survey discovered wide disparities among the nation's local preservation commissions.² Some commissions have an operating budget, but fully 42% do not. Some commissions require their commissioners to have some kind of professional expertise, while others don't. Some commissions have professional staff, but 30% have none. Those that do range from as many as 45 to as few as one or two. Fully 41% of commissions need owner consent in order to designate historic properties – leaving them unable to protect those properties whose current owners do not cooperate. Only 60% can mandate compliance with their decisions – others play only an advisory role.

Protections offered by various ordinances

An informal survey carried out for this report found a wide variety of protections offered by commissions across the country.³ These range from no ordinance at all, to weak commissions, to strong commissions – but even the strongest commissions have weaknesses.

No preservation commission at all

Cities and towns with no preservation laws are losing their historic buildings at an alarming rate. Recent demolitions include century-old Italianate houses in Bloomington, Indiana (2002)⁴; an 1888 carriage-house in the historic center of Old Naples, Florida (2003); an 1840s Greek Revival house and barn in Oswego, Illinois, built by one of the town's original settlers (2002); and an 1819 Union Hall in Chittenango, New York (2004). Even now, in Montclair, New Jersey, demolition is planned for the 1840s Marlboro Inn, once host to such visitors as Bette Davis, Arnold Palmer and the crown prince of Liechtenstein.

Weak commissions

Towns and cities with weak laws seem to offer protection to their landmarks, but often don't. Many commissions can delay, but not stop, landmark demolitions. Los Angeles, California has lost half a dozen major Modern landmarks in the past three years because its law permits only a delay of 360 days. Portland, Oregon has a 120-300 day delay. In Massachusetts, both Amesbury and Worcester have just six months. And Gladwyne, Pennsylvania could delay the demolition of a 1771 stone house for just 90 days.

In many cases, once a landmark designation is affirmed by an elected body, the local commission can exercise full regulatory power. Other commissions, however, can have even their regulatory decisions overruled, either by a local

planning commission or by the city council. Baltimore's commission was overruled by the State of Maryland, and a landmark building in the city's Mount Vernon historic district was demolished for a University of Baltimore construction project (2004). Ft. Collins, Colorado's commission was overruled and an early 20th century farmhouse and barn was demolished (2004). Houston's law was too weak to keep its Freedmen's Town historic district from being gutted by demolition (2002). In Fort Lauderdale, the partial (instead of total) demolition of the Lauderdale Beach Hotel – the town's last surviving Art Deco hotel – was considered a "victory" when the City Commission overruled its preservation board (2002).

These kinds of losses happen even in some of the country's best-loved, most historic, and most tourism-dependent cities. In San Francisco, the Landmarks Preservation Advisory Board can be overruled by both the Planning Commission Board and the Board of Supervisors, even on regulatory decisions on already designated landmarks. In New Orleans, the City Council recently overruled the Historic District Commission and allowed the demolition of a century-old landmark mansion (2003).

Even the strongest commissions have weaknesses

Perhaps the most surprising finding of the survey conducted for this report is that even the strongest commissions have weaknesses. These range from inappropriate decisions, to weak enforcement powers, to hardship provision loopholes. Even the strongest commissions are only as strong as the political support behind them, and even the largest commissions have limited budgets and long backlogs of unprotected or partially protected landmarks-in-waiting.

Many commissions have yet to extend official protection to all their local National Register properties. In Baltimore, the City Commission on Historical and Architectural Preservation regulates fewer than half of the city's National Register-listed historic districts. New York City has one of the country's strongest landmarks laws and its landmarks commission one of the largest staffs. Nevertheless, although a large National Register historic district covers much of the heart of the Lower East Side – a national symbol of immigration history – the commission has never considered regulating the district there. Other large National Register historic districts in New York not yet designated by the commission include Ridgewood in Queens and Sunset Park in Brooklyn.

Limited resources

Those landmarks-in-waiting are casualties of the limited resources that can hobble even the largest commissions. In New York City, many potential landmarks wait years for consideration by the Landmarks Commission which, given its budget and staffing, must set strict priorities for areas in which to pursue designations in any given year. Recently the Commission has been able to designate no more than 25 individual new landmarks and two to three new historic districts annually.

Some landmarks commissions with strong protection for their official list of landmarks have longer lists of less well-protected landmarks. Chicago has a strong law protecting 6,500 historic buildings – 217 individual landmarks and 38 historic districts (with 4 extensions). But the city's much larger list of 17,000 surveyed structures (including 30 historic districts) is protected only by a 90-day demolition delay. At least 800 buildings identified by the survey have already been demolished. Detroit has a provision for "interim" designation that brings with it the lesser protection of a demoli-

tion delay – and many of Detroit’s historic buildings have been demolished following the expiration of their interim designation.

Political obstacles

Even the strongest commissions are limited in what they can bring under protective regulation. New York City’s Commission can designate eligible properties, but faces several hurdles. All designations require approval by the City Council. Many designations have been overturned, for purely political reasons, including the Beaux-Arts style Jamaica Savings Bank, and the entire Lalance-Grosjean Historic District.

Weak enforcement powers

Even landmark commissions with apparently strong laws are only as effective as their ability to enforce their decisions. Washington, D.C. has one of the country’s strongest laws, but a recent study (2003) found that “actual protection of historic properties has been limited by deficiencies in the District’s authority and ability both to compel compliance and to punish wrongdoers.”⁵

There are also exceptions to commissions’ regulatory powers. New York City’s law includes a provision that permits demolition in cases of demonstrated economic hardship. Many other preservation laws have similar provisions.

Inappropriate decisions

Even when landmarks commissions have the final legal say on the fate of historic properties, some commissions approve the demolition of local landmarks. Chicago designated its Art Deco McGraw-Hill Building a landmark – and then immediately approved its demolition, requiring only that its cladding be reused on its replacement (1997). Philadelphia’s landmarks board permitted demolition of houses in the Rittenhouse Square Historic District. At the other end of the state, to the surprise of local preservationists, Pittsburgh’s Historic Review Commission approved demolition of buildings in the local Market Square Historic District (2000). Citing safety concerns, San Antonio, Texas – a city that prides itself on its historic character – permitted the demolition of several late 19th-century landmarks (2004), asking only that new buildings replicate the original facades. And in Connecticut, in 2002, Old Saybrook’s North Cove Historic District voted to allow demolition of a house dating back to 1746.

Strong commissions can also make questionable choices about major alterations to landmarks. New York City’s commission has approved a number of controversial alterations, including an ultra-modern steel-and-glass entry addition obscuring the lower portion of the Brooklyn Museum’s original Beaux-Arts style main façade, the alteration and enlargement of the historic storefront windows of Rockefeller Center – one of the most visible and best-loved of the city’s landmarks – and even the erection of a 36-story steel-and-glass tower on top of the six-story Art Deco style Hearst Magazine Building.

Landmarks commissions and laws under threat

Political opponents of landmarks commissions have attempted, in some instances successfully, to circumvent the commissions' authority by changing their role within the local governmental structure, or by defunding them altogether. In Detroit, economics and politics led to the demolition of the landmark Statler and Madison-Lenox hotels. Angered by a landmarks ruling against demolition, Detroit's mayor threatened to appoint new, more compliant, members to the city's landmarks commission (2004). In St. Louis, the city government ended its contract with the non-profit Landmarks Association because of a disagreement over the demolition of a landmark (2004).

New York City has periodically seen proposals to fold its Landmarks Preservation Commission into the City Planning Commission, effectively making landmarks designation and regulation subsidiary to the City's planning department. During the fiscal crisis of the late 70's and again in the mid-80's and early 90's, proposals surfaced at the Board of Estimate and the City Council to disband the Landmarks Commission altogether, as a cost-saving measure. There are no guarantees that that won't happen again.

In Philadelphia (2004), a local councilwoman has proposed to gut Philadelphia's landmarks law. Her bill, which is still pending, would give the City Council, rather than the city's historical commission, the authority to designate landmarks; allow the City Council to rescind existing designations of landmarks and historic districts; and exempt newer parts of the city from consideration for landmark status altogether.

III. EASEMENTS: THE PRESERVATION ADVANTAGE

Given the limitations in local preservation laws, the protection afforded by preservation easements can make an enormous difference.

Preservation easements are not new. They were created in 1976 for the express purpose of promoting historic preservation across the country, as part of the Tax Reform Act of 1976.⁶ The Act provides two major preservation incentives: tax credits for the certified rehabilitation of historic structures and historic preservation easements. Tax credits offer support for income-producing commercial redevelopment projects. By contrast, easements offer support to *all* owners of historic properties, whether or not they are undertaking redevelopment projects, and whether or not their properties are income-producing. Easements offer protection to historic resources across the country, and at the same time help provide economic support for the owners (and stewards) of those resources.

What is an easement?

As defined by the National Park Service, "An historic preservation easement is a voluntary legal agreement made between a property owner (donor) and a qualified easement holding organization (donee) to protect a significant historic property, landscape or archeological site by restricting future changes to and/or development on the site. Normally, a property owner will convey a portion of his or her rights on the property to a qualified organization, thereby allowing the organization the legal authority to enforce the terms of the easement."⁷

According to the Internal Revenue Service (IRS), the owner of qualified property can receive income tax deductions equivalent to the value of the rights given away to a qualified charitable or governmental organization.

Once accepted, an easement becomes part of the property's chain of title and its restrictions are binding not only to the owner who grants the easement but to all future owners as well.

Who accepts easements?

The National Park Service describes easement-accepting organizations as follows:

"A qualified organization is recognized by the IRS as one that is committed to protecting the historic preservation purposes of the donation. It is generally a governmental organization (501(c)(3)), such as a community land trust or historic preservation organization. A preservation easement gives the organization that holds it (the "grantee") the legal authority to enforce the restrictions written in the easement document. The grantee organization monitors the property at least once a year, maintaining written records of the visit, and ensuring that the terms of the easement are being followed."⁸

Dozens of organizations today accept easements. These include national organizations, as well as others focusing on individual states and cities – and even several city governments. (For a list of organizations, see Appendix B)

More powerful than local landmarks laws

Easements provide additional support for preservation no matter what the level of protection currently offered by local preservation ordinances. In cities and towns with no preservation laws at all, easements offer the only realistic opportunity to protect local landmarks. Where commissions play a strictly advisory role, or can be overruled by other governmental bodies, easements offer true protection. In cities like Chicago, with a second tier of historic buildings identified in a survey but not yet officially designated, easements can offer complete and permanent protection until the city takes official action.

And even in cities and towns with strong preservation laws, easements provide extra protection – because they require a second review. Such protection can make the critical difference for existing landmarks when local commissions permit inappropriate alterations or demolitions, have ineffective enforcement mechanisms, or grant hardship exceptions – and easements also offer financial help to mitigate such hardship.

By their very nature, easements avoid many of the major pitfalls typical of local preservation efforts. Being national in scope, easements operate independently of local politics. Being voluntary, they eliminate the issue of owner opposition. Being financially attractive, they eliminate a major impediment to owner acceptance of preservation.

The protection offered by an easement goes beyond limiting alterations, on which many local ordinances focus. Easements prohibit demolition by neglect, and require that the structural integrity of the entire building be maintained.

Finally, easements are perpetual agreements. While local ordinances can be revoked at any time in response to changing government priorities, easements remain independent of local politics and budget pressures.

Easements often protect landmarks before local commissions can

In cases when local commissions lack staff resources, or have other designation priorities, easements can offer immediate protection to unprotected landmarks. Easements are available for properties listed on the National Register of Historic Places. Listing on the National Register is overseen by the State Historic Preservation Office (SHPO). Unlike local preservation commissions, the SHPO will consider any nomination submitted to it, strictly on its merits, which means that National Register status can be sought independent of local commission priorities. National Register listing, by itself, can't protect historic buildings – but coupled with preservation easements it can and does.

New York City offers an excellent example of the role played by easements in encouraging the preservation of historic properties not yet protected by the local landmarks commission. In just the past two years in New York City, in response to the financial incentive offered by easements, a number of owners of historic properties have supported the listing of their properties in the National Register. These include:

The former Wool Exchange (later American Thread Company) at 260 West Broadway, a handsome Renaissance-Revival style building (William B. Tubby, 1894-96) for the wool industry.

The Look Building at 488 Madison Avenue, an early International Style skyscraper (Emery Roth & Sons, 1949-50), and long-time home of the pioneering photo-journalism magazine.

The former Williams Warehouse at 259-273 Tenth Avenue, a remarkable poured-concrete warehouse designed by nationally prominent architect Cass Gilbert (1927-28).

The award-winning, Beaux-Arts style former Macmillan Publishing Company Headquarters at 60 Fifth Avenue, now home to Forbes (Carrère & Hastings, 1923-24).

The former Kenny Building, at 304 Park Avenue South, home to the "Tiger Room," a private penthouse club frequented by Governor Al Smith and the power-brokers who surrounded him during his 1928 run for the Presidency, and also a neighboring penthouse where Jules Guerin painted the murals for the Lincoln Memorial in Washington.

No. 210 East 68th Street, one of the first Art Deco apartment buildings in America (Blum & Blum, 1928).

Each one of these buildings meets the criteria to be designated as a local landmark by the New York City Landmarks Preservation Commission, but the Commission, with its limited resources, hasn't yet focused on them. Without the financial incentive of preservation easements, these buildings could easily have been either stripped of their architectural detail or simply demolished. Instead, they have been listed on the National Register, and protected in perpetuity thanks to their easements, held by the National Architectural Trust.

IV. PRESERVATION EASEMENTS: A FAIR TRADE

The private cost of a public benefit

A major obstacle cited by opponents of preservation is the factor of cost – the cost of lost development opportunity or the cost of historically appropriate renovations. Historic preservation offers a public benefit, but the cost is born by the private owners of historic buildings and sites. In recognition of that disparity, a number of states and municipalities offer some modest aid, but they are few and scattered, and have limitations. In New York City, for instance, the only available local program is the Landmarks Commission’s Façade Improvement Program, which can offer grants only to non-profit organizations, or to homeowners who meet HUD’s definition of poverty.

Preservation easements provide economic support to owners of historic properties

Preservation easements provide the *only* economic support available to all private owners of historic properties. They are available in every part of the country, and they offer a consistent source of financial assistance to the private owners who care for – and pay for – the vast majority of the nation’s historic properties.

Easements are a bargain

Given all that they can accomplish in support of historic preservation, the cost of easements is actually quite low. The cost of an easement, in foregone tax revenues, is paid just once, but the easement continues in perpetuity – over time, the cost amortizes to very little.

An additional benefit is that the cost of regulating these properties is not borne by the government – local, state or federal. One of the chief limitations on local commissions’ ability to designate landmarks is the obligation to commit municipal resources to monitor and regulate those landmarks. With easements, the cost of monitoring and regulating is born not by the public, but by the non-profit organizations who hold the easements - and that cost is financed by dollars donated by the property owners.

The preservation easement is a tool that has been used relatively sparingly, compared to the numbers of locally designated properties. As of the end of 2004, only some 4000 easements had been donated nationwide. In New York City, there are no more than 400 easements, many on properties that are not locally designated; local landmarks and historic districts, by contrast, encompass some 23,000 buildings. Yet easements have already made a significant contribution to historic preservation.

Easements respond to recent trends in land-use regulation

A serious current threat to historic preservation comes from a growing national movement opposing land-use regulations. Most recently, in November 2004, voters in Oregon passed Ballot Measure 37 by 61% to 39%. The measure provides that “the owner of private real property is entitled to receive just compensation when a land use regulation is enacted after the owner or a family member became the owner of the property if the regulation restricts the use of the property and reduces its fair market value. In lieu of compensation, the measure also provides that the government responsible for the regulation may choose to ‘remove, modify or not to apply [sic]’ the regulation.”⁹

Moreover, *Ballot Measure 37 is retroactive. As spelled out by the Chicago Tribune: "Under the measure, if a land use regulation such as zoning reduces the sale value of property, and if that regulation was adopted during the time the current owner held title to the land, then that person can demand compensation. The measure allows property in 'family' ownership over decades to be eligible for claims. So a family that has owned land for decades can seek compensation for land use restrictions that government agencies have put in place over that time [italics added]. The law also would apply on many new regulations put into place after Dec. 2."*¹⁰

Initiatives like Ballot Measure 37 represent a major challenge to land-use regulations of every description. They could certainly undo years' worth of historic preservation, by making local regulation financially impossible. Measure 37 is only one of many such initiatives that have been gathering support across the country in recent years, and more are sure to come. According to "Oregonians in Action," the citizens group that sponsored Measure 37, they have already fielded inquiries from similar groups in two dozen states.

If similar ballot proposals become law, and municipalities find themselves unable to continue their existing preservation programs, properties with preservation easements will still continue to be protected – and municipalities may find that easements represent the only financially viable tool with which to pursue preservation policies.

V. PRESERVATION EASEMENTS THREATENED

The value of preservation easements is demonstrated by the wide range of organizations that accept them. Yet even as they come into their own, preservation easements – and the protection they bring to the nation’s historic resources – might well disappear, in whole or in part. On January 27th of this year, the staff of Congress’s Joint Committee on Taxation Released a study, *Options To Improve Tax Compliance And Reform Tax Expenditures*, which includes a proposal to “Modify Charitable Deduction for Contributions of Conservation and Facade Easements” (sec. 170). The study proposes dramatically reducing the value of the easement for non-residential properties, and *completely eliminating* the availability of easements for residential properties.

Historic preservation contributes enormously both to the livability of our towns and cities and to their economic redevelopment. But there remain wide gaps in preservation protections available around the country. The easement program has already brought new protection to historic landmarks. The cost of preserving our built history is largely borne by private owners, and easements represent the only consistent economic support for those owners. Undoing such a successful – and in the long run economical – program would be a serious blow to the future of historic preservation. Given the minor savings that, at best, would accrue to the Treasury, far more is likely to be lost than gained by eliminating preservation easements.

APPENDIX A: Informal Survey Of Local Landmarks Protection

NO LOCAL PRESERVATION ORDINANCES

BLOOMINGTON, INDIANA

Continuing losses in National Register historic districts

"A developer in Bloomington, Ind., demolished a 100-year-old Italianate house on Sept. 26, the day before the building was to be considered for historic designation. Four days later, the developer tore down another house, also about a century old, on the same block. The loss of the two buildings wasn't enough to convince the city council to increase protection of local history. On Oct. 7, the council rejected an ordinance that would delay for 60 days demolition of any of the 2,500 buildings listed on an inventory of local historic sites."

Source: National Trust for Historic Preservation, 10/15/2002.

CHARLESTON, WEST VIRGINIA

Kanawha Hotel demolished

"During his presidential campaign in 1960, John F. Kennedy established a headquarters in a suite of the Kanawha Hotel in Charleston, W.Va. After he won the state primary, Kennedy said in speech in the lobby, 'I am in debt to the people of West Virginia. I believe now that you have made it possible for me to be nominated for president.' ... Demolition of the Kanawha Hotel, built in 1903, began on May 14, just days after the seven-member board of the Charleston Urban Renewal Authority voted unanimously to demolish the Kanawha."

Source: National Trust for Historic Preservation, 6/12/2003.

CHITTENANGO, NEW YORK

1819 Union Hall demolished

"Demolition of an 1819 building in Chittenango, N.Y., a town of 4,800 people located outside Syracuse, began last month.... Used as a movie theater, dance hall, farm supply store, and community center, Union Hall hosted a performance by L. Frank Baum, author of The Wizard of Oz, who was born in Chittenango.

'This may be a trend in our community,' says village historian Richard Sullivan. 'There's a lot of history left, but in the past five years we've lost what I would consider key buildings, and this is one of them,' he says. One of Main Street's 19th-century buildings demolished last year has become a parking lot."

Source: National Trust for Historic Preservation, 1/5/2004.

MONTCLAIR, NEW JERSEY

Montclair rejects proposed landmarks ordinance, putting 1840s Marlboro Inn at risk

"Friends of Marlboro Park, a residents' group, mounted a yearlong effort to have the Marlboro Inn declared a local landmark, which could have ensured its preservation. But on July 13, within two weeks of taking office, the new council rejected a proposed ordinance to do so, which the previous council had supported.

...The fight to save the Tudor-style inn, built in the 1840's and graced over the years by the likes of Bette Davis, Arnold Palmer and the crown prince of Liechtenstein, has been waged since...last June. The New York Giants defensive end Michael Strahan, a resident of the town, joined the battle, delivering some fiery speeches about architectural history."

Source: *New York Times*, 8/1/2004 p.11.

NAPLES, FLORIDA

No protection for Old Naples Historic District (102 structures built 1887-1937)

"Part of Old Naples, Fla., disappeared on Dec. 30, when a developer demolished an 1888 carriage house to make way for a new housing development. 'The sudden and unexpected loss of the carriage house was the last straw for many,' says Naples resident Eugene Klodzen. 'The city of Naples, which encourages visitors to come and see its historic district, has no ordinance protecting its truly historic buildings.'"

Source: *National Trust for Historic Preservation*, 1/22/2003.

OSWEGO, ILLINOIS

Oswego has a landmarks ordinance, but no landmarks. Demolition permit issued for Greek Revival house and barn 1840-1850.

"This property, located along the Fox River, includes a Greek Revival-style house and barn that were constructed during the 1840s and 1850s. It was the home of one of Oswego's first settlers and land developers, Lewis B. Judson. Both the home and the outbuildings contribute to the overall significance of the site. The Greek Revival barn is believed to be the only such structure in Kendall County designed in this style of architecture."

Source: *Landmarks Preservation Council of Illinois*.

PLANO, ILLINOIS

Only option for rescuing a Mies van der Rohe house - one of just three in the U.S. - is for the National Trust and two other organizations to buy it for \$7.5 million dollars.

"The National Trust, the Landmarks Preservation Council of Illinois and the Friends of the Farnsworth House paid \$7.5 million for the house, built in 1951 in Plano, Ill. The groups outbid one other competitor in the Dec. 12 Sotheby's auction.... Concerned that a new owner would move the glass house from its 58-acre site, the groups raised millions in the past few months, including several important last-minute donations before the auction on Friday.... The National Trust, which holds the title to the building, plans to open the 1951 glass house as a house museum next spring.

Source: *National Trust for Historic Preservation*, 12/15/2003.

TULSA, OKLAHOMA

Historic buildings leveled for parking lots

"Last week, the Tulsa World announced plans to demolish downtown Tulsa's 1921 Skelly Oil Building later this summer. The nine-story building, which the newspaper has owned since 1993, will be replaced by a parking lot... The 1921 Skelly Oil building will be demolished for a parking lot later this summer.William G. Skelly, dubbed 'Mr.

Tulsa,' founded his oil company in 1919, when Tulsa was known as the oil capital of the world. Architect Bruce Goff designed a 1928 addition to the company's headquarters. At least five other historic buildings in downtown Tulsa are also scheduled to be demolished this year."

Source: National Trust for Historic Preservation.

WEAK LOCAL ORDINANCES – COMMISSIONS CAN IMPOSE ONLY A DEMOLITION DELAY

AMESBURY, MASSACHUSETT

Amesbury Public Library faces major demolition; Historical Commission can only seek six-month delay

"It's probably the finest public building in Amesbury,' [Amesbury resident John J.] Iacobucci said. 'We're never going to get anything else like it again.' ...[T]he 100-year-old library is threatened by plans to demolish the back end of the building, which includes a 'stack wing,' the section where books have been stored. ...In September, the Historical Commission voted to seek a delay to the expansion project from Amesbury's building inspector, who is in charge of granting the demolition permit. The vote was a symbolic objection to the plan, which can still move ahead after six months. The Municipal Council has already voted to bond \$3.6 million for the project."

Source: Boston Globe, 11/14/2004, p.6.

GLADWYNE, PENNSYLVANIA

Stone house from 1771 facing demolition - historic preservation ordinance offers only 90-day demolition delay

"Despite its 18-inch-thick walls, a stone house built in Gladwyne, Pa., in 1771 may not be strong enough to withstand its new owner, who wants to tear it down and build a new mansion. On Tuesday, about 20 supporters visited the Robeson House, named for the Quaker family who built it, to protest the demolition plans of owner Steven Wolfson, a developer who wants to construct five Wal-Mart shopping centers in the Philadelphia area. ... 'The Robeson House is a poster child for the kind of disturbing trend we're seeing across the country – teardowns,' says Randy Cotton, associate director of the Preservation Alliance for Greater Philadelphia... 'Many of the townships don't have any historic-preservation ordinances,' Cotton says. 'Some that do, like Lower Merion, don't have enough teeth.'"

Source: National Trust for Historic Preservation.

LOS ANGELES, CALIFORNIA

Los Angeles law is weak - 360 day delay only

"...Los Angeles' landmark legislation can only prevent a property owner from tearing down a structure for one year. After that, the owner is free to do what he or she wants.

...Equally absurd, the city's Cultural Heritage Commission, which makes decisions on landmark status, does not include a practicing architect or anyone with serious training in the city's architectural history. Without such expertise

on the commission, the city is ineligible for federal preservation grants.”

Source: *L.A. Times*, 7/9/2000, p.7.

Los Angeles loses treasures daily

“About 85% of the city’s standing structures have never been surveyed for historic or cultural significance, a study by the Getty Conservation Institute found in late 2001.

... ‘We don’t know what we have in this city,’ says Ken Bernstein, the Los Angeles Conservancy’s director of preservation issues. In 2001, he said, his organization lobbied to save about three dozen imperiled addresses, usually alerted at the 11th hour by protests from neighbors. Some of those buildings have been preserved and given historic monument status, like the Chateau Colline apartment building in Westwood. Others, like the Gilmore Bank, were leveled anyway when city officials were unable or unwilling to intervene. ...And although the Los Angeles City Council has granted protective historic status to 15 neighborhoods and 738 individual sites, within its 465-square-mile area, that sort of protection is weaker in Los Angeles than in many other cities. Instead of blocking an owner’s demolition plans...such a designation by itself in Los Angeles can only delay demolition for up to 360 days.”

Source: *L.A. Times*, 12/29/2002, p.E1.

Only U.S. house by Oscar Niemeyer threatened

“What is at stake is a significant architectural landmark. Niemeyer, a disciple of Modernist architect Le Corbusier, is a well-known figure in South American architecture.”

Source: *L.A. Times*, 10/23/2002, p.E1.

Half a dozen Modern works demolished or altered in 2002

“In the last year, half a dozen Modernist works have been destroyed or severely disfigured. Last July, a new owner tore down R.M. Schindler’s 1928 Wolfe House on Catalina Island, a structure that had figured prominently in the Museum of Contemporary Art’s retrospective on the late Modernist only a few months earlier. A month ago, Richard Neutra’s 1963 Maslon House—one of the architect’s last major works—was demolished in Palm Springs. ...Even in the case of a landmarked structure, the city’s Cultural Heritage Commission can halt demolition only for up to 360 days.”

Source: *L.A. Times*, 4/28/2002, p.F7.

PHIPPSBURG, MAINE

House of descendant of African-American “king” of Malaga Island threatened; Phippsburg’s historic preservation committee can impose only a 45-day demolition delay; with delay expired, residents trying to raise money to move the house

“Phippsburg, Maine, a town of 2,000, is trying to save a tiny fisherman’s cottage. Volunteers moved the unassuming 77-year-old structure, which its owner donated to the town, to a temporary location on Nov. 16. Now the town must raise an estimated \$30,000 or find volunteers to donate a permanent site and restore of disintegrating home of late

lobsterman John Murphy. Murphy descended from the last king of 41-acre Malaga Island.... [S]ince 1847 African-Americans lived there with their own social structure, including a king, until 1912, when state officials forced them to move. ...When owner Rink Varian wanted to demolish the house to make way for a new renter's cottage, he asked the Phippsburg historic-preservation committee how to dispose of the house. The community responded with an outpouring of support. After Phippsburg's 45-day demolition delay expired, townspeople kept seeking donated labor, along with a flatbed trailer, a bulldozer, and a new site for the house."

Source: *National Trust for Historic Preservation*.

PORTLAND, OREGON

Portland has only a demolition delay of 120 to 300 days; City Council considering new powers

"Currently, a demolition delay period of between 120 and 300 days is required for designated historic properties in order to give the community the opportunity to work with the owner to find alternatives to tearing a building down. However, the city council today has no authority to require an owner to refrain from demolishing an historic structure. Between 1996 and 2002, 10 buildings either individually listed on the national register, classified as contributing in a national register historic district, or local historic landmarks were demolished."

Source: *Daily Journal of Commerce, Portland, 9/14/2004 p.1.*

SPRINGFIELD, ILLINOIS

The most Springfield's Landmarks Board can hope for is to increase its demolition delay, currently only 60 days

"As an advisory council to the Planning and Zoning Commission and City Council, the Landmarks Board is acting on portions of the historic preservation element of the Springfield Comprehensive Plan, according to Paula Ringer, vice chairman of the board and Midtown representative. Board members recommend increasing the demolition delay for historic properties and adding a preservation officer to city staff, said Craig Hacker, public-at-large representative, who presented the information on demolition delay to council. ...Springfield's policy is out of alignment with other cities of comparable size, Ringer said. In 1997, city staff surveyed 12 like-sized cities in the region and found the demolition delay in these cities ranged from six months to 18 months."

Source: *Springfield Business Journal, 10/30/2000 p.32.*

WORCESTER, MASSACHUSETTS

Chestnut Congregational Church under six-month demolition delay, which expired

"Preservation Worcester, the city and other groups have been working to stave off demolition of the [the Chestnut Street Congregational Church, a] long-vacant downtown landmark. Its owner, real estate developer Philip O. Schwachman, who also is a member of the Preservation Worcester board, wants to tear it down, citing prohibitive restoration costs. The stone building was protected under a six-month demolition delay issued by the Historical Commission, but it expired Saturday."

Source: *Worcester Telegram & Gazette, 5/18/2004, p.C1.*

WEAK LOCAL ORDINANCES – REGULATORY DECISIONS CAN BE OVERRULED BY HIGHER BODY

BALTIMORE, MARYLAND

Landmark building within city's Mount Vernon historic district demolished by State of Maryland for University of Baltimore construction project

"On May 15, demolition began on the Odorite Building, a 1915 mock-Tudor structure in downtown Baltimore's historic Mount Vernon area. The building, which sits on property owned by the State of Maryland, has been at the center of a tumultuous preservation debate for several years; now, the nearby University of Baltimore will construct a five-story, \$14 million multi-purpose building on the site.

... In February, the Maryland Advisory Council on Historic Preservation, the state's preservation advocacy association, also stepped in, citing the building's historic significance and suggesting that it be integrated into the proposed design. Ultimately, however, financial constraints prevented a preservation option from being realized; university officials concluded that adding on to the existing structure would increase the project's cost by \$1.6 million and restrict the usefulness of the site."

Source: National Trust for Historic Preservation, 6/1/2004.

DETROIT, MICHIGAN

Detroit has local ordinances, but economics and politics lead to demolition of landmarks Landmark Statler Hotel to be demolished

"Wednesday, the city's Historic District Commission, which oversees landmark buildings, will consider a city request to tear down the Statler, which the city owns. An elegant but dilapidated 18-story structure, the Statler fronts on Grand Circus Park not far from the Fox Theatre, Comerica Park and Ford Field. The move toward demolition is part of the city's aggressive efforts to clean up downtown in time for the National Football League's Super Bowl XL, to be played at Ford Field on Feb. 5, 2006.Built in 1914, the Statler stood for decades as one of Detroit's fine hotels. But the city's economic twilight after the last half-century deprived the Statler of its clientele, and the building has been closed since 1975."

Source: Detroit Free Press, "Detroit Hotel Appears Doomed," 5/8/04, p.1.

"One of the ironies at play is the fact that the Historic District Commission's own staff suggested that the decision to tear the Statler down is premature. A report by staffer Kristine Kidorf refuted the city's claim that it has made every effort to sell the Statler to a developer, or mothball it until one comes along. Built in 1914, the hotel has been empty since 1975."

Source: Detroit Metro Times, "Demolition daze," 8/18/04.

Landmark Madison Lenox Hotel to be demolished despite Landmarks Commission ruling - Mayor wants demolition, may move to appoint new members to the commission

"Not since the Hudson's building came tumbling down in 1998 have Detroiters engaged in a major public dispute

over architectural preservation. A new fight is emerging over an unlikely candidate, the modest Madison-Lenox Hotel in the newly trendy Harmonie Park district. ...On one side is Mayor Kwame Kilpatrick and his top aides, who want to demolish the Madison-Lenox as part of their 'clean, safe, beautiful' agenda for downtown. That involves renovating or razing a dozen or so so-called dinosaur buildings prior to the arrival of 100,000 out-of-town visitors and media for the 2006 Super Bowl at Ford Field..... On the other side is an array of enthusiasts, architects and investors who see preservation of Detroit's stock of older buildings as key to the city's revival. They are distressed that the Madison-Lenox's owner, Ilitch Holdings, wants to tear it down for a surface parking lot. ...This simmering dispute began to boil last week after the city's Historic District Commission rejected Kilpatrick's request to let Ilitch Holdings demolish the building. ...Angered by the commission's action, Kilpatrick vowed to find a way to demolish the building. That could mean an appeal to the state's Historic Preservation Review Board, an appeal to the courts or a move by the mayor to appoint new members to the commission. Three members' terms expired this month, but those members will serve until Kilpatrick names and City Council approves replacements, which could take months."

Source: *Detroit Free Press*, "Development Dispute: A parking lot or preservation," 2/18/2004.

Black landmarks demolished, as "interim designation" allowed to lapse

"Let's celebrate black history, Detroit-style. You take the last three buildings in the legendary Paradise Valley entertainment district. You talk for years about saving them as links to the city's African-American past. You bestow upon them a temporary historic designation. You herald them on Web sites. Then you demolish them. It happened last month."

Source: *Detroit Free Press*, "Motor City Journal: Paradise Succumbs to Progress," 2/6/2002.

FT. COLLINS, COLORADO

City council over-rules landmarks, farmhouse and barn demolished

"An old barn and farmhouse targeted by the city's landmark preservation commission can be demolished, a decision the owners are hailing as a victory for private property rights. Dick and Dianne Rule, who bought the property at 4824 S. Lemay Ave., wanted the option to tear down the structures if they could not relocate them..... But the city had decided the buildings were historically significant, and, in April, the Landmark Preservation Commission denied the Rules' request to demolish the barn and house if they could not be relocated within a year. The Rules appealed the decision to the Fort Collins City Council, which last week voted 5-0 to allow the demolition."

Source: *Denver Post*, "Ft. Collins Couple Wins Fight to Raze Barn, House," 7/27/04, p.B1.

FT. LAUDERDALE, FLORIDA

Partial demolition of the Lauderdale Beach Hotel, Fort Lauderdale's last surviving Art Deco hotel, considered a "victory" as City Commission overrules preservation board

"City Commissioner Tim Smith announced at the start of a public hearing on the building's fate that talks between the two sides proved surprisingly fruitful in recent days, with owner William Strine agreeing to save the front section of the hotel, including the clock tower and lobby. Under the plan, however, the west side would be demolished to make room for a high-rise condominium. Basically, Smith said, the building could be 'sliced down the center, from north to south.' Some members of the Historic Preservation Board expressed anger after the meeting, however, saying they

were cut out of the process and their recommendation ignored. 'I am considering resigning,' said Charles Jordan, chairman of the preservation board."

Source: South Florida Sun-Sentinel, 4/24/2002, p.1.

"Last year, the Planning and Zoning Board authorized the developer to tear down the hotel, which was designed by architect Roy F. France in 1936. But the city's Historic Preservation Board voted in January to designate the hotel a historic landmark, leaving the final decision up to city commissioners. On April 23, in a last-minute effort to save the hotel, city commissioners agreed to designate part of it historic and allow the condo to be built behind it. The developer filed for a dispute resolution under Florida law to have a special master render the agreement that's up for City Commission approval tonight. 'If the city commissioners accept such a process, they undermine the authority of city staff, the Planning and Zoning Board, and the Historic Preservation Board to address development issues in an open, professional manner, as prescribed by city ordinance,' according to a statement on the Broward Trust for Historic Preservation's website."

Source: Miami Herald, 11/18/2002.

HOUSTON, TEXAS

Freedmen's Town Historic District gutted, law too weak to stop demolitions

"'We have the weakest preservation ordinance in the country,' says Lynn Edmundson, founding director of Historic Houston. 'It was an incredibly important district, and yet, in the last six years, it has just been decimated. You wouldn't even know it was a historic district now.' ...In 1985, the National Park Service documented 530 historically significant buildings in Freedmen's Town Historic District, but a University of Houston survey in 1996 found that the area and its surroundings contained only 374 such structures. According to the survey, 238 buildings inside the historic district, which is adjacent to downtown Houston, had been demolished."

Source: National Trust for Historic Preservation, 9/11/2002.

NEW ORLEANS, LOUISIANA

Century-old landmark mansion demolished when City Council overrules Historic District Commission

"Even the staunchest opponents of Stuart Hall School for Boys' expansion plans knew they had virtually no chance of converting the New Orleans City Council to their point of view Thursday, so the council's 5-1 vote to let the school tear down a pair of nearly century-old Carrollton mansions was no surprise. ...The council voted 6-1 in March 2003 to remove the landmark designations that the Historic District Landmarks Commission had approved for the 1910 Craftsman-style house at 8142 Panola, which once was occupied by former city Councilman Henry Curtis, and the 1912 Edwardian-style house at 8134 Panola."

Source: Times-Picayune, 4/16/2004, p.1.

Landmarks can be overruled by planning commission or by city council even on regulatory questions on existing landmarks

“A. Any person or persons aggrieved by any decision, act, or proceeding of the Commission shall have a right to apply in writing to the City Council for reversal or modification thereof; and the President of the City Council shall have the right to stay all further action until the City Council can affirm a decision of the Commission by majority vote of all its members. Any such appeal shall be taken within ten (10) days from the date of decision; and the City Council has the right to reverse, change, or modify any decision of the Commission only by a majority vote of all its members.”

Source: *New Orleans Historic District Landmarks Commission enabling legislation, “Section XIV. Appeals.”*

SAN FRANCISCO BAY AREA, CALIFORNIA

Bay Area cities have varying levels of protection

“The [Berkeley Landmarks Preservation] commission has more power than similar bodies in other cities, such as Oakland, where the panel can’t designate landmarks independently,’ said Carolyn Douthat, an Oakland land-use attorney and former president of the California Preservation Foundation. San Francisco also has an advisory-only commission.”

Source: *San Francisco Chronicle, “Are they historic, or just history? / Old buildings get too much city protection, owners say,” 5/10/2004 pg. B1.*

The San Francisco Landmarks Preservation Advisory Board can be overruled by the Planning Commission Board and the Board of Supervisors, even on regulatory decisions on already designated landmarks

“The Certificate of Appropriateness for 714 26th Street – window replacement, front windows wood – the project sponsor wanted vinyl, appealed the issuance of the permit to the Board of Appeals. The Board of Appeals upheld the Landmarks Board 3 to 1 (4 votes needed to overturn – 1 member of the Board of Appeals was absent). Project sponsor will request a rehearing and hope to obtain the 4th vote to overturn the Landmarks Board recommendation.”

Source: *“Final Action Minutes of the San Francisco Landmarks Preservation Advisory Board Meeting,” 6/16/2004.*

Neighborhood groups decry weak San Francisco preservation board

“Neighborhood groups fear they are cut out of the planning for housing and development projects. So they have banded together to form San Franciscans for Preservation Planning, an alliance to preserve the character of their streets and historic structures. ...To start, we need a serious Landmarks Preservation Advisory Board, and not a do-little club that doesn’t even meet when they’re scheduled.”

Source: *San Francisco Chronicle, “What they’re saying in the city’s backyards,” 12/2/2003.*

Local paper calls for strengthened San Francisco landmarks law after preservation “blunder”

“The developers of the new Bloomingdale’s shopping mall on the site of the former department store demolished the Emporium’s office tower in violation of the neighborhood’s redevelopment plan. Rather than restoring a large part of the historic structure, as promised, developer Forest City and Westfield America destroyed a key ‘protected’ section instead.There is an answer: Have the Mayor’s Office and the Board of Supervisors give the landmarks board full commission status, as other cities have done. That would allow preservation experts to carefully monitor projects and make sure there are iron-clad agreements, with stiff and swift penalties if breached. The city simply can’t afford to let developers and agencies abrogate their responsibilities when it comes to protecting San Francisco’s most precious historic resources.”

Source: San Francisco Chronicle, “Bulldozing City History,” 9/12/2004, p.E4.

Local paper calls San Francisco landmarks panel “lily-livered”

“The Landmarks Preservation Advisory Board has long been considered among the weakest panels of its kind in any big city in America. Part of the reason is built in – the board is advisory only, lacking any real power, and its recommendations are routinely ignored by planning commissioners, supervisors and the mayor.”

Source: San Francisco Chronicle, “Landmarks panel truly lily-livered,” 8/4/2001, p.A11.

SANTA MONICA, CALIFORNIA

Local homeowners fight to prohibit historic districts

“Tom Larmore, a pro-development attorney, created the Homeowners Freedom of Choice Initiative. The initiative would prohibit the city from designating a home in an area zoned for single-family residences as historic or as a landmark without the owner’s consent. Larmore failed to amass the required 6,000 signatures to qualify the initiative for this November’s ballot and said he is now aiming for the 2004 election.”

Source: Los Angeles Times, 7/21/2002, B3.

STRONG LOCAL ORDINANCES, BUT COMMISSIONERS PERMIT CONTROVERSIAL ALTERATIONS

NEW YORK CITY, NEW YORK

Landmark Rockefeller Center's historic Fifth Avenue storefront windows altered and enlarged

"Preservation officials approved a scaled-down plan yesterday to expand the windows of Rockefeller Center's boutique-size shop-fronts, allowing a compromise that they believe will maintain the architectural spirit of the tourist magnet.... The windows will be heightened by "3 feet 3 inches."

... "But not everyone was happy with the vote. Joyce Matz, co-chairwoman of the Landmarks Committee of Community Board 5, said she opposed the alteration to the Fifth Avenue windows. 'We wanted to preserve the architectural integrity of this world-famous landmark,' she said. Ms. Matz said she was perturbed that she and other preservationists were not heard before the vote. 'In a proposal this significant there should have been more discussion,' she said."

Source: *New York Times*, "Rockefeller Center Plans Approved," 9/16/1998 p.B5.

Landmark six-story Art Deco Hearst Magazine Building becomes base for 36-story steel-and-glass ultra-modern tower

"Under the plan approved by the commission, Hearst would construct 36 floors atop its landmark six-story headquarters at 959 Eighth Avenue, between 56th and 57th Streets. The architect, Norman Foster of Foster & Partners in London, is renowned for his daring additions to the Reichstag in Berlin and the British Museum in London."

... "'Isn't it a neat building?' is not the question," said Simeon Bankoff, executive director of the Historic Districts Council, which did not support the plan. "The question is whether it's appropriate. We feel it's not an appropriate building. It does not respond to, respect or even speak to its landmark base."

Source: *New York Times*, "Landmarks Group Approves Bold Plan for Hearst Tower," 11/28/2001, p.D1.

Landmark Brooklyn Museum's Beaux-Art style façade obscured by new, ultra-modern steel-and-glass entrance and lobby

"Officials of the Brooklyn Museum of Art unveiled a \$55 million plan yesterday to transform the institution's front entrance [with a]...modernistic new lobby of glass and steel." ... "Although several preservationists raised objections to the proposal, the museum's architect, James Stewart Polshek, said that his design would bring appeal, accessibility and pizzazz to an imposing Beaux-Arts facade."

... "there was also sharp criticism. Christabel Gough, secretary of the Society for the Architecture of the City, said the plan discarded graceful restoration in favor of a flashy entrance more appropriate for a theme park. 'The entire scheme,' she said, 'represents failure in the governance of an institution which is making an unfortunate programmatic demand to put out front an expensive glass signifier of the newly minted fun fair that is supposed to be spinning the turnstiles inside.'"

Source: *New York Times*, "\$55 Million Face Lift for Brooklyn Museum," 9/20/2000, p.B3.

STRONG LOCAL ORDINANCES, BUT COMMISSIONERS PERMIT CONTROVERSIAL DEMOLITIONS

CHICAGO, ILLINOIS

Art Deco McGraw-Hill Building designated and then demolished

“Striking an unusual compromise that may be unprecedented, the Chicago City Council has designated a 68-year-old, 17-story downtown building as a ‘landmark’ but at the same time approved a plan to demolish it, provided its Art Deco cladding is preserved for reuse on a replacement structure.”

Source: *Engineering News Record*, 2/24/1997 (Vol. 238, Iss. 8), p.10.

OLD SAYBROOK, CONNECTICUT

Old Saybrook’s North Cove Historic District votes to allow demolition of Colonial-era house

“The threat to one of the state’s oldest structures began last August, when Old Saybrook’s North Cove Historic District voted 3-1 to allow its demolition. ‘I don’t recall an application to demolish a building of this vintage and significance ever being approved by a local historic district,’ says Jack Shannahan, the commission’s director, ‘and I’ve been here 35 years.’ So the state historical commission stepped in, scheduling the November meeting. Two days later, Manafort applied for a demolition permit, but he cannot demolish the house for 90 days.”

Source: National Trust for Historic Preservation, 11/26/2002.

PHILADELPHIA, PENNSYLVANIA

Rittenhouse Square Historic District houses permitted demolition by landmarks board

“For many years the Philadelphia Parking Authority has been proposing to build a 500-600 car parking garage with movie theaters above on a site that extends from Walnut Street (opposite Rittenhouse Square) to Sansom Street between 19th and 20th streets. The project requires the demolition of three historic properties on Sansom Street in the Rittenhouse/Fitler Historic District. Opponents from the Rittenhouse Square area unsuccessfully contested the zoning variances needed for the project, leading the Parking Authority to submit an application for demolition to the Historical Commission in August. At its September meeting, by a 5-6 vote, the Commission rejected the Architectural Committee’s recommendation to deny the demolition permit and instead voted to allow demolition to proceed while retaining only the facade of one of the three historic buildings. The Commission’s decision was based on that section of the ordinance that allows buildings to be demolished when ‘necessary to the public interest.’”

Source: *Preservation Alliance for Greater Philadelphia*.

PITTSBURGH, PENNSYLVANIA

To the surprise of local preservationists, Pittsburgh’s Historic Review Commission approves demolition of buildings in local Market Square Historic District

“With the mayor’s blessing, a developer has proposed a major revamping strategy for downtown Pittsburgh – although the plan has been stirring heated debate. ...Working for the Golden Triangle Community Development Corporation, local architect Terry Necciai has begun a redevelopment program under guidelines from the National Trust for Historic Preservation. Necciai claims Fifth and Forbes is an irreplaceable asset, best served by incremental

renovation and community action, especially in light of recent department store, stadium, and theater construction nearby.To the surprise of local preservationists, Pittsburgh's Historic Review Commission disagrees. The commission approved the Mayor's plan, which requires partial dismantling of the local Market Square Historic District – marking the first time the body has approved demolition of one of its own historic districts."

Source: *Architectural Record*, "Pittsburgh to Decide Fate of Historic Area," Vol. 188, No. 4, April 2000, p.38.

SAN ANTONIO, TEXAS

City permits demolition of landmarks (though citing safety concerns and asking new building to replicate original facades)

"Three months after the city sought legal action to keep a developer from destroying two landmark buildings in the Cattleman Square Historic District, city crews were ordered to bulldoze the structures. After a very public dispute over the West Side structures' fate, the buildings in the 700 block of West Commerce Street were quietly torn down two weeks ago after its owner, Chuck Toudouze, reached an out-of-court settlement with the city. The move stunned preservationists who are concerned about the process that allowed the buildings to be lost and about what kind of message it sends to the owners of other historic properties. ...Meanwhile, Ann McGlone, the city's historic preservation officer, who helped lead the fight to preserve the buildings, was not allowed to comment on the case. In a change in practice, McGlone has been barred from speaking to the media, and instead must refer all calls to Planning Director Emil Moncivais."

Source: *San Antonio Express-News*, "Historic district buildings in San Antonio flattened after settlement," 8/4/2004, p.1.

WASHINGTON, D.C.

Landmark Duke Ellington house demolished

"Duke Ellington (1899-1974) began his musical career in his hometown of Washington, D.C., performing at several places in the city's Shaw neighborhood before moving to Harlem in 1923. One of those venues—a townhouse whose first floor served as a cabaret—was demolished on Aug. 17. Just three hours after the city's department of consumer and regulatory affairs demanded that that house be repaired or demolished, a crew razed the brick Victorian at 901 R Street, N.W., built around 1875. Although the city's historic-preservation review board had objected to the demolition plans, the department of consumer and regulatory affairs overruled, saying the boarded-up building was a hazard to public safety because bricks were falling off of it. The building's owner hopes to construct condominiums on the site.

"'The loss of 901 R Street, NW, sets a chilling precedent,' Alexander Padro, an advisory neighborhood commissioner for the area, wrote in an e-mail. 'If an owner decides that dealing with the city's preservation laws is too much trouble or too expensive, why not loosen a few bricks, toss them on the sidewalk, call [the city] and ask for a raze permit?'"

Source: *National Trust for Historic Preservation*, 8/26/2002.

STRONG LOCAL ORDINANCES, BUT EVEN THE STRONGEST DON'T OFFER COMPLETE PROTECTION

CHICAGO, ILLINOIS

Chicago has a strong law protecting 6,500 historic buildings – 217 individual landmarks and 38 historic districts (with 4 extensions) – from demolition or inappropriate alterations, but the city's much larger list of 17,000 structures (including 30 historic districts) identified in a survey published in 1996 – and color-coded according to level of significance – is protected only by a 90-day demolition delay

"Twenty years ago, the city of Chicago launched a mission never undertaken before by any major American community. It dispatched teams of architectural experts to examine every last one of the city's buildings – nearly half a million. Their charge: To inventory all the architectural jewels, some well known, most unheralded, strung along 3,676 miles of streets, then color-code them according to their aesthetic and historical value.

"The survey took 12 years and cost more than \$1.2 million. In that time, the experts turned up thousands upon thousands of sparkling gems. There was, for example, the ornate movie house that enlivened life along 47th Street near the old Chicago Stockyards; the neo-classical office building that rose majestically above the squatting storefronts of the West Side; and the Art Deco bank that graced Rogers Park with exquisitely crafted stone details, including a stylized figure of a man holding a sun. Each of the three buildings was historically and architecturally significant, the city declared when it published the results of the survey in 1996. In time, the city said, the structures could be designated official Chicago landmarks and be protected forever from demolition or defacement.

"Now they are gone. And so are hundreds of others, a nine-month Tribune investigation has found."

Source: Chicago Tribune, "Research and destroy; Developers and city officials have sent to the scrap heap the very treasures they vowed to preserve. A Squandered Heritage Part 1: The Threat To Neighborhoods. First in a three-part series on the city's failed landmark system," 1/13/2003, p.1.

At least 700 buildings identified by the survey have already been demolished

"There's a whole lot of buildings that still will come down,' predicted Jim Peters, a former staffer at the city's Landmarks Division and now the planning director for the Landmarks Preservation Council of Illinois, a statewide advocacy group. Alicia Mazur Berg, the city's commissioner of planning and development, acknowledged as much: 'We don't save all the buildings. And we don't have the resources to save them all.'

"The survey, conducted by the city, singled out more than 17,000 buildings as architecturally or historically significant. It identified these structures, which made up 3.5 percent of Chicago's nearly half-million buildings, by color code. A red rating indicated the strongest potential for landmark status, a blue rating the weakest. Yet in a random tour of 23 of Chicago's 77 community areas, Tribune reporters discovered that developers and the city already have torn down more than 200 of those potential landmarks." (A later count by the Tribune found more than 700 demolitions.)

Source: *Chicago Tribune*, "The city that wrecks; Developers and the city continue to raze potential landmarks with assembly-line efficiency. A proposed amendment may slow the process, but won't stop it. A Squandered Heritage Part 2: The Demolition Machine," 1/14/2003, p.1.

New ordinance meant to stop the demolition has little impact

"The vulnerable Queen Anne at 2129 W. Belmont was one of the thousands of architecturally and historically significant buildings that were supposed to have a better chance at survival under a highly touted 'demolition delay' amendment to the city's building code. But nearly a year later, the ordinance has saved only one of those buildings.

"Despite the ordinance, the demolition machine that has devastated Chicago's architectural heritage continues to run at full-throttle, homogenizing once-distinct neighborhoods."

Source: *Chicago Tribune*, "Going? Going. Gone. Nearly one year after the city deployed its highly touted 'demolition delay' amendment to preserve Chicago's architectural legacy, the demolition machine rolls on. A Squandered Heritage: Epilogue. The final report on the city's failure to protect its hidden architectural gems," 12/15/2003, p.1.

NEW YORK CITY, NEW YORK

New York City's law has a hardship provision that permits demolition in cases of demonstrated economic hardship

[If the commission finds that the owner of a landmark, who had applied to carry out an inappropriate alteration or a demolition, faces a financial hardship, the commission can try to find a buyer or tenant for the property that will remedy the hardship.] "If, within the one hundred eighty day period following the commission's preliminary determination...the commission shall not have succeeded in obtaining a purchaser or tenant of the improvement parcel...the commission...may transmit to the mayor a written recommendation that the city acquire a specified appropriate protective interest in the improvement parcel.... If, within ninety days after transmission of such recommendation...the city does not...enter into a contract with the owner...to acquire such interest...the commission shall promptly grant, issue and forward to the owner, in lieu of the certificate of appropriateness requested by the applicant, a notice to proceed [with the originally proposed alteration or demolition]."

Source: *New York City Landmarks Law*.

All designations require approval by the City Council (formerly by the Board of Estimate) — numerous designations have been overturned, for purely political reasons, including the Beaux-Arts style Jamaica Savings Bank

"Preservationists cheered last year when the [Landmarks Preservation] commission designated the Jamaica Savings Bank on Jamaica Avenue, 17 years after the Board of Estimate rejected the commission's first attempt to designate it. Their hopes collapsed in September, however, when the City Council overturned the designation. The Council, including the entire Queens delegation, rejected the designation of the four-story Beaux-Arts building built in 1897 after the councilman who represents Jamaica, Archie Spigner, lobbied against it. ... 'That was a tough loss,' [Jeffrey A.

Kroessler, president of the Queensborough Preservation League] said. 'We ran into political horse-trading of the highest caliber. If this sets a precedent, it's going to be a problem not only here in Queens, but all over the city.'"

Source: *New York Times*, "Historic Preservation Comes of Age in Queens," 2/3/1993, p.B1.

As a result of the Commission's limited staff resources, in recent years the Commission has been able to designate no more than two dozen individual new landmarks and two or three new historic districts

"Performance Report: Optimize and preserve the City's architectural, historical, cultural and archeological assets.

Identify and designate eligible individual landmarks, scenic landmarks and historic districts. LPC received 233 requests from individuals and organizations for evaluation of potential landmark status during the reporting period. The volume of requests received is consistent with previous years and all applications were reviewed by LPC's research staff. A total of 15 sites were granted landmark status this fiscal year, just below the target of 16. The 12 individual landmarks and three historic districts designated consisted of 220 buildings..."

Source: *New York City's Mayor's Management Report, fiscal year 2004.*

WASHINGTON, D.C.

Washington, D.C. has one of the country's strongest laws, but a recent study (2003) found that it has serious enforcement issues

"Despite the protective standards set forth by the Preservation Act and the obligation upon owners ...to meet these standards, actual protection of historic properties has been limited by deficiencies in the District's authority and ability both to compel compliance and to punish wrongdoers." Further, "The District's inability to compel compliance is related primarily to a shortage of enforcement resources.... Unsurprisingly, violations are infrequently discovered," and "the District has never exercised its authority to punish persons who fail to comply with the Preservation Act."

Source: "Enforcement of the Historic Landmark and Historic District Protection Act in the District of Columbia," Tina Yuting Wu, *Historic Preservation Law Seminar at Georgetown University Law Center, April 28, 2003.*

LANDMARK BOARDS DELIBERATELY WEAKENED BY LOCAL GOVERNMENT

NEW YORK CITY, NEW YORK

New York City has periodically seen proposals to fold its Landmarks Preservation Commission into the City Planning Commission, effectively making landmarks designation and regulation subsidiary to the City's planning department

"Zero dollars. Zero employees. Preservationists and planners in and out of New York City government were startled last week when City Hall presented those figures for the Landmarks Preservation Commission for the next fiscal year. They had already warily greeted a proposal in January to shift some administrative tasks from the landmarks commission to the City Planning Department. That economy measure was developed without consulting either Laurie Beckelman, the chairwoman of the landmarks commission, or Planning Director Richard L. Schaffer. And when the zeros appeared in the Mayor's Management Report last week, with the landmarks budget folded into the Planning Department's, suspicion grew that a more fundamental consolidation might be under way."

..." 'I don't want landmarks to be subsumed or their mission to be diluted,' said Councilwoman June M. Eisland, a Bronx Democrat who heads the Council's Land Use Committee."

..."By Friday afternoon, Deputy Mayor Barbara J. Fife said the idea of merging the agencies' budgets 'is no longer contemplated' and that the two commissions would 'keep their independent units of appropriation.'"

" 'I was worried that there was a total loss of independent landmark personnel,' said Borough President Ruth W. Messinger of Manhattan. Councilman Stephen DiBrienza, a Brooklyn Democrat who heads the Council's landmarks subcommittee, said it appeared to be 'a wholesale movement of the landmarks commission into city planning.' When told that city officials had dropped the idea, Ms. Messinger still expressed concern. 'I think they're being put under the umbrella of an agency that has a different function,' she said, 'one that's sometimes at odds with the function of landmarks.'"

Source: *New York Times*, "Budget Shift Stirs Fears for Landmarks Panel," 2/16/1992, p.41.

"Opening negotiations with Mayor Rudolph W. Giuliani over his plan to close a \$1.1 billion budget gap with deep spending cuts, the City Council revealed a wish list of alternatives yesterday, including...the consolidation of nearly a dozen of New York City's agencies." ... "The Council proposed merging several agencies:and the Landmarks Commission with the Department of City Planning."

Source: *New York Times*, "City Council Offers Plans on Budget," 11/16/1994, p.B3.

PHILADELPHIA, PENNSYLVANIA

Proposal to gut landmarks law by folding landmarks commission into city planning

"Causing an uproar over the future of Philadelphia's monuments and early-American streetscapes, a bill has come before the city council there that critics say could ostensibly strip the entire city of historic-preservation protections. Introduced by councilwoman Jannie L. Blackwell, the bill would have the council, rather than the city's historical commission, decide the preservation status of neighborhoods and buildings, and allow the council to strip buildings and areas of historic designation. The bill would also exempt newer portions of the city from ever receiving landmark protection."

Source: Architecture Magazine, "Philadelphia's preservation consternation," 4/4/2004.

"[Jannie L. Blackwell]'s bill would have the City Council, not the Historical Commission, determine what areas, even what buildings, could be certified historic and, thus, be eventually saved from a wrecking ball. It would allow the City Council to take away historic status from areas that have been designated for preservation, and it would exempt half the city from ever being put in a historic district. Theoretically, the bill could take Independence Hall, which is owned by the city, off the city's historic preservation rolls."

Source: Washington Post, "Official in Philly Targets Preservation Controls; Activists Fear Bill to Shift Power to City Council," 10/22/ 2004. p.A3.

"As of 2/10/2005, the proposal - City Council Bill #04003 - has been referred to the council's Rules Committee; no action taken to date"

Source: Philadelphia City Council, Chief Clerk's Office.

ST. LOUIS, MISSOURI

City government ends contract with Landmarks Association because of disagreement over demolition of landmark

"The city has decided not to renew its annual contract with Landmarks, which provides research that buttresses petitions to help qualify historic buildings for federal tax credits. The city contract in recent years has provided 20 percent to 30 percent of the association's annual \$300,000 budget. Jamie Cannon, president of Landmarks' board, says the city's action is 'punitive.' St. Louis has sought the Century's demise for years so parking could be built for the Old Post Office, now being restored across the street. Carolyn Toft, executive director, notes that the city also removed funding for Landmarks two years ago, when the controversy over the Century was heating up."

Source: St. Louis Dispatch, "School building could sell for twice what city sold it for," 12/30/2004, p.B1.

APPENDIX B: ORGANIZATIONS AND GOVERNMENTS THAT ACCEPT EASEMENTS (List Not All Inclusive)

NATIONAL

NATIONAL TRUST FOR HISTORIC PRESERVATION

“For more than 50 years, the National Trust has been helping Americans protect the irreplaceable. A private nonprofit organization with more than 200,000 members, the National Trust is the leader of the vigorous preservation movement that is saving the best of the country’s past for the future.”

“Owners of historic properties devote considerable time, effort, and expense to restoring and maintaining the architectural details and historic character of their properties. Preservation-minded owners often worry that their properties will not be properly protected and maintained in the future by subsequent owners. Likewise, preservation organizations have a strong interest in ensuring the long term protection of the many thousands of historic properties that remain in active private use, whether a nationally-significant landmark, a rural village, a cultural landscape, or farmland.

“For property owners looking to *permanently* protect their historic properties, one of the most effective legal tools available is the preservation easement – a private legal interest conveyed by a property owner to a preservation organization or to a government entity. The decision to donate a preservation easement is almost always voluntary, but, once made, it binds both the current owner *and future owners* to protect the historic character of the property subject to the easement. Preservation easements have been used to protect a wide range of historic properties across the country – from New England Cape Cod cottages to Southwestern archaeological sites, and from Kentucky horse farms to mid-twentieth century Modernist houses in California.”

NATIONAL ARCHITECTURAL TRUST

“The National Architectural Trust is dedicated to the preservation of our country’s architectural heritage. We favor the kind of voluntary preservation enabled by the Federal Historic Preservation Tax Incentive Program. Our pragmatic approach allows preservation efforts to effectively coexist with the full social and economic use of historic properties.”

“The community gains by preserving its authentic historic appearance and character, usually remaining residential, while retaining its economic utility and viability thereby allowing future generations to experience the presence and lifestyle of the past; the property owner gains by being able to preserve forever a treasured property, while obtaining an income tax deduction for granting property rights to the National Architectural Trust; and the government gains by effectively carrying out legislated programs through trusted agents not part of the political process.”

STATEWIDE

COLORADO HISTORICAL SOCIETY - OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION

"The mission of the Office of Archaeology and Historic Preservation (OAHP) is to help individuals, communities, and organizations to identify, protect, and preserve the State's cultural resources and to foster widespread appreciation of and respect for Colorado's cultural heritage."

"A preservation or conservation easement is a way to ensure the continued preservation of historic buildings, sites, structures and even archeological ruins. The donation of such easements is a purely voluntary means for property owners to preserve these important landmarks."

CONNECTICUT TRUST FOR HISTORIC PRESERVATION

"Established in 1975 as a non-profit organization by Special Act of the Connecticut General Assembly, the Connecticut Trust's mission is to preserve the character and ensure the vitality of Connecticut's historically significant places. Through education, advocacy, collaboration and support, the Trust assists residents and community organizations throughout the state to preserve, protect, and revitalize Connecticut's historically significant communities."

"One of the best ways the owner of an historic property can ensure that the property will be protected in the future is through the gift of a preservation easement. The benefits of a preservation easement include knowing that your historic property will be protected for generations to come."

LANDMARKS PRESERVATION COUNCIL OF ILLINOIS

"The Landmarks Preservation Council of Illinois is the state's leading voice for historic preservation. From the rubble of the demolition of Adler and Sullivan's masterpiece old Chicago Stock Exchange, LPCI rose to become a 2,000 member, statewide organization. In the 31 years since its founding, our organization has gone on to save countless architectural and historic treasures throughout the State of Illinois."

"Approximately 300 preservation easements are protecting historic properties throughout Chicagoland. All easements are monitored yearly by Landmarks Preservation Council of Illinois (LPCI) staff and architects."

HISTORIC LANDMARKS FOUNDATION OF INDIANA

"In 1960, alarmed by the loss of defining historic buildings in the capital city, a group of Indianapolis civic leaders created Historic Landmarks Foundation of Indiana. The organization established by those volunteers now ranks as the largest private statewide preservation group in the United States, with an Indianapolis headquarters and nine regional offices staffed by professionals who help Hoosiers save and restore old buildings."

"The owners of historic buildings often consider themselves part of an ongoing legacy, the latest in a long line of caretakers, so naturally they wonder what will come of their years of devotion once their property changes hands. Will the next owners prove to be good stewards? Historic Landmarks' preservation easement program ensures the goal we share with many Indiana property owners—preservation of historic houses, commercial buildings, and farms."

KANSAS PRESERVATION ALLIANCE

"The Kansas Preservation Alliance is a statewide, not-for-profit corporation organized to further the work of historic preservation through alliances, education and advocacy. ... The Kansas Preservation Alliance is dedicated to preserving historic places in Kansas. We believe our state's heritage is one of its greatest assets—a source of pride and an irreplaceable resource for the future."

"Many people who are interested in older buildings are under the false impression that if a building is 'historic,' it is somehow automatically protected from destruction. In reality, a listing on the National Register of Historic Places does not prevent an owner from demolishing a building. In some cities, local preservation ordinances do provide a measure of protection for historic properties. Many local ordinances, however, only provide for a delay in the demolition or renovation process. An easement, on the other hand, is a legal document that ensures the preservation of a historic property in perpetuity."

MAINE PRESERVATION

"Maine Preservation, founded in 1971, is the statewide private nonprofit membership organization dedicated to preserving and protecting the irreplaceable architectural heritage, historic places and communities of Maine."

"Maine Preservation's Easement Program was established to preserve Maine's historic and architectural heritage by taking and administering preservation easements in significant historic properties."

NEW JERSEY HISTORIC TRUST

"Established in 1967, the New Jersey Historic Trust is the only nonprofit historic preservation organization in New Jersey created by State law. The Trust provides financial support, protection and technical assistance through its five programs."

"A preservation easement is a legal instrument by which you can provide enduring protection for your historic property. Residences, commercial structures, farmsteads, and formal gardens are a few examples of the types of historic properties protected by preservation easements."

"By donating an easement, you ensure the greatest possible protection of the historic character of your property. An easement granted in perpetuity lasts forever."

HERITAGE OHIO

"Heritage Ohio is the statewide nonprofit organization leading the revitalization movement in Ohio."

"We view the acceptance and monitoring of preservation easements throughout the State of Ohio as a sacred trust among property owners, Heritage Ohio, and future Ohioans. Owners of these historic resources have also undertaken an extraordinary commitment to preservation and Heritage Ohio recognizes that these owners demonstrate the true qualities of preservation leadership in Ohio."

HISTORIC PRESERVATION LEAGUE OF OREGON

"The Historic Preservation League of Oregon ...promotes the preservation of historic buildings, structures and sites throughout the state and works to increase public awareness of the value of these resources. It is our firm belief that Oregon must preserve its heritage by the recognition and preservation of significant buildings, sites and neighborhoods for they are irreplaceable resources in our state."

"A preservation easement allows the owner of a historic property to retain title and use of a property and, at the same time, ensure its long-term preservation."

"Since 1981, the Historic Preservation League of Oregon has accepted preservation easements from across the state of Oregon. Recognized nationally, the league's easement program protects, in perpetuity, over 35 historic properties, both big (the Wells Fargo Building in Portland) and small (the Gwen House in Jacksonville) and both commercial and residential."

PRESERVATION ALLIANCE OF WEST VIRGINIA

"Preservation Alliance of West Virginia serves as the statewide grassroots organization dedicated to the support and promotion of historic preservation."

"The primary benefit is permanent protection of a building's significant features. An easement donation ensures that someone with a legal interest in the building will always be there to protect it, even after the donor no longer owns the property. Easement agreements are tailored to meet the needs of property owners, the individual resource and the mission of the Preservation Alliance."

LOCAL

HISTORIC CHARLESTON FOUNDATION

"Historic Charleston Foundation is a non-profit, educational organization dedicated to preserving the historical, architectural and cultural integrity of Charleston and its historic environs."

"A preservation easement is a legal agreement between the owner of a historic property and Historic Charleston Foundation that establishes perpetual protection for the property. An easement allows homeowners to prevent inappropriate changes from being made to their historic property by giving Historic Charleston Foundation the ability to work with current and future owners to safeguard its historic character, materials and significance.

.... Established in 1947, Historic Charleston Foundation holds protective covenants on more than 130 structures and has been entrusted with nearly 200 preservation easements over commercial and residential property in and around the city."

CINCINNATI PRESERVATION ASSOCIATION

"Cincinnati Preservation Association is a private, nonprofit, membership organization that serves the Greater Cincinnati community as the recognized resource and catalyst for the preservation of historic cultural resources through education, advocacy, and technical support. Historic cultural resources include architectural and archeological sites, historical public art and monuments and landscapes."

"A preservation easement is a legal agreement between a grantor and a grantee that provides permanent protection from unsympathetic new construction, alterations and demolition. It can apply to as much of the property as desired and can protect open space as well as a building."

CLEVELAND RESTORATION SOCIETY

"The Cleveland Restoration Society and Preservation Resource Center of Northeastern Ohio (CRS) is a nonprofit 501(c)(3) community organization which strives to develop economically-viable solutions to preservation challenges in order to preserve and enhance the architectural heritage of our region. Founded in 1972, CRS is a Local Partner of the National Trust for Historic Preservation and is the primary local historic preservation organization in Northeastern Ohio."

"A historic preservation easement is a flexible, negotiated preservation tool that provides perpetual protection of a building.... Easements are designed to provide the perpetual protection and preservation of significant historic structures."

LOS ANGELES CONSERVANCY

"The Los Angeles Conservancy, the largest membership-based local historic preservation organization in the country, is dedicated to the recognition, preservation, and revitalization of the architectural and cultural heritage of greater Los Angeles."

"Owners of a historic property can ensure its future preservation...by placing a restriction on the property that prevents demolition or inappropriate alterations. The Conservancy, in receiving the easement, accepts an obligation to review future proposed changes to the structure..."

PRESERVATION RESOURCE CENTER OF NEW ORLEANS

"The Preservation Resource Center is a private non-profit organization that promotes the preservation of New Orleans architecture and neighborhoods through a variety of initiatives and programs."

"The PRC's façade servitude program makes it possible for owners of architecturally significant New Orleans buildings to gain a tax advantage by granting the PRC the right in perpetuity to review proposed changes to their building's exterior."

PRESERVATION ALLIANCE FOR GREATER PHILADELPHIA

"The Preservation Alliance for Greater Philadelphia actively promotes the appreciation, protection, and revitalization of the Philadelphia region's historic buildings, communities, and landscapes. A nonprofit membership organization, the

Alliance leads in setting the agenda for preservation issues of regional importance and advocates strong public preservation policies."

"An historic facade easement is given to preserve the appearance of an historic building and its surrounding setting. Often the owner of a property wants to be sure that the visual appearance will not be altered or neglected in the future. By giving an easement, the owner is assured that the property will be protected indefinitely, no matter who the future owners may be."

SAN FRANCISCO ARCHITECTURAL HERITAGE

"San Francisco Architectural Heritage encourages appreciation of the built environment and understanding of the value of preserving significant San Francisco architecture."

"In 1974, Heritage accepted its first preservation easement: the 'Nightingale House' at 201 Buchanan Street. Since that time, Heritage has accepted donations of over 56 permanent preservation easements, creating one of the largest preservation easement programs in the West."

MUNICIPALITIES

CITY OF ALEXANDRIA, VIRGINIA

"Under the Alexandria's Historic Preservation Easement Program, easements are granted to the Alexandria Historical Restoration and Preservation Commission (the Commission) and are administered by it through the city's Office of Historic Alexandria..... Through the easement program, a private owner has the opportunity to guarantee the perpetual protection of an important historic resource without giving up ownership, use, or enjoyment of the property. The resource remains in private hands and on the tax rolls, but its existence and sympathetic treatment are secured for the benefit of future generations."

CITY OF CHICAGO

From Chicago's landmarks ordinance:

"Article VI: Preservation Easements

A preservation or conservation easement is a legal agreement between a property owner and a public agency or a private, not-for-profit organization which gives the agency or organization the right to monitor and protect the architectural and historic character of the property. ... Easement donations may be made to the City of Chicago. The Commission will work with property owners interested in making such a donation and will hold a public hearing on any proposed donation before recommending to the City Council that the donation be accepted. The City Council must vote whether to accept an easement donation."

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- 1 The legality of such regulation is now well established, having been found constitutional in 1978 by the Supreme Court (*Penn Central Transportation Co. v. City of New York*, 438 U.S. 104), in a case involving New York's Grand Central Terminal.
 - 2 Conducted by the National Alliance of Preservation Commissions (NAPC). Results represent the 766 commissions, which responded to the survey, out of 2160 such commissions approached.
 - 3 See Appendix A.
 - 4 All the examples cited here are listed in full in the Appendix, including sources.
 - 5 "Enforcement of the Historic Landmark and Historic District Protection Act in the District of Columbia," Tina Yuting Wu, Historic Preservation Law Seminar at Georgetown University Law Center, April 28, 2003.
 - 6 Public Law 94-445.
 - 7 Excerpted from the National Park Service 2003 publication, *Historic Preservation Easements: A Directory of Historic Preservation Easements Holding Organizations*
 - 8 *Ibid.*
 - 9 State of Oregon, Department of Land Conservation and Development.
 - 10 "Chicago Tribune"