



**A Report from the Society for the
Architecture of the City**

UNDOING HISTORIC DISTRICTS

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THE SOCIETY FOR THE ARCHITECTURE OF THE CITY

Ronald J. Kopnicki, President, Matt McGhee, Treasurer,
Christabel Gough, Secretary.

The Society for the Architecture of the City is an all-volunteer historic preservation advocacy group, and can best be reached through the Secretary, at 45 Tudor City Place, #1815, New York NY 10017 or by email at christabelgough@gmail.com. We have been monitoring the Landmarks Preservation Commission since 1983, and were the publishers of Village Views, a journal commenting on historic preservation issues, 1984 – 2006.

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Neither evolutionary nor uniform in vocabulary and format, these documents and their Statements of Regulatory Intent have proved in some ways unstable in the long term.

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Former Landmarks Preservation Commission Chairman Gene Norman speaks of the subliminal effect that historic districts have on the people of the city—those people our Landmarks Law states should be protected from the “irreplaceable loss” of their “historic, esthetic and cultural assets.” Historic districts were invented in the 20th century, a century of war and destruction on a nightmare scale. Wartime events in Warsaw and London can be cited to show that the instinct to preserve is deep-rooted and widespread, and that if it comes to that, there are people from all walks of life who will risk death to preserve their cities and their architecture.

UNDOING HISTORIC DISTRICTS

The ideal of the historic district in the United States dates from the 20th century, but its origins are obscure. What were they trying to do, those first responders in New Orleans and Charleston who invented ways of protecting the endangered special places that became the first historic districts? What was it they were hoping to retain? And what are we doing now, to undo the legal framework that was created for them?

No one wants to hear about (or write about) the arcana of preservation law. As one reporter said, "Could we talk about something people can understand?" Or another, "Yeah, but you know who my readers are?"

But yet, the outcome of abstract preservation law controversies may become quite visible and comprehensible to all, once demolition permits are issued, and it is too late to intercede. And litigation, or agency review, without a shared understanding of policies can generate chaos.

I. DESIGNATION REPORT ANTICS IN NEW YORK CITY

Recently, the Landmarks Preservation Commission designated a new historic district, the Sullivan/Thompson. There are more than a hundred historic districts in New York City, and now, there is one more. Not everyone seems to have noticed that its timing and its designation report involved what could be regarded as an historic district policy “poison pill” or two.

How did this come about? The LPC has long been known as an agency relatively open to receiving public comment, as is required by law in some circumstances. Recently its website has made useful information about its proceedings even more readily available to all. But from earliest days, there has been a potential gap in the agency's transparency.

The sequence of events is this: the commission calendars a hearing on landmark designation for an item, the research department issues a brief architectural and historic rationale for designation, the public testifies at a hearing, and subsequently, the commission acts. The Landmarks Law then requires notice of the enacted designation to be circulated to the City Planning Commission and the City Council so that the designation can be affirmed. The document through which this notice is given is the Designation Report, an often massive production which also has the potential to

incorporate administrative policies and building classifications of which the public knows nothing. Thus, when commenting at the public hearing, speakers may be in the position of endorsing an architectural and historic rationale, only to learn later that the designation itself offers only partial or conditional protection.

So for better or for worse, the designation report has been used in a variety of ways over the years, and has sometimes served as a Trojan horse to introduce novel administrative procedures. These can affect the application and operation of the Landmarks Law—without prior publication, notification, or public discussion. We know that historically such revisions have been the result of last-minute private negotiations, conducted to prevent interested parties from using their political influence to block the affirmation of landmark designations. Such negotiations have reduced the protection available to certain buildings in historic districts, while allowing a district as a whole to be recognized. But recently, there have been surprises, old policies disregarded, new policies introduced.

Even landmarks aficionados may lose track of the history here, as it winds through multiple administrations, their emergencies, their strategies, their calculations. Prior to the adoption of the City Administrative Procedure Act (CAPA) in 1989, private compromises embodied in designation reports were an unrestricted option, used, for instance in the case of the 1981 Upper East Side Historic District designation.

There, before the designation could be affirmed, a negotiated agreement reduced regulation of most new storefronts on Madison Avenue, and the designation report categorized selected buildings as "Style: None" lessening their protection as well. This "Style: None" vocabulary was adopted subsequently in some (though not all) post-1981 designation reports. It was widely believed that buildings described as having an architectural style (neo-Colonial, Romanesque Revival, Queen Anne, and so forth) were thus identified as important components of a district, and "no-style" buildings were not. This now 35-year-old administrative vocabulary was expected to signify an added layer of protection: "Style" buildings, it was widely believed, were not to be demolished.

But this distinction was disregarded on June 21, 2016, when two historic district buildings with "Style" descriptions in their designation reports were approved for demolition and replacement at 21 West 17th Street and 16 West 18th Street in the Ladies' Mile Historic District. A full account of this incident appeared in *CityLand*, published by the Center for New York City Law of New York Law School, in "Commissioners Allow Demolition of Two Low Rise Structures to Make Way for New Development" by Jesse Denno.¹

¹Available on line at <http://www.citylandnyc.org/commissioners-allow-demolition-two-low-rise-structures-make-way-new-development/>

Perhaps under pressure to shoehorn this new investment project into a fashionable and prosperous historic district, the commission accepted a rationale which has now resurfaced as a guiding principle of the Sullivan/Thompson historic district designation report. As Mr. Denno reported, "Landmarks Chair Meenakshi Srinivasan stated that not every building located within a historic district necessarily represents the historic district. *She also accepted the argument that the buildings at issue lay outside the phases of the development that defined the historic district.* Srinivasan said the proposed new buildings were an appropriate approach for the sites and the district." (Our emphasis.)

This accurate use of the word, "accepted" could perhaps be expanded. The rationale was presented not by experts from within the Commission but rather by a team of consultants led by the applicant's attorney, Deirdre Carson of Greenberg Traurig, who is a member of the Landmarks Committee of the Real Estate Board of New York. It may be a stretch to maintain that the district is defined by phases of development, but the report does identify the buildings that were approved for demolition as having a "style," which was long believed to forestall a demolition option. In 1981, Paul Goldberger writing in the *New York Times* had reported in detail on the then novel initial agreement reached to modify the designation of the Upper East Side Historic District to permit certain demolitions and expedite certain permits, from which this continuing style

identification policy derived.² In a recent affidavit the executive director of the commission described this policy as if it were law.³ But apparently Ms. Carson correctly perceived that use of the “Style”/ “Style: None” distinction in designation reports as a key to demolition was not described in the Landmarks Law and had never been codified in the Rules of the City of New York as required by the City Administrative Procedure Act of 1989 for any agency policy that bears on the issuance of a permit.

What this should perhaps be telling us is that new administrative policies enshrined in designation reports may have an unstable life, but that does not mean such policies are without destructive potential. For instance, the Sullivan/Thompson designation report specifically defines a “period of significance” for the district derived from “immigrant history,” an unusual move, in that it then defines “non-contributing buildings” as those built outside that “period of significance,” and states that such buildings need not be preserved:

The period of significance in this historic district is the early 19th century to the Great Depression, when most of the development within the district occurred. The buildings from this period that contribute to the streetscape include:

² Paul Goldberger, “Preservation Victory,” *New York Times*, May 21, 1981.

³ Affidavit of Sarah Carroll, paragraph 14, *Save Gansevoort v. City of New York*, Document #112, 26 – 30. Available at <http://iapps.courts.state.ny.us/iscroll/SQLData.jsp?IndexNo=158482-2016> (Accessed 4/20/17)

1. Row houses from the neighborhood's early 19th-century origins;
2. Row houses that were later expanded and altered to accommodate an increasing population and commercial uses;
3. Tenement buildings and some early apartment buildings;
4. Institutional and commercial buildings that relate to the immigrant history.

Buildings that were developed after this period do not convey the history of immigration in this district, as expressed through the earlier residential, institutional, and commercial architecture of the historic district. Therefore, the buildings that were constructed, reconstructed, or heavily altered after the 1930s, and vacant lots and lots on which new buildings are being constructed are "non-contributing" to the historic district. In some cases, these buildings have been given a style in the designation report; however, the style field does not attribute significance to the building within the historic district.... The Commission will allow demolition of "non-contributing" buildings provided a replacement has been approved.⁴

New York, once viewed as a leader in historic preservation, with this designation report takes a step backwards. The formal adoption of a class of "non-contributing" buildings available to be demolished, linked to the formal adoption of a "period of significance" that governs that demolition, are actions

⁴Landmarks Preservation Commission, Sullivan/Thompson Designation Report, 29.

that have no basis in the language of our Landmarks Law and are not compatible with its original administrative structure or the commission's traditions. "Contributing building" and "period of significance" are not defined terms in our statute. Those concepts have been transplanted from a completely different legal framework, the National Historic Preservation Act and the National Register of Historic Places. Radically different from local laws, which of course enjoy police powers to prevent demolition or inappropriate alteration, NHPA establishes historic preservation as a public purpose, creating the honorific National Register. But any power over private property it possesses is based solely on persuasion, the provision of information, and tax incentives. Since any National Register listed building can be demolished at any time (unless also designated under local law) the state and federal use of the "period of significance" "contributing/non-contributing" terminology is somewhat inconsequential.

This term, "non-contributing" has long been a convenient bit of professional argot in local law contexts, imparting an air of superior knowledge that is reductive, disparaging, and dismissive. It serves as a sort of insider shorthand to avoid any more complex appraisal by concisely characterizing certain historic district buildings as being without value. This is abusive in so far as it gives the impression that the term has a universally applicable legal basis.

Originally intended to encourage restoration through federal tax abatements for the more important listed buildings in a national historic district, the term emerged at a time when fine old buildings were going without needed repairs and many central cities were in a state of decline and decay. Restoration in federal historic districts is potentially eligible for tax abatements, depending on the plans meeting certain criteria.⁵ In no circumstance is a “contributing/non-contributing” distinction an authorization for demolition, since as noted above, for privately owned buildings listed on the National Register, demolition is not regulated.

Further, in national historic districts, the classification is subject to continuing review: an “Evaluation of Significance” form is to be submitted for every building seeking tax abatement. The National Register Nomination (roughly equivalent to the local Designation Report) classifies buildings as “contributing” or “non-contributing” resources, but that classification is not set in stone: buildings can be reclassified, and this is an internal agency process requiring no new legislative action. For instance, the amended Nomination for the Downtown Athens (Georgia) Historic District notes:

⁵ National Register Publications, *Manual for State Historic Preservation Review Boards*. Part 10: Tax Incentives. Available at <https://www.nps.gov/nr/publications/bulletins/strevman/strevman10.htm> (Accessed 4/24/2017.)

Several buildings that were considered non-contributing in the original nomination have been reclassified as contributing resources in the amended nomination due to the extended period of significance and to rehabilitation or restoration work. Some buildings that were considered contributing in the original nomination have lost their integrity and have been declassified as non-contributing in the amended nomination due to incompatible alterations or additions.⁶

Closer to home, the Floyd Bennett Field National Register Historic District of 1980 recently underwent an extensive re-evaluation to extend the period of significance to include World War II, as documented in an interesting Cultural Landscape Report.⁷

The situation is quite different under our local Landmarks Law: altering a “non-contributing” classification would require amending the whole designation report. We are not aware that a New York City historic district designation report has ever been amended. In the Athens example above, the national

⁶ National Park Service, *National Register of Historic Places Program: Sample Nominations*. Downtown Athens Historic District, NRIS Reference Number 06000737. https://www.nps.gov/nr/sample_nominations.htm (Accessed 4/24/2017.)

⁷ Cultural Landscape Report for Floyd Bennett Field Gateway National Recreation Area Site History, Existing Conditions, Analysis and Evaluation. US Department of the Interior National Park Service. (Accessed 5/15/17) https://www.nps.gov/parkhistory/online_books/gate/floyd_bennett_clr.pdf

register district was extended as a modification of the nomination. In New York, when districts have been extended, there has been a separate new designation, e.g. Greenwich Village Historic District Extension I. According to §25-303, amending an existing designation report would require a repetition of the whole designation process including owner notification, calendaring, public hearing, commission action, affirmation by City Planning, the Council and the Mayor. This would be cumbersome at best, and in reality, a building marked for demolition as “non-contributing” will have no second chance.

As opposed to amendments, there is precedent for addendums. For instance, in the 1967 Treadwell Farm designation report, biographies and a reprinted historic document were appended. Increased initial historic research has probably superseded this approach. In a more typical case, an individual landmark, the Daily News Building was designated by LPC in July of 1981, but the Board of Estimate would not affirm.⁸ An addendum to the designation report was created and separately enacted by the commission in January of 1982, officially recognizing a need to remove some obsolete printing presses whose size could necessitate some limited and temporary demolition of a secondary wall. This of course did not contradict or reverse anything in the designation report or in normal

⁸ A.O. Sulzberger, Jr. “City Gives Final Approval to Upper East Side Historic District.” *New York Times*, September 25, 1981.

regulatory policy for temporary alterations, but perhaps calmed an ownership fearful of regulation. The designation was then affirmed. Here, and in another case, the RKO Keith's Flushing Theater, the addendum took place before the designation was finalized, to meet objections that were preventing affirmation, and so the addendum was apparently not seen as having the same status and requirements as the amendment of an existing designation.

Returning to Sullivan/Thompson, since “non-contributing” is not a defined term in our Landmarks Law, in practice it can probably mean whatever someone wants it to mean. We have as yet no way to know how the variety of items under the “non-contributing” umbrella will be handled in terms of their regulation; there is no district masterplan. (A recent decision of the commission suggests that a much lower standard may be applied: with specific reference to its classification, a “Style: none” house in the Expanded Bedford-Stuyvesant Historic District was approved (April 4, 2017) for a huge full-height, full-width rear yard extension together with a fanciful non-historic redesign of the façade, contrary to the pleas of the enlightened local community board.) There are by our count 35 “non-contributing” items in a district that is said to include 157 buildings, which is to say that something between a fifth and a quarter are presently in a somewhat unprecedented administrative limbo, apart from the general notion that they can be demolished. And in a district governed by one “period of

significance,” logically, a “non-contributing” site must remain forever “non-contributing,” unless some form of time-travel could be devised for it, in the case of Sullivan/Thompson, to take it back beyond the magic date of 1939.

Among the sites classified as “non-contributing” in Sullivan/Thompson are:

- Most holdings of church of St. Anthony of Padua, other than the church itself
- Open spaces both privately and publicly held
- New buildings from the recent past
- Altered early 19th century row houses

Deference to the owners of religious properties who oppose designation can sometimes be strategically defensible. But what does it mean when an open space is “non-contributing”? In the past, preserving open space was a reason for seeking regulation. At Tudor City, the Helmsley organization wanted to build two investment towers on the private parks that were part of the original design, providing view corridors and breathing space in a dense and hectic midtown. The initial protective intervention from the City Planning Commission under Mayor Lindsay was litigated for years,⁹ and preserving the Tudor City Greens was still a war cry in the later neighborhood campaign for landmark designation.¹⁰ That designation was a civic

⁹ See New York Preservation Archive, “Interview with Frank Gilbert.” Available at www.nypap.org/ (Accessed 4/19/2017)

¹⁰ David Dunlap. “Tudor City Given Status As Landmark.” *New York Times*, 5/18/1988. Available at

victory, and those private parks are still a public pleasure, framing not only the richly decorated complex of apartment buildings, but the transparent east wall of a nearby individual landmark, the Ford Foundation, allowing morning light into an interior landmark, its garden atrium. The Greens also provide a verdant background for two small and well-used city playgrounds. Open space can and does in fact “contribute” to historic districts.

From the viewpoint of 2017, the new buildings in the Sullivan/Thompson district are not particularly distinguished, but if permanently identifying buildings as “new” and therefore “non-contributing” were to become institutionalized as “what we do,” there could be odd consequences for the future. New is an elastic term, and tastes change. It is not so long ago that it was considered quite unexpected and controversial to designate the Empire State Building, the Chrysler Building, and the Seagram Building. With designation, the long-term nature of preservation—lasting, perhaps, not just decades, but generations into the future—must be a consideration. From this perspective, in time, age or style based exclusions may come to seem unjustified, and more intellectually dated than the buildings they would exclude from protection.

While the use of a “period of significance” cut-off might at first appear to provide a rational basis for

demolition decisions, in the case of Sullivan/Thompson there are problematic ambiguities. The Statement of Regulatory Intent claims that “contributing” buildings include: “Row houses from the neighborhood’s early 19th-century origins” and “Row houses that were later expanded and altered to accommodate an increasing population and commercial uses.” Yet the roster of “non-contributing” buildings includes at least nine altered or expanded houses of early 19th century origin, lacking any clear or persuasive rationale distinguishing them from similar buildings deemed contributing.¹¹ Weighing the relative importance of such alterations, and in some cases targeting their exact sequence, nature and date, appears to have been a somewhat complex and demanding task, executed with surprising speed.

The commissioners approved this designation report. Did they review each of the 35 instances of permission to demolish, and look for a strong rationale for it, or was the staff left responsible for decisions which were (to use an unpleasant term for an unpleasant possibility) rubberstamped? The public has no way of knowing when the commissioners first saw the Statement of Regulatory Intent. It was not a topic of general discussion at a public meeting, and to convene privately would have been a violation of the open

¹¹ Contributing and Non-Contributing buildings are listed in Landmarks Preservation Commission. *Sullivan/Thompson Designation Report*, 33 – 166. All designation reports are available through the website <http://www1.nyc.gov/site/lpc/designations/designation-reports.page>

meetings law. An option would have been to omit the Statement from the designation report, together with the “non-contributing” classification, and submit these initiatives for public review as rules. Just as for the concerned public, separate CAPA review of the Statement of Regulatory Intent would have meant an opportunity for the commissioners to review, discuss, or even reject the novel policies being advanced, before those policies entered the increasingly ominous category of the established “what we do.” It could have been a forum to question the nature and volume of the now pre-approved demolitions. But it is unclear whether commissioners had any practical option for disapproval beyond the rather radical one of rising at the last moment to vote no on the entire package—no to a district urgently demanded by crowds of sign-brandishing preservation advocates, as well as key elected officials.

II. “WHAT DID THE DOG DO IN THE NIGHT?”

But now, with such concerns in mind, in the new Sullivan/Thompson Historic District, are we looking at an historic district that could be viewed as merely transactional, despite the scholarly firepower¹² behind the research establishing the rationale? Why, after ignoring a decade of Requests for Evaluation, did the

¹²Andrew Dolkart, *The South Village: A Proposal for Historic District Designation*. New York: Greenwich Village Society for Historic Preservation, 2006. This report reviewed a study area including the Sullivan/Thompson district.

LPC take action at the time it did, and move with such alacrity to provide such a substantial lack of protection for certain designated buildings and the character of the district as a whole?

The commissioners have broad discretion, and the proper administration of the law would hardly be possible without that. Further, historic districts are defined as having "special character" and "a distinct sense of place," in theory, each could be seen as unique. However, there is also an obligation to produce a record of rational decisions. Where is the rational justification for treating the Sullivan/Thompson Historic District as so different from all other districts, including those immediately adjoining it, that it requires radically different regulatory policies to be enshrined in its designation report? Why was this done without even a semblance of the public review normally accorded to the regulatory policy modifications, which are more normally incorporated into district masterplans, in conformity with City Administrative Procedure Act requirements? These questions arise in the context of a rather unusual sequence of events surrounding the timing of the commission's decision to act on the Sullivan/Thompson designation.

In 2013, in a little publicized late night session,¹³ the legislature passed a bill to amend the Hudson River

¹³Juan Gonzales, "If Cuomo Signs Air Rights Measure," *Daily News*, November 12, 2013. Available at <http://www.nydailynews.com/life-style/real-estate/gonzalez->

Park Act, and allow the Hudson River Park Conservancy, a public authority, to transfer development rights from the state lands they control along the Hudson River, including lands under water, to adjacent inland properties.¹⁴ The fruit of this legislation was a gargantuan group of new buildings proposed for the site of the St. John's Terminal, enlarged by the transfer of 200,000 square feet of development rights, which was promoted as providing \$100 million of funding for repairs to a nearby recreation pier. The magnitude of the project provoked a public outcry, and the investors were induced to negotiate a series of concessions, sometimes described as community benefits, including limits on "destination retail" to reduce traffic, an increased "affordable" housing component, and various landscaping and massing improvements. The local council member reportedly negotiated this agreement, and achieved a further modification of the plan at the City Council to prevent additional transfers of development rights from the river into his Community Board 2 territory.¹⁵ At the

[uomo-oks-air-rights-hudson-river-park-dark-article-1.1514898](#) (accessed April 20, 2017) "Albany lawmakers approved the little-known bill in the dead of night last June, on the last day of the legislative session, and without a single public hearing."

¹⁴ Lisa Foderaro, "Law Says Hudson River Park is Allowed to Sell Air Rights," *New York Times*, November 14, 2013. Available at <http://www.nytimes.com/2013/11/15/nyregion/law-allows-hudson-river-park-to-sell-air-rights.html> (accessed April 20, 2017)

¹⁵ Charles V. Bagli. "\$100 Million Deal to Save Pier 40." *New York Times*. 12/ 15/2016. Available at <https://www.nytimes.com/2016/12/15/nyregion/100-million-deal->

same time, it was announced that a Sullivan/Thompson Historic District would be landmarked.¹⁶ This district, which had been advocated unsuccessfully for ten years by a powerful local preservation society, is located outside the area eligible for the development rights transfer. It has been argued that the St. John's Terminal project would extend development pressures to surrounding areas, but Sullivan/Thompson stands on the far side of Sixth Avenue, adjacent to SoHo, and the danger seems less than urgent, since according to Charles Bagli in the New York Times (12/15/16) the St. John's Terminal project is expected to be delayed for years by overbuilt conditions in the luxury condominium market. The City Planning Commission was not a pawn in this complex transaction, as it had a necessary involvement: the St. John's project required establishment of a Special Hudson River Park District, and a special permit for the transfer of the development rights had been applied for,¹⁷ requiring action, and

[to-save-pier-40-in-manhattan-is-approved.html](#) (Accessed 4/24/2017)

¹⁶ Andrew Berman. "Pier 40." *The Villager*. 12/15/2016. Available at <http://thevillager.com/2016/12/15/pier-40-st-johns-deal-is-a-win-so-many-ways/> (Accessed 4/24/2017.)

¹⁷ Hudson River Park Trust. Pier 40 Public Review. Available at <https://www.hudsonriverpark.org/Pier%2040%20Public%20Review/> linking to **TECHNICAL MEMORANDUM 001 550 WASHINGTON STREET SPECIAL HUDSON RIVER PARK DISTRICT CEQR No. 16DCP031M** ULURP Nos. N 160308 ZRM, C 160309 ZMM, C 160310 ZSM, C 160311 ZSM, C 160312 ZSM, C 160313 ZSM, N 160314 ZAM, N 160315 ZAM, N 160316 ZAM, N 160317 ZCM **October 17, 2016** and **TECHNICAL MEMORANDUM 002 550 WASHINGTON STREET SPECIAL HUDSON RIVER PARK DISTRICT CEQR No. 16DCP031M** ULURP Nos. N 160308 ZRM, C 160309 ZMM, C 160310 ZSM, C 160311 ZSM, C 160312 ZSM, C

subsequently Council approval, presumably subject to member privilege. But the occasion for the LPC's apparent involvement and participation in the larger transaction remains undefined.

There will be those who believe that buildings can be "saved" by transactional strategies and that buildings should be "saved" by any means necessary. Former commissioner Joseph Mitchell wrote sadly of the "Save-this and Save-that and Friends-of-this and Friends-of-that organizations" in which he never felt at home. But salvation is an imperfect metaphor for landmark designation. Designation is only the first step in a long and difficult process of regulation and re-use, conveniently ignored by many enthusiasts. Mr. Anthony C. Wood had a better idea, in the midst of another controversy years ago, when he ordered a supply of buttons that read "Save the Law That Saves Landmarks!" This is an exhortation that can never become obsolete in the New York that we know.

It is questionable to what extent the negotiating option of delineating a deal in an historic district designation report is still viable today. Since 1989, CAPA has required prior publication, public comment, and formal adoption of a new rule. The definition in CAPA (NYC Charter, §1041) is as follows:

“Rule” shall include, but not be limited to, any statement or communication which prescribes (i) standards which, if violated, may result in a sanction or penalty; (ii) a fee to be charged by or required to be paid to an agency; (iii) *standards for the issuance, suspension or revocation of a license or permit*; (Our emphasis.)

Post CAPA, some historic district regulations have been adopted directly as CAPA Rules (for instance, the Riverdale and the Jackson Heights Storefront rules are stand-alone chapters in RCNY Title 63) while other plans have been approved under the aegis of RCNY Title 63 Chapter 12, Historic District Masterplans, which authorizes the approval of regulatory guidelines through the Certificate of Appropriateness process, followed by CAPA implementation.

But even granting for the sake of argument that the “Statement of Regulatory Intent” in the Sullivan/Thompson designation report need not be treated procedurally as a “Rule,” if this Statement of Regulatory Intent stands, and becomes a precedent, what harm can it do? How can it undercut the benefits the Landmarks Law aimed to offer to the people of the city?

III. KEEPING A DIFFICULT BALANCE

Looking back, the tension between the Landmarks Commission’s statutory mission and the ambitions of the regulated industry surfaced almost at

once, when a realtor threatened litigation over the boundaries of the Greenwich Village Historic District in 1966. Geoffrey Platt, then Chairman, remembered:

I was very troubled about Greenwich Village because in the first place we were threatened by some fellow down there, I've now forgotten his name, with a law suit if we did anything. And I didn't want to have a law suit about Greenwich Village. So, the thing that troubled me about Greenwich Village was so many bad buildings. There were, you know, a lot of them. So after a while, Harmon Goldstone and Stanley Tankel and I evolved a scheme of dividing the Village up into a whole bunch of little districts. Collections of good things. And we tried it out on the Greenwich Village people and they were smart. ...They hated the idea. What they said to me in private was one thing, but they were smart, you see. Instead of making a big stink, they just made a very good case for not doing it. The Corporation Counsel at that time, Lee Rankin—he was a wonderful man. He was the one that said, "I think you should designate the whole district. But you've got to write the most detailed report on the whole Greenwich Village district that you can possibly imagine. You've got to overwhelm them with detail." So Alan Burnham spent the next two years writing the report, which came out in two big things like that, and then we voted it. And nobody sued us.¹⁸

¹⁸ Anthony C. Wood, "Pioneers of Preservation, An interview with the late Geoffrey Platt." *Village Views*, Vol. 4, No. 1, 28.

The *New York Times* reported, "Village civic groups and homeowners strongly supported the commission's original proposal for a single historic district in the Village. Dismay was mingled with surprise when it became known that the commission proposed to divide the Village into separate districts. Some Villagers said the separate districts proposal was a victory of hostile real estate interests."¹⁹ The 18 districts proposed would have covered an area "about two thirds" of the original. The *Times* map shows that among the places omitted would have been what we now know as the Stonewall National Monument and most of the associated streets. This was of course not an expression of bias, as the Stonewall Rebellion had not yet occurred; however, it is hard to imagine the Village as we know it without the Stonewall Inn and its surroundings.

If in Greenwich Village, "period of significance" determinations similar to Sullivan/Thompson's had been issued, and similar "non-contributing" classifications tied to date of construction had been acted upon, there would have been a distinct possibility of losing or never obtaining some buildings and conversions which are widely regarded as models for enlightened architectural intervention in historic districts.

While there is seldom total consensus on the value of more recent work, for the sake of argument,

¹⁹ *New York Times*, "Landmark Panel Arouses Village," December 4, 1966.

suppose that the Greenwich Village Historic District had been given a cut-off date of 1940. Among the unprotected would be Butterfield House by Mayer, Whittlesey & Glass with William Conklin (1962) and the First Presbyterian Church House by Edgar Tafel (1960). The O'Toole Building by Alfred Ledner (1964) has its admirers, and the LPC refused to approve its demolition without a hardship application in 2008. Hugh Hardy's post-Weatherman-explosion building at 18 West 11th Street, whatever its merits, has been an occasion for lively debate over the years. Harmon Goldstone believed it was imperative that a new building there should be designed (as it was) to commemorate the explosion, marking the political background of the 1970 event.²⁰ There is the Helmut Jacoby house of 1965. Then take other instances which are conversions, extensions and alterations with highly visible architectural and social consequences, Giorgio Cavaglieri's Jefferson Market Courthouse renewed as a library (1967) and the creation of the adjoining garden (1974), or Hugh Hardy's rebuilding and extension of the chapel after the fire damage at St. Luke-in-the-Fields (1986). The most celebrated example is in fact an individual landmark but directly adjoins the district on Washington Street, Richard Meier's conversion of Westbeth to artists' housing (1969). Many more might be added to this list depending on opinion. To classify this whole body of work as suitable for demolition

²⁰ New York Preservation Archive, "Interview with Frank Gilbert." Available at www.nypap.org/ (Accessed 4/19/2017)

based on dates of construction would be manifestly absurd.

The classifications in the Sullivan/Thompson report also disregard important court decisions from other jurisdictions that broke new intellectual ground and informed preservation policy in the past. The often-cited 1941 decision in *City of New Orleans v. Pergament*²¹ established what has become known as the "tout ensemble" view of historic districts. It should not be disregarded. In *Pergament*, the owner of a filling station of modern design challenged the power of the ordinance to regulate the type of sign he might erect on his property. The court answered in what was later described as "memorable language":

And there is nothing arbitrary or discriminating in forbidding the proprietor of a modern building, as well as the proprietor of one of the ancient landmarks in the Vieux Carré to display an unusually large sign upon his premises. The purpose of the ordinance is not only to preserve the old buildings themselves, but to preserve the antiquity of the whole French and Spanish quarter, the tout ensemble, so to speak, by defending this relic against iconoclasm or vandalism. Preventing or prohibiting eyesores in such a locality is within the police power and within the scope of this municipal ordinance. The preservation of the Vieux Carré as it was originally is a benefit to the inhabitants of New Orleans generally, not only for the sentimental

²¹ *City of New Orleans v. Pergament*, 198 La. 852 (La. 1941)

value of this show place but for its commercial value as well, because it attracts tourists and conventions to the city, and is in fact a justification for the slogan, "America's most interesting city."

The decision in *Maier v. City of New Orleans*²² extended this reasoning:

The same considerations which prevailed in *Pergament* apply to the case at bar. The protection of the "quaint and distinctive character of the Vieux Carré" depends on more than the preservation of those buildings agreed to have great individual artistic or historical worth. Just as important is the preservation and protection of the setting or scene in which those comparatively few gems are situated.....Some architects thought that the existing juxtaposition of the cottage with its immediate neighbors created an aesthetically pleasing scene, itself worthy of preservation. In addition, a legitimate consideration of the future as well as the present effects of authorizing demolition of a building which had value as part of the scene, *Gulf Oil Corp. v. Board of Appeals of Framingham*, 355 Mass. 275, 244 N.E.2d 311 (1969), could easily lead to the conclusion that the potential effect of such demolition on a larger scale would warrant a refusal to set a precedent. Perhaps even more important, it must be remembered that the Vieux Carré is more than a

²² *Maier v. City of New Orleans*, 371 F. Supp. 653 - Dist. Court, ED Louisiana 1974

museum of French and Spanish architectural styles but is a mixture of constructions unique to New Orleans, as well as a living residential and commercial neighborhood containing a lively potpourri of socioeconomic and personal lifestyles....."

Note that in *Maher*, the court found that the demolition of even one historic district building which had value *only* as "part of the scene" might create a precedent so dangerous that it would justify denial of a permit.

Meanwhile, in New York, the discussion of such issues was becoming a public controversy. In *Classic New York*, published in 1964, Ada Louise Huxtable had advocated for the "shabby, offbeat remnants of the city's oldest Georgian survivals, unmarked and unsung, and examples of distinctive but universally ignored 'street architecture' of various periods"²³ —some of which were soon to become part of the city's first historic districts.

When, in 1969, Justice Sullivan ruled for the Landmarks Preservation Commission in *Society for Ethical Culture v. Spatt*, he spoke of the need to defend buildings that might lack "extraordinary distinction":

The society points out that there is no evidence to suggest that the Meeting House is of extraordinary architectural distinction or that it was ever the scene of any noted historical event or the residence of any noted personage. While

²³ Ada Louise Huxtable, *Classic New York*. New York: Anchor Books, 1964, viii.

relevant, this is not determinative. If the preservation of landmarks were limited to only that which has extraordinary distinction or enjoys popular appeal, much of what is rare and precious in our architectural and historical heritage would soon disappear. It is the function of the Landmarks Preservation Commission to ensure the continued existence of those landmarks which lack the widespread appeal to preserve themselves.²⁴

Concern for the entirety of an historic district has been supported by public opinion and by the courts from the outset. In New York, earlier administrations rightly encouraged adaptive re-use and restoration, and the perpetuation of alterations found to be historic. Any abstract notion that alteration diminishes a landmarked building's value calls for close examination. "Original condition" has been a mantra in some historic preservation circles in America, but this is hardly rational as a general proposition, as becomes obvious in the context of older civilizations. Some of the most revered structures in the world have been altered on innumerable occasions. For instance, the alteration history of Westminster Abbey, starting in the year 1065, is too complex to set out here, but few would argue it should be demolished in response to the addition of the west towers, designed in the 18th century by Nicholas Hawksmoor, under the influence of Sir Christopher Wren. If (as in Sullivan/Thompson) a

²⁴ Society for Ethical Culture v. Spatt 68 A.D.2d 112 (1979)

period of significance is defined by local history (rather than by imposing any visual or architectural standard) claiming “contributing” status for some but not other altered buildings entails a very elusive rationale, particularly as alterations are frequently multiple and sometimes undocumented.

Considering specific alterations often found in New York domestic architecture, but cited as if disqualifying in this designation report, resurfaced early buildings exist in many other historic districts. Indeed, some stucco work from the early 20th century has been identified as part of an architectural movement that deserves to be considered historic in itself.²⁵ Converting the ground floor of a house to a storefront has been commonplace for centuries. For the altered Federal houses that will be landing in the dumpsters of investors, those of us who love Federal houses will say with Shakespeare

...Love is not love
Which alters when it alteration finds,
Or bends with the remover to remove.²⁶

Further, in the potential replacement of those altered early row houses, the issue of scale will arise. When a small, altered building is demolished and replaced by a new building that features what is sometimes described as compatible massing, the

²⁵ Andrew Dolkart. *The Row House Rebuilt* (New York: Johns Hopkins University Press, 2009.)

²⁶ William Shakespeare. Sonnet 116, “Let me not to the marriage of true minds/ Admit impediments...”

question is, compatible with what? Experience suggests that this administration's working conception of compatibility will mean new buildings as high as the tallest building anywhere nearby, probably with a somewhat set-back penthouse added and maybe some mechanicals. Although the courts have determined that landmark owners are not necessarily entitled to the "highest and best use" of their property, as opposed to a reasonable economic return, still, we may anticipate that successful consultants will continue to make their best arguments for those higher rooflines.

Today, with the rush of "super-tall" skyscrapers, many protest vertical expansion. But it is a potential horizontal expansion that could be even more destructive of district character, and the greatest potential gift to the real estate industry. The ancestral city, the New York of two or three hundred years ago, is still under our feet in certain landmarked street patterns, but also can be seen in the narrow lot divisions that look back to the earliest Dutch settlements and the street plan of 1811. Those row-house widths, parceled out centuries ago, persist in most of the places that have become historic districts. They set the scale—small scale, as we often say—that governs the historic streetscape.

The demolition authorization in the Sullivan/Thompson historic district is structured to make automatic and private the possibility of assemblage—the merger of adjacent small lots into

larger construction sites. Assemblage is key to the calculations underlying what has come to be known as “development.” Until now, most new construction in historic districts has been sporadic, involving already vacant lots or the replacement of one existing building. Under traditional historic district regulation, justifying clearing a large site for new development would at least be a public process, through a Certificate of Appropriateness application, with public notice and a public hearing. Such applications have failed in the past. But now we see the opportunity for pre-approved serial demolition of adjacent buildings classified “non-contributing” in a covert administrative process to guarantee demolition.

As a precedent for future historic districts, this is unacceptable. The availability of serial demolition for horizontal expansion together with vertical expansion to the highest “compatible” level can encourage elephantine new buildings instead of restoration and adaptive re-use. Undoubtedly, such new buildings will be marketed as sharing the cachet of the historic district they destroy.

New York has an embarrassing history of substandard sanitary arrangements in multiple dwellings, and within living memory, the word, “tenement” was a term of abuse. But such defects were not a feature of those aspects of tenement construction protected by the Landmarks Law, that is, the walls visible from the street. Tenement neighborhoods were

often wonderfully ornamented on the outside with patterned brick and terra cotta. Meeting the architectural standard of those facades could be a challenge for some contemporary designers. In Sullivan/Thompson, we can predict a patchwork of buildings a little larger than the existing tenements but entirely lacking their charm. “Eyesores,” by Louisiana standards. By defining the district character to be preserved exclusively through an intellectual abstraction (a rigid concept of a particular aspect of history), the new buildings will be limited in their relationship to the real old city, and the historic district risks becoming a truncated museum village, a history lesson interspersed with investment properties. The traditional historic district has a broader scope; it has been a living entity, a special precinct to be enjoyed by the people of the city. Once an artificial demolition-linked “period of significance” is defined and enforced, the special character of the place, the thing that first made people ask for designation, risks being compromised.

Fortunately, it has been a while since many people were making that curious argument that “you cannot freeze an historic district in amber,” because cautious and moderate evolutionary policies were in effect in New York, until recently. But now, if the Sullivan/Thompson demolition policies were to be applied universally in future designation reports, a whole world of thoughtful, humanistic adaptive re-use and harmonious design could be lost. Is it really the

case that under this new rationale, everything built in the last 75 years is worthless, "non-contributing," and should be demolished without question? That no one has succeeded in creating a harmonious relationship with older buildings since 1939? In the present case, that would include people born and alive within the "period of significance" who may still have owned and continued to decorate and expand their small businesses, bakeries and cheese stores that had been family owned for decades? Sullivan/Thompson is acknowledged to be an old Italian neighborhood. Did every formative tradition die an instant death at the end of the depression? Many architects practicing in New York in 1940 will have been trained and already working within the "period of significance." Did their experience and competence suddenly expire with the New Year? And for that matter, suppose an architect renounced his Beaux Arts roots and designed Art Deco or followed the Bauhaus? Should we really assume his work must by definition be radically inharmonious with the old streets, or necessarily inferior to a brand new investment building designed tomorrow?

IV. SOMETIMES DEREGULATORY CONCESSIONS HAVE LITTLE ECONOMIC EFFECT

Although so much effort has gone into rationales for exempting certain designated buildings from protection, through designation reports and (perhaps more properly) through subsequent adoption of rules

and masterplans, the actual exercise of the privileges granted has been variable. The rules for two suburban districts zoned R1-2, Douglaston and Riverdale, allow demolition of houses built after 1940, but given the constraints, few investors have become involved and few houses have been demolished. In Douglaston, one enlightened owner bought and demolished a new house to return the lot to its original state as part of a larger garden, a change that surely could have been effectuated without recourse to rules.

On the other hand, a unique example of a regulatory success, the Madison Avenue guidelines are in constant use. Their exceptional character stems from a cogent and rational analysis: certain locations were mapped for expedited alteration permits. Most of these are in later purpose-built retail front extensions of earlier townhouses. There, new storefront infill within existing openings is approvable with a staff level permit. Exceptions are mapped for historic storefronts of outstanding quality. It was argued that this level of supervision would be enough to retain the special character of the Avenue, and that restoration of storefronts to the style of the original historic buildings would be anachronistic.²⁷

²⁷ Marjorie Pearson, *New York City Landmarks Preservation Commission (1962-1999): Paradigm for Changing Attitudes Towards Historic Preservation*. Samuel H. Kress Mid-Career Grant Study funded by the James Marston Fitch Charitable Foundation. 75. <http://fitchfoundation.org/library/fitch-fellow-publications/>_Accessed May 23, 2017

In 2002 the Friends of the Upper East Side Historic Districts, working with the Women's City Club, compiled a list of all the "Style: None" buildings in the Upper East Side district, and visited, annotated and photographed the sites, a considerable effort as there are more than a hundred. Reviewing the worksheets, which did not state conclusions, it seemed that the impact had not been catastrophic. Many, perhaps most, of the buildings photographed were in fact not at all expendable or suitable for demolition, but in most cases, they were still there. Without a permit search, (a huge undertaking for the district's earlier years) the date and extent of regrettable minor changes could not be determined, and it is likely that there have been losses of some architectural features and historic alterations. What was surprising was how little economic advantage the negotiated deregulation ultimately produced, at least to that portion of the real estate industry that depends on demolition for its profitability, since so few new investment buildings resulted. On the other hand, values in existing protected residential buildings have soared.

In the rare cases when a site of useful size was "Style: None" and available in the Upper East Side Historic District, a new building eventually appeared, for instance the 886 Madison Avenue building for Ralph Lauren, but decades passed before that change was made, and it was not speculative, but a retail

expansion. And although in theory adjacent altered row houses could have created opportunities for assemblage, this has seldom occurred, perhaps due to resistance from rent stabilized tenants and condominium owners; here and in the white brick towers, the difficulty of emptying occupied residential buildings in such a prosperous neighborhood is a protection in itself. However, such factors cannot apply universally, or in Sullivan/Thompson and other areas with permissive zoning, relatively lower per capita income, and vacant lots.

V. THE COMPLEX HISTORY OF DESIGNATION REPORTS

There have always been buildings in historic districts that were seen as being less architecturally important than others, or otherwise imperfect, though such perceptions change with time. In the light of the Sullivan/Thompson controversies, perhaps we should look a little at how such insights were treated in the past.

Contrary to some recent assumptions,²⁸ historically, there is no uniform format or vocabulary for designation reports; the interpretation (and the use) of these documents has also varied over time. Nor is

²⁸ Affidavit of Sarah Carroll, paragraph 14, *Save Gansevoort v. City of New York*, Document #112, 26 – 30. Available at <http://iapps.courts.state.ny.us/iscroll/SQLData.jsp?IndexNo=158482-2016> (Accessed 4/20/17)

their existence greatly detailed or defined in the Landmarks Law. Section 25-303 states simply "Within ten days after making any such designation or amendment thereof, the commission shall file a copy of same with the council, the department of buildings, the city planning commission...." The Section 25-302 definition of Designation report is no more communicative:

f.1 "Designation report." The report prepared by the commission and used as a basis for designating a landmark or historic district pursuant to this chapter.

Over the fifty years that designation reports have been appearing, there have been quite a few variants in form, specificity and interpretation. To give broad outlines, without dwelling too much on the political pressures that made for changes, the first historic district designation report, Brooklyn Heights, dated 1965, was exceeding brief, and had no description whatsoever of individual buildings. Community activists had already gathered virtually all the information that would be found in a modern designation report, and published it in 1961, as *Old Brooklyn Heights*, by Clay Lancaster. But for the Commission then, the Brooklyn Heights Designation Report was something else. Because these first crusaders were scholars and lawyers, librarians and architects, and the first preservation program was not fully established at Columbia until 1964, they did not write in the manner of today's professional

preservationist; rather, they penned a direct impassioned plea to the Board of Estimate, New York's high elected officials who would be acting in concert to affirm or deny this first, precedent-setting historic district. Their report speaks to what an historic district is and why that is important, quoting at length from the public hearing testimony of Otis Pearsall, a young lawyer who had founded the historic district advocacy movement in New York:

...From the totality of all this, the interesting old buildings arrayed on irregular streets, with unexpected vistas, emanates an appearance and even more a spirit and character of Old New York which no single part thereof, and certainly no individual Landmark, could possibly provide. It is this "collective emanation" which distinguishes an Historic District, and particularly Brooklyn Heights, from a Landmark and gives it a unique aesthetic and historical value.

Those arguments prevailed, and by the autumn of 1966, the commission had gained confidence, and was providing more commentary on the architectural details and history of the rows of houses and individual buildings in their new districts. The reports became more narrative, in a sort of walking tour format, progressing down the blocks and pointing out the outstanding things. Gramercy Park is a good example of this type. None of the nine historic district designation reports issued before 1969 is more than six pages long.

Looking back to origins, when our Landmarks Law was enacted it included a restriction that the commission had 18 months to hold public hearings on landmark designations, to be followed by a moratorium during which no hearings could be held. Naturally, in the rush to act before that deadline, Chairman Platt engaged in negotiations to obtain support, dealing with alarmed property owners totally unfamiliar with a new law. It is understandable that he sought to reassure them that the commission had the “obligation and indeed... the desire to cooperate with owners of Landmarks who wish to make changes...” Thus the first statements of regulatory intent emerged in designation reports.

Unlike some other religious institutions, Trinity Church and St. Paul’s Chapel immediately raised objections to designation. Negotiations with Trinity Parish resulted in this language inserted into the St. Paul’s Chapel designation report:

The Landmarks Preservation Commission recognizes that the Landmark on the property in question (and the Landmark Site) is wholly used for religious and directly related charitable purposes by Trinity Parish and that the needs of Trinity Parish for such uses may change in the years ahead, entailing alterations in the existing structures or the creation of other structures on the Landmark Site. By this designation of the Landmark above described and the Landmark Site on which it is located, *it is not intended to freeze the structure in its present state or to prevent future appropriate alterations needed to*

meet changed requirements of use for religious and directly related charitable purposes. The Commission believes it has the obligation and, indeed, it has the desire to cooperate with owners of Landmarks who may wish to make changes in their properties.(Our emphasis.)

Then in the 1967 designation report for Saint Bartholomew's Church, the following paragraph appeared in the Description and Analysis section. It differs significantly from the St. Paul's version (and the similar language in the Trinity Church report): the reference to "*directly related charitable purposes*" is no longer there.

The Landmarks Preservation Commission recognizes that the Landmark and the Landmark Site are used by St. Bartholomew's Church for religious and charitable purposes and that, in the future, the Church may consider it necessary to alter or expand the existing structures or erect additional structures on the Landmark Site. By this designation of the Landmark and Landmark Site, it is not intended to freeze the structures in their present state or to prevent the alteration or expansion of existing structures or the erection of other structures needed to meet the Church's requirements in the future.

Since Dorothy Miner only became counsel to the Commission in 1975, clearly she did not draft these carefully worded statements. However, when the vestry of St. Bartholomew's applied to replace their Community House with a black glass office tower in

1983, they were disappointed to find that the above paragraph was subject to interpretation. In a history of the litigation written by a member of the church,²⁹ we learn:

... At that time, the then rector and vestry were reluctant to accept such designation fearing that future circumstances might oblige the parish to modify its building or even move. They negotiated some qualifying language with the commission that was included in the designation report. One sentence read "[b]y this designation of the Landmark and Landmark site, it is not intended to freeze the structures in their present state or to prevent the alteration of existing structures or the erection of other structures needed to meet the Church's requirements in the future." Although the church accepted the designation in good faith, the commission would later maintain that this qualifying language was only precatory.

Apparently, Miner took the position that the disputed language, non-committal as it was, was not binding. The eventual St. Bartholomew's decision against the Vestry did not specifically address this question, which was never raised, because in the litigation, the Vestry chose to go directly to the larger constitutional issues.

²⁹ Percy Preston, Jr., "The Late Unpleasantness: St. Bartholomew's Church and the New York City Landmarks Law," *Anglican and Episcopal History*, Vol. 71, No. 1 (March 2002), 85-111. Thanks to Anthony Robins for this reference.

Designation reports evolved to take on wider functions as potential mechanisms of defense. As noted in the quotation from the interview with Commissioner Platt above, with the designation of Greenwich Village under threat of litigation, a new, highly detailed and exhaustively descriptive kind of designation report appeared in 1969, in two volumes. Commencing with extensive essays outlining the social and architectural history of the neighborhood, it divided the district into zones, and proceeded to give a careful description of every individual blockfront and every individual building. The historic—even if sometimes interrupted—vistas were evoked. However, the building inventory section was still narrative, still a well-informed walking tour, in the sense that the information was dispensed in sentences preserving a rational discourse.

Recently, there has been controversy about the Greenwich Village Historic District Designation Report, regarding its description of garages. In an application for 11-17 Jane Street (to demolish a 1921 garage for a new building by David Chipperfield) the developer's consultant made the point that the designation report took a dim view of the existing building, describing it as an intruder. Some commissioners were concerned, whether they were actually required to allow the demolition, and pointed out that over time perceptions of historic utilitarian buildings change, and "anomalous buildings are important." In the discussion that took place July 26,

2016, Chair Srinivasan advised that the designation report was not legally binding but gave guidance about the thinking of the commission at the time of designation. Mark Silberman, the LPC counsel, conceded that it was not binding, but noted he wanted to emphasize that when the commission votes on a designation, it votes for particular reasons, the characteristics which are outlined in the designation report, and there is a responsibility to act consistently: historically, the commission has generally been guided by designation report determinations.

Clearly at the time the district was under consideration (1965–1969), when the designation report was written, new garages in the far west Village were regarded simply as a disruption of the cherished townhouse blocks. Under the 1916 Zoning Resolution,³⁰ familiar to earlier preservation advocates, automobile garages could be built in residential districts, but only with a permit from the “Board of Appeals,” to be granted if most neighboring property owners agreed—suggesting that garages were widely considered potentially objectionable at that time. They were banned in business districts.

Thus in an early statement of regulatory intent, the commission wrote, in a section called Policies of the Commission:

³⁰ CITY OF NEW YORK BOARD OF ESTIMATE AND APPORTIONMENT BUILDING ZONE RESOLUTION (Adopted July 25, 1916.) Article II, Use Districts.

In Greenwich Village there are some warehouses and garages, other commercial or industrial buildings and other less distinguished buildings. Some owners may wish to replace these buildings. That is an initial determination for each individual owner. Once an owner reaches such a decision, the Commission will cooperate fully with him in accordance with the provisions of the Law.³¹

Of course, fifty years later, those garages that survived were being snapped up by multi-millionaires and converted into luxury retreats, the hidden palaces of current fashion, masked in industrial chic. Historic preservation is a big tent. There are many perceptions of what could make an historic district prosper. In the Village report, while some demolition was explicitly contemplated, there was no classification that guaranteed it. And more important, existing buildings, including the garages, were always considered as part of a larger visual whole, the blockfront, and assessed in the physical context of the street—not primarily in terms of some putative historico-sociological “fact” from the neighborhood’s past, like “immigrant history,” but weighing the immediate visual, esthetic and sensory impact of the place as an ensemble.

³¹ Greenwich Village Designation Report, Vol. 1, 26. “Policies of the Commission” also states that these policies have been applied to the Brooklyn Heights Historic District and a number of others more recently designated.

What the LPC itself describes as the “tabular form” of designation report appeared first in 1981.³² This was in conjunction with the negotiations surrounding designation of the Upper East Side Historic District. Although opening normally with essays on the history and architecture of the district as a whole, the body of the report consists of these new “tables,” one for each building, with their “fields” to be filled in, such as “street address,” “date,” “type,” “architect” and “style.” “Style,” in this context, is to be described by a “style-name,” in practice brief, often hyphenated, and sometimes rather strained, since particularly in areas of eclecticism, scholars do miss the possibility of something more discursive. The “Style” field also opened the door to the notorious “Style: None” determination, of which more later. This tabular form and the “Style” None” classification did not immediately become standard. In 1981, Ditmas Park also received the tabular treatment, while two other districts did not, but in Ditmas Park, no building was determined to be “Style: None.” Further, a sensible attitude toward historic district alterations, calling out the importance of scale, massing and district ambiance, was stated:

Over the years many of the houses in the district have suffered from alterations which do not conform to the architects' original intentions. Many have had their original siding replaced by synthetic shingles or

³² Landmarks Preservation Commission. Upper East Side Historic District Designation Report, Volume 1, 23.

aluminum, porches have been enclosed, and details removed. Despite these unfortunate alterations, the District retains much of its turn-of-the-century ambience. The low-scale nature of the development has been retained, the plantings have flourished, and the buildings are well maintained. It is hoped that historic district designation will aid in the preservation of the buildings that are still intact and encourage the restoration of the structures that have already been altered.³³

With the passage of time, most designation reports took on a semi-tabular form. In some cases the fields were expanded to admit more extended descriptions. Others, such as the Upper West Side Historic District, remained painfully abbreviated. But the administrative playground was extended in some reports, such as Tribeca East, where the term, “Style: None” does not appear, but in certain cases, altered Federal houses on a development site, the style field is omitted. In the eyes of current staff, those buildings are “no-style” because they do not have a style assigned.

But even when modified, the form could not be universally used. Some districts defied the treatment. The African Burial Ground (1993) has no style name, and could never have one. Sophisticated schools of architecture and their nomenclature can never encompass turns of American history that call for the kind of civic recognition landmarks designation gave in this case. Other districts commemorating social history

³³ Landmarks Preservation Commission. Ditmas Park Historic District Designation Report, 12.

also required different treatment, for instance, in the Farm Colony-Seaview designation report of 1985, this old city almshouse and tuberculosis hospital is described in fully narrative form. Sunnyside (2007), as a completely unified planned community, also called for a unique format. So there has not been a clear, evolutionary path in the development of a designation report format.

In the past some research staff members had reservations about the “style name” and its field. In a caustic footnote, Shirley Zavín wrote:

The label, “Dutch Colonial Revival style” for buildings employing a gambrel roof is inappropriate for Staten Island at least. See Elsa Gilbertson, *The Early Houses of Staten Island: Their Architectural Styles and Structural Systems*, M.S. Thesis, Graduate School of Architecture and Planning, Columbia University, 1982. The gambrel roof was used by early Staten Island settlers of varied ethnic backgrounds. The European source may have been French or Flemish rather than Dutch.³⁴

Such controversies amused Commissioner Adolf Placzek, Avery Librarian and editor-in-chief of the *Macmillan Encyclopedia of Architects*. He said in an interview,

But some of these things simply defy stylistic definition. “No-style” is one of my less favorite

³⁴ Landmarks Preservation Commission. Farm Colony – Seaview Historic District Designation Report, 73.

words, quite frankly. But a proper definition of Queen Anne is very tricky. Once, at the Society of Architectural Historians, somebody offered a prize of several hundred dollars for a sensible definition of Queen Anne Style. I myself defined it once for a dictionary of terms and I didn't get the \$300. Vincent Scully once said it isn't really Queen Anne, it's Queen Elizabeth. So the staff has a hard time of it.³⁵

Eventually realizing that high architectural style could be an incomplete criterion in a district that was a composite of various building types that had achieved a harmony over time, the research staff came up with such style descriptions as "utilitarian," "vernacular" and "picturesque," extending the putative protection of the style-name to unconventional structures that, perhaps it was thought, might otherwise be at risk.

In the original 1981 Upper East Side "style" negotiations, many brownstones converted to small apartments, with stoops removed and fresh stucco fronts, had been classified "Style: None." In an historic population swing, such alterations during the depression accommodated up to ten small households where one family lived before. While those changes to entrances and surfaces could be viewed architecturally as grievous departures from "original condition"—amounting to a "total loss of integrity," as some professional preservation consultants like to put it—

³⁵ "An Interview with Adolf Placzek." *Village Views*, Vol. 2, No. 4, 36.

they were also, when unprotected, a potential real estate opportunity. At the same time, all the Post-War white brick apartment towers were classified “None.” Not many years later in a rebellion of younger enthusiasts and scholars, “modern” itself became a style-name. So inflexibility in a coded labeling emerged as a problem in cases where the recognition of vernacular, industrial and modernist buildings, or the memorializing of social history, (or the appreciation of an esthetically pleasing “tout ensemble”) argued for the value of an individual building. In some quarters, such considerations had superseded an exclusive preoccupation with high architectural style.

However, it came as a surprise when this whole longstanding scholarly and administrative effort was trashed without so much as a word of public discussion in the Sullivan/Thompson designation report. We read:

In some cases, these buildings have been given a style in the designation report; however, the style field does not attribute significance to the building within the historic district.

The problem here is not so much the excellence of the original concept as its role as a double edged sword, providing sometimes protection and sometimes vulnerability. For decades, it was an article of faith that historic district buildings enjoying a style-name were protected from demolition. But for the DeBlasio administration it was not so. And indeed, it does appear that the style-name policy has never been codified and

no public document recognizes it. As noted above, this insight, bringing with it newfound latitude to ignore style-names, first arose in the review of a Ladies' Mile demolition item. Then the new policy reappeared in the Sullivan/Thompson designation report. Thus, before our amazed eyes a traditional level of protection is gone, both from the Sullivan/Thompson historic district, and presumably, in the future, from tens of thousands of other designated historic district buildings in every part of the city. Already, a chosen substitute, the legally undefined "non-contributing," is in use in a subsequent designation report for Morningside Heights, again in circumstances that suggest a transactional approach to evaluation.

VI. THE RASHOMON EFFECT

While preparing the above discussion, we were amazed to discover that we had arrived at a Rashomon moment in the history of the Landmarks Preservation Commission. While we and many other observers believe that buildings branded "Style: None" in designation reports had been counted as expendable by the Landmarks Commission ever since the classification was invented in 1981, others do not fully accept this version of events.

For objective evidence that some kind of negotiation did indeed occur, we rely on Paul

Goldberger's 1981 report in the *New York Times*, quoting Kent Barwick, then the LPC Chair:³⁶

The intensity of those development pressures is both the charm and the curse of the neighborhood, and it is what has made the battle over designation of the Upper East Side such a long and complex one....

The question is over the extent to which the Upper East Side fits together as a complete urban unit - as a tout ensemble, to use the French phrase that people use in New Orleans to describe their French Quarter, the nation's first major historic preservation district....

Opponents of district designation said they saw no point in the commission's designating anything but the buildings of individual landmark quality. They argued further that the economic vitality of a street such as Madison Avenue, where storefronts are renovated constantly, would be diminished if Madison Avenue were designated part of a landmark district.

The commission's action Tuesday seems to have been an attempt to please both sides. The neighborhood was designated as a complete unit, but the commission's report describing the district took the unusual step of noting certain buildings that it considered of minimal architectural value.

Owners of these buildings can be granted permission to alter or even demolish them by applying to the commission's staff. There will be no need to go through the cumbersome process of

³⁶ Paul Goldberger, "Preservation Victory," *New York Times*, May 21, 1981.

a public hearing before the commission, as is normally required before any building in a historic district can be altered.

Most storefronts fall into that category, and the commission's chairman, Kent L. Barwick, said he expected that permission to renovate storefronts would be granted "almost immediately in 90 percent of the cases."

But several absolutely reliable witnesses insist that the research department had no such intention. They correctly note that there is no confirmation of such a policy in the designation report. Some thought LPC Counsel Dorothy Miner had "loved" the idea of a "Style: None" demolition policy; others indignantly protested she would never have allowed it.

In her history of the Commission³⁷ Marjorie Pearson, Director of Research at the time, also insists that the no-style classification was initially seen merely as a descriptive convenience: "The concept of using 'no-style' as a vehicle for regulation in the Upper East Side Historic District was 'after the fact.'...Barwick and Miner seized on this classification as a way of identifying buildings that could potentially be regulated more expeditiously." Thus the demolition policy did not

³⁷ Marjorie Pearson, *New York City Landmarks Preservation Commission (1962-1999): Paradigm for Changing Attitudes Towards Historic Preservation*. Samuel H. Kress Mid-Career Grant Study funded by the James Marston Fitch Charitable Foundation. 2010. <http://fitchfoundation.org/library/fitch-fellow-publications/> Accessed May 23, 2017

reflect the professional judgment of the Research Department.

Probably we can never know what Dorothy Miner's thinking was. She did not prevent the compromise to achieve affirmation of the Upper East Side designation at the Board of Estimate, but then she refrained from codifying any resulting unpublished agreement, which was required when the City Administrative Procedure Act was enacted in 1989. The Act requires any agency policy that bears on the issuance of a permit to be codified in the Rules of the City of New York. Did she consider that if such an agreement did not become a Rule, it might ultimately be invalidated? Further, Marjorie Pearson tells us that "Up to this point [1981] the Commission had resisted the categorization of buildings, either individually or within districts, by ranking them or assigning them contributing or non-contributing status. This was in contrast to the National Register system..." That was a position that Miner advocated and in our observation did not stop advocating after 1981. She used to insist that New York, unlike Great Britain, does not have Grade I and Grade II listed buildings, that we don't have "second class landmarks."

After Dorothy Miner was replaced under the Giuliani administration, the new LPC Counsel, Valerie Campbell codified what we now call the Madison Avenue Guidelines. It was said that the delay was accounted for by the difficulty of incorporating a color

coded map into the Rules of the City of New York, and a work-around was initiated to solve this problem. However, again, at that time, the “Style: None” policy, the other part of the 1981 compromise, was not brought forward as a rule, nor was it under subsequent administrations.

Nevertheless, the LPC and the Law Department officially affirm that the “Style: None” demolition policy is a pillar of their administrative procedure, despite their failure to codify it and the above-mentioned decision to demolish two adjacent buildings in the Ladies’ Mile Historic District that lacked a “Style: None” description. The Law Department apparently still regards “Style: None” as a winning legal defense strategy against an outraged citizenry trying to defend their historic district against a demolition decision. In an affidavit submitted 2/17/2017 in *Save Gansevoort LLC v. City of New York*, Sarah Carroll, the LPC Executive Director, affirmed:

14. In connection with designating a building or district, the Commission staff writes a report describing the history and significance of the building or district. With respect to a historic district, the report contains a current description of each building, including remaining original or historic features and subsequent alterations. In addition to this description each building entry has a "Style" field, in which the architectural style is noted (e.g., "federal"). Buildings that have been determined at the time of designation not to have any architectural style

are deemed not to contribute to the historic district. These buildings are listed as "Style: None" in the report. Historically, the Commission has treated buildings identified as "no style" as buildings that could be demolished and replaced with LPC permits.

15. What that means in practice is that when an application comes to the Commission for demolition of a no-style building there is no need to make an explicit finding that the building does not contribute to the district and, therefore, the application in essence concerns just the proposed replacement for the building.

16. When voting to designate a building or district, the Commission votes to designate due to the significance as set forth in the designation report. The designation report, drafted to identify and describe the significance of the building or district for purposes of designation, provides guidance to the Commission in future regulatory decisions. However, it does not contain any explicit rules or mandates, but instead is interpreted by the Preservation Staff and, ultimately by the Commission. For example, the report does not say how tall new buildings should be, or how many stories can appropriately be added to a historic building. As described below, such decisions are subject to the Commission's discretionary regulatory authority, which includes

rules as well as individualized decisions by the full Commission.³⁸

Perhaps ultimately, the shadowy existence of such policies, what legal force (if any) the “Style: None” and “Status: Non-contributing” determinations really have, will be clarified as a by-product of litigation. A similar issue is whether—or to what degree—the policies outlined in designation report Statements of Regulatory Intent are in fact binding on anyone. Or perhaps this will cease to matter, if such strategies are moderated or rejected by the commission itself. Perhaps some future City Hall will adopt a more nuanced view of the importance of conventional real estate development on particular sites, as against the real economic potential and public benefit of landmarks regulation as it was once envisioned in the Landmarks Law. Clearly, the already huge increase in historic district property values points in that direction, even while bringing new problems for historic preservation. Is it possible that some consideration of what historic districts were thought to be in the distant past could have a bearing on future policy decisions?

³⁸ Affidavit of Sarah Carroll, paragraph 14, 15,16 *Save Gansevoort v. City of New York*, Document #112, 26 – 30. Available at <http://iapps.courts.state.ny.us/iscroll/SQLData.jsp?IndexNo=158482-2016> (Accessed 4/20/17)

VII. THE IDEAL OF THE HISTORIC DISTRICT

Beyond administrative problems, there is still the larger question, how do we understand the agency's mission? Do current regulatory policies embrace that mission?

Thinking of the "people of the city" mentioned in the preamble of the Landmarks Law, former LPC Chairman Gene Norman once said in an interview,

Yesterday I was walking in Brooklyn Heights, and when you do that, you know, walking around as I did yesterday, you see people sitting on a bench just overlooking the harbor, and feeling good about that. They chose to go to that place, because they felt that scene, that locale would be some sort of emotional booster. So they're there. Now the notion of how that affects people on a subliminal basis—somehow that has to be projected, so that people get an understanding of the benefits that come from having historic districts, and recognizing our architectural past, and keeping around us these monuments, and these villages. Interacting with a historic district is a thing a lot of people do, and don't even understand that they're getting a quote, unquote "benefit" from it; it's a subliminal, emotional connection that goes on, for some people, just being there. And I've talked to people in very wide cross-section, perhaps even wider than your own acquaintances, and you'd be surprised that, without knowing it, people react to the fact that there is a historic district, there is a precinct, a part of the city that's been set apart. I mean, I

hear people say, “Gee, I love walking in Brooklyn Heights. Isn’t it nice!” and now, since I’ve been here on the commission, I say, “Well, why?” –“Oh, I like the charming streets, and being able to look up and see the sky, you know, and the trees, and the older buildings.” That’s the thing you hear the most. “I like the older buildings.” And if more people could understand that the reason we still have a place that’s special called Brooklyn Heights is because there is a Landmarks Law and there are Commissioners there putting in long hours, and a staff that runs around keeping things going, and community people that help in the process—if they could understand that, then they could understand why it’s important to spend so much time and energy as we do on this thing called preservation: it’s important, because of the kind of subliminal way a preserved city affects us.³⁹

The democracy of preservation, as described by Commissioner Norman, depends on this widely shared subliminal aesthetic, a pre-rational, pre-intellectual perception that has gone on to be re-defined and formulated by specialists in a variety of ways, not always to the satisfaction of all. When Walt Whitman wrote of “democratic vistas,” preservation in America was at the stage of saving George Washington’s house—which was, we may recall, on the verge of collapse. Many millions of visitors have felt the need to go there since. The emotions evoked by the

³⁹ “‘Some Kind of Magic Wand.’ An Interview with Gene Norman.” *Village Views*, Vol. 2, No. 1, 19.

preserved place are the foundation of all protective preservation legislation, which has achieved very broad-based support all over this country, with thousands of historic districts designated.

It is unclear who drafted the memorable preamble to our Landmarks Law, but that anonymous hand understood what was really at stake, that is, “the beauty and noble accomplishments of the past.”

...many improvements, as herein defined, and landscape features, as herein defined, having a special character or a special historical or aesthetic interest or value and many improvements representing the finest architectural products of distinct periods in the history of the city, have been uprooted, notwithstanding the feasibility of preserving and continuing the use of such improvements and landscape features, and without adequate consideration of the irreplaceable loss to the people of the city of the aesthetic, cultural and historic values represented by such improvements and landscape features. In addition, distinct areas may be similarly uprooted or may have their distinctiveness destroyed, although the preservation thereof may be both feasible and desirable.⁴⁰

Today the mission to prevent unnecessary destruction seems to be slipping away from us as the agency concentrates its attention on more ordinary

⁴⁰ Administrative Code of the City of New York, Title 25, Chapter 3, §25-301.

administrative performance goals. The founders never anticipated that landmark designation would be as popular as it has proved to be. Passionate demands for more historic districts have meant that tens of thousands of buildings are now in the hands of an agency whose budget and staff have not grown proportionately. Speed and efficiency in issuing permits, streamlining and standardization to make such administrative performance possible, and unfortunately, the accommodation of outside pressures have become priorities. In the last two years, many experienced staff members have left the agency. Permissive rationales for alteration and demolition of historic buildings proliferate; designation reports are slanted to reduce protection. Usurping the judgment of the commissioners in individual cases, “non-contributing” buildings are marked in advance for removal and replacement. As we have detailed above, now though also previously, there has been much confusion and lack of clarity in the delineation of policies, and occasional disregard of the City Administrative Procedure Act. There is also disregard of the original goals of the Landmarks Law. Those goals, and the reasons for them, should be revisited.

Looking back to those we have called America's first responders, residents of old southern cities who first experienced the need for historic districts, today we can only guess at their state of mind, why they found the Antiquities Act of 1906 was not enough, why they asked for more than isolated monuments. World

War I was unsettling, and marked a break with many traditions. There had been unexpected destruction, the first aerial bombing. How should a city, or the remains of a city figure in the life of the 20th century, in the midst of war and revolution and radical change of every sort? What safety was still possible? What sanity? Because beneath the surface, even in the best of times, there has been fear, fear unfortunately not really irrational in a century when the total destruction of whole cities and even the widespread extinction of life was more possible than ever before, and was already occurring, or beginning to occur, sporadically, in some places.

And sometimes more disorienting than the possibility of outside attack were the self-inflicted losses our own communities suffered, when still unprotected structures like Pennsylvania Station were destroyed for private financial profit, to be replaced by what have been widely recognized as dysfunctional eyesores. Great tracts of American farmland were being “developed,” turning our countryside into what Peter Blake called *God’s Own Junkyard*.⁴¹ When his book was reviewed by Ada Louise Huxtable in the *New York Times* in 1964, she quoted his statement and went on to add her own; in stark contrast to the deference usual today, she wrote:

⁴¹ Peter Blake. *God’s Own Junkyard*. New York: Holt, Rinehart and Winston, 1964.

God's Own Junkyard, says its author, Peter Blake, is a muckraking book with a message: "It is not written in anger, it is written in fury. It is a deliberate attack upon all those who have befouled a large portion of this country for private gain and are engaged in befouling the rest." ...His case for an ordered and beautiful environment is based on hard and incontrovertible facts: the impracticality of waste which destroys economic values as well as esthetic amenities; the real planning failures of suburbia that are as serious as its flagrant abuses of the land; the destruction of the city in terms of prosperity and livability as it becomes increasingly repellent under the hand of the speculative developer...⁴²

Such was the 20th century outcry, in response to civic circumstances that are now almost taken for granted.

20th century poetry proposed an old object, "still as it was" as talisman:

The consecrated blade upon my knees
Is Sato's ancient blade, still as it was,
Still razor-keen, still like a looking-glass
Unspotted by the centuries;
That flowering, silken, old embroidery, torn
From some court-lady's dress and round
The wooden scabbard bound and wound,
Can, tattered, still protect, faded adorn.⁴³

⁴² Ada Louise Huxtable. "America the Beautiful, Defaced, Mutilated," *New York Times*, January 12, 1964.

⁴³ W.B. Yeats. "A Dialogue of Self and Soul," *The Winding Stair*. New York: 1929, Fountain Press. (First edition.)

As also perhaps a place could be a talisman, even in ruins, or the idea of a place, the fragments of a place preserved:

These fragments I have shored against my ruins....⁴⁴

Emotions can run high in matters of preservation, now known as historic preservation, because of such symbolic values, metaphorical, metaphysical or psychological as they might be. Such considerations were not directly responsible perhaps, but were a background for those certain civic gestures that began in the South after the First World War. In 1931, Charleston enacted America's first historic district preservation ordinance,⁴⁵ and in 1936 the city of New Orleans enacted a second, more effective ordinance to preserve the Vieux Carré,⁴⁶ and fought for it. It is strange to think that only a few years later, World War II, and with it the destruction of Warsaw, commenced.

We cannot forget the terrible loss of life, the mass murders, but it should also be recalled that the destruction of the old city of Warsaw and its architecture was planned at the same time, for similar ends, by the same malefactors. It was not a military necessity. Former LPC Commissioner Anthony Tung

⁴⁴ T.S. Eliot, "V: What the Thunder Said," l. 431 in *The Waste Land*. New York: Boni & Liveright, 1922. (First edition.)

⁴⁵ A discussion of the Historic Preservation Zoning Overlay is available at <http://shpo.sc.gov/programs/locgov/Pages/PresOrd.aspx> (Accessed 04/19/2017.)

⁴⁶ A full history of the Vieux Carré Commission is available at <http://www.nola.gov/vcc/> (Accessed 04/19/2017)

studied the destruction of Warsaw in detail and described “a systematic pattern of cultural annihilation” practiced by the Third Reich, starting in 1939, and culminating in the order of 1944:

With the old and new towns in ruins, Hitler issued a further punitive order to completely raze the city. The Germans divided Warsaw into zones and began a systematic eradication of the metropolis. They had already ascertained which structures represented the most significant parts of the Polish heritage...In response to the waves of destruction that enveloped the city, members of the faculty undertook the task of assembling photographs, sketches, and drafted representations of Warsaw’s historic structures. In a climate of frequent arrests, deportations and public executions, and before the eyes of the Gestapo the studies continued...Methodically, the legacy of Warsaw was recorded so that the past would not be stolen from the children of the future. It is hard to imagine that ever again will such important conservation scholarship be done under such dangerous conditions...Hidden in the architectural school was amassed documentation of the historic structures of Warsaw. It required several trips in an old truck to bring the material out. This too was hidden in the Piotrków monastery, in the ancient stone coffins of dead monks.⁴⁷

⁴⁷ Anthony Max Tung, *Preserving the World’s Great Cities*. New York: Clarkson & Potter, 2001.

After the war, under Russian occupation, the old city of Warsaw was painstakingly rebuilt, using traditional construction techniques and traditional materials, and retaining the original street pattern. Tung notes that Warsaw had enacted the first modern preservation ordinance, including historic districts, in 1928, shortly before New Orleans and Charleston, which aided in the wartime recordation.

Also in London, during the Blitz, people of the city risked their lives to protect their heritage. The Luftwaffe repeatedly attacked St. Paul's Cathedral, and its survival was due to the St. Paul's Watch, an ad hoc group of citizens who patrolled the Cathedral roofs at night, and faced the air raids without shelter, armed only with buckets of sand and water and stirrup pumps to disable the incendiary bombs that struck St. Paul's, working with their bare hands.

The St. Paul's Watch was recruited from architects, who formed the nucleus, but soon they were joined by volunteers from many other professions and vocations, including, as the war proceeded, members of governments in exile, professors, medical students and postmen....the first meeting of the St. Paul's Watch took place on 15 September [1939] and ten days later they began their nightly vigil, which continued without interruption until the end of the war.⁴⁸

⁴⁸ The Very Rev. W.R. Matthews, Dean of St. Paul's. *A History of St. Paul's Cathedral*. New York: Pitman Publishing Corporation, 1957.

On the night of December 29, 1940, the worst of the raids dropped such a quantity of explosives on the old City of London district that huge conflagrations surrounded St. Paul's, which vanished into clouds of smoke, and a desperate Churchill telephoned his message to the firefighters and the Watch, that St. Paul's must be saved at all costs. Most of the City district was lost, but the team was able to extinguish the firebombs that fell on the Cathedral and it, almost alone, still stood.

Any reminder of these events would not be complete without invoking the Allied bombing of Germany which also destroyed civilian and cultural targets on a massive scale, in a war that terminated with Hiroshima. And like Warsaw, Nuremberg and parts of Dresden were painstakingly restored.

All in all, when we consider the fate of cities in the Second World War, some of the issues we struggle with today may seem trivial, but what Warsaw and London illustrate is that the instinct to preserve is deep-rooted and widespread, and that if it comes to that, there are people from all walks of life who will risk death to preserve their cities and their architecture. When our Landmarks Law speaks of unnecessary, irreplaceable loss to the people of the city, perhaps it was the interests of such people that the Landmarks Law was intended to represent. Protecting historic places does require government regulation, but the genius of the New York City Landmarks Law has been the balance it

creates between administering the routine and bringing human judgment to bear on the exceptional.

Demolition of landmarked buildings should always be exceptional, and a district like the new Sullivan/Thompson, where destruction is made a routine administrative function, is no district at all.