

This article belongs on required reading lists according to Queens Civic Congress Executive Vice President Patricia Dolan who also chairs QCC's Land Use and Planning Committee. It remains essential that Queens communities make their cases sooner than when it becomes to late.

<http://www.nytimes.com/2008/11/26/arts/design/26landmarks.html?emc=eta1>

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Preserving the City

An Opaque and Lengthy Road to Landmark Status

By ROBIN POGREBIN

For years, preservation advocates have pleaded with the New York City Landmarks Preservation Commission to consider enlarging its protective mantle in Park Slope, one of Brooklyn's most scenic brownstone neighborhoods. In 2000 they proposed that the commission extend the 44-block Park Slope Historic District eastward and southward, preserving 19th-century residential architecture like the handsome houses on Garfield Place, with their two-sided bays and original stoop ironwork.

The initial response was encouraging: in a June 2001 letter to the Historic Districts Council, the commission said, "We will review the material and keep you informed of the process."

And then the preservationists waited. And waited. This month — seven years later — a State Supreme Court judge in Manhattan decided that they had waited long enough.

Ruling on a lawsuit filed in March against the landmarks commission's top officials by a preservationist coalition, the judge called the agency's inaction "arbitrary and capricious" and ordered it to start making timely decisions on every designation request. To allow such proposals "to languish is to defeat the very purpose of the L.P.C. and invite the loss of irreplaceable landmarks," the judge, Marilyn Shafer, wrote.

The city says it will appeal. Still, the ruling was a significant victory for preservationists and politicians across the city who have long accused the commission of lacking the responsiveness and accountability that citizens expect from a watchdog of the city's architectural history.

A six-month examination of the commission's operations by The New York Times reveals an overtaxed agency that has taken years to act on some proposed designations, even as soaring development pressures put historic buildings at risk. Its decision-making is often opaque, and its record-keeping on landmark-designation requests is so spotty that staff members are uncertain how many it rejects in a given year.

In dozens of interviews, residents who have proposed historic buildings or districts for consideration said they were often stonewalled by the commission, receiving formulaic responses or sometimes no response at all.

"The openness and transparency — particularly in terms of requests — is a big issue among preservationists," said Peg Breen, president of the New York Landmarks Conservancy, an advocacy group.

"I think what people would welcome is something that said, 'We looked at this and it's been too altered,' or, 'We looked at this and we find it a third-tier example of this architect's work,'" she said. "Something that gave people more to go on."

In an interview, Robert B. Tierney, who has been the commission's chairman for five years, said he was proud of its accomplishments during his tenure. "It's been a superb record and a lot has been done," he said. He cited the creation of historic districts like the Gansevoort meatpacking area, despite enormous opposition from developers, and designations outside Manhattan, like Sunnyside Gardens in Queens.

To be sure, in the four decades since the leveling of Pennsylvania Station stirred a movement that led to the agency's founding, the commission has granted protection to everything from row houses to skyscrapers to entire neighborhoods. (And the city's economic downturn will no doubt ease some of the pressure to raze old buildings and build anew.)

In fiscal year 2007, with one of the smallest budgets of any city agency, the commission designated 22 individual structures, 3 historic districts and 3 interiors as landmarks, for a total of 1,158 buildings — the most since 1990. But dozens of cases seem to vanish into a black hole, critics say.

In 1998, for example, preservationists requested that the commission consider granting landmark status to Tiffany's, the storied polished-granite building at Fifth Avenue and 57th Street in Manhattan. The commission replied in a letter that it would take the 1940 building "under consideration," said John Jurayj, co-chairman of a preservationist alliance known as the Modern Architecture Working Group. (He also serves on the Citizens Emergency Committee to Preserve Preservation, which filed the lawsuit.)

Three years passed with no further word from the commission. In 2001 the group resubmitted its request and was told that the commission's designation committee found it potentially eligible. But no action was taken. "It's now nine years later and nothing has happened," Mr. Jurayj said.

On some occasions the commission has taken so long to act that the building in question has been demolished or irretrievably altered.

In July 2007, the preservationist group Friends of the Upper East Side, concerned that the scale and charm of upper Lexington Avenue were being eroded by development, met with Mr. Tierney, the commission's chairman, to request an extension of the Upper East Side Historic District. Among the buildings they wanted protected was the Kean residence at Lexington Avenue and East 65th Street, originally built as two brownstones in 1880 but transformed in 1922 into a Mediterranean-style stucco house with rusticated detailing, leaded glass windows and a double-height music studio.

For months there was no formal reply from the commission. Then in March, a letter arrived. "Staff will review the material and keep you informed of the process," it promised.

Worried that time was running out, the group filed a request in June that the house itself receive landmark status. The same month, the building's owners applied for permits to start work on the house. Scaffolding went up, and the building's leaded glass windows were removed along with its carved doors, leaving boarded-up holes.

In July, said Seri Worden, executive director of Friends of the Upper East Side, a commission staff member told her that "the Kean house was ineligible, partly due to demo permits."

Asked about the construction work at the Kean residence, Mr. Tierney said that a survey was under way on the Upper East Side after talks about extending the historic district. "Oftentimes when the complaint is made, it's because they haven't gotten a yes," Mr. Tierney said. "We set priorities and we can't survey the entire city based on all the requests we get."

Among the pleas submitted for which no public hearing was held are the Beekman movie theater on the Upper East Side, a 1952 Streamline Moderne design that was demolished in 2005; Mott House in Rockaway, Queens, an 1800s mansion in the Greek Revival style that was torn down in 2004; the Donnell Library Center on West 53rd Street in Manhattan, which is to be demolished to make way for a hotel; and Edward Durell Stone's 1964 "lollipop" building at 2 Columbus Circle, which reopened in September as the Museum of Art and Design after a radical alteration that was fiercely opposed by preservationists.

Both Justice Shafer's decision and a bill circulating in the City Council would require that the commission make decisions on any formal nomination of a landmark, known as a Request for Evaluation or R.F.E., in a timely fashion. In her ruling, Justice Shafer also ordered that any request for designation be submitted to the commission's request committee within 120 days of receipt.

But the commission is opposed to setting deadlines. In its formal response to the lawsuit, the commission said that if it were required to respond to each Request for Evaluation, “the agency would not be able to set and pursue its own priorities and would spend all of its time researching and pursuing R.F.E.’s, many of which are of questionable or marginal significance.” Defenders and detractors alike agree that, with 16 researchers, the commission does not have the manpower to accede to that demand.

Yet in 2007 Mr. Tierney declined a budget increase of \$750,000 approved by the City Council; instead the commission ended up getting an increase of just \$50,000 for a total Council allocation of \$300,000. (The current budget is \$4.7 million.)

Mr. Tierney said that he didn’t want to add staff members that he might not be able to keep beyond a year, should the budget subsequently be cut back. “One-shots in an agency of this size is not good government,” he said.

Preservationists say the larger issue is the manner in which Requests for Evaluation are handled at the agency. Currently they are funneled through the commission’s staff and Mr. Tierney, a former counsel to Mayor Edward I. Koch, who was appointed in 2003 despite having no background in architecture, planning or historic preservation. (Mr. Tierney, whose second three-year term ends in June 2010, earns an annual city salary of \$177,698; the other commissioners are unpaid.)

Mr. Tierney and the staff decide what proposals should be forwarded to the 11 commissioners — by law they include at least three architects, one historian, one city planner or landscape architect, one real estate agent and one resident of each of the five boroughs — for informal consideration. “All the final calls are his,” said Donald Presa, a commission researcher.

At hearings, the commissioners hear public testimony and ultimately take a vote. The majority rules.

In its lawsuit, Citizens Emergency assailed what it describes as the chairman’s “absolute power” over the landmark process.

“He’s a guy who’s had no demonstrable interest in historic preservation, who has the most important preservation job in New York City,” said Anthony C. Wood, author of “Preserving New York: Winning the Right to Protect a City’s Landmarks” (Routledge, 2008), and a party to the suit.

Also troubling to critics is the fact that the commission does not document the resolution of each nomination or even quantify how many it defers or rejects. Asked how many Requests for Evaluation they received in the last fiscal year, commission officials said they fielded roughly 200 in addition to nominations generated by the agency itself and its neighborhood surveys. They add that about one quarter never reach the commissioners (other than Mr. Tierney).

Mr. Tierney conceded that record-keeping was inadequate and said that a new \$1.5 million project would allow the commission to create a new information database to better track the disposition of requests. "It's going to be addressed," he said, adding, "The large data integration system will, I believe, dispense with all these problems."

The commission also points out that the bulk of its time is taken up with whether to approve alterations to existing landmarks. A homeowner may want to install modern double-hung windows in a landmarked Art Deco building, for example. The number of applications for such alterations has more than doubled from 3,914 in fiscal year 1990 to 10,106 in fiscal 2008.

In a practice that ended in 2004, a designation committee consisting of a group of commissioners once evaluated proposals and recommended which ones should be forwarded to the full commission for consideration at a public hearing. In something of a paradox, the committee was abolished after it was challenged by the Historic Districts Council, which argued that its closed-door meetings violated the Open Meetings Law.

Preservation advocates argue that the members are now at a remove from vital decisions about what comes before them. "The culture of the commission has changed so much from a body where commissioners were allowed to be independent voices," Mr. Wood said.

Even some commissioners say they feel they have become too distanced from citizens' requests for evaluation. "If every discussion about what should be designated were at an open hearing, it would be untenable," said Stephen F. Byrns, an architect on the commission.

Still, he added, "we used to be more involved with designation. Now, the research staff calendars it, and we hear it and designate it. The critical and probably political thinking that goes on prior to that is something we're not involved with."