



HISTORIC DISTRICTS COUNCIL



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HISTORIC LANDMARKS  
PRESERVATION CENTER



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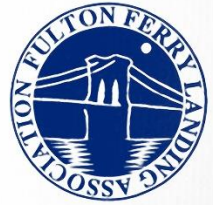


VINEGAR HILL  
NEIGHBORHOOD ASSOCIATION

LANDMARK WEST!  
THE COMMITTEE TO PRESERVE THE UPPER WEST SIDE



BROOKLYN  
HEIGHTS  
ASSOCIATION



Brooklyn Bridge  
Park Defense Fund, Inc.

June 10, 2020

Hon. Sarah Carroll, Chair  
New York City Landmarks Preservation Commission  
1 Centre Street, 9<sup>th</sup> floor north  
New York, NY 10007

Dear Chair Carroll:

The undersigned preservation advocacy organizations have joined together to express concerns about the Landmarks Preservation Commission's process for review of applications for work in designated scenic landmarks. The two main issues are:

- The failure of reports to make appropriateness findings based on majority vote of the commissioners, instead stating a variety of opinions based on discussion by the commissioners, which undercuts the LPC's expert authority on designated landmarks.
- The elimination of testimony before the commissioners by the public on these projects.

These practices seriously weaken the Commission's mandated and historic role in the regulation of this important category of designated landmarks. We discuss this in more detail below, but first we provide some historical perspective on Landmarks Commission review of scenic landmark applications and the relationship between LPC and Public Design Commission (PDC) reviews. *[Note: The Art Commission of the City of New York is cited for convenience by its 2008 renaming as the Public Design Commission, regardless of the period being referenced.]*

In the procedure mandated by the New York City Landmarks Law as originally adopted, projects proposed for designated city-owned landmarks received LPC reports, not "binding reports" or "advisory reports," just "reports." In theory, projects could move forward even if LPC disapproved them in a report, though PDC approval was required for them to proceed. In practice, however, no city project that the Commission found inappropriate ever advanced to PDC. LPC required designs to be modified until they could be found appropriate either by the staff or the commissioners at a public hearing, using the same standards as with private-sector projects. PDC then generally deferred to LPC's decisions, as LPC is regarded to be the expert agency on landmarks issues, a situation enhanced by the regular

attendance at PDC meetings of an LPC liaison to explain the Landmarks Commission's position. On those rare occasions where there were differences, they were settled amicably by the two agencies.

When the City Charter was amended by Local Law 77 of 1995 to separate the jurisdictions of LPC and PDC, LPC was given the "binding" authority previously vested in PDC for most projects occurring on designated city-owned property (NYC Charter §854.h). That's when the term "binding report" was devised, to recognize that LPC was now the agency that must formally approve these proposals, by finding them appropriate. For those few types of projects that continued to be reviewed by both agencies—almost entirely scenic landmark projects—the reports became "advisory reports." But this was a change *in name only*. The process for scenic landmarks review *was not changed*. It was left the same as it had always been, with LPC issuing a report (now called an advisory report) with a follow-up review by PDC. There was never any stated intention to reduce LPC's role to that of a mere "advisor" to PDC. In fact, there was no immediate change in the LPC-PDC relationship regarding scenic landmarks; the current practice emerged years after the change in the New York City Charter.

It is our view that these changes in how the Landmarks Commission performs the reviews for scenic landmarks have seriously undermined the preservation of these important historic resources:

- The Landmarks Preservation Commission is the only governmental entity in the city whose mandated responsibility is to protect designated landmarks, including scenic landmarks, based on appropriateness criteria. PDC does not have a mandate to do this, nor, as it has itself stated, does it necessarily have the expertise or interest to do so.
- The failure to provide majority votes with specific appropriateness findings for proposed work in scenic landmarks results in a lesser standard than is provided by law or LPC practice for all other types of applications.
- The unique lack of public testimony for these reviews disadvantages the Landmarks Commission's process for an entire class of designated landmarks by depriving the commissioners of the benefit of testimony by expert, informed, and interested members of the public. Testimony before PDC—a different agency with a different mandate—is no substitute, and PDC has indicated that public testimony regarding historic preservation is not relevant to their reviews.
- The current process does not meet the spirit of the law, nor does it reflect or respect the history of LPC's beneficial and accepted involvement with scenic landmarks or the role the law intends it to play in their stewardship.

The result of this abdication of responsibility by the LPC is that an entire class of landmarks—scenic landmarks—is being left without effective historic preservation review or the ability of the public to participate meaningfully in the process.

We respectfully request that the Commission respond to these questions:

1. What are the criteria for determining which proposals for scenic landmarks are reviewed at staff level as opposed to commissioner level?
2. How is "building" defined in the context of Charter § 854.h to determine whether PDC will have a role in the review?
3. What materials are required in order for an application for work in a scenic landmark to be considered complete? We note especially the dearth of materials carefully describing existing and original/historic conditions in recent applications, as well as a lack of details for proposed work. Such information is critical to assessing the appropriateness of proposals in scenic landmarks, as it is for other types of landmarks, where it is typically provided as part of the submission.

4. What is the basis in the Landmarks Law for having commissioner-level review of proposals in scenic landmarks without the public hearing/public testimony that is typical for all other projects, including public projects? Please address not only the letter of the NYC Landmarks Law (NYC Admin. Code, Ch. 7 §25-318), but the long-standing Commission practice in which projects that are not reviewed at staff level receive a public hearing and public testimony before the commissioners.
5. Why, for scenic landmarks, is the Commission not following its usual practice of requiring revisions to proposals so that a finding of appropriateness can be made by majority vote? How does this revised procedure enhance the protection and stewardship of scenic landmarks?
6. Finally, we request that the Commission return to previous, long-standing and successful procedures in the regulation of scenic landmarks, including full public hearings with public testimony for projects that are not reviewed at staff level, and issuance of reports by majority vote that include appropriateness findings for specific proposed designs rather than a summary of discussions or menu of options.

We look forward to your response, and we are ready to continue the discussion in whatever format is convenient. Thank you.

George Calderaro for Victorian Society New York

Judi Francis for Brooklyn Bridge Park Defense Fund

Lara Birnback for Brooklyn Heights Association

Doreen Gallo for DUMBO Neighborhood Association

Franny Eberhart, for Friends of the Upper East Side Historic Districts

Katrin Adam for Fulton Ferry Landing Association

Simeon Bankoff for Historic Districts Council

Barbaralee Diamonstein- Spielvogel for Historic Landmarks Preservation Center

Sean Khorsandi for Landmark West!

Aldona Vaiciunas for Vinegar Hill Neighborhood Association

Cc: Lisa Kersavage, Executive Director, Landmarks Preservation Commission

Cory Scott Herrala, Director of Preservation, Landmarks Preservation Commission

Hon. Corey Johnson, Speaker, New York City Council

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Hon. Eric Adams, Brooklyn Borough President, for Brooklyn Borough Board

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Hon. Signe Nielsen, President, Public Design Commission

Justin Garrett Moore, Executive Director, Public Design Commission

Elizabeth Goldstein, President, Municipal Art Society

Peg Breen, President, New York Landmarks Conservancy

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Mark Bench, Lynn Funk, Morgan Munsey, Jeremy Woodoff, preservation committee, Victorian Society New York