REPORT OF THE COMMITTEE ON FINANCIAL HARDSHIP
PHILADELPHIA HISTORICAL COMMISSION

Wayne S. Spilove, Chair
One Parkway, 1515 Arch Street – 13th Floor
7 July 2000

Present
Wayne S. Spilove, Chair
David Baldinger, Deputy Executive Director, City Planning Commission
Scott Wilds, Assistant Director for Housing, Office of Housing and Community Development

Randal Baron, Assistant Historic Preservation Officer
Richard Tyler, Historic Preservation Officer

Also
Richard Thom, A.I.A.
Ronald Patterson, Esq.
Gianpaolo Duva, Canepino Corporation
Stuart Mogell, Canepino Corporation.
Gwen Schaeffer, *The Philadelphia Weekly*

Wayne Spilove, Chair, called the meeting to order at 3:45 p.m., and announced the subject of the meeting, the hardship application for 216 Market Street.

Richard Tyler presented a summary of the previous proceedings before the Architectural Committee, the Commission, the Committee on Financial Hardship and the Board of License and Inspection Review. On 20 June 2000, the Board remanded the matter to the Commission for consideration by the Committee on Financial Hardship which on 14 January 2000 had found that it could not determine whether a hardship existed without proper documentation and recessed pending the receipt of that documentation. The materials distributed to the Committee members for the meeting of 7 July 2000 included, the original submission of Canepino Corporation and Philly Real Estate, the Minutes of the Committee on Financial Hardship for 14 January 2000, additional information submitted by Philly Real Estate on 30 January 2000, the appeal to the Board of License and Inspection Review, and the additional materials submitted by Ronald Patterson, Esq., counsel for Canepino Corporation, on 27 June 2000.

Mr. Tyler observed that this presented a unique circumstance, for here a tenant, not an owner, seeks relief. He then offered the staff's assessment pursuant to the attached hardship provision of the Historic Preservation Ordinance, § 14-2007((7)(f)(.1-.6):

1. only the purchase price, $300,000, provided under (f)(.1);
2. assessed value submitted as required at (f)(.2);
3. only real estate taxes given under (f)(.3);
4. no appraisals offered under (f)(.4);
5. listings documentation under (f)(.5) included copies of two advertisements from *The New York Times* for "OLD CITY, PHILADELPHIA BUILDINGS FOR SALE," copies of invoices for advertisements in *The Philadelphia Weekly*, and a letter from M. S. Fox Real Estate Group stating that it could not "secure a viable tenant" between

13 January 1999 and 14 July 1999, and

6. no consideration offered by the owner of profitable, adaptive uses under (f)(.6).

The applicant did not submit this information by affidavit as required at (7)(f) [attached].

As a part of this review, Mr. Tyler took exception to several points made in Mr. Patterson's letter of 27 June 2000. These exceptions included:

1. the building at 216 Market Street has not stood vacant for several years;
2. the recessed entrance does not make the building impossible to use as evinced by the retailers who prefer this configuration for the display of merchandise;
3. this building is not uniquely deteriorated;
4. the many buildings in Old City with recessed shopfronts demonstrate that 216 Market Street's configuration is not unique;
5. the Code does not suggest that conformity with the character of some block forms a criterion. Rather, the Commission considers the building as itself, and *The Secretary's Standards* reject creating a false appearance.
6. The owner has begun the renovation of both 216 and 218 Market Street.

He added that many buildings in Old City are undergoing rehabilitation for a variety of uses. The staff believes that this could occur at 216 Market Street as well, but no alternative use has been presented to the Commission. Mr. Tyler also noted that the drawings submitted on 20 December 1999 provide for sixteen tables in the existing configuration, not only ten as shown in the drawings accompanying the letter of 27 June.

Mr. Tyler concluded by stating that the staff believes that the applicant has not made the case for hardship relief for the restaurant use or for another unexplored use.

During Mr. Tyler's presentation, Mr. Patterson remarked that his client's application to the Committee rested on § 14-2007(7)(k)(.7) and asked to have his position heard. The Committee responded that it would give him that opportunity following the staff's briefing.

Mr. Patterson stated that his client sought relief under (7)(k)(.7) which does not require the affidavit and demonstration of financial hardship stipulated at (7)(f). He distributed an income estimate for the use of the space as a restaurant with twelve seats. Gianpaolo Duva commented that Canepino had gone forward with the demolition of the then existing storefront following the Architectural Committee's recommendation of approval for that plan; he and his partner assumed that the Commission would adopt that recommendation.

In the course of the ensuing discussion, Mr. Patterson reiterated his distinguishing between (7)(f) and (7)(k)(.7). In response, Scott Wilds noted that the viability of the building as a whole, not a segment of it, posed the issue before the Committee and that the applicant had made no showing on this question. Mr. Tyler added that (7)(k)(.7) was included by the Preservation Ordinance's authors and City Council to afford an administrative vehicle for relief to low and moderate income persons. But, Mr. Patterson observed, the clause does not say that. David Baldinger asked how the Commission considers hardship appeals by tenants. Mr. Tyler answered that we have had no such case.

Mr. Wilds asked if the applicant would consider a compromise based on a truncated recessed entrance and other plan modifications such as the elimination of one toilet room. Following a brief recess to enable the applicant to caucus with counsel, Mr. Patterson rejected this proposition, for too many code variables exist to proceed in a timely manner. Mr. Duva added that their venture cannot succeed without this plan and that the necessary variances for another plan would consume too much time. Mr. Tyler cautioned that the granting of relief under (7)(k)(.7) for a portion of a building poses a slippery slope that could lead to unsympathetic alterations to buildings which as a whole have economic viability. David Baldinger thought that the Committee would perhaps be more sympathetic if the owner had offered some evidence about rent expectations, uses and the like. Mr. Duva responded that he and Mr. Mogell have come before the Committee without any assistance from the owner.

Mr. Wilds offered a motion that the Committee report to the Commission that the applicant had not demonstrated a financial hardship with the observation that the applicant could make the (7)(k)(.7) argument before the Commission. Mr. Baldinger seconded the motion which passed with two affirmative votes; Mr. Spilove abstained.

The Committee adjourned at 5:15 p.m.

Respectfully submitted,

Richard Tyler
Historic Preservation Officer