THE REPORT OF THE COMMITTEE ON FINANCIAL HARDSHIP

OF THE

PHILADELPHIA HISTORICAL COMMISSION

Barbara Kaplan, Chairperson

Commission Conference Room, 1401 Arch Street

3 July 1991

Present
Barbara Kaplan, Chairperson
 Executive Director, City Planning Commission
David Brownlee
David Hollenberg
Jason Nathan
Scott Wilds, Office of Housing and Community Development

Richard Tyler, Historic Preservation Officer
Daniel W. Simcox, Executive Secretary

Also
Paul Uyehara, Law Department
Nathaniel Carr, Fire Department
Howard Kittell, Preservation Coalition of Greater Philadelphia
Michael Young, Classic Management, Inc.
Catherine Franklin, Penn-Knox Neighborhood Association
Samuel Rappaport, Victory Investments
Morris Hershman, counsel
John Soroko

Mrs. Kaplan announced the presence of a quorum and informed the public that the Committee serves in an advisory capacity to the Historical Commission, which would next convene on 10 July 1991. At that time, the Commission may take a final action on the applications reviewed at this meeting.

5324-26-28 Germantown Avenue
Owner Michael Young first applied for a demolition permit for these properties in January 1990 on the basis of their deteriorated condition. After several inspections by the Department of Licenses and Inspections, his request was denied. In June 1990, he applied under the financial hardship provisions of the ordinance. The Commission retained Richard Cohen to analyze the pro forma and other materials submitted. Mr. Cohen submitted his report in November 1990. However, the Commission deferred this application, contingent upon sealing and securing the properties, to allow the owner and representatives of the neighborhood association, a local community development

corporation and the staff of the Office of Housing and Community Development and the Historical Commission to devise a viable rehabilitation strategy. Though several meetings were held between December 1990 and July 1991, none has been fruitful. Mr. Young maintained that there was no economically viable reuse of these properties. As the largest developer of multi-family housing in Germantown, having rehabilitated over 1100 units, Mr. Young believed his assessment was sound.

Mr. Young indicated that he did not wish to present any new information, except that the Department of Licenses and Inspections issued violation notices for his adjacent properties on West Penn Street, assessing them as "imminently dangerous." He asked the Department to delay demolition of those properties, in order to reduce his total cost, until his request for the subject premises had been resolved by the Commission. Mr. Tyler noted that he would contact the Department on this matter.

Mr. Tyler then informed the Committee of his efforts to encourage the preservation of these buildings. He consulted Richard Cohen, whose original report suggested that substantial public subsidies were required for a viable rehabilitation of these properties. Mr. Cohen noted that market conditions have worsened and that rehabilitation seemed more difficult now. Mr. Tyler also contacted several neighborhood institutions to ascertain if they were interested in developing these properties. Neither the Germantown Friends School nor the Germantown Historical Society expressed an interest or ability to undertake this work. Finally, Mr. Tyler spoke with Tom Massaro, former director of the Office of Housing and a local developer. Mr. Massaro, having examined the properties, indicated that he could not foresee a viable reuse absent a substantial public subsidy.

Mrs. Kaplan inquired into attempts to sell the properties to a community development corporation as suggested in the Cohen report. Catherine Franklin of the Penn-Knox Neighborhood Association (PKNA) informed the Committee that her organization had supported further study of rehabilitation with first-floor retail use with residences on the upper floors. Consequently, PKNA approached both the Wister Development Council and the Greater Germantown Housing Development Corporation with this idea. She acknowledged, however, that neither could commit to this project.

Dr. Brownlee inquired into the viability of a plan which would preserve the building at 5324, while developing the remainder of an aggregated lot behind it. Mr. Young noted that a rear addition to this building possessed structural problems. More importantly, though, he asserted that storefront retail is not viable in this area and that only a shopping center with parking in the front would work. He referred to several letters from local realtors who testified to the importance of "visibility" of a development; these implied that preserving the buildings on Germantown Avenue actually would diminish the viability of the development of the whole site.

The Committee disputed this assertion. Mrs. Kaplan stressed that the plans for a shopping center with parking in the front were unsympathetic to the fabric of Germantown Avenue. As an alternative, she suggested construction to the building line with parking to the rear. Dr. Brownlee stressed that this "visibility" argument clearly contradicted one of the premises for historic preservation -- that historic buildings are assets. Mr. Hollenberg suggested that an improved design for redevelopment may incorporate the preservation of 5324, which has not been demonstrated as possessing dangerous conditions. He also noted a discrepancy between Mr. Young's general description of the costs in his cover letter, placing costs at $110/square foot, versus the highest in his pro forma, which was $70/square foot. Mr. Young reminded the Committee that he provided the plans for a shopping center, as well as the testimony from realtors upon its previous request to explore the viability of preserving the designated buildings while developing the rear of the site.

Considerable discussion ensued regarding the nature of the Committee's recommendation. Mr. Nathan suggested that it should determine that hardship exists if the applicant had proven that there was no economically viable reuse. Mr. Tyler indicated that the proposed plans for new construction may weigh in the consideration. Mr. Brownlee asked whether it was appropriate to approve a demolition permit if the economic conditions were so bad that the proposed development itself did not seem viable. Mr. Tyler suggested that the Commission only could concern itself with the viability of the historic buildings, that the risk of a new development rested upon the owner. If the property affords no economically viable reuse, then a financial hardship exists. Mr. Hollenberg re-phrased the preceding point, stating that if the demolition of a building does not remove the hardship, then there seemed little reason to allow the demolition of a building and the loss of an historic resource.

Mr. Nathan suggested that the Committee reach some determination. Although it could request further information, the developer already had submitted substantial testimony in response to prior questions. To date, no information disputed his claims of financial hardship. Mr. Nathan concluded, therefore, that to defer this matter any further was seemed unfair.

Howard Kittell urged, if the Committee was inclined to determine that hardship exists, that it request further study of the retention of 5324 amid a redevelopment design more sympathetic to the character of Germantown Avenue. He submitted that anything else would undermine planning endeavors of both the City and the neighborhood association. To this end, he encouraged the developer to explore a design which would maintain the streetwall while providing parking and primary entrances to the rear. In response, Mr. Young pointed to other nearby developments in support of his assertion regarding the importance of providing a parking lot in the front of a retail center.

Mr. Nathan suggested that the entire Committee was sympathetic to any conceivable means of preserving these buildings and the character of the Avenue. Yet, after months of discussion and meetings regarding an array of development options, a viable rehabilitation strategy has not emerged.

A MOTION was made by Mr. Nathan to forward a determination to the Commission that the applicant had demonstrated financial hardship for 5324, 5326, 5328 Germantown Avenue. Mr. Wilds seconded this motion. He added, however, that when this request is heard by the Commission that he will remain receptive to testimony in support of the preservation of 5324 Germantown Avenue.

The Committee voted unanimously (4-0) to approve the motion.

Victory Building, 1001-1013 Chestnut Street. Mr. Tyler provided introductory remarks for the request to demolish the Victory Building, 1001-1013 Chestnut Street. Constructed in 1873 as Philadelphia's first commercial building in the Second Empire style, it was enlarged by three stories in 1890 and expanded westward with a ten-story addition in 1901. The Commission designated this entire landmark in October 1972. Mr. Tyler acknowledged the receipt of two previously requested pro forma and suggested that the Committee recommend the retention of an independent consultant to assess the entire application. He then introduced Paul Uyehara of the Law Department and Captain Nathaniel Carr of the Fire Department.

Paul Uyehara, an attorney for the Code Enforcement Unit of the Law Department, provided a brief overview of the history of violations and litigation regarding this property. In October 1990, the Department of Licenses and Inspections ordered the owner to repair or demolish loose roof elements and requested an engineering study of the structural viability of the building. An order to "repair or demolish the dangerous premises," issued by Common Pleas Court Judge Lehrer was dismissed because of an administrative error. More recently, other violations were issued for this property. At a court hearing on 27 June 1991, the City agreed to divide them into two separate violation reports. The first, citing the building as a public nuisance, is related to several fires inside and continued vandalism, which have been facilitated by the inadequate measures to seal the building. The second violation listed numerous other conditions under the general term "demolition by neglect." Common Pleas Court Judge Nigro asked the parties to reach an accord on sealing the building and deferred any order until the Historical Commission has had an opportunity to review the demolition permit application. He set another hearing for 19 September.

Captain Nathaniel Carr, assistant Fire Marshall, confirmed this summary, stressing his department's concern that the building is adequately sealed and that combustible materials are removed. These preventive measures will promote the safety of the general public and the firefighters.

Samuel Rappaport, owner, asserted that there was no economically viable re-use for the Victory Building, and related his various strategies to rehabilitate this landmark. He stressed that these efforts occurred during the best years for real estate and development in Philadelphia's recent history. He had approached an array of developers, offering a variety of financial terms He submitted two letters documenting his proposal to devlopers Willard Rouse and Kevin Donahue, both of whom declined his offer. More recently, Mr. Rappaport has tried to find partners and devise a rehabilitation strategy with Mr. Tyler and William Blades of the Philadelphia Historic Preservation Corporation. Though he asked several local institutions if they were interested, none considered it a viable venture. The building has cost him $60,000 monthly and he has carried it for nine years without revenue. Now, he is also concerned with its condition and particularly worried that an architectural ornament may fall on a pedestrian. Further, he is being pressed by the violations issued by the Department of Licenses and Inspections. Though the structure is sound, its construction and design pose significant limitations for rehabilitation. Finally, he recounted his efforts to sell the building, submitting articles from the local press which documented that no one bid at an auction in 1989.

Mr. Nathan questioned the terms of that auction, which by all press accounts appeared to set a minimum bid of $5.5 million. With approximately 89,500 net square feet of space, that price translated to a prohibitive rehabilitation cost of $296 per square foot. Mr. Rappaport indicated that his $5.5 million mortgage required him to establish that minimum. Mr. Nathan then asked how demolition would alleviate this financial hardship. Mr. Rappaport responded that the site was more valuable cleared. If he sold the ground for $10 million, he could pay the mortgage, pay taxes and then would give the rest to charity. Upon further inquiry, he added that he would temporarily use the site for parking with an entrance from 10th Street. Demolition would relieve him of his worries regarding public safety, reduce his taxes and insurance premium and allow him to pay his mortgage.

Mr. Tyler informed the Committee that one financial institution was willing to finance rehabilitation. However, no developer or tenant has yet emerged. Mr. Nathan remarked that the resistance faced by Messrs. Tyler and Blades in their endeavor supported the claims of hardship made by Mr. Rappaport. Mr. Tyler noted that many significant buildings survived the economic collapse of 1929, and he expected that many more could survive the current recession. Toward that end, he requested a clarification of the increase from the original purchase price of 1.15 million to that of 5.5 million in 1983. Mr. Rappaport responded that he had owned 37.5% of the property; the increase represented the cost of buying the other 62.5% from his former partners, plus carrying costs. In response to an inquiry from Mrs. Kaplan, he suggested that the appraisal at the time of acquisition was optimistic and in hindsight inflated the building's value. Currently, the cost to rehabilitate just the retail level and to address certain structural problems is itself near $5.5 million.

Mr. Nathan asked how the building compared to the Lit Brothers' Store, a building restored after most people had conceded its demise. Messrs. Tyler and Hollenberg responded that Lits had nearly one million square feet of space and was 90% efficient. Mr. Nathan added that it was completed with a multi-million dollar tax incentive and nearly 70% tenant commitment. Mr. Rappaport emphasized that such tax credits and tenant commitment did not exist in the current market. Mrs. Kaplan suggested that the Victory Building compared more readily with the Ridgway Library, which also possesses grand open spaces and would cost a great deal to rehabilitate. Though preserving these buildings demanded the preservation of their grand spaces, it would be costly.

Mr. Nathan asked if the Committee were not faced with a similar situation as the preceding application: it could request more information, hire a consultant and still not change the final result. Mr. Tyler responded that the significance of this building warranted a comprehensive submission and complete review by an independent consultant. Mrs. Kaplan concurred, emphasizing that the Committee had an obligation to the Commission and to the public to ensure a complete review and consideration before taking a final decision. Mr. Nathan registered his agreement, so long as the review proceeded expeditiously.

Mr. Wilds asked Mr. Rappaport if he was willing to sell the building for less than 5.5 million, to accept a significant financial loss in order to preserve a significant landmark. Mr. Rappaport responded that he would not endure such a loss, because the financial hardship inherent to the building has made demolition its most likely fate, no matter who owns it. Having carried its costs for nine years, he declines to allow another developer to reap any financial benefit from its demolition.

Mr. Nathan asked the applicant if he intended to proceed with a similar argument for his properties on the south side of the 700 block of Walnut Street, the PSFS Building and adjacent townhouses. Mr. Rappaport responded that the problems of these two buildings were very different. The Walnut Street properties would cost 5.5 million to rehabilitate nearly 80,000 square feet. Hoping to use them for his personal office, he obtained an estimate of $12 million from Chip Durell. After acquisition, he received estimates of $12.5 million before fit-up and $25 million including fit-up. These costs were prohibitive and he abandoned his original intent. Since then, he has offered these properties for $19/square foot, with no takers. He suggested that a portion of 8th Street could be torn down. Mr. Hershman added that the Walnut Street properties were secure and did not have the problems of water and vandal infiltration as the Victory Building. Further, their asbestos problem had been abated.

Mr. Wilds then asked if the fundamental problem was not Mr. Rappaport's development strategy, as referred to in certain press accounts, of buying low and selling high. When the market is good this strategy reaps considerable profit; in hard times, however, it leaves him with properties that offer no return. He suggested that such a strategy may create a self-imposed hardship.

Mr. Nathan proposed phrasing this question in a manner which fell within the parameters of the ordinance. Mr. Rappaport responded emphatically that the preceding characterization was inaccurate.

Howard Kittell asked for an explanation of the considerable deterioration of the Victory Building. Mr. Rappaport responded that the City impaired him from rehabilitation in 1983 by disallowing him to encroach onto the sidewalk. He asserted that it took until 1990 for the City to make a final decision on that issue, by which time the costs and market made his venture impossible.

Mr. Brownlee asked if rehabilitation of one of the buildings would be viable. Mr. Rappaport responded in the negative.

A MOTION was made by Mr. Nathan to acknowledge the receipt of a complete application and to refer it to an independent consultant for analysis. Mr. Brownlee seconded this motion, which was approved unanimously. Mr. Hollenberg abstained.

There being no further business, the Committee adjourned.

Respectfully Submitted,

Daniel W. Simcox, Executive Secretary