THE REPORT OF THE COMMITTEE ON FINANCIAL HARDSHIP

OF THE

PHILADELPHIA HISTORICAL COMMISSION

Barbara Kaplan, Chairperson

Commission Conference Room, 1401 Arch Street

5 September 1991

Present

Barbara Kaplan, Chairperson
Executive Director, City Planning Commission
Edward A. Montgomery, Jr.
Jason Nathan

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

Also

Samuel Rappaport
Morris Hershman
Gray Smith and Howard Kittell,
Preservation Coalition of Greater Philadelphia
Richard W, Thom, AIA, Old City Civic Association
Frederick W. Anton and Robert Gaffney,
Pennsylvania Manufacturers' Association
Robert Pratter and Joshua Sarwer, Duane Morris Heckscher
Claire Mendelon, Binswanger Company
William Blades and Donna Harris,
Philadelphia Historic Preservation Corporation
Joann Weeks, Washington Square West Civic Association

Ms. Kaplan opened the meeting by informing the public that the Committee serves in an advisory capacity to the Historical Commission, which will next convene on 11 September 1991. This Committee serves to determine whether financial hardship has been demonstrated in support of permit applications. A determination of hardship does not guarantee approval of a permit application. Rather, it is one factor that the Commission may weigh in its decision regarding the permit application; other factors include the historic significance of the building and any other relevant public policy interest.

Victory Building, 1001-1013 Chestnut Street: The Committee previously reviewed materials submitted by owner Samuel Rappaport in July 1991. This information was forwarded to M. Richard Cohen, an independent real estate appraiser retained by the Commission to assess this application. The Cohen report, received 30 August 1991, was circulated to the Committee, the applicant and the Preservation Coalition.

Mr. Tyler provided an introductory evaluation of both the materials submitted by the applicant and the Cohen report. Efforts undertaken by himself and William Blades of the Philadelphia Historic Preservation Corporation to find an investor for rehabilitation of this building have not been fruitful. Two other members of the Committee, Scott Wilds and David Brownlee, recently toured the building. The composite of this information led Mr. Tyler to conclude that the Victory Building is not economically viable and that financial hardship exists.

Mr. Nathan expressed concern regarding the completeness and accuracy of the information submitted by Mr. Rappaport. This doubt particularly troubled him, given the significance and beauty of this building. Yet, acknowledging that its rehabilitation would be a large complex endeavor even in good economic times, he suggested that the recession made it highly improbable that it could be rehabilitated now. Though the Committee could delay a decision by requesting more information, the outcome seemed unlikely to change. Unless there were a special user committed to rehabilitation, financing would be nearly impossible to obtain. Mr. Nathan concluded these opening remarks by expressing his belief that financial hardship had been demonstrated.

Gray Smith, chairman of the Advocacy Committee of the Preservation Coalition of Greater Philadelphia, presented a twelve-page analysis of the Rappaport submission; the Commission office received copies of this letter on 16 August 1991 and forwarded it to the Committee and the applicant. [A copy of this letter shall be included in the record.] Having confirmed the presence of a quorum, Mr. Smith summarized his written report. He stressed that a building of this significance warrants the utmost professional scrutiny of the criteria of economic hardship, the public interest and physical conditions. The Rappaport report fails miserably in all of those categories and fails to meet the requirements of the preservation ordinance for proving financial hardship. The Cohen report, according to Mr. Smith, also is inadequate. A summary of his remarks, interspersed with the comments of various persons, follows:

- The "highest and best" use of the Victory Building would be as a luxury hotel. The Cohen report considers this possibility but dismisses it for reasons of timing and location. With regard to the former, the construction of the Convention Center will dramatically increase demand for hotel rooms within two years. He noted that it would take that amount of time to rehabilitate the Victory Building. The recent opening of Penn's View Inn near the Benjamin Franklin Bridge indicates that there is currently a market for this type of development. Mr. Rappaport noted that most hotels were presently experiencing financial difficulty, including the Bellevue.

Regarding the location, Mr. Rappaport also laments the condition of the neighborhood, but fails to mention that the Victory Building is only one half a block from the Gallery, across the street from Jefferson University and Hospital, nearby a significant U.S. Post Office and adjacent to the Pennsylvania Manufacturers' Association and a parking garage. The Cohen report mentions these major developments, but dismisses many of the small stores as "immigrant-owned," a characterization which neglects the fact that Radio Shack, I. Goldberg and others have solid, longstanding reputations. The location is not bad at all. Regarding Mr. Cohen's assertion that no one would want to venture onto Chestnut Street at night, consider the Marriott Corporation's choice of the 1200 block of Market Street as the site for its planned hotel.

- Regarding the general validity of the Rappaport report, its authors, Messrs. Rappaport and Hershman are not skilled developers and their pro forma is not reliable, but rather it is riddled with misinformation and vague statements.

    - The construction estimate is vague and incomprehensible.

    - It contains no pro forma for the demolition and Mr Smith questions the profit to this approach. Mr. Hershman dismissed the economics of demolition as irrelevant to a public agency authorized to preserve historic buildings.

    - Its affidavit, which should contain simple factual statements, avoids more questions than it answers. There are vague statements about the purchase price, maintenance costs and weak documentation of interested buyers.

    - In contrast to the efforts of Mr. Rappaport, it is useful to examine the 1987 pro forma submitted by Rouse Associates which shows a positive cash flow for the development of the building in the third year. Mr. Rappaport remarked that the economic climate in 1987 was much better than today. He added that it was telling that Rouse did no more than prepare a pro forma, even at the peak of an economic boom.

- The Cohen report is also vague at points and reaches conclusions without documentation or evidence.

  - It cites Mr. Rappaport's litigation problem, but does not investigate the reason for this delay. [Mr. Smith explained that one of Mr. Rappaport's former business partners told Mr. Smith that he sued Mr. Rappaport because of his refusal to allow the development of the property. Mr. Rappaport emphatically denied this intimation and called the source of the rumor a liar. He insisted the litigation was spurred by his efforts to further the rehabilitation of the building.]

  - There is no indication that Mr. Cohen contacted Thomas Jefferson University, though he asserts their disinterest in the property. [Mr. Tyler indicated that he had spoken with the University and that they were adamantly not interested in the Victory Building. Mr. Blades suggested that this disinterest may be founded more upon the potential availability of a nearby parcel than on a belief that the Victory Building lacked development potential.]

  - While the Cohen report claims that many historic rehabilitation projects have gone bankrupt, Mr. Smith stated that many others have not. The restoration of the Widener Building, the Bellevue and the Jacob Reed Store testify to the viability of some projects.

- Mr. Smith stressed that both reports also underestimate a critical factor in the equation for any economic analysis. They cite different figures for the "net square footage" of the building. Rappaport estimates 89,500 and Cohen uses 94,000 s.f. Both are lower than the net obtained by using the 1987 appraisal's figure of 180,000 gross s.f. By reducing this figure, both reports inflate the estimated per square foot development costs and reduce the projected rental income. Mr. Hershman indicated that the correct figure was near 130,000 s.f. and that the report contained a typographical error.

In closing, Mr. Smith objected that there has been an insufficient effort to prepare pro forma analyses of the viability of several uses. He dismissed the Rappaport report as an unprofessional and unacceptable attempt to escape a self-imposed hardship. Mr. Smith refused to understand the sustained dismissal of the neighborhood as low quality and stressed that a bad economy cannot be allowed as an excuse to dismiss a building as infeasible. For these reasons and others cited in his report, Gray Smith urged the Committee to reject this request for demolition based on the lack of adequate information.

Morris Hershman, counsel to Mr. Rappaport, objected to the preceding insistence on pro formas for a universe of uses. He suggested that if a particular use were so obvious, it seemed peculiar that the Coalition did not prepare a pro forma for it. Mr. Smith responded that the Coalition was a group of volunteers who lacked the time and funds to undertake a task which clearly warranted professional analysis. He stated, however, that the ordinance would seem to mandate that the owner should pay for such a report and the Commission should pay someone to analyze it adequately.

Howard Kittell, Executive Director of the Preservation Coalition, insisted that any financial hardship had been self imposed. He cited the Cohen report which states that " both the asking price and the timing are self-imposed hardships." Mr. Kittell stressed the significance of the Victory Building and urged the Commission not to allow its demolition, which would effectively make us as poor stewards for the City as Mr. Rappaport has been to his building. He concurred with Mr. Nathan that it would be improper to use the ordinance simply to delay a decision, but suggested that a limited delay was justifiable.

Mr. Rappaport claimed that no one loved the Victory Building more than he did, and he reminded the Committee of his endeavors to undertake its rehabilitation. He admitted that he had been unsuccessful in this endeavor, but stated that until the last day the building stands he would entertain offers to restore "the most magnificent thing on Chestnut Street."

Ms. Kaplan inquired into an allusion to fires in the building and whether there was any financial recovery from an insurer. Prior to the fire, there had been viable uses on the first floor. Mr. Rappaport responded that he received several hundred thousand dollars from his insurer. He tried to rehabilitate the first floor, but the City would not allow him to build out to the original building line, which encroached on the footway. A construction estimate he received for this work was prohibitive. He indicated that he used the money to "keep the building alive."

Mr. Montgomery suggested that although there may be flaws in the reports, there seemed a case for financial hardship. A number of years ago this building may have been viable, but today or in the foreseeable future, it was not. Mr. Tyler asked if there was a consensus that hardship had been demonstrated.

A motion was made by Mr. Nathan to forward a determination that financial hardship had been demonstrated for the Victory Building. Mr. Montgomery seconded this motion, which carried

unanimously.

A request was made to Mr. Tyler to obtain written remarks from Messrs. Brownlee and Wilds regarding their tour of the building.

The Jayne Estate Building, 2-16 Vine Street:
Mr. Tyler provided background information on this submission and noted that it was more complete than the preceding one. He reminded the Committee of the history of this application and that the B.T. Waterfront, Inc., represented by Dayl Pearson, had cooperated with both the Planning and Historical Commissions while developing a proposal to build a tower behind a restored Jayne Building. That proposal failed to obtain financing and the owners submitted a complete application for demolition on the grounds of financial hardship. The Committee reviewed materials at its meeting in June 1991 and the applicant since has submitted further requested materials. Together with the assessment prepared by Reaves Lukens, an independent real estate appraiser retained by the Commission, the composite of materials demonstrate financial hardship.

Mr. Montgomery stressed that the Committee cannot tie Philadelphia's stock of historic buildings to general economic indicators. Rather, it must determine if each particular building is viable now, or may be viable in the near future.

Ms. Kaplan concurred, but recalled that the applicant could not obtain financing for the most likely viable preservation scheme during a good economic market. She stressed that the applicant clearly had demonstrated an interest in developing this site and simply could not. Mr. Tyler underscored these comments.

Richard Thom of the Old City Civic Association submitted a letter from Roger Prichard, Development Chair of the Association. [A copy of this letter shall be included in the record.] Mr. Thom stressed that there was insubstantial evidence that sale of the property was impracticable. The Committee noted that the Reaves Lukens report acknowledged this deficiency, but concluded that sale at this time, with the Jayne Building protected and in place, would be "very remote."

Mr. Thom strongly criticized the proposed use of the site as a parking lot. He scoffed at the idea that there was any appreciable parking demand at this location. Further, he suggested that the proposed economic return from this use would fall far short of Mr. Pearson's projections. Using a standard planning computation, the Old City Civic Association could only find space for 70 cars rather than the 125 projected by the applicant. In addition, he noted that the Penn's Landing lot charges $60/month gross; Mr. Pearson claims he can obtain $100/month net per car on the Jayne site.

Mr. Thom suggested that it would be poor public policy to permit demolition of an historic resource because it cannot be redeveloped when even the cleared land could not be redeveloped. Mr. Tyler noted that the proposed parking would somewhat reduce the applicant's losses.

The Committee then discussed two suggestions offered by Mr. Prichard in his letter. It determined that, if demolition were approved, the Commission could condition its approval upon the submittal of demonstrated financing, construction documents and commitments from lenders. This contingency would ensure that an historic resource is not replaced with an undeveloped lot. The Committee stressed that such discretion resided with the Commission and exceeded the scope of the Committee.

Mr. Nathan then inquired into Mr. Prichard's suggestion that the Commission not judge the potential for reuse under current market conditions during a temporary real estate downturn. Mr. Nathan expressed concern that following this advice could result in a taking. Further, he suggested that the Commission had to review proposals under the current conditions, whatever they may be.

Gray Smith suggested that some projects, particularly hotels, were proceeding in spite of the general economic conditions. He observed that the previous recommendation on the Victory Building was made on "gut instincts" about the current economy and not on analysis of the individual building. He urged the Committee to look to hard analysis and insisted that an obvious use to examine is a hotel. Ms. Kaplan responded that this project had been analyzed extensively and stated that this particular building was not a viable hotel site. Mr. Nathan concluded that "obviousness, like beauty, is in the eye of the beholder." The City presently has a surplus of vacant hotel rooms which exacerbates a traditional difficulty in obtaining financing for hotels in Philadelphia. He stressed that what has been suggested as obvious was far more difficult than implied.

Ms. Kaplan remarked that there was a limit to the length of time the Commission could delay these proceedings before it would be considered a hardship. Mr. Blades concurred, but stressed that some owners would simply wait for poor economic conditions to clear their properties of inconvenient historic buildings. Mrs. Kaplan responded that a critical factor was if the property had been designated prior to current ownership.

A motion was made by Mr. Montgomery to forward a determination that financial hardship had been demonstrated for the Jayne Estate Building, 2-16 Vine Street. Mr. Nathan seconded this motion, which carried unanimously.

The Dunbar Store, The Scherr Store and The Allen Store
920-922, 926 & 930 Chestnut Street:
These three buildings were designated in 1989 over the objection of their owner, the Pennsylvania Manufacturers' Association (PMA). PMA submitted a report by The Kling-Lindquist Partnership and the Turner Company which indicated that these buildings require $750,000 of repairs to secure their facades. At a previous meeting, David Wismer of the Department of Licenses and Inspections confirmed the structural problems. The rental return from these properties does not justify this expense. PMA's concern for the safety of these facades has been exacerbated by the collapse of the facade of another of their properties on Market Street. Mr. Tyler concluded from review of the materials submitted that some hardship existed, though stressed that his conclusion was influenced more by the recent ruling of the Pennsylvania Supreme Court.

Robert Pratter of Duane Morris Heckscher made a technical correction to the report submitted. The Committee noted this change and acknowledged that it did not alter the result. He added that these properties have demonstrated a loss since PMA owned them; their hardship was independent of the market.

Mr. Nathan inquired into the assessment by the Department of Licenses and Inspections. Mr. Tyler informed the Committee that the Department reviewed and concurred with the engineering report that the facades possessed problems. The problems are reparable, but at a significant cost, which PMA does not want to invest in these properties.

A motion was made by Mr. Nathan to forward a determination that financial hardship had been demonstrated for the Dunbar Store, the Scherr Store and the Allen Store, respectively 920-922, 926 & 930 Chestnut Street. Mr. Montgomery seconded this motion, which carried unanimously.

There being no further business, the Committee adjourned.

Respectfully Submitted,

Daniel W. Simcox,
Executive Secretary