**REPORT OF THE COMMITTEE ON FINANCIAL HARDSHIP**
**PHILADELPHIA HISTORICAL COMMISSION**

**4 DECEMBER 2006**
**ROOM 578, CITY HALL**
**MICHAEL SKLAROFF, ESQ., CHAIR**

**PRESENT**
Michael Sklaroff, Esq.
James Brown IV
Kafi Lindsay, City Planning Commission
Vincent Rivera, AIA
Scott Wilds, Office of Housing & Community Development

Jonathan Farnham, Acting Historic Preservation Director
Randal Baron, Historic Preservation Specialist
Leonard Reuter, Law Department

**ALSO PRESENT**
John Gallery, Preservation Alliance
Joe Schiavo, Old City Civic Association
Janet Kalter, Old City Civic Association
Steve Kurtz, VFW Post 5205
John Gilligan, VFW Post 5205
Frank Hendry, VFW Post 5205
Frank Galioto, Director of Constituent Services, Office of Councilman Rizzo
Fred Baumert, PE, Keast & Hood
Joe Graci, PE, Franklin Engineering
Ken Smuts, Brown Hill Developers
Carl Primavera, Esq., Klehr Harrison
Richard DeMarco, Esq., Klehr Harrison
Harvey Spear, Centra Associates
Robert Spear, Centra Associates
Gagan Lakhmna, Creating Real Estate Innovations

**CALL TO ORDER**
Mr. Sklaroff called the meeting to order at 3:30 p.m. Ms. Lindsay and Messrs. Brown, Rivera, and Wilds attended the meeting.

**8217 GERMANTOWN AVENUE**
Owner: VFW Post 5205
Applicant: John P. Gilligan
History: 1859, designated 11/29/1966
Project: Legalize vinyl windows and panning

**OVERVIEW:** This application proposes to legalize vinyl windows installed without the Commission's approval or a building permit. The windows lack the proportions of the originals and cover or replace the original wood with a dissimilar material. The Commission denied the approval of these windows on 11 August 2006. At that time, the Commission requested that the applicant seek a solution with Matus Windows, the window vendor and installer. Matus has worked on numerous historically designated buildings and is familiar with the Commission's procedures and requirements. The applicant and Matus reached a settlement; Matus has agreed to split the cost of the replacement of the two first-floor, front windows. The Post proposes the replacement of these two windows and the legalization of the remaining 43 windows.

The financial information provided by the applicant indicates that the Post does not have the funds to replace the windows immediately. However, it may be able to replace them over a long period of time. When the Post is able to rent out all spaces to their commercial tenants, it has an annual surplus of approximately $4,000 to $6,000. If it devoted the entire surplus to historic windows, it could install them at a rate of two to three per year; it could replace the windows in 15 to 25 years.

**STAFF RECOMMENDATION:** It would be financially infeasible for the VFW Post to replace many windows immediately. The staff therefore recommends the immediate removal of panning and the gradual replacement of windows.

**DISCUSSION:** Mr. Baron presented the application to the Committee. Steve Kurtz, John Gilligan, and Frank Hendry represented VFW Post 5205.

Mr. Sklaroff asked the applicants how many windows had been replaced. Mr. Gilligan explained that 45 windows had been replaced. He offered to install historically appropriate windows in the two openings at the first-floor front of the building. Each replacement window would cost $2,000; Matus Windows, the contractor, and the Post would split the cost evenly. The Post would also have all of the panning removed on all windows. Mr. Sklaroff asked if the Post would replace additional windows over time. Mr. Gilligan stated that the Post would not; the Post cannot afford to replace any other windows.

Mr. Wilds noted that a Historical Commission plaque has hung at the entrance to the building since 1981. He asserted that the Post must have known that the building was designated as historic. He also asserted that a building permit would be needed to replace windows in this type of building regardless of its designation status. Mr. Kurtz, who is a roofing contractor, countered that it is unclear whether this window replacement project would have required a permit. He contended that the building code is unable to be interpreted without ambiguity in this regard. Mr. Wilds rejected his assertion and again stated that this project requires a building permit.

Mr. Sklaroff asked if the Post's contract with Matus Windows identified the party responsible for obtaining the permit. Mr. Gilligan displayed the proposals from Matus, none of which addressed the permit issue. Mr. Sklaroff noted that the proposals stated that the windows would be installed in a "workman-like" manner. They were not. Mr. Gilligan replied that the Post would like to avoid suing Matus.

Mr. Wilds asked if the applicants would consent to replacing all of the front windows over the next 1.5 years. They stated that they would not. Mr. Kurtz contended that not only would the replacement of the windows be a hardship, but that the process had already been a hardship. The veterans had been required to travel to Center City five or six times; this alone was a hardship.

Mr. Kurtz provided a brief history of the building. It was erected in the 1850s. By the 1950s, it had become much deteriorated. The veterans purchased the building from the Knights of Pythias in the 1950s, when they were young and numerous. Over the years, the veterans have aged and their ranks have dwindled. The building has become a burden. In the 1960s, they decided that they no longer needed the third floor. They started to demolish it, but were stopped by the Chestnut Hill community, which raised the money to save and restore the building. At that time, all of the windows were replaced. Mr. Baron noted that the historic building had a very old and perhaps original storefront, which was removed in the 1960s. The first-floor front window openings may be the only non-historic openings in the building. It does not make sense now to put historic windows in the only non-historic openings.

Mr. Sklaroff asked Mr. Baron to explain how the illegal windows differ from the historic windows. Mr. Baron noted that the new windows are not wood. They do not have the historic wide center muntin. The second-floor windows do not have the appropriate configuration. The historic windows were two-over-fours; these are two-over-twos with a transom.

Mr. Sklaroff recounted the history of the building. The first-floor front has been altered and may not be historic and the third-floor and roof have been reconstructed. He also noted that Matus should have known that it needed the Commission's approval before undertaking the project. Mr. Kurtz conceded that a mistake had been made; no permit was procured.

Mr. Wilds again sought a compromise. He noted that the second-floor windows are very interesting and should be restored. They are a key characteristic of the building and the style. He suggested that the Post replace the second- and third-floor front windows immediately and then address the remainder of the building. He explained that legalization requests put the Commission in a difficult situation; the Commission cannot treat applicants fairly who apply before undertaking alterations if it legalizes inappropriate work after the fact. Mr. Wilds noted that the building has significant value; the veterans should consider capitalizing on that value. Mr. Gilligan explained that the Chestnut Hill Historical Society has the first right-of-refusal to purchase the building at one-half of its market value. Mr. Sklaroff asked if the Society was involved in the window replacement. Mr. Gilligan explained that the Society played no official role. However, he reported that he had left a message for the director at the time, Peter Lapham. He had asked Mr. Lapham in the message if he needed his permission to replace the windows; Mr. Lapham never replied. Mr. Sklaroff suggested that perhaps Matus would replace the front windows; he expressed that this would be an adequate compromise. Mr. Gilligan stated that he could not commit to that and noted that he is "asking for a break." He contended that historic windows would not include the energy-efficient double-pane glass. Mr. Baron responded, stating that historic windows with double-pane glass are available. He also noted that they can be painted from the inside because they tilt. Mr. Kurtz again reported that he advocates the preservation of the building, but also claimed that its preservation would be a "terrible imposition" on the veterans. Mr. Sklaroff again emphasized that Matus should help correct the problem. Mr. Gilligan stated that the Post does not want to take legal action against Matus.

Frank Galioto, the Director of Constituent Services in the Office of Councilman Rizzo, stated that he can see the VFW Post from his home. He explained that the VFW gives a great deal to the Chestnut Hill community and is very important to that community. He supported the legalization and asked the Committee to take into account the impact of a denial of the legalization on the Post and community.

John Gallery of the Preservation Alliance reported that he has encountered similar problems with buildings for which his organization holds easements. He agreed that it would be a hardship to require the Post to replace the windows and noted that the building is quite valuable. He suggested that the Commission allow the replacement windows to be retained, provided that they are replaced with the appropriate windows at the time the building is sold. A stipulation could be placed in the deed. Mr. Wilds asked if the violation would stand. Mr. Reuter advised that the violation may be enforced automatically. Mr. Reuter also noted that the applicant had appealed the Commission's denial to the Board of License & Inspection Review. The matter now appears before this Committee as part of an effort to reach a compromise before the Board hears and decides the appeal. Mr. Sklaroff again asked the applicant if he would like to offer a more appropriate compromise. Mr. Kurtz restated their offer to replace the two first-floor front windows. Mr. Sklaroff suggested that the Committee recommend that the Commission table the matter. He noted that the staff could work with the applicant to devise a more appropriate compromise. Mr. Sklaroff then poled the Committee for a consensus on an appropriate compromise. He asked if replacing all front windows would be acceptable. Ms. Lindsay and Messrs. Brown and Wilds agreed that it would be acceptable. Mr. Rivera also agreed, but asserted that the remainder of the windows should be replaced at the time of the next sale. Messrs. Sklaroff and Wilds suggested that Mr. Gilligan consider the proposal and discuss it with his membership, the staff, and Matus Windows.

**COMMITTEE RECOMMENDATION:** Mr. Brown moved that the Committee recommend that the Commission table the matter for 90 days to allow the applicant to study his options and respond to the Committee's suggestion that all of the front windows be replaced with the historically appropriate windows. Mr. Wilds seconded the motion, which passed unanimously.

Mr. Sklaroff informed the applicant that the recommendation is advisory to the full Commission, which will meet on Friday, 8 December 2006. He informed the applicant that he and his colleagues may attend the meeting on Friday, but they are not required to attend.

**48 AND 50 S. FRONT STREET, 103 AND 107 CHESTNUT STREET**

Owner: Centra Associates, Robert & Harvey Spear, Cheswal Associates
Applicant: Richard DeMarco, Klehr, Harrison, Harvey, Branzberg & Ellers
History: 48 & 50 S. Front, 103 and 107 Chestnut Street built separately c.1835
All individually designated, all contributing to Old City Historic District
Project: Complete demolition

**OVERVIEW:** This application proposes the complete demolition of the four buildings at 48 and 50 S. Front Street and 103 and 107 Chestnut Street. It claims that the reuse of the buildings is financially infeasible. The Department of Licenses & Inspections has issued a violation for an Unsafe Condition at the building at 48 S. Front Street. The applicant has submitted several reports on the condition of the three structures at 48 and 50 S. Front Street and 103 Chestnut Street. Engineer Joseph Graci and engineer Albert Tantala each authored two reports. Historic preservationist Robert Powers authored a fifth report. The reports assert that the three buildings are in poor but repairable condition. Mr. Graci asserts that it would be expensive and potentially dangerous to attempt repairs; he recommends demolition. Mr. Tantala asserts that there is localized imminent danger and that the north and east walls should be either demolished and rebuilt or immediately and extensively restrained. The applicant has provided no information on the condition of the building at 107 Chestnut Street.

The Historical Commission hired an independent engineering firm, Keast & Hood, to assess the conditions and the possibility of repairs to all four buildings. The Keast & Hood report states that the properties not immediately dangerous. It also states that not only are the buildings repairable, but that many of the repairs have already been undertaken. The report also states that, with some infill of the openings between the buildings, each could stand on its own. The north wall at 48 S. Front, where other engineers noted a crack, is in fact two walls. One is the remainder of the building that once stood at 46 S. Front; the other is the north wall of 48 S. Front. These buildings were erected separately; joint and cavity has always existed between them. The walls have now been sewn together with numerous Hilti bolts, which are exposed in the interior of 48 S. Front. The Keast & Hood report did not note the bowing of the walls cited by others, but it does suggest tying the east or front wall of 48 S. Front to the side walls.

In addition to the violation and engineering reports, the applicants have submitted some financial statements for some of the properties. The statements note that the costs have exceeded revenues. However, this would be true of any vacant properties awaiting development. The properties may make money if wisely developed. The applicants have not demonstrated that the sale of the properties is impracticable as required by the ordinance. Indeed, many of the costs cited in the financial statements appear to be professional fees associated with an earlier but now abandoned application.

A cost study by Jeffrey Brown Associates is presented. However, it appears that this estimate is based on a larger development project, which is no longer proposed. The study includes estimates for work unrelated to the rehabilitation of these buildings. For example, the cost study shows a cost of $584,311 for underpinning. This number, which makes up more than a quarter of the total, would seem to come from the construction of an adjacent building, which the applicant has said is no longer part of this application. The study estimates $207,742 for gut demolition and shoring, much of which seems to have already been done. The rental analyses shows no income from the residential section of the buildings even though the Assumptions section of the rental analyses lists gross residential square footage as 13,892 and a monthly apartment rent of $1.33 per square foot. This rental income would add considerably to the cash flow. The study also shows no benefit from the historic tax credits, which would be available to these properties and which have been used successfully in the renovation of many properties in Old City.

The applicant has stated that he bought the properties to protect and enhance the development potential of his adjacent site, which is an open parking lot. He earlier proposed a development for the whole site. Although he has stated that he is not going forward with that development now because of current market conditions, these buildings in fact add substantially to the value of that future development because of the additional height (FAR) to be gained from having a larger parcel. Although mothballing these properties now would cost money, the eventual development package or even sale may recover these costs.

In 1 December 2006 cost estimate prepared by Mr. Smuts, which totals more than $4.5 million dollars, there is a cost of about $0.5 million for underpinning. This is separate from the over $150,000 for earthwork and $15,000 for landscaping. This cost would appear to be associated with the abandoned hi-rise tower development. He lists a cost of $174,000 for masonry separate from $124,000 for cleaning and restoration as well as over $100,000 for concrete. The assumptions related to the masonry work are not enumerated.

On the cost analyses in general, there is no allowance for tax credits and the overall value of this site to the later larger development.

**STAFF RECOMMENDATION:**

107 Chestnut Street is occupied and in good condition. No information is provided suggesting that it is either in poor condition or operating at a loss. No attempt has been made to market the property for sale.

> Staff Recommendation: The incomplete application does not prove that it would be a financial hardship to adaptively reuse this building.

103 Chestnut Street is vacant, but was vacant at the time it was purchased for inclusion in a larger development. The building seems repairable and potentially economically viable particularly as part of a larger development, but also perhaps on its own. No attempt has been made to market the property for sale.

> Staff Recommendation: The incomplete application does not prove that it would be a financial hardship to adaptively reuse this building.

48 S. Front Street is vacant, but was vacant at the time it was purchased to be part of a larger development. The building according to all of the reports seems repairable and potentially economically viable particularly as part of a larger development, but also perhaps on its own. No attempt has been made to market the property for sale.

> Staff Recommendation: The incomplete application does not prove that it would be a financial hardship to adaptively reuse this building.

50 S. Front Street is vacant, but was vacant at the time it was purchased to be part of a larger development. The building according to all of the reports seems repairable and potentially economically viable particularly as part of a larger development, but also perhaps on its own. No attempt has been made to market the property for sale.

> Staff Recommendation: The incomplete application does not prove that it would be a financial hardship to adaptively reuse this building.

**DISCUSSION:** Mr. Baron presented the application to the Committee. Attorneys Carl Primavera and Richard DeMarco, developers Robert and Harvey Spear, former property owner Gagan Lakhmna, engineer Joseph Graci, and construction manager Ken Smuts of Brown Hill Developers represented the application.

Mr. Baron stated that the buildings appear to be able to be repaired. He noted that the staff and the Architectural Committee recommended that the owners repair the buildings and make them safe immediately. He observed that the cost estimates appeared to be very inflated. He noted that the buildings have value as part of a larger development. He emphasized that the owners have made no attempt to sell the buildings as is required in the Rules. Mr. Baron explained that the application includes numerous items that were submitted at different times over a period of months. The staff recommendation addresses most but not all of the materials. It does not address the materials included as an addendum, which were submitted during the afternoon of 1 December 2006, the day that the materials were distributed to the Committee members. The staff did not have adequate time to review this addendum thoroughly.

Mr. Primavera explained that these buildings are vacant. They were last used as Rib-It and Crab Corners. He reported that Mr. Lakhmna, the former owner, submitted proposals to rehabilitate the properties to the Commission, but could not devise a profitable project. Mr. Sklaroff asked Mr. Primavera to note the addresses of the properties he was discussing. Mr. Primavera stated 48 and 50 S. Front Street and 103 Chestnut Street. Mr. Lakhmna stated that the Commission approved his one-story overbuild project, which was ultimately rejected elsewhere because of community opposition. Mr. Primavera explained that the Spears purchased the properties from Mr. Lakhmna, who lost money on them but was glad to be rid of them. Mr. Sklaroff asked why the Spears purchased them if Mr. Lakhmna could not make money on them. Mr. Primavera replied that they bought them because they were vacant and a blight on the neighborhood and they eventually wanted to incorporate them into a larger development project. He stated that the owners would like to demolish the buildings to create one large lot.

Mr. Sklaroff asked if Mr. Primavera meant that they purchased the properties to demolish the buildings and use the lot for parking or a new development. Mr. Primavera replied in the affirmative. The original intent was to incorporate the buildings into a larger hi-rise project. He reminded the Committee that the current owners had explored developing a hi-rise building on the site and had submitted proposals to the Architectural Committee, but had recently abandoned that project because of the downturn in the condominium market. He stated that his clients are now pursuing "Plan B," the demolition of the buildings. He stated that the City has cited the owner for a "Dangerous Condition." He referred the Committee to the Tantala and Graci reports, which contend that the buildings are in "very bad" condition. He noted the cost estimates prepared by Mr. Smuts for a "vanilla box." He stated that the estimates are based on restaurant use at the first and second floors and residential use at the third and fourth floors. Mr. Wilds noted that the memorandum of 1 December 2006 from Mr. DeMarco to the Commission relayed that the estimated numbers were based on retail on the first floor and residential on the second and third floors. Mr. Primavera replied that Mr. DeMarco's memorandum is in error. Mr. Wilds then asked about the validity of Mr. DeMarco's floor-space numbers. Mr. Primavera could not answer the question, but Mr. DeMarco assured the Committee that the square footage reflected the whole building, not only the three lower floors. Mr. Sklaroff noted another error in the application. A letter of 27 October 2006 by Mr. DeMarco claimed that the buildings are classified as "contributing" to the Old City Historic District. He explained that the buildings were designated individually in 1976, before the creation of the district. He contended that this fact is pertinent and should have been disclosed by Mr. DeMarco. Mr. Primavera stated that the incomplete disclosure was an "oversight." He also stated that he would like to see the buildings preserved, but preservation is not feasible.

Mr. Sklaroff observed that the owners have not attempted to sell the properties. Mr. Primavera replied that Mr. Sklaroff was correct. Mr. Sklaroff contended that another party may be interested in preserving the buildings. He also noted that the applicants have not provided any appraisals. Mr. Primavera stated that he and his clients had not sought any appraisals; he contended that the application includes "adequate" information. He also stated that the buildings are unsafe and a blight. He concluded that his "suspicion" is that no one would want to develop these buildings. Mr. Sklaroff responded that information must be provided to determine whether there is a market for these properties. Harvey Spear explained that there was no market for these buildings when he and his brother purchased them from Mr. Lakhmna. He asserted that no one wanted to buy them. Mr. Sklaroff noted that the fact that the Spears bought them indicates that there was a market. Mr. Spear stated that he paid $1.6 million for all of the properties. Mr. Lakhmna stated that he paid $1.5 million for them. Mr. Primavera concluded that even if they had paid half that amount, a rehabilitation project would not be profitable.

Mr. Smuts explained his cost estimates. He stated that he is a registered architect and a construction manager. He developed a scope of work to rehabilitate the buildings. He reported that he would create a “strongback” to support the building, which is unsafe. He would underpin a small section of the foundation. It would cost $470,000 to temporarily support the exterior walls during construction. He stated that this would be a stand-alone project, not connected to a larger development. It would have four floors. He would install a new foundation system in the basement. A new steel structure would be added inside the building. The first floor would be rebuilt in a new location. The roof would be replaced. The walls would be tied back to the new structure. The buildings would be pointed. The windows would be replaced. About 40% of the lintels would be replaced.

Mr. Wilds noted that the Keast & Hood report qualifies the buildings’ conditions as typical of Old City. He stated that numerous buildings like these have been rehabilitated easily in recent years. He asked Mr. Smuts if other developers have employed his unusual structural approach to rehabilitate similar buildings in Old City. Mr. Smuts replied that this would be a “special” project not like others in Old City. He disagreed with Keast & Hood’s assessment. Mr. Wilds asked how much it would cost to rehabilitate the buildings if Keast & Hood’s assessment was correct. Mr. Smuts replied that it would cost $1 million less than his proposal. His proposal would cost $4.6 million; Keast & Hood’s would cost $3.6 million. Mr. Wilds asked about the fit-out costs for the nine residential units. Mr. Smuts used $125 per square foot for fit-out. Mr. Smuts stated that his estimate was based on four, not nine units. Mr. Wilds noted the discrepancy between the estimate provided by Mr. Smuts and the cover letter from Mr. DeMarco. The two documents seemed to describe two different projects. Mr. DeMarco stated that the cost analysis provided by Mr. Smuts “had nothing to do” with his cover letter. Mr. Wilds held up the materials that included the DeMarco letter and Smuts analysis and asked why they did not agree. He stated that he cannot judge the application if it is not internally consistent. Mr. Smuts stated that he has also prepared another estimate that revealed different numbers; however, he will not discuss that estimate. Mr. Primavera claimed that his team had attempted to analyze every possibility and, in doing so, “has caused confusion.” Mr. Primavera stated that his team believes “that the first and second will always be retail and it will be a restaurant and the apartments will be on the third and fourth floors.” Mr. Smuts stated that there will be four apartments. Mr. Primavera stated that Mr. Smuts had prepared “a Chinese menu of options” and had “tried to stand on our heads to make the numbers work.” He concluded that “there is no way to do the Rubic’s Cube to make this project work.”

Mr. Sklaroff asked Mr. Smuts to clarify the assumptions of his analysis. Mr. Smuts stated that his costs estimates were based on retail on the first floor, not first and second, and residential on the upper three floors. He stated that the cost to rehabilitate the space would be $4.6 million including the fit-out. He stated that the total square footages were 12,067 net and 13,408 gross. Mr. Wilds opined that his estimates for the rental prices appeared low; $16 per square foot per unit. Mr. Primavera asserted that the Spear brothers are experts in the rental business. Mr. Primavera stated that the rehabilitation would not be profitable even if the units rented for $2,000 per month.

Mr. Graci reported that he decided that a new structural frame needed to be built within the buildings. He has examined the building three times. He stated that the Keast & Hood report had disregarded the other engineers’ reports. He contended that it contained “glaring errors.” He read a statement regarding cracks from page 7 of the report and remarked that the report never provided an explanation for the cracks. He stated that the walls are “peeling apart.” He stated that he has experience with historic buildings. Mr. Graci stated that he is not opposed to extraordinary efforts to save historic buildings. He noted a project he had undertaken on Elfreth's Alley. He observed that the buildings at Front and Chestnut are not worth saving; the bricks are crumbling. The bricks are very soft; some areas have no mortar. He asserted that the structural problems are not caused by settlement. The facades would need to be treated as a veneer. He said that there is a great amount of water damage. It would require an extraordinary amount of money to save the buildings. Mr. Wilds asked about the side wall of the building that stood at 46 S. Front Street. Mr. Graci said that that residual wall is pulling the 48 S. Front wall down. He claimed that the walls were bowed. Mr. Wilds stated that the analysis is based on the 46 wall remnant, not the 48 wall. Mr. Graci replied that both are moving.

Mr. Sklaroff asked Mr. Smuts if he generated a pro forma for condominiums. Mr. Smuts stated that he had generated one for rentals, not for condominiums. Mr. Sklaroff stated that the buildings could house six condominiums.

Fred Baumert, the Keast & Hood engineer who had signed the report, introduced himself to the Committee. Mr. Baumert stated that he had been in the building for 1 or 1.5 hours. He conceded that he had not spent as much time in the building as Mr. Graci. He stated that he and his firm are very experienced with this type of building. He stated that he had read the other engineers' reports. He noted that the bowing of stucco on the walls is not equivalent to the bowing of the brick walls themselves. He stated that he had visited the buildings again earlier that day. He exhibited new photographs taken during that visit. He asserted that the brickwork is straight. He explained that the joint between 48 and the remnant at 46 is fairly vertical. He observed that the buildings did not have a standard party wall, but have two separate property walls. He noted the star bolts, which hold the north façade to the structure of 48. He commented that there are numerous Hilti bolts in the north façade of 48. He claimed that, without destructive tests, there is no way to know if they tie the 46 and 48 walls together. He explained that the building that stood at 46 had a foundation. Therefore, the remnant wall is supported; it is not bearing on the 48 wall. Mr. Graci disagreed and stated that it would be pulling on the 48 wall if the walls are leaning out. Mr. Primavera stated that the walls at 46 and 48 are like "two drunks leaning on each other." They stand as long as neither moves. Mr. Graci observed that the south wall on 50 S. Front is bowed inward, which is unusual.

Mr. Sklaroff asked about the violations issued by the Department of Licenses & Inspections. Mr. Primavera explained that 48 S. Front has been cited, but added that the Department had treated the entire complex as one building. He stated that the interior spaces have been integrated.

Mr. Primavera observed that the purchase price could be discounted because it has "strategic value to the Spears." He also conceded that the forecast rental prices could be increased. However, even with these revisions to the numbers, the revenue generated by the project would not offset the costs. Mr. Smuts agreed that the project was not justifiable. Mr. Sklaroff asked him to again clarify his assumptions. Mr. Smuts stated that the hard construction costs were $4.6 million. Mr. Smuts stated that the land, professional fees, taxes, and other soft costs totaled $2.7 million. Mr. Wilds asked if that still included the costs for the abandoned hi-rise project. Mr. Smuts stated that that was part of the carrying cost. Mr. Primavera corrected him and stated that the hi-rise costs had been removed. Mr. Sklaroff asked him to clarify the soft costs. Mr. Smuts stated that the soft costs are the difference between $7.4 and $4.6 million. Mr. Sklaroff noted that that analysis does not appear in the submitted paperwork. Mr. Smuts stated that he could generate a "detail sheet" to provide those numbers. Mr. Sklaroff stated that those numbers would be helpful.

Mr. Primavera asserted that the project would not be profitable. Mr. Sklaroff observed that the application lacks an appraisal, which is required. Mr. Primavera responded that he does not need to submit an appraisal because he has Mr. Lakhmna to testify to the properties' marketability. Mr. Sklaroff asked Mr. Lakhmna when he bought the property. He replied that he purchased it in April 2004 for $1.55 million. Mr. Spear stated that he purchased it from Mr. Lakhmna in September 2004 for $1.65 million. Mr. Spear stated that that they had paid Mr. Lakhmna a $100,000 consulting fee.

Harvey Spear stated that the buildings are in poor condition. He stated that the buildings are in worse condition than when Mr. Lakhmna purchased them because Mr. Lakhmna began some demolition work. He contended that, as a result of that demolition, the star bolts are not connected to anything. Mr. Spear concluded that he is very concerned about the conditions of the buildings because of the demolition. Mr. Sklaroff asked about the demolition undertaken by Mr. Lakhmna. Mr. Primavera replied that the demolition was "his investigation that he talked about into the conditions." Mr. Spear asserted that Mr. Lakhmna's interior demolition exacerbated the deterioration. Mr. Graci, his engineer, disagreed with Mr. Spear's assessment and explained that the star bolts and the Hilti rods are two separate structural devices. The star bolts are connected to the floor joists; they have not been disconnected as Mr. Spear alleged. Mr. Graci stated that he assumed that the Hilti rods connected the 46 and 48 walls together, but he cannot be sure without testing. Mr. Baumert asserted that no one knows what role the Hilti rods are playing. The Hilti rods have not been disconnected as some allege; they may or may not have been properly installed. Mr. Rivera stated that the Hilti rods would support the wall if they had a strongback attached to them. Mr. Graci explained that the Hilti rods hold the walls together, but they do not hold them up. Mr. Baron asked if the star bolts are performing their intended function. Mr. Graci stated that the star bolts are attached, but the three facades are not connected to one another and the buildings will eventually fall. Mr. Wilds noted that the 46 wall has a foundation. Mr. Graci agreed, but stated that the 48 wall is leaning.

John Gallery of the Preservation Alliance addressed the Committee. He asserted that the application information was not available in time for him to formulate an educated opinion on the potential hardship. Mr. Gallery stated that the Commission's Rules require that information is submitted nine days in advance of any committee meeting. Reading from the Rules, he reminded the Committee that the "applicant has an affirmative obligation in good faith to attempt the sale of the property, to seek tenants for it, and to explore potential reuses for it." Mr. Gallery asserted that they had not met any of these requirements. He them noted that this application proposes the demolition of 48 and 50 S. Front Street and 103 and 107 Chestnut Street. The Graci report uses the address 101 Chestnut, which is not an official address. Mr. Graci's report does not mention the building at 107 Chestnut. Moreover, the other reports from Mr. Primavera's consultants do not mention the building at 107 Chestnut. Only the Keast & Hood report assesses the 107 Chestnut building; it concludes that it is not dangerous. Robert Spear stated that their application does not include 107 Chestnut. Mr. Sklaroff asked Mr. Graci if he assessed the buildings 103 or 107 Chestnut Street; Mr. Graci replied that he only evaluated the buildings at 48 and 50 S. Front Street and 103 Chestnut Street. Mr. Primavera noted that there are internal connections between 50 S. Front and 103 Chestnut. Mr. Gallery noted that 105 Chestnut is not owned by the applicants. Mr. Primavera stated that 107 Chestnut is not part of their hardship application. Mr. Gallery and Mr. Wilds corrected Mr. Primavera that 107 is part of the application. Mr. Sklaroff read from Mr. DeMarco's letter of 27 October 2006, which states that he is applying to demolish 107 for reasons of financial hardship. Mr. Sklaroff concluded that the application is incomplete. It includes no information on 107. Mr. Primavera conceded that he had no report on 107. However, he stated that, if the Committee acted prudently and approved the demolition of the other three buildings, it would approve the demolition of 107 as well.

Mr. Gallery asserted that the application includes numerous errors and omissions. He noted that 107 Chestnut was purchased for $600,000 or $700,000, which was not reported. He explained that the rehabilitation cost estimated by Mr. Smuts is $380 per square foot, which is “incredible.” The typical cost for Old City is $150 per square foot. He opined that the costs are so extraordinary that the Commission should require a second opinion from someone without a financial stake in the project. He observed that the buildings are very important and they warrant the evaluation of accurate estimates. He opined that the loss of these buildings would have a significant, negative impact on Old City. He noted that the violation was issued for 48 S. Front only. Mr. Wilds asked if this rehabilitation would be eligible for the 20% federal tax credits. Mr. Gallery stated that it certainly would be eligible for the tax credits. Joseph Schiavo of the Old City Civic Association objected to the demolition proposal and insisted that the tax credits be factored into the financial analysis. Mr. Baron reported that 107 Chestnut is currently occupied and includes apartments. In response to Mr. Sklaroff’s question, Mr. Primavera stated that there are no outstanding violations for 107. Mr. DeMarco reported that the Department is treating the group of buildings as one building. Mr. Baron disagreed and noted that other minor violations have been issued for 48 and 50 separately. Harvey Spears stated that the buildings are in poor shape and invited the Keast & Hood engineer to return.

Mr. Sklaroff opined that the application is incomplete. He asked Mr. Primavera if he wanted to proceed with the review. The application team retired to the hallway to discuss their options. When they returned, Mr. Primavera explained that he would like the Commission to continue the application to allow his team to amend their application and present it again to the Committee on Financial Hardship.

**COMMITTEE RECOMMENDATION:** Mr. Wilds moved that the Committee recommend that the Commission table the matter for 60 days to allow the applicant to amend his incomplete application and submit a complete application for review by the Committee and Commission. Mr. Rivera seconded the motion, which passed unanimously.

Mr. Baron informed the applicant that the recommendation is advisory to the full Commission, which will meet on Friday, 8 December 2006. He informed the applicant that he and his colleagues may attend the meeting on Friday, but they are not required to attend.

**ADJOURNMENT:** On a motion proffered by Mr. Rivera and seconded by Mr. Brown, the Committee adjourned at 6:00 p.m.