

STATEMENT BY STEVEN SPINOLA

PRESIDENT

THE REAL ESTATE BOARD OF NEW YORK

IN RESPONSE TO

THE LANDMARK PRESERVATION COMMISSION

CALENDARING ON 11/16/10 OF

PROPOSED UPPER WEST SIDE HISTORIC DISTRICT EXTENSIONS

The Real Estate Board of New York is very troubled by the proposed massive extension of the existing historic districts on the Upper West Side of Manhattan, extending from 70th Street to 109th Street, both in terms of substance and process. This extension which would create five contiguous districts, should more properly be titled the "Rest of the West Side" Historic District.

The Upper West Side already has nine existing districts, which covers its fabric from Central Park West to the east side of Broadway, including numerous properties that lack historic significance. By linking all of the districts previously created west of Broadway, from the block-long West 71st Street Historic District in the south to the Riverside Drive-West 105th Street Historic District in the north, the Landmarks Preservation Commission will capture and designate much of the remaining Upper West Side from the west side of Broadway to Riverside Drive, including properties without significance.

The area to be designated is already almost entirely included in contextual zoning districts (R8A, R8B, R10A, C6-4A) which mandate street wall buildings and maximum building heights, prohibit towers, and promotes development consistent with the existing scale of the area. In 2007 City Planning Commission adopted additional planning controls on the Upper West Side from 97th Street to 110th Street.

These proposed extensions follow a now all too familiar pattern – an area is studied and a historic district is created, which should encompass all of the meritorious buildings deserving preservation and protection. Then, in response to proposed development outside of the district, neighbors organize and seek the expansion of the historic district. This appears to be what happened here. The West End Preservation Society was reportedly formed by two neighbors after the undistinguished townhouses adjacent to their apartment buildings were proposed for redevelopment, which would have blocked non-permitted lot line windows. The Society commissioned a research study of a large section of West End Avenue which triggered the designation interest. This chronology demonstrates that the extension is not about protecting historic townhouses and meritorious architecture, but about preventing redevelopment (which

results in a loss of construction and permanent jobs and tax revenue to fund city services) and dictating building heights in the guise of regulating “scale,” a practice forbidden by the City Charter.

West End Avenue appears to be largely built out by apartment houses that utilize or exceed the permitted bulk. The effect of designation will be to prevent the development of a few underbuilt sites and to inhibit the needed expansions of educational and religious institutions in the area. The inclusion of most of the west side of Broadway from 107th Street to 75th Street, except for the most recently constructed buildings, is particularly dubious. New housing and retail development should be permitted on this high density mixed use corridor. Prohibiting it will decrease housing production, raise the cost of land and housing and cause a loss of tax revenue, which is a general consequence of the excessive mapping of historic districts and their restrictive administration by the Landmarks Preservation Commission. There are already 100 Historic Districts and twenty-two new districts and four extensions have been added by this Commission.

The current process of creating a large historic district extension such as this one which encompasses hundreds of buildings does not allow affected property owners a fair opportunity to comment on the validity of the district or how their property is likely to be regulated after designation. In contrast to a rezoning by the City Planning Commission, where there is often an area study and always a detailed Uniform Land Use Review Process application, a historic district designation hearing is typically conducted without providing owners and the public with more than a few pages of images and text about the "special character" of the district which qualifies it for designation, and without providing a building-by-building survey that fairly represents the integrity and significance of each property. The detailed rationale for the district and a survey and assessment of each property is only provided in the Designation Report, when a district is designated. In fairness and as a matter of due process, this information should be available as part of the hearing process, not after the fact.

The consequence of inclusion in a historic district is burdensome because of the very restrictive way the Landmarks Preservation Commission regulates historic districts. Any building with a listed architectural style, including "utilitarian" or "vernacular", is deemed to "contribute" to a historic district. It is almost never found to be "appropriate" to significantly alter or demolish a "contributing" building. This rigid distinction between "contributing" and "non-contributing" is not derived from the Landmarks Law, and has the practical effect of permanently freezing large areas of the city.

Alterations in historic districts are also reviewed with a rigidly conservative standard. The standard of "appropriateness" for a rooftop or a vertical addition has defaulted to whether it is visible, which is the standard for a staff not a Commission level approval and is arguably contrary to the case-by-case approach mandated by the United States Supreme Court in the Penn

Central case. Even changes to rear and secondary facades and in rear yards have been increasingly difficult to obtain.

The Real Estate Board of New York believes that historic districts are important to maintain the historical and architectural fabric of the development of the City, where they contain cohesive historic building context and meritorious buildings. Historic districts should not be used for neighborhood planning. Using landmark designation to protect views from penthouse apartments, to freeze architectural style preferences of a few current residents and to promote the self-interests of private parties is a misuse of the landmarks law. As a result of the calendaring actions of the Landmarks Preservation Commission our city faces the loss of needed new housing and commercial development, job creation and tax revenue for basic services and the innovative architecture that has helped make New York a truly global city. It should not be easier to build great new architecture next to the Parthenon, or a Roman villa, than next to, or on top of a 19th century New York City building. Could Rockefeller Center, the Seagram Building, the Guggenheim Museum or the Whitney Museum have been approved if the enactment of the Landmarks Law had predated their design?

In this time of budget deficits, where this area of the Upper West Side is already protected by zoning and largely built out, the resources of the Landmarks Preservation Commission should not be stretched further by undertaking the administration of a large new area which does not qualify for designation under the standards of the Landmarks Law and is being proposed for the wrong reasons.