

Second Annual Report of
D.C. Law 2-144, the "Historic
District Protection Act of 1978"

During the second year of D.C. Law 2-144, the "Historic Landmark and Historic Protection Act of 1978," 500 permit applications were processed by the Historic Preservation Office of the Department of Housing and Community Development. Of these there were 421 permit applications and 79 applications for conceptual design review. Of the 421 permit applications, 402 were from the City's nine historic districts and 19 from individually designated landmarks. Of the 79 conceptual design review applications, 71 were in historic districts and eight were for individual landmarks. Sixteen applications were either withdrawn by the applicants or returned to the Permit Office without action because of the applicant's failure to supply requested information. In five cases, there were negative recommendations to the Mayor's Agent not to issue the permits and they did not go to public hearings. The applications were either withdrawn by the applicants or public hearings were not requested by the applicants.

The attached chart lists by historic districts the types of permit applications issued. As will be noted the largest number were from Capitol Hill, followed by Georgetown. As pointed out in the first report, review of applications in Georgetown is done primarily by the Old Georgetown Board and the Commission of Fine Arts (CFA), a federal agency. Of the 421 permit applications processed, 329 were for permit applications for alterations in historic districts and 17 were for individually designated historic landmarks. Twenty-nine were applications for new construction on an historic landmark. There was one subdivision permit application in an historic district but none on individually designated historic landmarks. There were 20 demolition permits issued as not contributing to the character of the historic districts.

Four permit applications received negative recommendations from the Joint Committee on Landmarks (JCL) and were scheduled for public hearings. Three were permit applications in historic districts; two were demolition permit applications; and one was for new construction. The fourth permit application was a demolition permit application for an historic landmark, the Bond Building, located at 1406 New York Avenue, N.W. All of these applications were subsequently heard at public hearings by the Mayor's Agent.

A public hearing was held to consider a new construction permit application for a building to be located at 1330 Connecticut Avenue, N.W., the International Association of Machinists (IAM), in the DuPont Circle Historic District. The JCL recommended to the Mayor's Agent that the design of the building and character of the historic district were incompatible. After a public hearing the Mayor's Agent also determined that the design was incompatible with the character of the historic district and denied issuance of the application. That decision has been appealed to the D.C. Court of Appeals by the applicant.

One of the two demolition permit applications for buildings in historic districts was for the Pepco Substation No. 12, located at 1020 33rd. Street, N.W., in the Georgetown Historic District. After a public hearing, the

Mayor's Agent ordered issuance of the permit application because the demolition was necessary to allow the construction of a project of special merit, continued safe, reliable, electrical service to the Georgetown community. The case was appealed by the party in opposition, Don't Tear It Down, to the D.C. Court of Appeals. Heard on an expedited basis, the Appeals Court just recently issued its opinion upholding in part and remanding in part for further clarification, the decision of the Mayor's Agent.

The other demolition permit application scheduled for public hearing was for the Ingraham Memorial Congregational Church, at 914 Massachusetts Avenue, N.E., in the Capitol Hill Historic District. The hearing was not held at the request of the applicant and the party in opposition, the Capitol Hill Restoration Society, to postpone it pending their attempts to work out a mutually satisfactory solution.

The last demolition permit application that was scheduled for a public hearing was that of the Bond Building, an individually designated landmark, located at 1406 New York Avenue, N.W. Opposed by Don't Tear It Down, the owners of the building, M.B. Associates, have pleaded that the demolition permit is necessary to construct a project of special merit, that denial of the permit will result in an unreasonable economic hardship to the owner and that issuance of the permit is consistent with the purposes of the Act as defined by Section 2b. Four and half days of hearings were held in February and March and a decision was issued on May 11, 1981 denying the permit.

In all of the cases in which public hearings were held during the first year of the law, and which were mentioned in the first Annual Report, have decisions been issued and appealed to the D.C. Court of Appeals. They are: (1) the demolition permit application which was denied for the Lansburgh's Furniture Store at 901 F Street, N.J. ; (2) the issuance of the demolition permits and applications for preliminary review ordered for the Keith/Albee, Rhodes' Tavern, and National Metropolitan Bank Building on Square 224,* and (3) the attempt by the D.C. Citizens Coalition to appeal the Mayor's Agent decision to order issuance of the demolition permit for the Elk's Lodge in order to construct a project of special merit, the Convention Center. The Court of Appeals rejected the appeal and the decision stands.

All of the trends and observations discussed in the first Annual Report were still prevalent during the second year of operation of the Act. One that is still particularly popular and that was mentioned in the Annual Report is the use of conceptual design review. Using this administrative process an applicant can seek the advice of the JCL or the CFA, before applying for an actual permit. This administrative procedure offers applicants the opportunity and flexibility to receive the advice of the JCL before actually filing for a permit application.

After two years of administration there are some general observations that can be made regarding the Act. In these two years almost 1,150 permit applications have been processed, only 150 less than the 1,400 applications processed under five years of the previous preservation law. In the last six months only one case has gone to public hearing. The decreasing number of public hearings held may be attributed to the stringency with which the Act has been enforced by the Mayor's Agent and the cost of participating in such cases.

Effective administration of the law continues to depend upon adequate staff resources. Administration of the Act by four members of the eight member staff continues to require most of their time and energy at the expense of other required activities. As the number of historic landmarks and historic districts increases, the potential number of permit applications to be reviewed under the Act will also increase, placing a further strain on the small staff.

There is another major expense that relates to the administration of the Act. Public hearings consume a great deal of staff time and most of the hearings have run from two to four full days. A great deal of time is taken to review the transcripts and the exhibits and to prepare an order. Appeals to the Court of Appeals require the extensive preparation of the record. In addition, there are increasingly substantial operational costs related to the hearing process.

As stated in the first Annual Report, the key to successful administration of the Act is to properly provide funds to staff and implement it. Thus far, the costs have been largely absorbed by the Community Development Block Grant (CDBG) money and by Interior Department' funds. With the possibility of a sharp decrease in Interior Department funds, additional resources, including appropriated funds, may be required.

*The Court of Appeals recently issued decisions in these two cases unanimously upholding the decisions of the Mayor's Agent.

- I. Total number of permit applications
 March 1980 - March 1981 421
- Total number of Conceptual Design review applications 79
- A. Individual Landmarks - 19
1. Total number of permits issued without public hearing
 - Alterations 17
 - a. Demolitions 1
 - New Construction 1 (Washington Circle)
 - b: Subdivision
 2. Total number of public hearings where permit ordered issued:
Type of Application Address Action Litigation
 - a.
 - b.
- B. Buildings within Historic Districts - 386
1. Total number of permits issued without public hearing - 381
 - a. Alterations 329
 - b. Demolitions 22
 - c. New Construction 29
 - d. Subdivision 1
 2. Total number of public hearings where permit ordered issued - see report
 3. Total number of public hearings where order was "Do Not Issue" - see report
 4. Total number of JCL recommendations of DO NOT ISSUE to Mayor's Agent which did not go to Public Hearing because applications were withdrawn or Public Hearings not requested 5
 - DuPont Circle 1
 - Capitol Bill 4
- C. Total number of permit applications withdrawn or returned without action March 1980 - March 1981 16
- D. Total number of conceptual review applications (new construction and alteration) 79
- a. buildings in historic districts 71
 - b. individual landmarks 8

II. Number of permits issued in historic districts by district

(for public bearing cases see above)

- a . Anacostia - 6
 - (1) alterations 6
 - (2) demolitions
 - (3) new construction
 - (4) subdivisions

- b. Capitol Hill - 161
 - (1) alterations 138
 - (2) demolitions 4
 - (3) new construction 18
 - (4) subdivisions 1

- c . Georgetown - 146
 - (1) alterations 120
 - (2) demolitions 16
 - (3) new construction 10
 - (4) subdivisions

- d . DuPont Circle - 46
 - (1) alterations 43
 - (2) demolitions 2
 - (3) new construction 1
 - (4) subdivisions

- e . Sixteenth Street - 1
 - (1) alterations 1
 - (2) demolitions
 - (3) new construction
 - (4) subdivisions

- f . LeDroit Park - 8
 - (1) alterations 8
 - (2) demolitions
 - (3) new construction
 - (4) subdivisions

- g . Logan Circle - 3
 - (1) alterations 3
 - (2) demolitions
 - (3) new construction
 - (4) subdivisions

- h. Pennsylvania Avenue National Historic Site - 10
 - (1) alterations 10
 - (2) demolitions
 - (3) new construction
 - (4) subdivisions

- f . Massachusetts Avenue - 5
 - (1) alterations 5
 - (2) demolitions
 - (3) new construction
 - (4) subdivisions

III. Litigation

A. Cases resolved since First Annual Report

1. Pepco Substation No. 12, 1020 33rd Street, N.W.
2. Elk's Lodge, 919 H Street, N.W.
3. Lansburgh's Furniture Store, 901 F Street, N.W.
4. Keith/Albee - Rhodes' Tavern - National Metropolitan Bank Building on Square 224

B. Case still pending since First Annual Report

International Association of Machinists, 1330 Connecticut Avenue; N.W.

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- c. Georgetown - 146
 - (1) alterations - 120
 - (2) demolitions - 16
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 - (4) subdivisions

- d. DuPont Circle - 46
 - (1) alterations - 43
 - (2) demolitions - 2
 - (3) new construction- 1
 - (4) subdivisions

- e. Sixteenth Street - 1
 - (1) alterations - 1
 - (2) demolitions
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- f. LeDroit Park - 8
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3. International Association of Machinists, 1330 Connecticut Avenue, N.W.