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# HAWAII ARCHITECT

October, 1978





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October, 1978

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All correspondence should be directed to:

**Hawaii Society/AIA**  
1192 Fort Street Mall  
Honolulu, Hawaii 96813

Beverly McKeague  
Executive Secretary  
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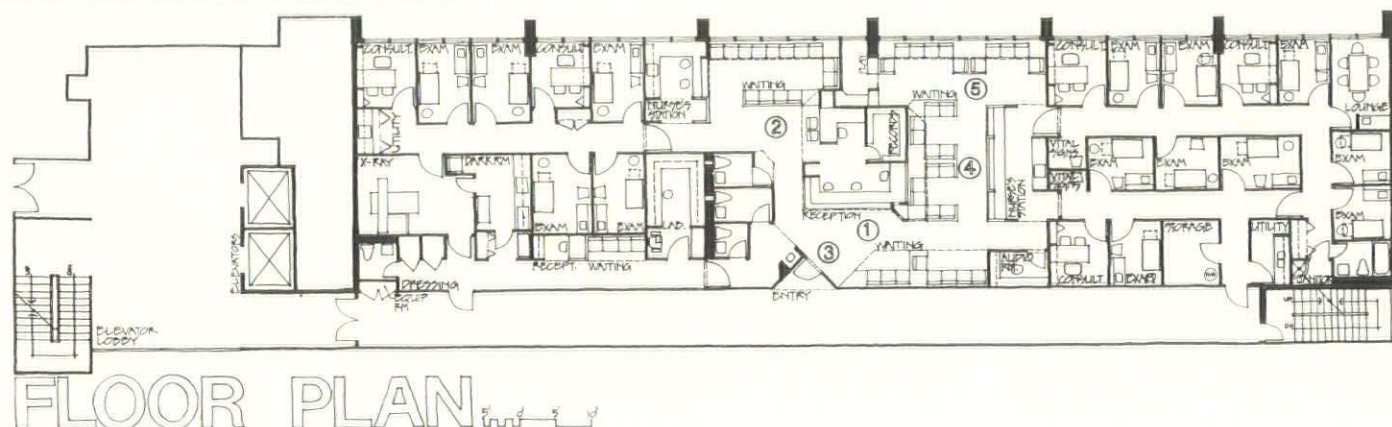


LAURELS

# HS/AIA Merit Award Interiors

Straub Satellite Clinic

Media Five Limited



**SITE:** Straub Satellite Clinic is located on the second floor of the Newtown Square Building in Aiea, Oahu. The Clinic occupies the Diamond Head portion of the Makai Wing, overlooking the Waimanu Canal.

**PROBLEM:** Straub Clinic & Hospital wanted to build an outpatient health care facility to serve the burgeoning population of the Pearl City Area. The purpose of the proposed clinic was to extend the services of the main clinic and hospital. Facilities were required for one pediatrician, one internist, one OB/GYN, one lab/x-ray technician, and one visiting specialist, with offices ultimately to accommodate a total of five physicians, 14 exam rooms, x-ray, lab, waiting, records, storage, toilets, and utility areas. The layout had to be flexible enough to allow for expansion yet structured enough to operate effectively.

**SOLUTION:** The long narrow space was divided into four zones, with receiving and records in the center. Pediatrics and internal medicine occupy one end, OB/GYN and the lab facilities the other. Each side has access to storage and utility areas. The x-ray lab zone and the major storage area have access through service doors from the corridor so that no public or patient areas are disturbed by service activities.

The waiting area, while appearing to be open, has the OB/GYN section separated by receiving and a glass windowed partition. The pediatrics area has a small playroom filled with toys and books. The seating in the waiting room is built-in with each section upholstered in a different color. It was determined that the warm

cheerful look of the built-in oak seating could be provided more economically than ordinary contract furnishings.

The layout of the x-ray/darkroom facility was specially designed to allow the technician to view the patient at all times when on the x-ray table, making use of the innovative "daylight" film and lighting. Ordinary film and processing can still be used by closing the door between x-ray and darkrooms.

**LOCATION:** Kaahumanu Street,  
Newtown Square,  
Aiea Oahu

**CONTRACTOR:** Robert M. Kaya Builders

**BID DATE:** November 5, 1976

**CONSTRUCTION PERIOD:** March to July 1977

**PROJECT DESCRIPTION:** Site Size—5,000 sq. ft.

Construction — Gypsum board partitions on metal studs with veneer plaster. Oak ceiling in lobby/reception area with acoustic tile elsewhere.

Included in construction costs—Built-in seating, desks, side units, and shelving in doctor's offices, cabinetry for lab & X-ray.

**COSTS:** Architectural \$200,516.00  
Electrical . . . 23,500.00  
Mechanical . . 43,500.00

Total . . . . . \$267,516.00

Per Square Foot: \$53.50

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**Jury Comments:**

Energetic use of color made for an exciting visual concept. The clinic has good internal circulation and all space functions correctly. The entrance forms and furniture placement create a pleasing environment, especially important to the patient.

Wayne Thom Associates





# Survey Points to the Future

The group that puts the Hawaii Architect together every month has been at it for about 24 issues and it's apropos to review, with the aid of our recent readership survey, the progress of the journal and some plans for its future.

The survey was written, collated, and summarized by Survey & Marketing Services, Inc., an independent research company and was sent to 875 addresses from the Hawaii Architect circulation list. Of these, 306 (35 percent of the sample) was returned.

First, an attempt to draw a profile of the Hawaii Architect reader is aided by these statistics:

- 60 percent of Hawaii Architect readers listed their professions as "architect," "contractor," or "engineer."
- 58 percent work for companies with 20 employees or less.
- 80 percent of the readers pass along their copy of the magazine to at least one other person.
- 80 percent participate in management decisions.
- 55 percent have ownership interest in their company.
- 85 percent are male.
- The estimated median age of respondents is 47 and the median annual income is \$36,000.

Taking a look at the magazine itself results in several encouraging signs. Eighty-two percent, or 251 respondents rated Hawaii Architect as either "excellent" or "good." One percent, or three respondents rated the magazine as "poor." The majority of the written comments were highly favorable. Indications, therefore, are that the journal is on the right track, but many more constructive and instructive comments about content were obtained.

Survey respondents were asked about their relative interest in 20 different articles and features which have appeared or could appear in HA. In 16 of those 20 categories a strong majority classi-

fied themselves as "interested" or "very interested" and the percentages in these categories was usually in the 70 and 80 percent range. New projects, individual buildings, planning, and new materials and products scored the highest and other subjects in the above 70 percent range included landscaping, energy, photo features, legal opinions, legislative, cost control, and technical information. We have a readership group with very diverse interests.

The four categories which had a minority of respondents classifying themselves as "very interested" or "interested" were articles on graphics (48 percent), book reviews (32 percent), advertisements (30 percent), and letters to the editor (45 percent).

Specific comments and suggestions were very rewarding. Some readers wanted more photos and graphics, some wanted less. Some wanted less print and some wanted more in-depth articles. As long as these comments are relatively balanced in number we will probably not change the ratios in these areas.

Some readers suggested the use of color, which HA has contemplated and will try to utilize when economics allows it. A number of readers wanted more detail in the feature building articles and more coverage of each featured building. The journal will try to comply with these requests in future articles. One very relevant desire was for more material which stresses the uniqueness of Hawaii in design "i.e., Ossipoff/Pearson thinking."

The purpose of the Hawaii Architect is not to compete with our excellent national AIA Journal or any of the major national architectural magazines. HA's goal and value lies in its ability to extend to the local level the many architectural concerns which need superior graphics and deeper discussion than the Memo allows.

The editors have consistently attempted to provide articles of particularly local importance. This effort will continue. In this issue we begin a series of articles on Hawaii's architectural past (see page 14). Also in this issue we begin a series by land use attorney David Callies, LL.D., of the University of Hawaii School of law (page 11).

As with any volunteer effort, limitations of time and money restrain us a little. The staff is always looking for more help, either on a one-shot or continuing basis. We attempted to set up a series on Neighbor Island work which failed for lack of input from architects on those Islands. Articles on materials and equipment have been sporadic and dependent on staff time limits. More buildings? There is no reason why individual architects with interesting designs or concepts can't notify Hawaii Architect to get better coverage of their work.

There have been improvements, but there is room to add even greater depth and diversity to the magazine. We'll never stop trying to do just that. HA



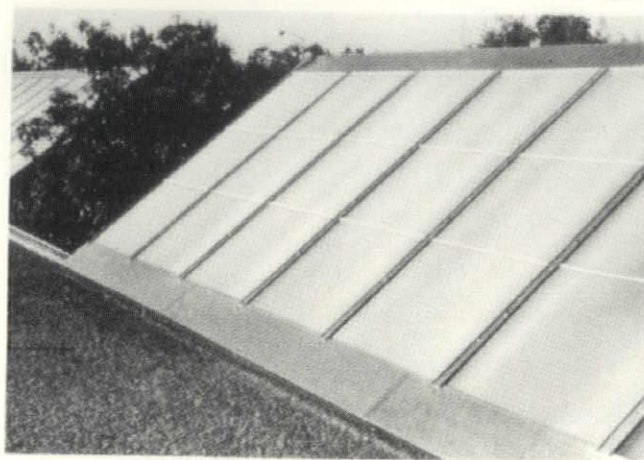


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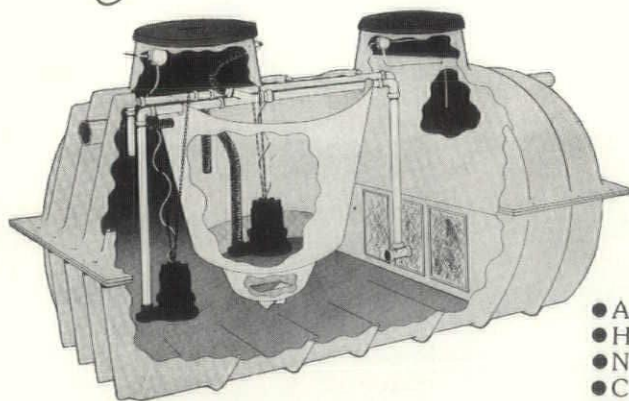
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# We're Not The Only Ones!

An article from the Alabama Council of Architects—AIA Newsletter, 'Eagle'

The Alabama Council of Architects is politically naive. Kicking and screaming, we've been dragged into the arena of 20th century politics, as fought Alabama style. Last legislative session, we got a taste of our own blood.

Innocently thinking that an all-understanding legislature would be approving of attempts to correct deficiencies, do away with flagrant violations of the law, and protect the public, the Alabama contingent made a valiant effort to amend the

state registration law for architects. Meeting over a period of a year and a half, they gave opportunity for all to be heard. They went through revision after revision. Finally, it seemed everybody was pleased with the final draft.

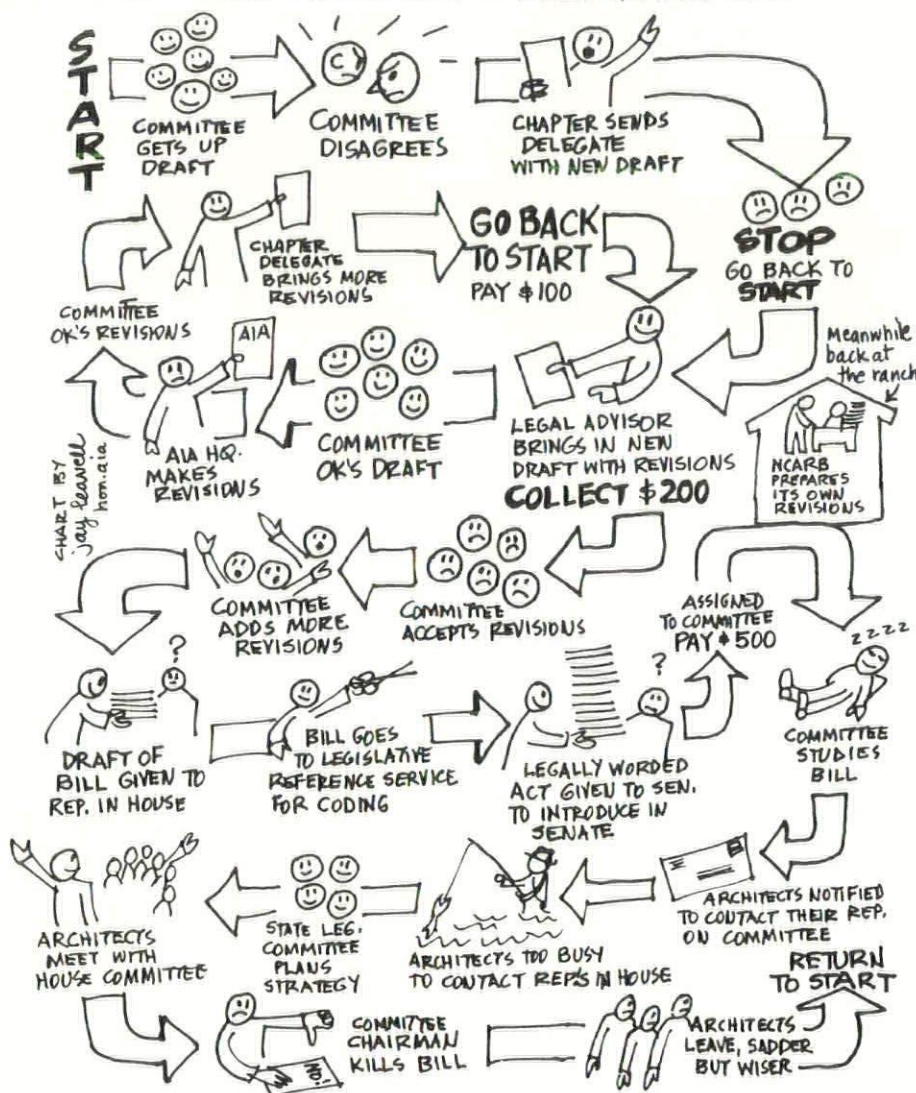
Contacts were made in the House and the Senate to introduce the measure. Architects were alerted to do two things: first, discuss the measure's intent with their local legislature; then, second, when it was assigned to the House Judiciary (Judy) Committee, to contact their local members and discuss it with them.

How many contacts were made by architects nobody knows because the reporting back was almost nill. When the state legislative chairman appeared before the Judy committee, nobody in that group seemed to have gotten any sort of message.

Only the chairman, Rick Manley of Demopolis, had been contacted by a member of the group, and according to the report gave assurance that he would make every effort to see that the bill was reported out of committee.

At the hearing, Manley was openly hostile. He raised the question that if he were to build a building for occupancy by lawyers, or doctors, or others, he couldn't do so without an architect. He was informed that he couldn't do that under the present law. (It says: "... any person who shall be engaged in the planning or designing for the erection, enlargement or alteration or any building or buildings for others, or furnishing architectural observation and inspection of the construction thereof shall be deemed to be practicing architecture and be required to register under this chapter ... the term 'building' in this chapter shall be understood to be a structure consisting of foundation, walls and roof with or without the other parts." Title 46, 1940,

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Chapter 2, Sec. 9.)

There were a few other questions, including one from Huntsville's Hartwell Lutz, who questioned whether the exemptions applied to single-family dwellings shouldn't extend to apartments, office buildings, etc.

The chairman questioned whether or not the architects in the state knew that the committee was up here trying to change the law. Openly hostile, Manley made a statement "that none of the other architects in the state knew what was in this bill." After being informed that numerous mailings had been made conveying every step of the process, over the past year and a half, Manley called for a voice vote.

To those architects in attendance, it seemed a clear majority voted "aye." Out of a 10- or 12-person committee, clearly some eight voted to move the bill out. The "nos" seemed to total three or four. Said the chairman, "The 'nos' have it." He added ominously, "unless somebody wants to have a roll call vote." Obviously nobody did.

The architects left, sadder but wiser. The gentle art of politics had taken its toll.

Who queered the bill? We've got some ideas. But while we sort them out, remember the name of Rick Manley of Demopolis. **HA**



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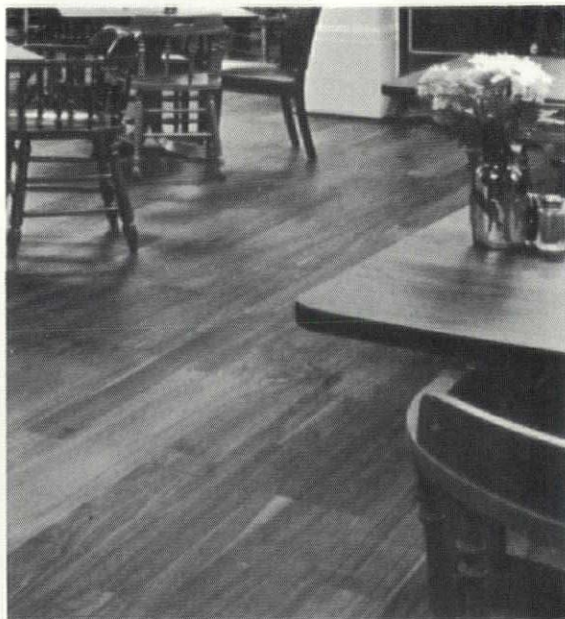
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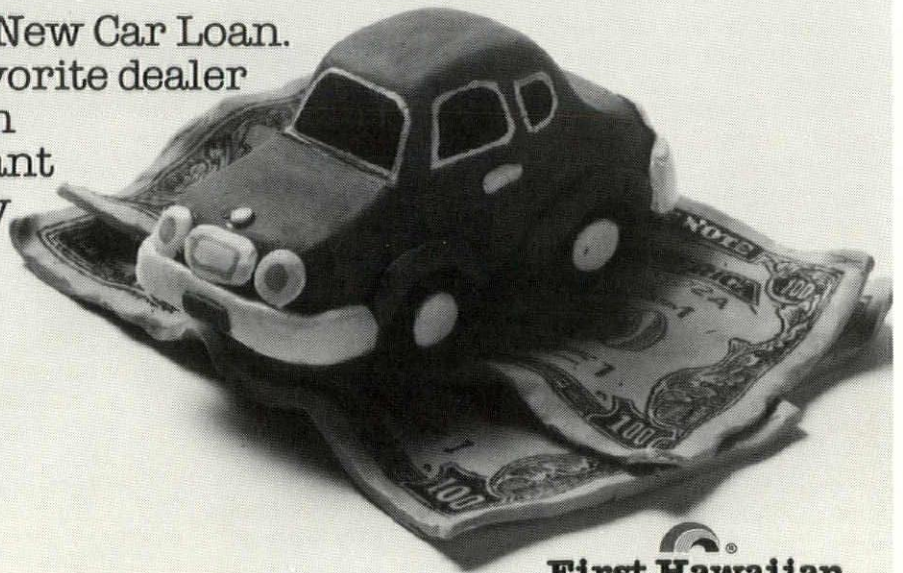


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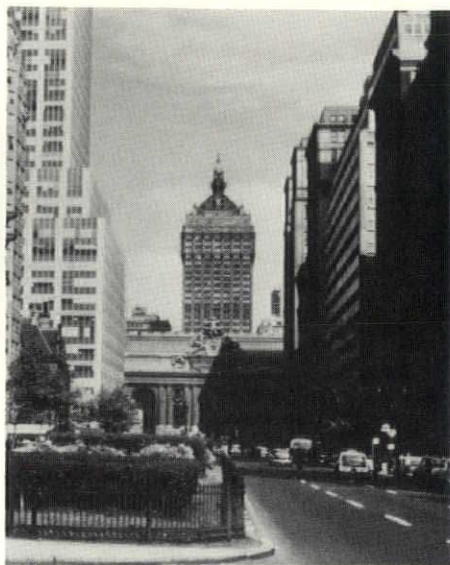


# Grand Central Station Landmarks Preservation Law

by DAVID L. CALLIES

*"[W]e must decide whether the application of New York City's Landmarks Preservation Law to the parcel of land occupied by Grand Central Terminal as 'taken' its owner's property..."*

Mr. Justice Brennan; Penn Central Transportation Company v. City of New York.



On June 26, 1978, the Supreme Court rendered its long-awaited decision in *Penn Central Transportation Company v. City of New York*, thereby breaking for the fifth time in five years its half-century of silence on land use controls. But while it may be hailed as a ringing declaration in favor of the preservation of historic buildings which have a viable economic use to their owners, the Supreme Court's decision does not provide carte blanche for the preservation of historic structures.

It is clear, for example, that the Supreme Court has not yet said that a historic building, however significant, must be preserved, regardless of the economic consequences to the owner.

What follows is a summary, first of New York City's Landmarks

Preservation law, then what it was that the Penn Central Transportation Company proposed to do to its Grand Central Terminal Building, in order to put the decision of the Court and its implications in perspective.

## The Law

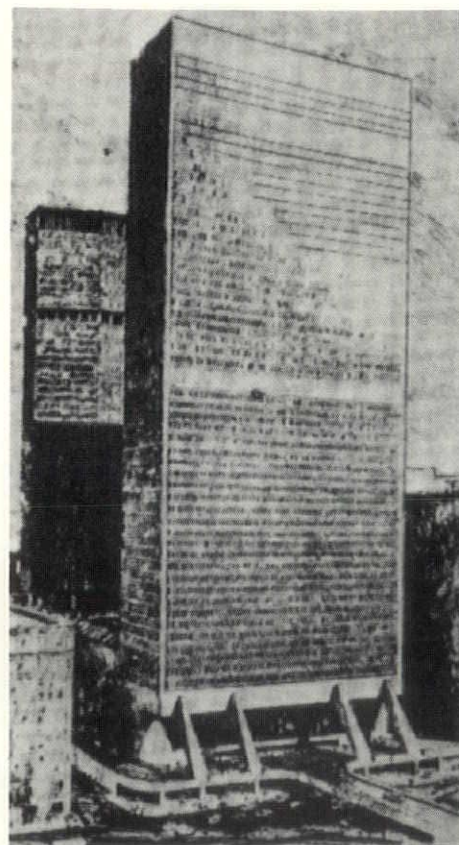
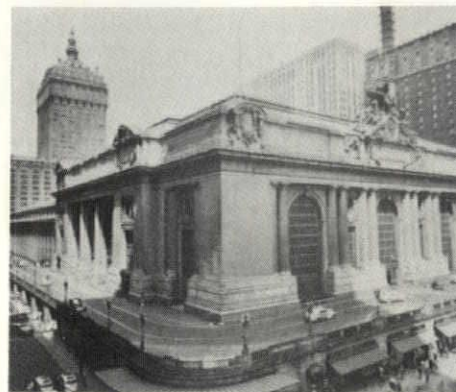
The two principle features of the New York law are designation and preservation. Designation is performed by an 11-member Landmarks Preservation Commission which must include in its collective expertise at least three architects, one historian, one city planner or landmark architect, and one Realtor, as well as at least one resident from each of the city's five boroughs.

The commission is charged with identifying properties in areas that have a special character or a special historical or aesthetic interest or value as part of the development, heritage, or cultural characteristics of the city, state or nation, any part of which is 30 years old or older as well. Landmarks are either located on a particular landmark site or within an area to be designated a historic district.

Before designation is final, the city's Board of Estimate must pass upon it after considering the relationship of the designated property to the City's master plan, zoning code, projected public improvements, and any applicable plans for urban renewal. Thirty-one historic districts and more than 400 individual landmarks had been designated through 1977.

Once property has been designated as a landmark, certain duties and restrictions devolve upon the owner:

1—The owner must keep the exterior features of the building in good repair to assure that the Act's objectives not be defeated by the landmark's falling into a state of



**Tower proposed for  
Grand Central Terminal.**

**Continued on Page 12**



# Grand Central

Continued from Page 11

irremediable disrepair.

2—The commission must approve in advance any proposal to alter the exterior architectural features of the landmark or to construct any exterior improvement on the landmark site. Should an owner wish to alter a landmark site, either a certificate of no effect or a certificate of appropriateness must be obtained, on one of three grounds:

- The commission may grant a certificate of no effect on protected architectural features, approving an improvement or alteration on the ground that it will not change or affect any architectural feature of the landmark and would be in harmony therewith.

- The commission may grant a certificate of appropriateness if it concludes that the proposed construction on the landmark site would not unduly hinder the protection, enhancement, perpetuation, and use of the landmark.

- The commission may grant a certificate of appropriateness on the ground of insufficient return which permits the granting of special tax and other concessions to ensure that designation does not cause economic hardship.

Designation also permits designees who have not developed their property to the full extent permitted by otherwise applicable zoning laws to transfer these "development rights" to contiguous parcels, or, under certain circumstances, to property across the street or across the street intersection or to a series of contiguous lots.

## Penn Central Transportation Company and the Designation of Grand Central Terminal

In 1968, Penn Central entered into a renewable 50-year sublease agreement with UGP Properties, Inc. (a subsidiary of a British corporation) under the terms of which UGP was to construct a multistory office building above the terminal.

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After construction, UGP was to pay Penn Central three million dollars annually, offset in part by a loss of \$700 to \$1 million in net rentals presently received from concessionaires to be displaced by the new building. Presumably this would considerably increase the

**'It is clear for example that the Supreme Court has not yet said that a historic building however significant, must be preserved, regardless of the economic consequences to the owner.'**

profitability of the terminal to Penn Central.

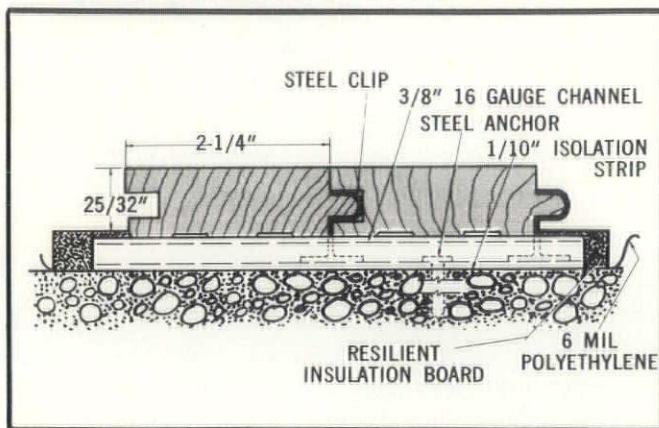
The previous year, the commission had designated Grand Central Terminal a landmark, over the objection of Penn Central Transportation Company, although Penn Central did not seek judicial review of the designation, as permitted by the law. The terminal, located in midtown Manhattan, is an eight-story structure used both as a railroad station and for a variety of commercial enterprises.

Penn Central submitted to the commission two plans in its application for permission to construct the aforesaid office building on top of the terminal. The first provided for the construction of a 55-story office building cantilevered above the existing facade and resting on the roof of the terminal. The second plan provided for the tearing down of a portion of the terminal and constructing a 53-story office building in its place.

The commission denied the applications for certificates of no exterior effect and appropriateness

**Continued on Page 20**

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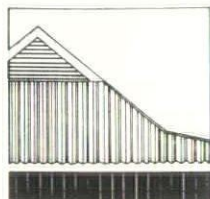


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## HISTORICAL

# Early Mission Building Activity in Hawaii

by THOMAS M. CULBERTSON, AIA

A great deal has been written about the missionaries' roles in Hawaii as preachers, teachers, printers, and doctors: men whose influence was strong in their Island communities. Comparatively little has been written about their involvement as builders. Yet every major Island has existing examples of churches, schools, and mission homes (built in the period roughly spanning the years 1820-1850) in which these men were the driving force. We shall make an attempt to shed some light on this activity and particularly to demonstrate the hardships that had to be overcome in producing such buildings.

It all started in April, 1820, when the brig Thaddeus brought seven missionaries and their wives to Hawaii. The "Thaddeus Journal" tells us on June 19, 1820: "Today we fixed on a spot for the erection of our buildings" in Honolulu, the present location of the Mission Houses Museum. The site was variously described as a "treeless plain" and a "beautiful plain."

On January 10, 1821, the frame for the "Frame House" arrived from Boston. It was then that the group found they must be diplomats as

well as missionaries as they had to negotiate for permission to build. Finally, on April 28, permission granted, a group of Hawaiians started to dig the basement. Next day, the missionaries all took up their shovels and started digging, too. They soon had dug a considerable excavation. This was duly noted by some local residents who claimed they were building a storehouse for guns and ammunition. Then, the Governor of Oahu decided to build a house across the street with an even bigger basement! To the credit of the new arrivals, they soon won the respect of the local chiefs and the king, and had very little trouble with what we would call bureaucratic red tape. Kaahumanu had become premier in 1819 and abolished the worship of idols. Thus the timing was very favorable for the introduction of a new religion to the Islands and there was remarkably little resistance to Christianity.

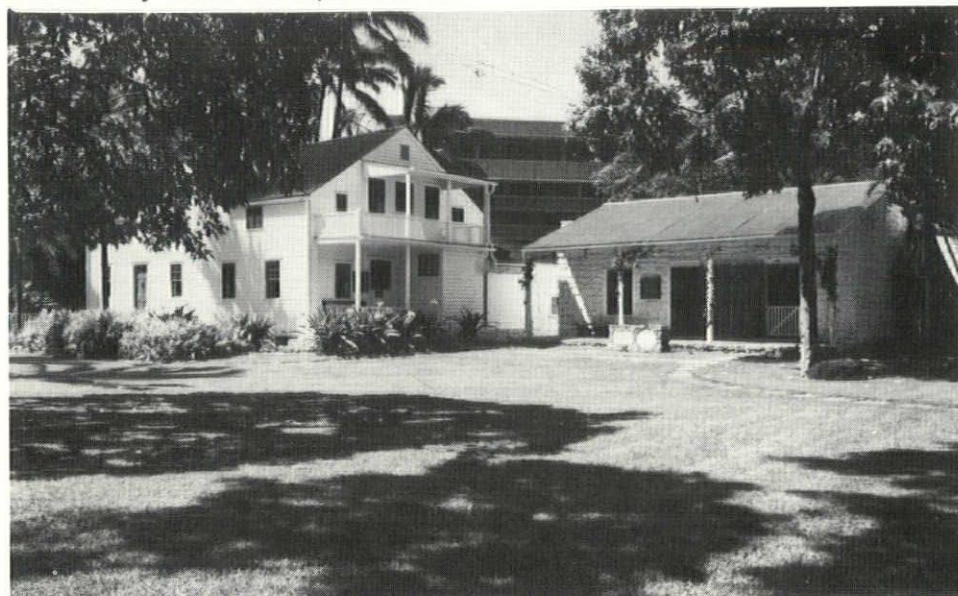
Since there was no stone for the basement walls, the missionaries used mud and straw. These walls collapsed and were replaced by walls of coral taken from the reef.

As the secular buildings of the

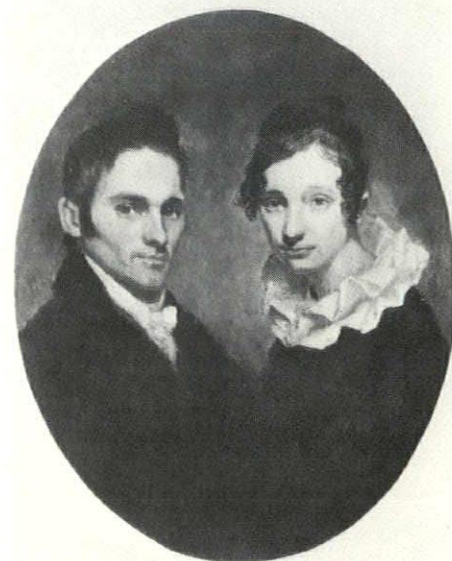
mission at Honolulu developed, a series of churches were built on adjacent land granted by the king. These churches were all called Kawaiahao, each being an improvement upon its predecessor.

The first one was a thatched building 54 feet long by 25 wide. On May 30, 1824, when it was barely three years old, it burned to the ground. On June 14, great numbers of Hawaiians appeared to help rebuild the church. Some carried bundles of laths from local trees to be laid across the rafters, some carried posts, some huge bundles of pili grass for thatching, others balls of cord from olona fiber for binding the roof together. This second church was 70 feet long by 25 wide and allegedly accommodated 600. (Some of these must have stood outside, for with 600 in it, the area of the building would allow less than three square feet per person). A third thatched church was completed on December 8, 1825, larger still. On July 2, 1829 a final thatched church was completed, this time with the impressive dimensions of 196 feet by 63 feet.

In 1837, the Reverend Hiram Bing-



Kawaiahao's Frame House (left) and Printing House.



Hiram and Sybil Bingham

HAWAII ARCHITECT



Change is a very relevant keyword in the modern architectural profession. Some of the indications of change include recent alterations in advertising and development codes, computers, ever-present financial pressures, the deluge of new products and materials, and increasing regulation.

When confronted with the turbulence that surrounds us at times, it is interesting, and often helpful, to review from whence we've come. To this end, Hawaii Architect is preparing a series of articles entitled "Hawaii's Architecture—Its Past," which will attempt to explore some of the events, movements, and key people important in the development of architecture in Hawaii and in the creation of some of the prized artifacts left for our enjoyment.

The series begins this month with "Missionaries as Builders," an article by Thomas Culbertson, AIA. This will be followed by a two-part article originally written by Charles E. Peterson, FAIA, for the Hawaiian Historical Society. Topics of the other upcoming articles and their authors include Hart Wood, by Charles R. Sutton, AIA; Julia Morgan by Spencer Leineweber, AIA; C.W. Dickey by William Merrill, member emeritus, AIA; and Oliver G. Traphagen, by Glenn Mason, AIA.

We would like to round out our series with articles on topics including Hawaiians as builders, and about architects like Bertram Goodhue, Harry Simms Bent, Clinton B. Ripley, Claude Stiehl, and Arthur Reynolds. Any reader willing to make a contribution, or who has a suggestion about the series, should contact one of the staff of Hawaii Architect.



**Kawaiahao Church**

ham decided a permanent stone church was needed to serve the growing congregation and the growing stature of the Congregational Church in Hawaii. Governor Kekuanaoa of Oahu took command of thousands of Hawaiians who started gathering stone and timber. On May 23, divers began to quarry coral from the reef. On June 5, the cutting of timber from the forest commenced. In September, the townspeople began to mix sand and lime (from burned coral) for mortar. Hiram Bingham, of course, had made the drawings for the church and so had to direct and coordinate the efforts of this army and determine the quantities of materials to be stockpiled.

He fitted to the mission cart a

machine "for hoisting the large stones in order that they may be taken up with ease and drawn under the axletree of the cart to the spot where they are wanted." He also arranged a sled which could be hauled easily and then two pair of plank wheels for a truck upon which to draw upon the stones for the meeting house. It seems unlikely that his studies at Middlebury College or Andover Theological Seminary had prepared him for such endeavors. Rather, the missionary of that day had to have a good basic education and a versatile mind that could adapt to new situations.

Though no engineer, Bingham recognized that a stone church of the size he planned would weigh a

tremendous amount. Fortunately, it was found that a bed of coral rock lay approximately six feet below the surface of the ground. Bingham had the Hawaiian diggers make an excavation six feet deep by 144 feet long and 72 wide, entirely removing the substratum of volcanic ash and cinders which probably came from Punchbowl Crater. Thus the foundations could rest on a bed of coral.

On September 8, the first stones (sawed coral) were laid. Wooden trucks to haul the stones were pulled by six to eight pair of Hawaiians. Horses and oxen were also used. Sand was brought from the beach and coral for lime was

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# Early Mission Building Activity in Hawaii

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burned in kilns dug into the ground. All this work was performed by Hawaiians supervised by the missionaries. It is hard for us with our high degree of mechanization to realize the labor that such an undertaking required. And it also indicates the dedication of the Hawaiians who did so much of the physical work.

The trusses spanning nearly 80 feet were worked out by the Reverend Bingham and Dr. Gerrit Judd, whose medical training certainly didn't include structural engineering. However, the two, using common sense (and perhaps with an assist from the good Lord), came up with a design that carried the roof load for many years. There were skilled ships' carpenters

these imported timbers were for the roof framing. Shingles were brought in from the Northwest. Boards, nails, glass, sash, and lamps were all sailed around the Horn from Boston. The clock was a gift from Captain James Hunnewell of Boston. Kawaiahao was dedicated July 21, 1842.

While all this was happening at Honolulu, there was great activity on the other Islands as well. Lahainaluna Seminary was started at Lahaina in 1831, with the printing press and bindery to come later. About the same time, reading rooms—one for sailors and one for ships' officers—were built in Lahaina, and the house that was eventually to be the home of Dr. Dwight Baldwin was built there in 1834 by

degrees . . . . It has sometimes been as low as 57 degrees and rarely so high as 80 degrees. The frequent rains make our thatched dwelling very uncomfortable. It sometimes rains daily for two or three weeks in succession, then our bedding and all our clothes not in closed trunks become damp. At such times, we feel strongly the importance of getting a dwelling better adapted to preserve our health. I have therefore concluded to attempt to build with stone, although the stone must be brought a distance of four miles by sea in canoes. It will be troublesome and expensive work.

"We cannot build so economically here as in the U.S. Besides the necessity of superintending the

**'We cannot build so economically here as in the U.S. Besides the necessity of superintending the work . . . a large portion of our materials must be shipped all the way from the U.S. and we must employ workmen, not the most skillful, at from \$1.50 to \$3.00 per day. It ought not therefore to be thought strange or extravagant if a comfortable house here should cost much more than a similar one in Boston.'**

**—William Patterson Alexander, 1835**

available who may have made suggestions as to details of connections and who could supervise the Hawaiian carpenters. The ridge beam presented a problem, but Dr. Judd worked it out with the assistance of Reverend Bingham. Their relief upon the successful completion of the building must have been considerable.

Timbers were largely from Oahu but some were ordered from Monterey, California, "to be straight and well-sawed, either spruce, pine, cedar or cipres (sic)." Probably

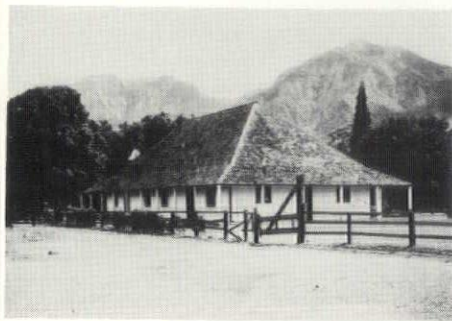
the Reverend Ephraim Spaulding. The first stone church in the Islands had been built at nearby Wainee in 1831 by Reverend William Richards with the help of Governor Hoapili.

On Kauai in 1835, William Patterson Alexander wrote the American Board (of Missions) as follows: "By looking at the map of Kauai you will see that this station, Waioli, is on the north side of the Island. It is covered with perpetual green, owing to frequent rain. The average height of the thermometer since we have been here, has been about 70

work ourselves in a great measure, a large portion of our materials must be shipped all the way from the U.S. and we must employ workmen, not the most skillful, at from \$1.50 to \$3.00 per day. It ought not therefore to be thought strange or extravagant if a comfortable house here should cost much more than a similar one in Boston."

Stone was abandoned as being impractical and the house was built of wood, though Reverend Alexander himself laid up a handsome stone fireplace and chimney in the





**Waioli Mission House**

cookhouse, which at first was separate.

Mary C. Alexander writing in "William Patterson Alexander in Kentucky, the Marquesas, Hawaii" states that the lumber was hewn from the mountains nearby and continues, "Inexperience in estimating quantity of material needed and the irregular calls of boats occasioned delay. One boat even brought lumber and went away without unloading it. After the roofing began (with zinc plates) Mr. Alexander found himself fifty sheets short and begs that they be sent up . . . Besides two carpenters at work to whom he paid \$45 a month each besides board, he had two Hawaiians hewing and two sawing, whom he paid in cloth, and a 'Northwest Indian' who did the painting."

Of the two original carpenters, one was laid up for a month with delirium tremens and the other was dismissed as too slow, but they were successfully replaced.

Mr. Alexander, though a serious man, had an appreciation of the incongruous; and, because of the roofing, called the fine old home his "zinc palace."

The first grass church at Waioli was blown down in a storm, but was again "set on its legs" and used until 1841, when a similar collapse made it unsafe in windy weather. The whole community united in an effort to build a new frame church. They had raised cotton and sugar and gathered barrels of kukui nuts to sell for oil. They had brought timber from the mountains and coral from the sea for making lime. After the men had cut the timber, the women would help drag it to the site. Eventually, enough money was raised and enough material collected, and the church was built—a neat frame building with the walls plastered inside and out (they could not afford wood siding) and a

Continued on Page 19

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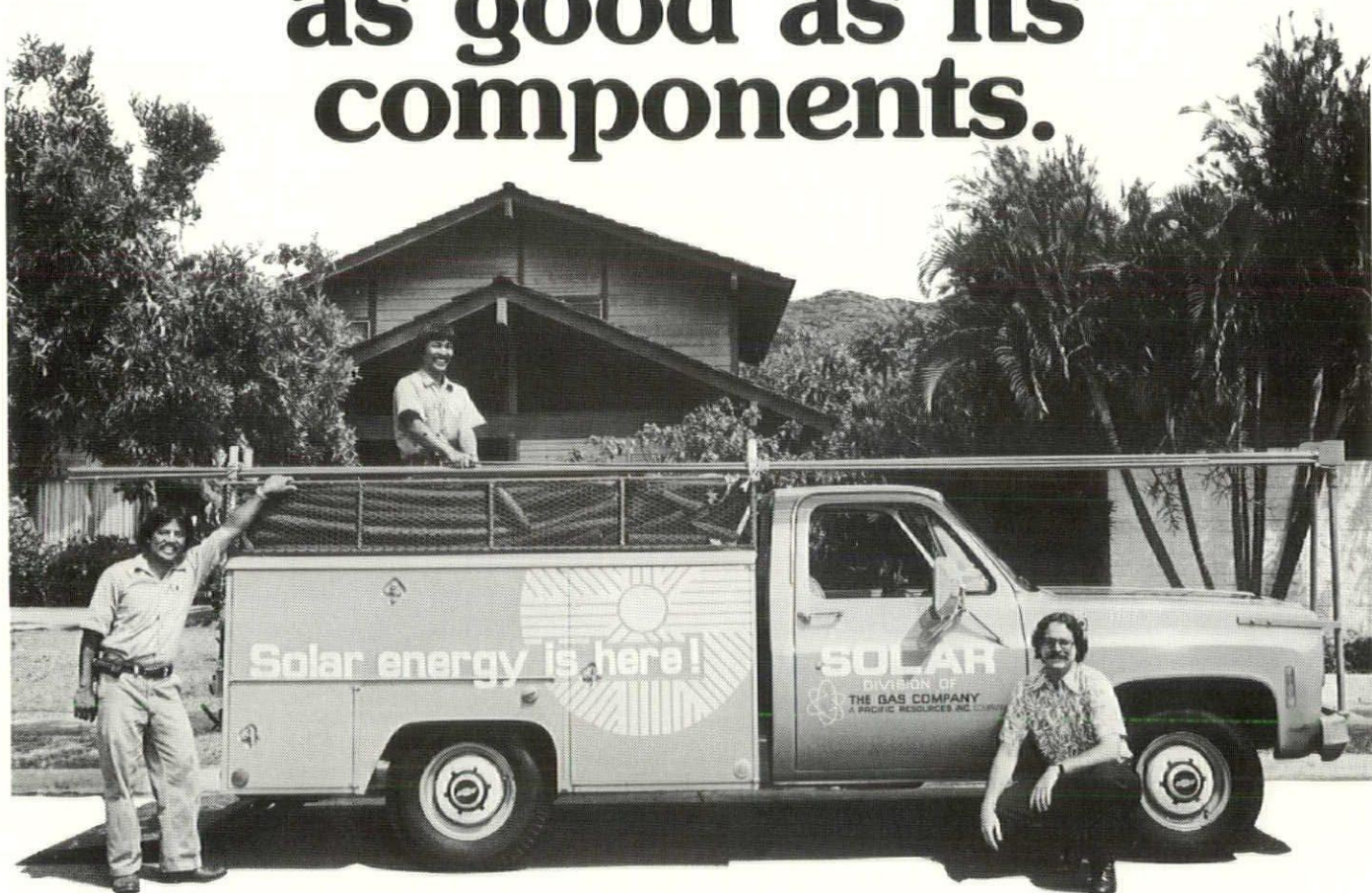
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# Early Mission Building Activity in Hawaii

Continued from Page 17

steep thatched roof. Sam Wilcox, born in the Waioli Mission, fifth son of the schoolmaster, has described the thatching process and the soft contrasting colors of the completed roof:

"The Hawaiians would bring the *lauhala* leaves in bundles, tied cleverly with a special kind of knot, then wet them and lay them on very exactly so that they overlapped. Each leaf was tied separately to the small thatching sticks—*aho* the natives called them. They worked all the way along the length of the roof, bending the thick butt end of each leaf down around the *aho* and tying it firmly with a peculiar twist of the stout *aloe* fiber. To bind the rafters, they used the ground root of the *puhala*. They would soak these roots, pound them a little, and bind the rafters together with the fiber still wet. Then, when it dried it was taut and tough as iron . . . Then, last of all, to cover the ridge poles outside above the thatch, they

would bring down from the mountains quantities of the soft reddish *pulu-amau* and bind it on very thick along all the ridges."

The building was 75 feet by 35 feet and the roof was extended out to a line of columns forming a covered lanai all around. This is one of the very early buildings with the shallower pitch at the lower portion of its steep hip roof, a combination that was to become very popular in the Islands.

In her book *Hawaiian Mission Churches*, Ethel Damon gives a very graphic account of the collection of materials for the stone church at Kealahou, Hawaii, under the direction of Mark Ives and Anderson Oliver Forbes. This church, 120 feet long and 57 feet wide was also a community project.

Stones for the church were carried for 40 or 50 rods on the shoulders of Hawaiians. The coral for making lime was collected by men diving in two or three fathoms of

water. Blocks or fragments were detached from the reef. If these were too heavy for the diver to bring to the surface in his hands, he would ascend to the surface for air, then descend with a rope and attach it. Back in his canoe, he would heave the mass aboard and paddle it ashore. 7,700 cubic feet of coral (to burn for lime) was accumulated in this way.

To burn it, the church members brought on their shoulders from the mountainside 40 cords of wood. When the lime was burned, the women took it in calabashes or large gourd shells and carried it on their shoulders to the building site.

In the same manner they collected water and sand for mortar. Thus, about 700 barrels each of sand, lime, and water (approximately 2,000 barrels or 350 wagon loads) were carried one-fourth mile by the women.

Framing timber was cut in the mountains six to ten miles distance and drawn to the site by hand.

They would set out at daybreak, ropes in hand, and after walking several hours secure their timber and drag it over lava beds, ravines, and underbrush, arriving at the construction site at dusk.

This brief collection of anecdotes is intended to give a sense of the commitment, the labor, and the excitement surrounding some of the early mission building activity in Hawaii. Admittedly, many important figures and buildings are omitted. One prime example: Damien de Veuster, who built eight churches in the Kohala district before he even went to the leper colony at Molokai. However, he belonged to a slightly later period than that which we chose to explore.



Mokuaikaua Church, Kailua-Kona, 1837, by the Reverend Asa Thurston.

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*A Man for Now* by John Beevers



# Grand Central

David L. Callies is a professor at the University of Hawaii School of Law. He was formerly an adjunct associate professor at the School of Architecture and Urban Planning, University of Wisconsin-Milwaukee.

He received his Master of Laws degree from the University of Nottingham, England, in 1969, writing his thesis on Land Use Planning Law.

The author of a number of articles and papers on the subject of land use controls, Callies currently is preparing articles on critical areas preservation techniques and transportation land use policies.

He has consulted with a number of state and local governments regarding the drafting of land use legislation and is one of the draftsmen of several pending bills.

Continued from Page 13

after four days of hearings at which over 80 witnesses testified, noting, with respect to the cantilevered

proposal:

"To balance a 55-story office tower above a flamboyant Beaux-Arts

facade seems nothing more than an aesthetic joke. Quite simply the tower would overwhelm the terminal by its sheer mass. The addition would be four times as high as the existing structure and would reduce the landmark itself to the status of a curiosity.

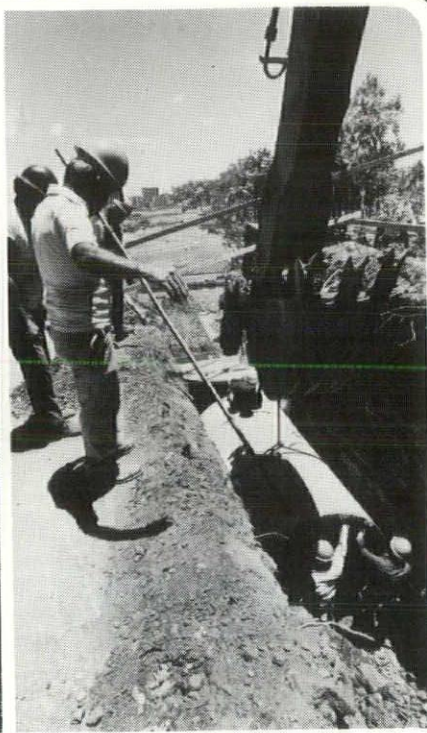
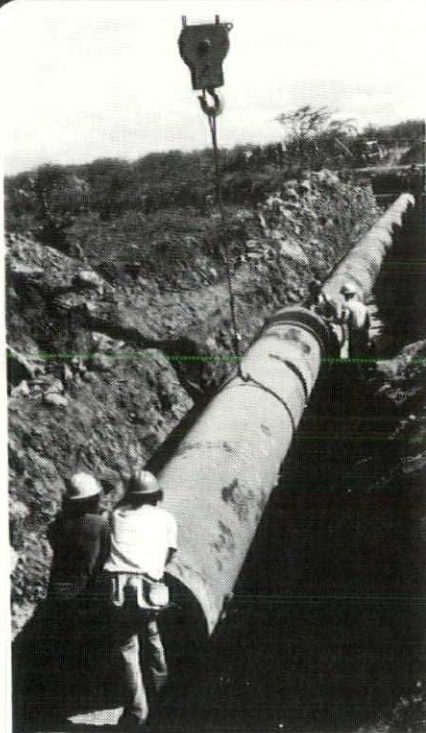
"Landmarks cannot be divorced from their settings—particularly when the setting is a dramatic and integral part of the original concept. The terminal, in its setting, is a great example of urban design. Such examples are not so plentiful in New York City that we can afford to lose any of the few we have and we must preserve them in a meaningful way—with alterations and additions of such character, scale, materials and mass as will protect, enhance, and perpetuate the original design rather than overwhelm it."

Penn Central filed suit shortly thereafter, claiming that the Commission's application of the Landmarks Preservation Law had "taken" their property without just compensation and without due process of law, contrary to the provisions of the federal Constitution. It is worth noting that the terminal site enjoyed a tax exemption, was (and is) suitable for its present and future uses and was not the subject of a contract of sale. Therefore, there were no further administrative remedies available to Penn Central under the Law.

## The Findings in the Lower Courts

The lower courts rejected Penn Central's revenue and costs statements purporting to show the terminal was currently operating at a loss—a critical point in its "taking" argument. In the lower court's view, not only were certain railroad operating expenses and taxes improperly imputed to real estate operations of which the terminal was a part, but also no rental value had been imputed to the vast space in the terminal devoted to railroad purposes. In other words, what would Penn Central pay to rent

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Penn Central had also failed to establish either that they were unable to increase the terminal's commercial income by transforming vacant or underutilized space to revenue producing use, or that the unused development rights over the terminal could not have been properly transferred to one or more nearby sites, which they owned. The lower courts also observed that landmark regulation permitted the same uses that had been made of the terminal for more than half a century.

Simply put, Penn Central had failed to show that it could not earn a reasonable return on investment in the terminal, and that even if the terminal could never operate at a reasonable profit some of the income from Penn Central's extensive real estate holdings in the area which included hotels and office buildings, must realistically be imputed to the terminal. Finally, the courts noted that development rights above the terminal were valuable and provided significant and perhaps fair compensation for the loss of rights above the terminal itself.

#### **The U.S. Supreme Court decision**

The Supreme Court basically upheld the decision of the lower New York courts, but not in such sweeping terms. First, it dealt with the Constitutionality of such preservation laws as that of New York.

*Taking Without Compensation and the New York Law.* While noting that the economic impact of regulation on the property owner was a relative consideration, the Court observed that a constitutionally protected taking was more readily found when the interference with property could be characterized as a physical invasion by government rather than an interference caused by some public program adjusting the benefits and

burdens of economic life to promote the common good. The Court specifically used zoning laws as examples which had been viewed as permissible governmental regulation although prohibiting the most economically beneficial use of property. The Court pointed to a California case in which it had upheld a law prohibiting a property owner from continuing its otherwise lawful brickyard business on the ground that Los Angeles had reasonably concluded the presence of the brickyard was inconsis-

tent with neighboring uses.

While paying lip service to one of its decisions holding that a state statute regulating property "may so frustrate distinct private investment expectations as to amount to a taking," the court nevertheless rejected Penn Central's claim that any substantial restriction imposed pursuant to a landmark law must be accompanied by just compensation to be constitutional. Having approved in many past instances of

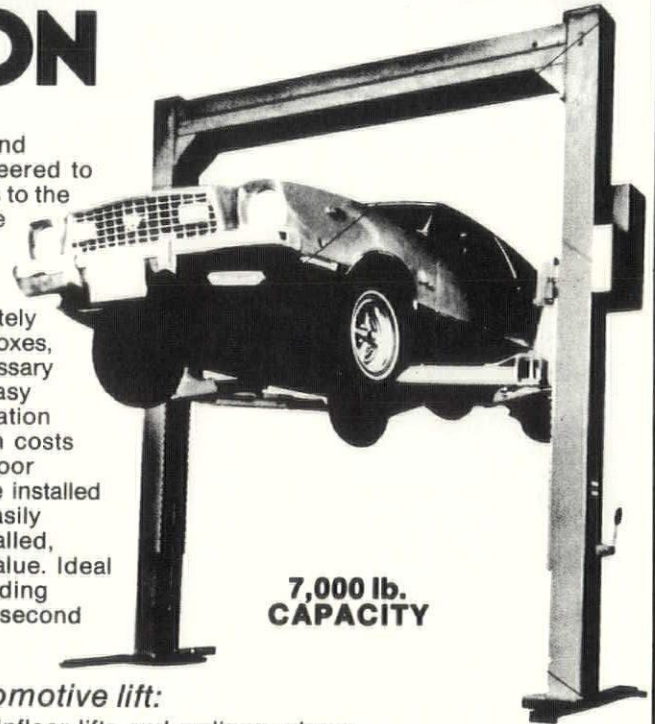
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# Grand Central

Continued from Page 21

land use restrictions and controls to enhance the quality of life by preserving the character and desirable aesthetic features of a city, the Court could only hold that the objective of preserving structures and areas of special historic architectural or cultural significance was an entirely permissible governmental goal.

The Court characterized Penn Central's argument as claiming a Constitutionally protected taking by merely showing that it had been denied the ability to exploit a property interest that it heretofore believed was available for development.

*Due Process and the New York Law.* Penn Central conceded that the decisions sustaining other land use regulation uniformly rejected the proposition that diminution in property value standing alone could establish a taking. Further, Penn Central agreed that if the restriction had been imposed as a result of *historic district* legislation, diminution of property value would not legally be a taking. In other words, Penn Central argued that it was New York City's regulation of *individual landmarks* which made the law fundamentally different either from general zoning or from historic district legislation because the controls imposed applied only to individuals who owned selected properties.

The court rejected Penn Central's argument that all individual landmark legislation thus required compensation for designation in order to avoid being an unconstitutional taking.

*The New York Law Applied to Penn Central.* Having rejected Penn Central's claim that the New York Law was invalid, the Court proceeded to investigate its application to the Grand Central Terminal. The question, as the Court phrased it, was "Whether the interference with appellants' property is

of such a magnitude that there must be an exercise of eminent domain and compensation to sustain [it]."

First, the Court noted that Penn Central was permitted to continue to use its property precisely as it had for the past 65 years: as a railroad terminal containing office spaces and concessions. Second, the Court noted that Penn Central was not prohibited from occupying any portion of the air space above the terminal. The commission had denied applications to construct an office building in excess of 50 stories, but on the record before the Court, would not necessarily refuse to issue a certificate of appropriateness for any construction above the terminal. Indeed, the commission's report had emphasized that allowing such construction would depend upon whether a proposed addition would harmonize in scale, material, and character with the terminal. Penn Central never sought approval for construction of a smaller structure.

Third, the Court noted again that even if the commission should fail to approve any future plans, Penn Central could transfer the air rights to at least eight other parcels which they owned in the vicinity of the terminal, at least one or two of which

## What The Decision Means

The Court's decision upheld the *theory* of landmark designation generally, even when it imposes obligations upon owners of designated properties to seek permission for modification or demolition from appropriately constituted boards or commissions. But, the application of such law to variously designated properties must be closely scrutinized.

*To What Laws Does the Decision Apply?* The decision cannot and should not be read as applying to all historic preservation laws. First, although there is adequate authority elsewhere to support them, the New York Law is not a historic district law. However, Penn Central conceded without arguing that if the building had been part of a validly designated historic district, it would not be attacking the law itself, although it probably would have challenged the denial of a certificate of appropriateness in its individual case.

Second, the New York Law is administered by an expert commission. Many commentators have stressed the importance of such expertise when standards of appearance and aesthetics are to be

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**'... Penn Central argued that it was New York City's regulation of individual landmarks which made the laws fundamentally different. ...'**

---

had been found suitable for construction of new office buildings. The Court specifically failed to consider whether the rights afforded by this transfer of development rights would have constituted just compensation *if* a taking had occurred, since it had found already that a taking had *not* occurred.

applied to restrict property rights.

Third, designation under the New York Law takes place in accordance with a comprehensive plan for such designation, and only after considerable study. Standards are thereby formulated and



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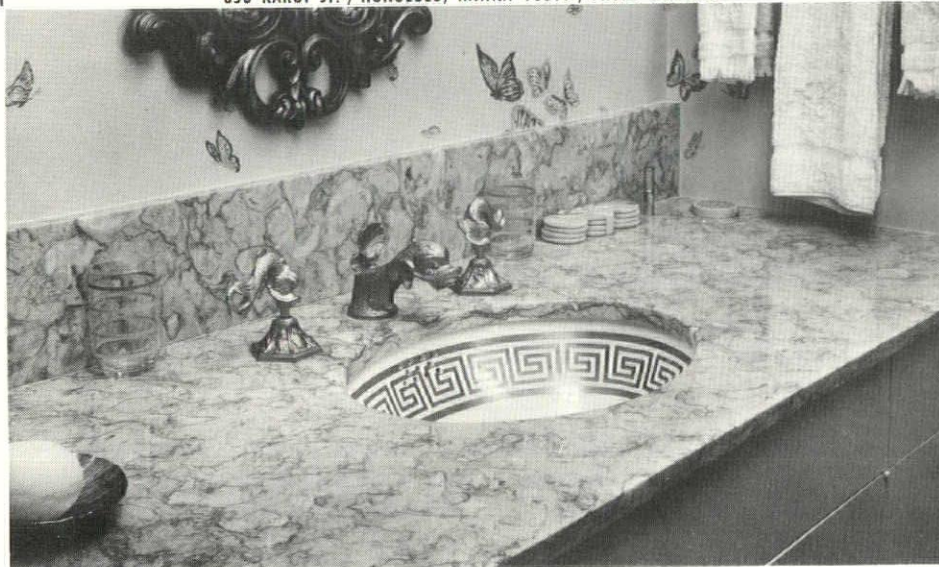
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## Grand Central

Continued from Page 22

applied.

Fourth, further standards for designation are written into the law in considerable detail. Fifth, administrative procedures are carefully included through which a landowner may seek relief such as tax exemption from onerous financial burdens which such a law might impose.

Sixth, a landowner whose petition for certification is initially denied may reapply with a new plan for the development of a designated site. In summary, the New York Law appears to be a model of administrative fairness in the hands of expert commissioners proceeding according to identifiable plans and standards, all of which appear to be factors influencing the Court's decision.

*To What Fact Situations Does the Decision Apply?* The Court was clearly influenced by the fact that Penn Central was "deprived" of speculative profit, rather than the stream of income which it had been receiving from the station and the concessions for the past 65 years.

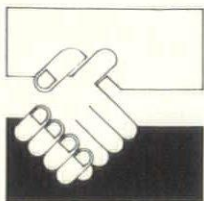
The Court emphasized again and again that the current use of the building—and a profitable one at that—was not diminished by landmark designation. Indeed, through the device of transfer of development rights noted above, the economic position of a designee under the law was even improved—as was the case here, according to the Court, since Penn Central Transportation Company owned so many parcels nearby to which these development rights could have been transferred.

One wonders what the decision might have been at least with respect to this particular point, if the holdings of Penn Central were reduced to the terminal only. Many commentators have noted the need for a market for such transferable

Continued on Page 26

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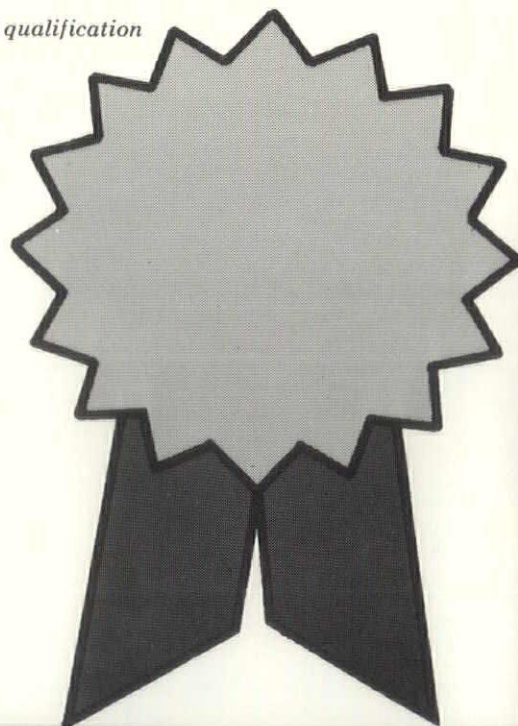
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## Grand Central

Continued from Page 24

development rights, without which it may be difficult to show that they indeed constitute compensation in a constitutional sense.

*Further Possible Lessons.* The Court reaffirmed that diminution of value as a result of a zoning decision does not in and of itself constitute a taking for which compensation is payable. In other words, zoning changes per se continue to be permissible regulation, rather than compensable and unconstitutional takings.

The Court noted in both footnotes and test that it attaches considerable importance to the comprehensive planning process and to comprehensive plans generally in deciding whether land use controls will pass constitutional muster.

It remains to be seen whether these pronouncements will be useful in predicting future direction of the Court's actions in the ever-changing land use arena. It may be only the fifth time in half a century that the Supreme Court has spoken out on land use control issues, but it is unlikely to be the last. **HA**

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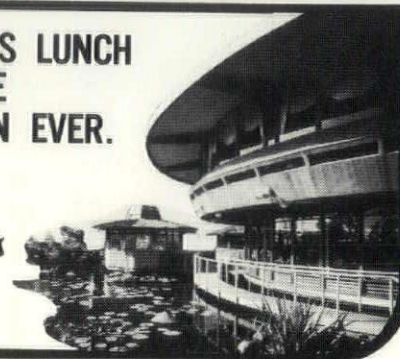
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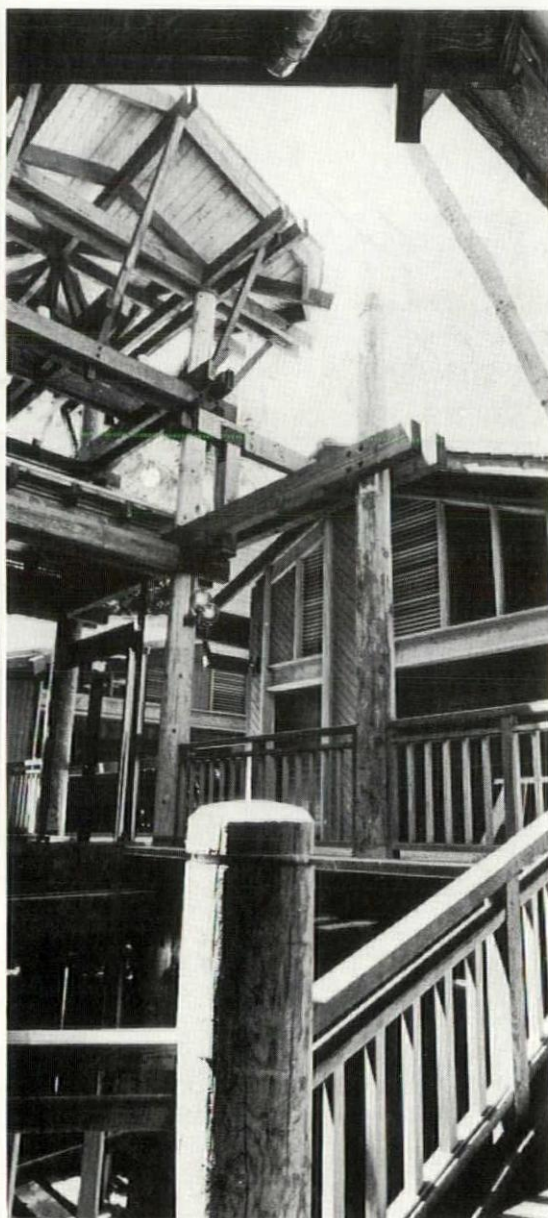
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