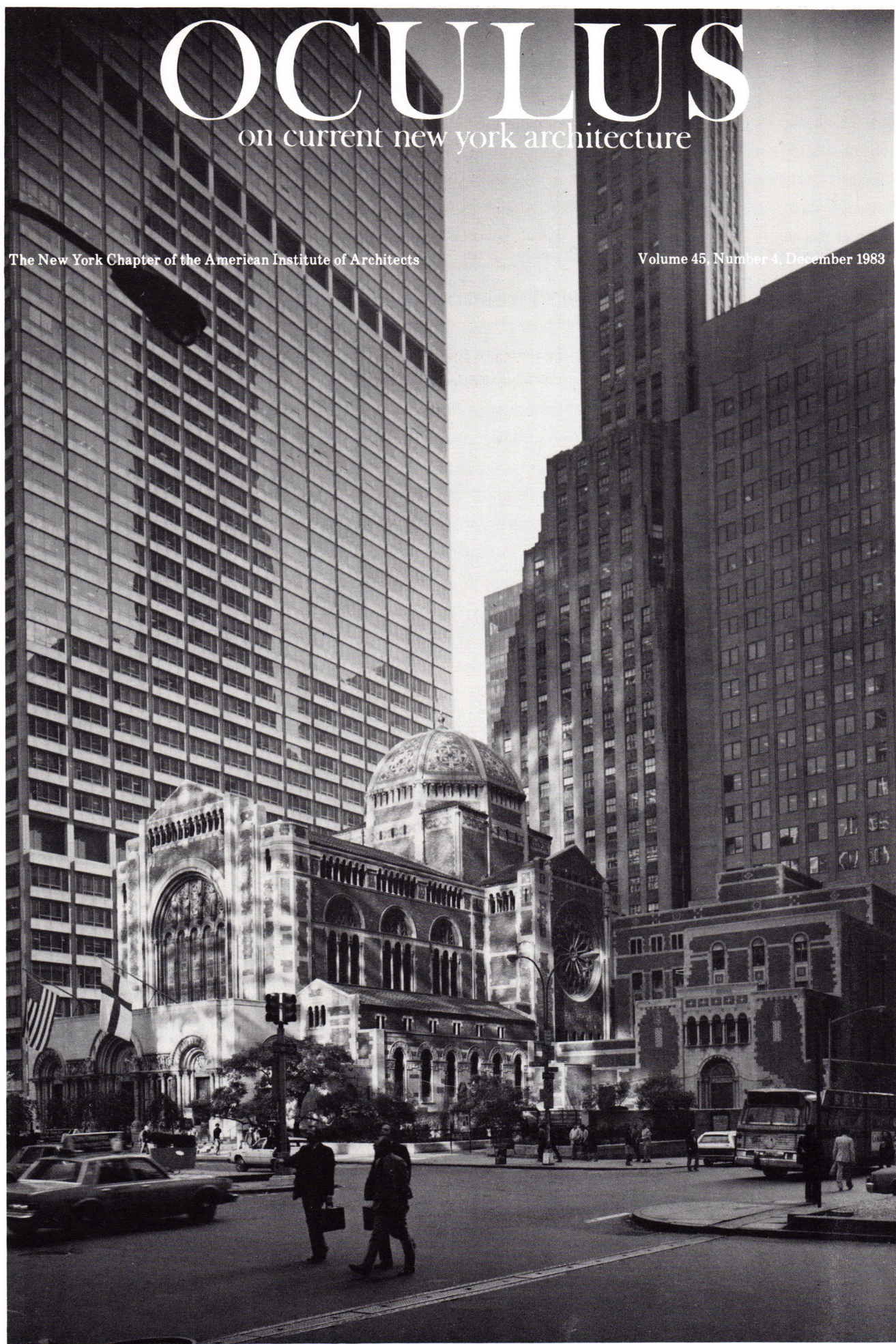


OCULUS

on current new york architecture

The New York Chapter of the American Institute of Architects

Volume 45, Number 4, December 1983



The fate of St. Bartholomew's may rest on the Religious Landmarks bill

Photo: Walter Smalling, Jr.

Volume 45, Number 4, December 1983

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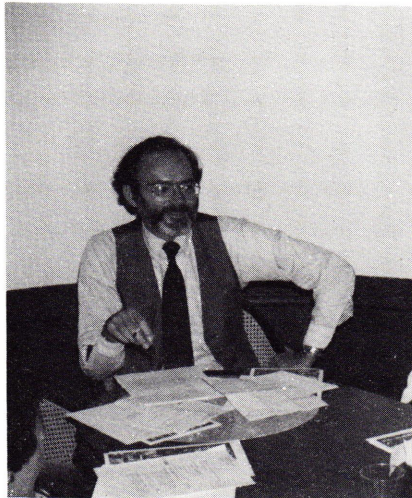
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by George Lewis

1983 Executive Committee at Its November Meeting



Joseph Bresnan



Eric Goshow and Theodore Liebman

- Christian M. Piesla was born November 5, son of Executive Secretary Cathanne Piesla and Stanley, nephew of Eileen McGrath of the Chapter staff—and grandson of Evelyn McGrath, who was a mainstay of the staff for over 20 years.

- The Executive Committee has endorsed a proposal that the Chapter conduct a Distinguished Architectural Drawings program: members would be invited to submit work for consideration by a jury, and selected drawings would be exhibited in the Members' Gallery at the time of the Annual Meeting through the summer.

- Laurie Maurer has been nominated by the Chapter for president-elect of the New York State Association of Architects/NYSAA, and Sidney Delson has been appointed for a second term as a director.

- The Historic Buildings Committee is concentrating on the issues raised by the proposal before the Legislature to remove religious properties from the jurisdiction of landmarks laws.

- Ed Logue spoke at a well attended meeting on October 20 sponsored by the Public Architects Committee; he made a particularly strong point—that the Chapter should impress on

the top level of the City Administration that very high architectural and urban planning design standards are an important necessity.

- The meeting November 3 on Architectural Concrete, co-sponsored with the Concrete Industry Board, was organized by Karl Justin, Chapter representative on the CIB Board.

- An Interim Report has been issued by the AIA's Architects Economic and Compensation Task Force, of which Chapter affiliate member Barry LePatner Esq. is a member. Strong impetus for establishing the Task Force came from the Chapter's recent Compensation Survey. Picking quotes at random: "The apparent lack of awareness and comprehension of the full magnitude of this economic issue is a primary obstacle in addressing the current discouraging trends." Willard Rouse of Rouse and Associates: "Why does the architectural community offer its professional services at a rate somewhere between 50 and 100 percent lower than any other professional we deal with?" The Report recommends a series of approaches toward reversing the current decline in the economic health of the profession.

THE RELIGIOUS PROPERTIES BILL

Legislation that would require municipal landmarks commissions to obtain the consent of a church or synagogue before religious buildings could be designated as landmarks was introduced in Albany during May 1983 by Assembly Majority Leader Daniel B. Walsh (D-Cattaraugus)—Bill A.7942—and by Senator John E. Flynn (R-C-Yonkers)—Bill S.6684—at the request of an interfaith religious coalition.

Freedom of Religion vs. Landmarking

Opposition to the landmarking of religious properties is voiced in a flyer—"Freedom of Religion vs. Landmarking"—that is being distributed by the Committee of Religious Leaders of the City of New York. The following are excerpts from that flyer.

An interfaith coalition of religious leaders is committed to the hard fight necessary to amend the State's landmarking law. Churches and synagogues must be free to choose whether or not their religious buildings should be designated as landmarks. These organizations are providing the leadership for the struggle:

Council of Churches of the City of New York
New York Board of Rabbis
New York State Catholic Conference
New York State Council of Churches
Queens Federation of Churches

The Steering Committee of the Committee of Religious Leaders is composed of: the Rev. N.J. L'Heureux, Jr., chairman, and Rabbi Allen S. Kaplan, secretary.

Today, landmarks regulations throughout the State of New York have challenged the right of local congregations to decide how to use their own resources for their ministry. Through the use of a landmarks designation, buildings are effectively "frozen"—and congregations are prevented from renovating or replacing out-moded facilities as necessary for ministry. The extraordinary costs of historic preservation must be paid by congregations at the expense of funding important ministry to meet human and spiritual needs. Landmark regulations require us to become caretakers of bricks and mortar. This is a battle for the survival of our churches and synagogues.

cont'd p. 4, col. 1

The Bills Being Introduced

According to the Legislature staff, "This legislation was first introduced in January 1982, after the publication of the 'Final Report of the Interfaith Commission to Study the Landmarking of Religious Property.' That report was sponsored and promulgated by the Committee of Religious Leaders of the City of New York.

"The legislation was introduced quite quietly, at the end of the legislative session. Nothing happened to it in the first year. But preservationists knew it was coming, because the state study commission had come out with its report. So there was a lot of response.

"I can tell you that the original sponsor had no idea what he was introducing. When I saw him the next year, he was still white because of what had happened to him in conference. I don't think he understood the ramifications.

"The second year, in 1983, preservationists were waiting for the legislation to be introduced again. I was getting calls almost every day asking whether it had been introduced yet. And it wasn't again introduced until May 25, 1983. This time, the Assembly Majority Leader Daniel B. Walsh introduced the bill.

"The response again was a tremendous outcry from the preservation community. Some legislators said they had never gotten so many pieces of mail. The preservation community was well organized. The religious community has full-time lobbyists. Now, we need time to find specific solutions for each problem."

Should Religious Properties Be Exempt from Landmark Laws?

During the NYSAA Annual Convention at Cooperstown, New York, in October, a panel discussion with the above title was moderated by George Lewis. Panelists were Wendy E. Feuer, legislative assistant for the Assembly in Albany, and Dorothy Miner, Counsel to the New York City Landmarks Preservation Commission. Ms. Feuer explained the background of the bills introduced in the Legislature. The following are excerpts from Ms. Miner's presentation:

The New York City Landmarks law specifically says that the interior of a church or a synagogue cannot be designated. Of the approximately 15,000 designated buildings in the city, about 190 are churches and synagogues, of which approximately 100 are in historic districts. We are talking about a bill that would potentially change the Landmarks Law of New York City and almost 100 other jurisdictions around the state.

The Issues

For a whole category of buildings to be allowed to be exempt would create a serious precedent. It is serious, first of all, because churches and synagogues are some of the most significant buildings in any community. They play a significant role in the towns of upstate New York; in New York City the 18th and 19th century churches are among the oldest buildings that remain.

If a church or synagogue (or the buildings it owns) can be exempt, why shouldn't other not-for-profit buildings be exempt? The religious leaders who support this bill say it is because of the First Amendment. But it has to be recognized that if one category of tax-exempt owners becomes exempt from landmark laws, then universities, schools, and other not-for-profit owners, who also believe they have problems and would like to capitalize

cont'd p. 5, col. 2

Freedom of Religion vs. Landmarking

cont'd. from p. 3

Through landmarking, the government seizes the right to make all decisions on the use of private property without paying the owner a penny! "Hardship" appeals are expensive and only occasionally successful. Attorney and architectural fees, accumulated during the months or years of commission proceedings, must be added to the increased costs of construction resulting from any delay. Local landmarks commissions have designated buildings merely to block new construction. This is a thinly disguised form of "spot zoning" — which is illegal! Landmarks designations have been imposed on churches and synagogues *42 times more often* than on all other buildings in the City! *The government's regulation of religious decisions—requiring that funds contributed for ministry be spent, instead, on historic preservation—is a fundamental assault on the "free exercise" of religion guaranteed by the First Amendment.*

Ministry or Mortar? Some Examples

- The United Methodist Church of St. Paul and St. Andrew raised over \$100,000 in 1967 to restore the terra cotta facade of its church building. Six years later, the building was again badly deteriorated because of an acid effect from auto emissions. After considerable study, the congregation decided to replace its building with a new, modern facility having both church space and income-producing apartments (which would be on the tax rolls). The Landmarks Preservation Commission blocked this planned construction by designating the building in 1981 — labeling it an architectural example of "scientific eclecticism." The congregation is now faced with bankruptcy in maintaining a disintegrating facade at the expense of its ministry.

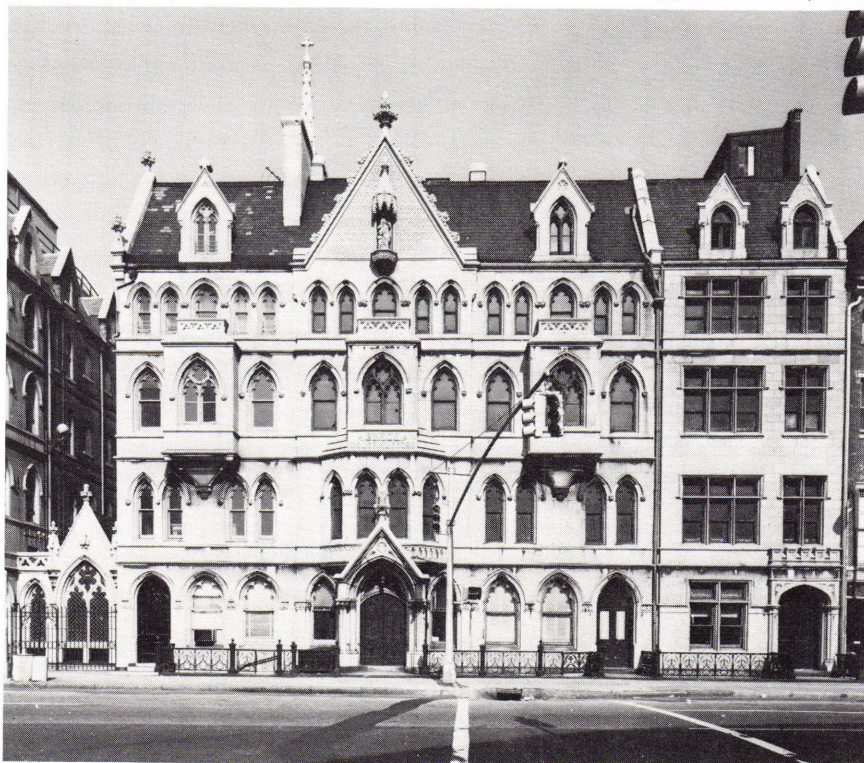
- The Roman Catholic Diocese of Brooklyn needs a new church for its ministry with Hispanics. After three months of proceedings, the Landmarks Commission recently granted permission for the

cont'd. p. 12, col. 1



St. Paul the Apostle

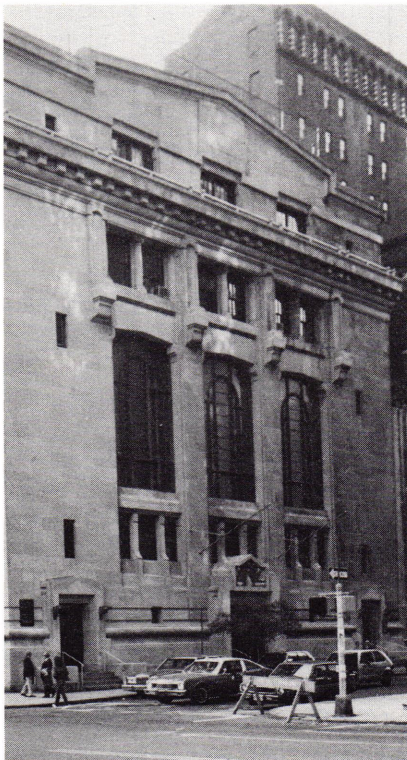
Photos: Stan Ries/ESTO



Grace Church School



Riverside Church



The Ethical Culture Society

Should Religious Properties Be Exempt from Landmark Laws?

cont'd. from p. 3

on the value of their real estate, may seek to follow. If there is an exemption built into this law whereby tax-exempt owners must consent to designation, commercial interests will also seek such an exemption. In a few years there could be an owner-consent provision for all property in the State of New York. An owner-consent provision is tantamount to no regulation whatsoever.

Landmarks laws were enacted because owners were demolishing significant buildings or changing them to such a degree that buildings were being destroyed that should and could have been preserved. The loss of Pennsylvania Station played a key role in the enactment of the New York City Preservation Laws. Before that there was no formal process to assess the alternatives to save a building.

The New York City law establishes a process for looking at gradual changes and, most importantly, a process that will be in place when a crisis occurs, which is inevitable in the life of almost any building. There may come a time when a building outgrows its usefulness; at that time, a process will be available under which the owner has a chance to show that he is not making a reasonable return and is overburdened by the Landmarks Law in the use of his property. If successful, the burden then shifts to the Landmarks Commission, other City agencies and the public at large to come up with alternatives that will provide relief. If they fail, the city must either condemn the building or allow it to be torn down or altered inappropriately. This procedure with measured time periods for the City to explore alternatives is the most important part of these laws and why they have to be in place.

If an owner can opt out of the Law's applicability in the case of an already designated building, or avoid being covered, there is, in effect, no regulation whatsoever, and thus no forum for exploring alternatives to prevent unnecessary loss of a building. Although I have heard proponents

say that this bill would still allow churches and synagogues to be designated if they wished, that is beside the point. The exemption makes the law meaningless at the very point it is needed.

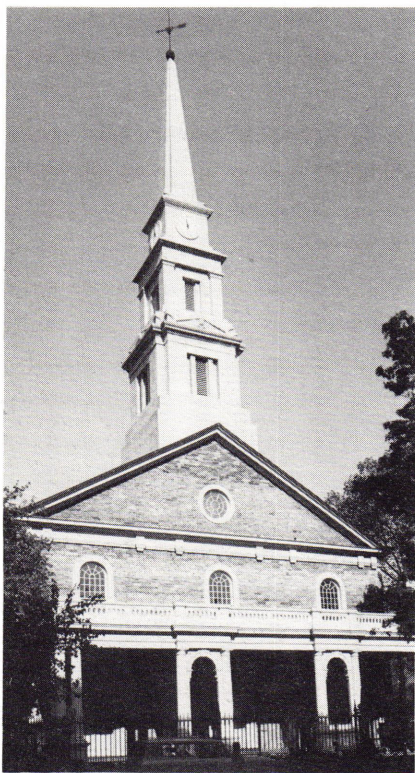
The precedent would also extend beyond regulation for historic preservation. If it is valid to say that a religious organization should be exempt from historic preservation laws, what about environmental laws? What about zoning laws? When the Ethical Culture case was argued in the Court of Appeals, one of the judges asked the lawyer for the Society if a religious organization should not be bound by historic preservation laws under the First Amendment, should it be exempt from all land-use regulation? The lawyer responded that a church-owned property should not be bound by zoning or other land use laws. And that really gets to the heart of the matter. The proponents of the Bill are either choosing among land-use regulations or must argue an exemption from land-use regulatory protections on First Amendment grounds.

The First Amendment of the U.S. Constitution guarantees that there shall be no law prohibiting the free exercise of religion or respecting an establishment of religion. The question is, do land-use regulations violate that First Amendment guarantee or free exercise? The Courts have consistently held that there can be reasonable regulation of the property of churches and synagogues.

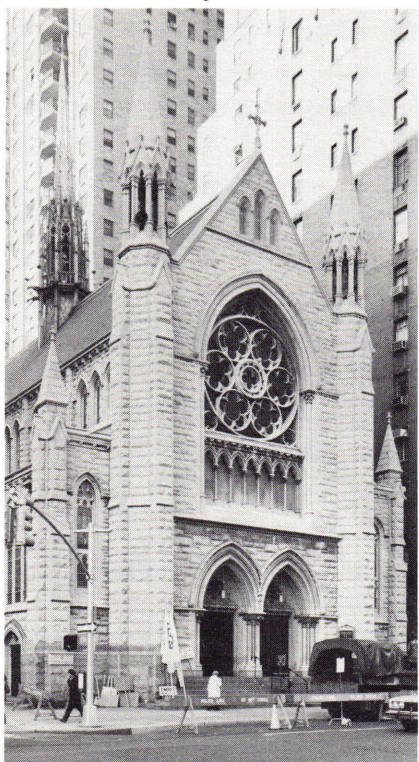
In the case of the Ethical Cultural Society's meeting house, on Central Park West, which is next to the Society's school, it was the school more than the religious congregation that hoped to sell the property and use the money to build a new school. When the building was designated a landmark, the Society went into court and challenged the designation. Although the Preservation Commission lost at the trial court level, the ruling was unanimously reversed in the Appellate Division and

Should Religious Properties Be Exempt from Landmark Laws?

Photos: Stan Ries/ESTO



St. Marks in the Bowery



Holy Trinity Lutheran Church

unanimously affirmed in the Court of Appeals. In finding for the Commission, Judge Sullivan of the Appellate Division said in part that "[the Society] seeks the unbridled right to develop its property as it sees fit. This is impermissible, and the restriction here involved cannot be deemed an abridgement of any First Amendment freedom, particularly when the contemplated use is wholly unrelated to the exercise of religion, except in the tangential benefit of raising revenue through development." He also stated that "however one chooses to characterize the Society's plans, it is settled law the fact that [an ordinance] deprives property of its most beneficial use does not render it unconstitutional." Judge Wachtler of the Court of Appeals, in affirming the Appellate Division, concluded that although the Ethical Culture Society is entitled to First Amendment protection as a religious organization, this does not entitle it to immunity from reasonable government regulation when it acts in purely secular matters.

The Crux of the Issue

A lot of the discussion of the Landmarks Exemption bill by its proponents is based on the non-acceptance of the basic principles of the Court decision. They assert that because the money would be used to further their ministry, it is a First Amendment infringement to inhibit their ability to maximize their income. The Courts have rejected this argument.

The second key argument has to do with the question of hardship and whether or not the landmark laws as they exist in New York provide adequate relief for churches and synagogues. The question is not whether the religious organizations face problems, but whether a particular problem is caused by regulation under local landmark laws.

The constitutional test for land use regulations under the police power to protect the health and safety and promote the general welfare permits a property to be regulated for land-use

purposes as long as the owner is given a reasonable return or beneficial use of this property. How is this test applied to a tax-exempt property such as a church or synagogue that is not making money. It is the beneficial use test that has to be applied.

The State of New York goes further than many other jurisdictions around the country in recognizing the purposes for which the not-for-profit owners own a given piece of property. For landmarks, the court's test is whether the designation physically or financially prevents or seriously interferes with the owner's carrying out its charitable purpose.

There are cases from Pennsylvania and Missouri, for instance, in which churches bought property in historic districts in order to enlarge their parking lots. In both states, the courts upheld the historic district commission's denial of demolition, stating that the test the church would have to meet was to show that if it were to restore the property it would not be able to make a reasonable return on that property — the same test that any other property owner would have to meet. The church was not allowed to show, for instance, that it had to park 100 cars and only had room for 50 unless it tore down those buildings.

The New York City law provides for a different set of findings and recognizes a distinction between properties on which real estate taxes are paid and those on which they are not.

In recent years the New York City Commission has issued some 1,000 permits a year for appropriate work on the 15,000 designated buildings. A designated building is in no way frozen in time.

Under the hardship procedure, described above, there have been nine hardship applications. In all but one, the Commission found an initial showing of insufficient return. That one was Radio City Music Hall, in

cont'd. p. 11, col. 1

Names and News

Larsen/Juster Architects and Planners have announced the appointment of **Jorge Ambrosioni** as Director of Design, and **James K. Maeda** as Technical Director . . . The NYMetro Chapter of the American Planning Association has advised the City to modify its tax incentive program so as to favor those sites in the outer boroughs that are or can be made environmentally competitive with suburban sites in order to retain back office jobs within its boundaries . . . **Christine Hunter** has been promoted to Associate of **The Edelman Partnership** . . . **David Kenneth Specter** was one of 13 recipients of the American Institute of Steel Construction's 22nd Architectural Awards of Excellence for the innovative use of steel in the design of **The Village Market**, an outdoor restaurant facility serving people for two weeks a year as part of the annual U.S. Open Tennis Tournament at the **USTA National Tennis Center** . . . **Vijay Kale** and **Vinod Devgen** have announced their partnership, **Kale & Devgen Architects** at 17 East 45th Street . . . A second phase of **Formica's "Surface & Ornament"** competition, which will focus on completed rooms and installations, has a deadline for entries of February 15, 1984 . . . **Walter Rutes**, Director of Design Coordination of the Sheraton Corporation, and **Sarah Tomerlin Lee**, President of **Tom Lee Ltd.**, were among the speakers at the Hotel Design Symposium held in New York last month . . . The Metropolitan Museum of Art's annual **Christmas Tree and Baroque Creche Display** is on view December 3 through January 8 . . . "At Home in Manhattan: Modern Decorative Arts, 1925 to the Depression" is the title of an exhibition at the **Yale University Art Gallery** through February 5th. It includes work by **Eliel Saarinen**, **Russel Wright**, and other American designers . . . **Ari Bahat** has recently completed the conversion of the Church of the Holy Communion at Sixth Avenue and 20th Street, a New York City Landmark, into **The Limelight**, a "historic nitespot." The press release calls it "a blessing in disguise" . . . **Becket International** were the designers of the Great Wall



Hotel in Beijing, China, which opened last month . . . **Haines Lundberg Waehler** are developing designs for the first phase of a seven-building office complex known as **Forrestal Greens** for the Prudential Insurance Company at Forrestal Center in Princeton, N.J. . . . **Bill N. Lacy** has been engaged as architectural advisor to the J. Paul Getty Trust, which plans to build a major art center in Los Angeles comprised of a museum, an advanced center for the study of art history and humanities, and a conservation institute. He will also serve as chairman of the Committee to select an architect for the center; other members are **Ada Louise Huxtable**, **Anne D'Harnoncourt**, **Craig Hugh Smyth**, **Kenneth Dayton**, **Richard Bender**, and **Reyner P. Banham** . . . Winners of the Educational Facilities Laboratories 1983 Architectural Fellowship Program and their proposed projects are: **Rosemarie Haag Bletter**, "American Architecture 1945-85; Promise and Crisis"; **Theodore H.M. Prudon**, "The Writings of James Marston Fitch, Educator,

David Kenneth Specter & Associates' award-winning The Village Market at the USTA National Tennis Center in Corona, Queens.

Architect, and Preservationist: an Annotated Bibliography"; **Stanley Salzman**, "Connections: Architecture and Music. The interweave of cultural patterns that include painting, sculpture, furniture, and fashion"; **Anthony C. Wood**, "Preserving Preservation's Past"; **Daniel Cohen**, "The Automat in New York: 1912-1984"; **David N. Cohn**, "Art and the Machine: Artistic Brickwork in the Gilded Age"; **M. Christine Klim Doell**, "Gardens of the Gilded Age: New York State Victorian Gardens"; and **Richard David Pieper**, "Earthen Architecture of New York State."

OCULUS NYC/AIA DEC 83

CONTINUING EVENTS

Oculus welcomes information for the calendar pertaining to public events about architecture and the other design professions. It is due by the 7th of the month for the following month's issue. Because of the time lag between information received and printed, final details of events are likely to change. It is recommended, therefore, that events be checked with the sponsoring institutions before attending.

Send *Oculus* Calendar information to:
New York Chapter/AIA, 457 Madison
Avenue, N.Y. 10022.

FERNANDO DOMEYKO-PEREZ
Exhibition. "Perception and Creative Analysis In Traditional Forms."
Columbia Graduate School of
Architecture & Planning. 100 Level,
Avery Hall. 280-3473. Closes Dec. 20.

BERTRAM GOODHUE
Exhibition. National Academy of
Design, 1083 Fifth Ave. 369-4880.
Closes Dec. 31.

**FRANK LLOYD WRIGHT AND THE
PRAIRIE SCHOOL**
Exhibition. Cooper-Hewitt Museum,
2 E. 91 St. 860-6868. Closes Dec. 31.

DESIGN SINCE 1945
Exhibition. The Philadelphia
Museum of Art, 26th St. and
Benjamin Franklin Parkway. Closes
Jan. 8.

THE AMSTERDAM SCHOOL.
Exhibition of Dutch Expressionist
Architecture, 1915-1930. Cooper-
Hewitt Museum, 2 E. 91 St. 860-6868.
Closes Feb. 5.

GOTHAM IN GRIDLOCK
A historical survey of traffic
congestion in NYC. Museum of the
City of New York, Fifth Ave. at 103
St. 534-1672. Closes April 1.

**COMMUNITY INDUSTRIES OF THE
SHAKERS**
Exhibition. New York State Museum,
Cultural Education Center, Albany.
518-474-5877. Closes Jan. 8.

RENEWING CENTRAL PARK
"A Management and Restoration
Plan in Progress." The Dairy in
Central Park at 64 St. between the
Zoo and the Carousel. 397-3156.
Closes April 1.

THURSDAY 1

1936: Paxton's Crystal Palace burned
down, London.

FRIDAY 2

WALKING TOUR ON SUNDAY DEC. 4
"Great Lobbies: Foyers of Fame."
11 a.m. The 92nd Street Y, 1395
Lexington Ave. 427-6000, ext. 179.

MONDAY 5

PHILIP JOHNSON: 40 YEARS
Exhibition. The Municipal Art
Society at the Urban Center, 457
Madison Ave. 935-3960. Closes
Dec. 31.

TUESDAY 6

HELEN SEARING
H.P. Berlage vs. The Architectural
Group." 6 pm. Met. Mus. 280-3473.

CHARLES GWATHMEY
Interviewed by Chas. Gandee. 6 pm.
Dec. Arts Center, 305 E. 63. 427-9949.

KEVIN ROCHE
Lecture in series moderated by Paul
Goldberger. 8:15 pm. 92nd St. Y, 1395
Lexington. 831-8603.

WEDNESDAY 7

FORUMS ON FORM
Robert A.M. Stern on his book, *New
York 1900: Metropolitan Architecture
and Urbanism 1890-1915*. Introduction
by Paul Goldberger. 12:30 pm. Urban
Center Books, 457 Madison 935-3595.

EXHIBITION PREVIEW
"The Oeuvre of an American Arts
and Crafts Workshop: The Rambusch
Studios, 1898 to the Present." 5-7 pm.
Parsons School of Design Exhibition
Center, 2 W. 13 St. 675-0400. Closes
December 29.

THURSDAY 8

NYC/AIA/HFC
Panel discussion on "Uniform State
Fire Prevention and Building Code"
with Armand J. Burgun; Charles E.
Rush, Jr., NYS Office of Fire
Prevention & Control; Otto Fuchs,
Bureau of Architectural &
Engineering Review, NYS Dept. of
Health; Edward Howard, Division of
Health Facilities Standards &
Control, NYS Dept. of Health; Fred L.
Kessner, NYS Division of Housing &
Community Renewal, Housing &
Building Codes Unit. 12:30 pm.
NYC/AIA, 457 Madison. 838-9670.

FRIDAY 9

**KANDINSKY: RUSSIAN AND
BAUHAUS YEARS 1915-33**
Exhibition. The Solomon R.
Guggenheim Museum, 1071 Fifth
Ave. 860-1300. Closes Feb. 12.

MONDAY 12

1845: American architect Bruce Price born

TUESDAY 13

HELEN SEARING
"Amsterdam School vs. Delft School": 6 pm. Metropolitan Museum. 280-3473.

NEW YORK DECORATIVE ARTS
Mosette Broderick on "Decorative Art Studios, Civil War to Present." 6 pm. Parsons Audit., 66 Fifth Ave. 741-7758.

LEWIS DAVIS AND FRED ROSE
"Problems of Building Housing in New York City." Lecture. 8:15 pm. 92nd Street Y, 1395 Lexington. 831-8603.

IVAN CHERMAYEFF
Lecture on "Art By Design". 457 Madison. 6:30 pm. 753-1722.

MONDAY 19

1883: Birth of American architect Barry Byrne.

TUESDAY 20

PARKS AND OPEN SPACES
William H. Whyte, Elizabeth Barlow, and Gerald Allen in lecture series moderated by Paul Goldberger. 8:15 pm. 92nd Street Y, 1395 Lexington Ave. 831-8603.

NEW YORK DECORATIVE ARTS
Robert Rambusch on "100 Years of American Church Interior Design," final session in workshop coordinated by Viggo Rambusch. 6 pm. Parsons Auditorium, 66 Fifth Ave. 741-7758.

MONDAY 26

1878: First electrical store lighting: John Wanamaker's, Philadelphia.

TUESDAY 27

1892: Cornerstone laid, Cathedral of St. John the Divine in New York City.

WEDNESDAY 14

FORUMS ON FORM
Herbert Muschamp on his book, *Man About Town: Frank Lloyd Wright in New York City*. Introduction by Edgar Tafel. 12:30 pm. Urban Center Books, 457 Madison Ave. 935-3595.

THURSDAY 15

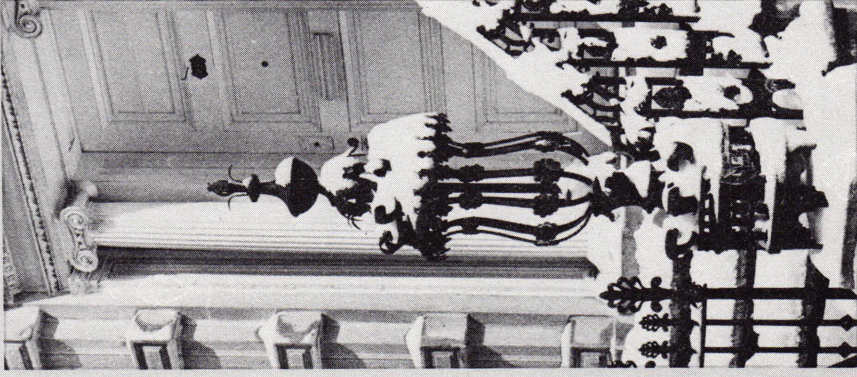
NEW YORK DECORATIVE ARTS
Viggo Rambusch on "New York's Lighting Fixture Manufacturers, 1883-1983" in 4-session workshop. 6 pm. Parsons Auditorium, 66 Fifth Ave. 741-7758.

FOUR NEW INSTALLATIONS IN THE AMERICAN WING
Reinstallation of John Vanderlyn's panoramic view of Versailles; a Greek Revival New York parlor; a Rococo Revival room with Belter furniture; the Rebecca and Martha Fleischman Gallery displaying furniture in early 19th-century revival styles. Metropolitan Museum. 879-5500.

WEDNESDAY 21

Feast Day of St. Thomas, patron saint of architects.

THURSDAY 22



WEDNESDAY 28

1923: French engineer Gustave Eiffel died.

FRIDAY 30

1935: Le Corbusier made first visit to the United States.

FRIDAY 16

1863: Birth of American architect Ralph Adams Cram.

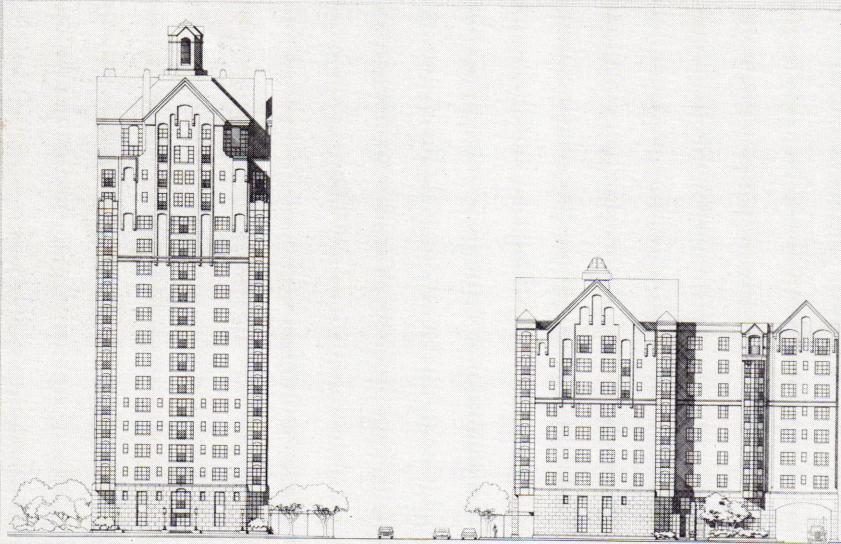
Residential Building Designs for Battery Park City

Designs for 12 new residential buildings with over 2,000 apartments and townhouses for Battery Park City have been unveiled by Battery Park City Authority's chairman, Richard A. Kahan, and president, Barry E. Light. Models, plans, and drawings of the buildings at "Rector Place," as the new neighborhood will be known, were on exhibition at the Urban Center hosted by the New York Municipal Art Society and the Battery Park City Authority. Architects of the 12 residential buildings are Ulrich Franzen; Conklin & Rossant; The Gruzen Partnership; Davis, Brody & Associates; Charles Moore with Rothzeid, Kaiserman, Thompson & Bee; James Stewart Polshek & Partners; and Bond Ryder James.

The Rector Place development will be the first to follow the residential design guidelines prepared for BPCA by Cooper Eckstut Associates, based on their 1979 Master Plan.



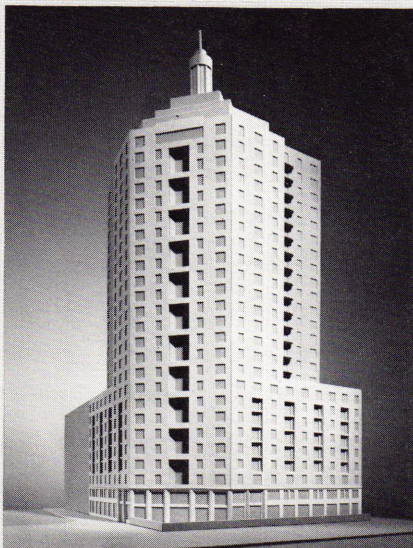
Charles Moore, with Rothzeid, Kaiserman, Thompson, and Bee design



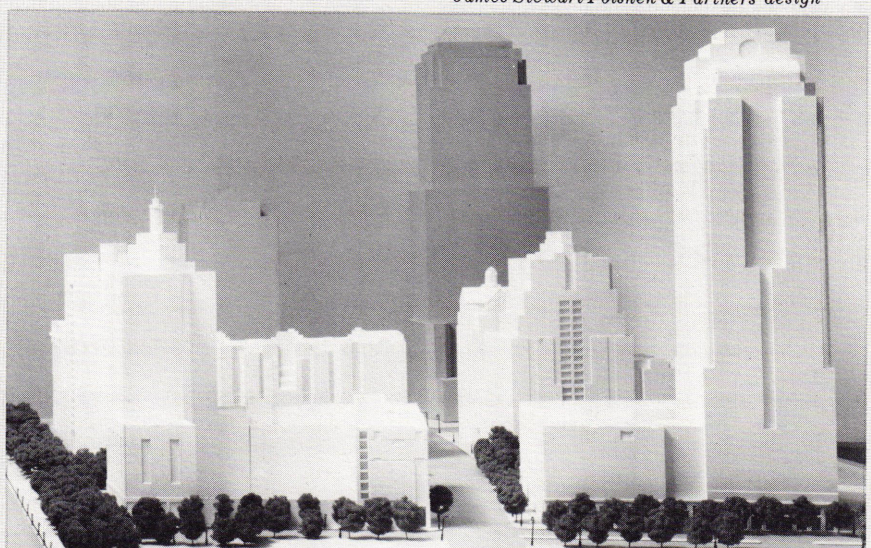
Conklin Rossant design



James Stewart Polshek & Partners design



Ulrich Franzen & Associates design



Rector Place, view looking north

Should Religious Properties Be Exempt from Landmark Laws?

cont'd. from p. 6

which it was clear from the applicant's own papers that it had no intention of demolishing the building at that time. So the Commission found that RCMH had applied prematurely but could come back when it had concrete plans. Of the other eight, five involved properties subject to real estate taxes (including one former parochial school), and three were tax exempt.

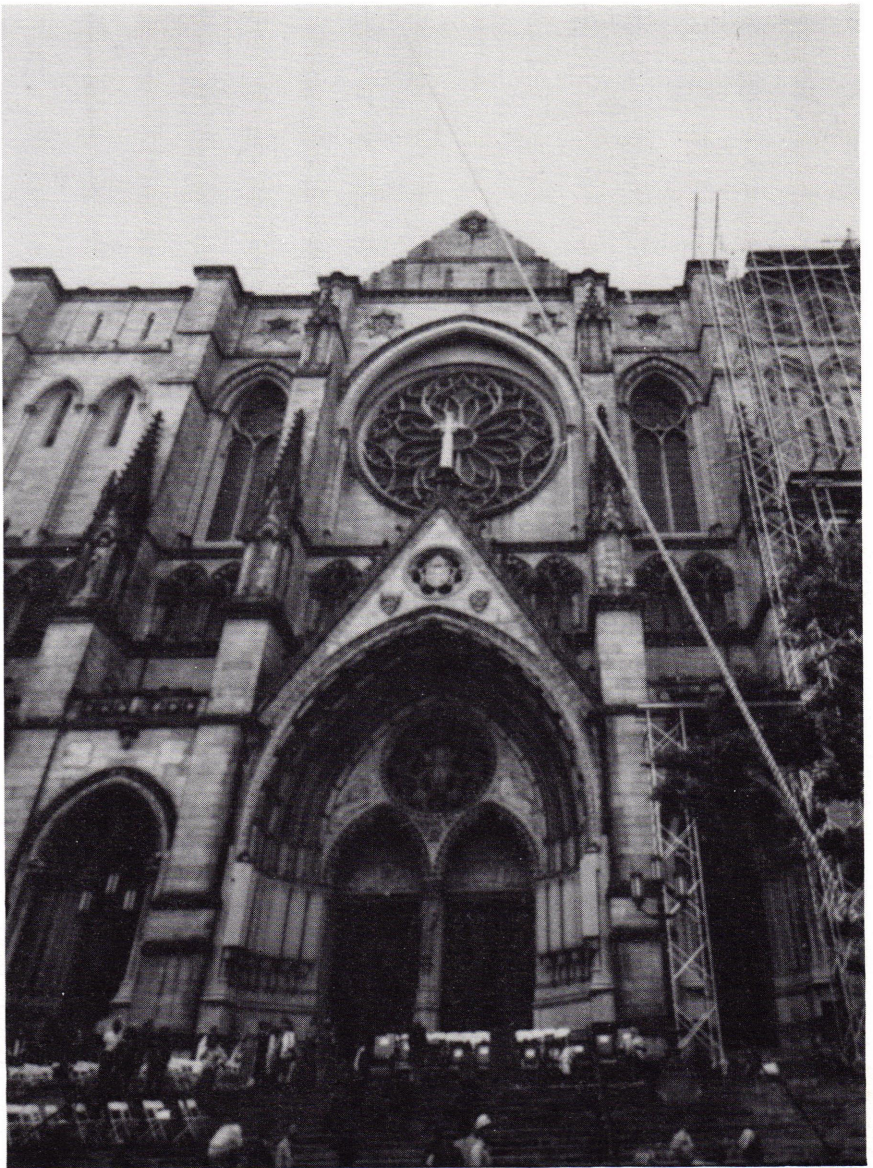
The Assumption School

One case, a property at 67 Middagh Street in the Brooklyn Heights Historic District, has a direct bearing on the subject under discussion. The building had formerly been a parochial school. When the Roman Catholic Diocese applied to the Commission, the building had been subject to taxes for three years because it was unused. The Diocese showed that it had not made a "reasonable return" as defined in the New York City Landmarks Law for a property subject to real estate taxes.

The Commission then went into the plan stage of the hardship procedure. Under the plan stage, one of the things the Commission can do is apply for tax abatement and remission of taxes. It did so in this case, and the previous three years taxes were remitted and the current year's abated. The following year this building was sold to a developer who converted it into housing.

The Poppenhausen Institute

One of the tax-exempt properties was an educational institution—the Poppenhausen Institute—in College Point, Queens. In this case, the institution decided that, rather than offer courses, it would offer scholarships. The Board of the Institute therefore wanted to sell the property. It was offered \$175,000 for a cleared site, on which stood the landmark, a Second Empire building that had been built as an educational institution. The Board showed that it was not making a reasonable return. It had received little tuition, and had insurance and energy costs. It also claimed that the building was no longer adequate or appropriate for



The Cathedral of St. John the Divine

Photo: Stan Ries/ESTO

carrying out the purposes for which it was intended.

This showing is really the heart of the hardship provision for not-for-profits. How has the building been used, why is it no longer suitable, why is the owner seeking to get rid of it, or alter it inappropriately?

In the case of the Poppenhausen Institute, the applicant showed there was not the demand there formerly had been for adult education so it planned to offer a scholarship program. It also established the final finding under the hardship procedure, that there was an immediate intent to proceed with demolition or alteration. The Commission made a preliminary finding of insufficient return and then had a stated period in which to find an alternate buyer who would meet the sales price but keep the building. A buyer was found who agreed to match the cash \$175,000 offer. The Institute then went into court to have the sale approved, but the State Supreme

Court would not allow it to change its charitable purposes and the sale was not approved—not because of the Landmark Laws, but because the Board was directed to try to continue its original programs in the building. The landmarks provision for relief worked as it was supposed to have worked.

Fort Greene Historic District

Another example shows the range of possible applications. On an empty lot at 80 Greene Avenue in the Fort Greene Historic District had once stood a church that had burned down. Rather than rebuild the church, the Episcopal Diocese of Brooklyn decided it would sponsor housing for the elderly. HUD considered that the site, however, was too small. So the Diocese bought the adjacent property on which stood a fine Italianate brownstone, got a special permit from the City Planning Commission for housing quality and lined up the mortgages. But it didn't pick up the

cont'd. p. 13, col. 2

Freedom of Religion vs. Landmarking

cont'd. from p. 4

construction of this new church on a vacant lot in an historic district — but only after the Diocese agreed to add \$50,000 to the construction costs in order to make the facade of the church look like a string of four brownstones! That money, or course, must be taken away from important ministry to the needs of people.

- The Mt. Neboh Synagogue was rejected as unworthy of designation by the landmarks commission in the 1960's when its rabbi requested it. After the congregation's departure, the edifice was sold to a builder in December, 1981. Suddenly, and in a state of extreme disrepair, the building became worthy of landmarking and was designated within a two-week period in January, 1982. The builder promptly filed for a "hardship" which was approved in July. But under the law, the commission then attempted to sell the building and, failing in that effort, voted eight months later to permit demolition. As of July, 1983, the project remains delayed because of landmarking entanglements — at the staggering, additional cost to the builder of over \$100,000. With this kind of treatment, *no builder will ever buy an unused religious building.* Landmarking will destroy the market value of church and synagogue buildings if they must be sold.

- The St. James Church in lower Manhattan was discovered to have a serious structural defect — half of its main support beams had failed! The City's Department of Buildings ordered the immediate eviction of all occupants of the nearest building because the church was in "imminent danger of collapse." The Department desired the immediate demolition of the church in order to protect human life. But the Landmarks Preservation Commission blocked the demolition. *Preservation of a building now becomes more important than human life itself!*



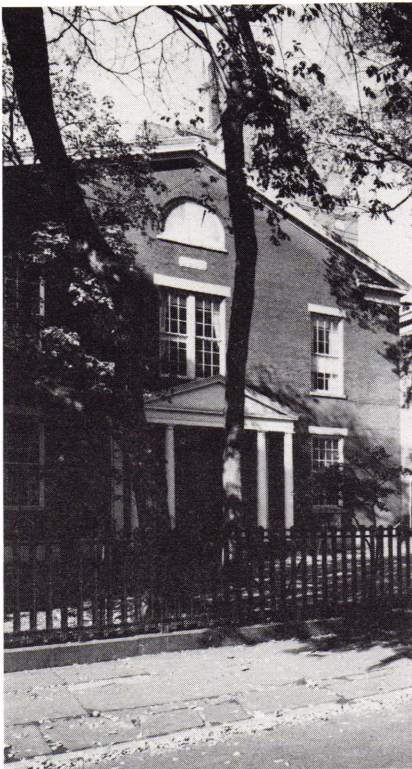
The United Methodist Church of St. Paul and St. Andrew

Photos: Stan Ries/ESTO



Marymount School

Should Religious Properties Be Exempt from Landmark Laws?



Friends Meeting House



Shearith Israel Synagogue

cont'd. from p. 11

Building Department permit for about a year. In the meantime, the area had been designated a historic district and so it needed a permit from Landmarks. After finding that demolition of the Italianate brownstone was inappropriate, the Commission recognized that any attempt to modify the design or to prevent the demolition would risk the loss of the HUD mortgage, and that to sell or long-term lease the property would frustrate the charitable purposes that the church was seeking to carry out. The Landmarks Commission therefore approved demolition of the Italianate brownstone and the new construction. The entire hardship procedure took approximately two months.

Marymount School

A final example shows the applicability of the hardship procedure to an inappropriate alteration. Marymount School applied to build a gymnasium on top of its three Beaux Arts townhouses on Fifth Avenue; the alteration was found inappropriate. But the Commission found under a separate hardship application that the role of team sports in the education of girls necessitated such a facility and it was the landmarks laws that were preventing it being incorporated within the building. Since the Commission was unsuccessful in developing alternatives, it approved the inappropriate alteration based on hardship. That decision is now in the courts, because the Commission and the school have been sued by a neighborhood group. The Commission is alleged, among other things, to have been too lenient in its application of the hardship provisions. It does seem ironic that on the one hand the Commission is faulted for *never* granting hardship, but on the other sued for having granted hardship. In any case, the law has proved that it is flexible and can meet different circumstances. It is the attempt to develop alternatives or to find alternate buyers or whatever is appropriate that is the heart of the law.

The final step in the hardship procedure is the opportunity for the city to condemn a building. There is a chance for the city to consider buying the building rather than permitting it to be demolished.

What is to be Done?

My description of the hardship applications should make clear that adequate relief procedures for tax-exempt properties do exist in the New York City law. What is lacking in the City's preservation program is a meaningful assistance component for designated buildings, especially those owned by not-for-profit organizations.

A religious building whose owner can no longer use it, can be sold. There is a market for such buildings. Any number of New York City parish churches have been sold to other denominations or become synagogues. Some have been converted into housing or community facilities. The problems are not so much the congregations that want to sell and move away; the real problems are those of congregations that want to stay but have serious maintenance difficulties.

The Bill to exempt religious buildings from landmarks laws is a negative bill. I do not believe it serves the best interests of most congregations or of the larger community.

There is a need for programs that could be of affirmative assistance. I would like to see the architects around the state come forward with proposals of what could be done to provide positive help. You are the ones who have experience with buildings. You are in the best position to understand the maintenance problems and propose what could be done that would be of assistance in preserving these buildings.


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