



CITY OF PHILADELPHIA

LAW DEPARTMENT
One Parkway
1515 Arch Street
Philadelphia, PA 19102-1595

BOARD OF LICENSE AND INSPECTION REVIEW

VIA TELEFAX AND REGULAR MAIL

January 30, 2009

Neil Sklaroff, Esquire
Ballard Spahr
1735 Market Street, 51st Floor
Philadelphia, PA 19103

Leonard F. Reuter
Assistant City Solicitor
1515 Arch Street, 16th Floor
Philadelphia, PA 19102

Carl Primavera, Esquire
Richard C. DeMarco, Esquire
Klehr Harrison
260 S. Broad Street
Philadelphia, PA 19102

Paul Boni, Esquire
325 Chestnut Street, Suite 1109
Philadelphia, PA 19106-2611

Re: Board of License and Inspection Review, Appeal Nos. 4147; 4220
Address: 223-225 South 6th Street, "Dilworth House"

Dear Counsel:

Enclosed please find a copy of the Findings of Fact and Conclusions of Law in the above-referenced matters. The original, executed document has been filed of record with the Court.

Very truly yours,

A handwritten signature in cursive script, reading "Kenneth S. Butensky".

Kenneth S. Butensky
General Counsel
Board of License and Inspection Review
215-683-5419
215-683-5398 (Fax)

Enclosure

: NO. 0890

: NO. 0899

These matters are appeals that were filed with the Board of License and Inspection Review by Concerned Citizens Opposing the Dilworth Development Project with Robert Greenbaum, Esq. as Trustee, ad litem, Society Hill Civic Association (SHAC) and Matthew DeJulio and Benita Fair Lagsdorf, both members of SHAC challenging a November 19, 2007 approval by the Philadelphia Historical Commission for a proposed development at 223-225 S. 6th Street through

to Randolph Street, Philadelphia, Pennsylvania. After holding public hearings and considering the Record, the Board hereby makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. This matter concerns a proposed development at 223-225 South 6th Street through to Randolph Street, Philadelphia, Pennsylvania.
2. Situated on this property is a building, known as and hereafter referred to as "Dilworth House," that was constructed between 1957 and 1958.
3. The house was built for Philadelphia Mayor Richardson Dilworth and his wife Anne, and designed by Philadelphia architect G. Edwin Brumbaugh.
4. Dilworth House consists of three (3) stories.
5. The Athenaeum is located to the immediate North of Dilworth House. Though taller than Dilworth House, The Athenaeum also consists of three (3) stories
6. The Lippincott Building, consisting of five (5) stories, is located to the immediate South of Dilworth House.
7. A row of brick dwellings is located to the East of Dilworth House.
8. Washington Square is located to the West of Dilworth House.
9. Dilworth House is located within the Society Hill Historic Preservation District and fronts Washington Square on the East side of the Square.
10. The important, historic significance of Washington Square as one of the original five squares in William Penn's plan for Philadelphia is common knowledge and is supported by written evidence found in the Record.
11. Dilworth House was formally nominated as a "contributing" building (identified in that

nomination by its former tenant, the "Philadelphia County Dental Society") and is listed as "significant" in the Society Hill Historic Preservation District.

12. John J. Turchi and Mary Elizabeth Turchi currently own Dilworth House.

13. The Turchis propose to remove certain portions of Dilworth House and erect a sixteen (16) story residential condominium tower -- a condominium -- comprised of sixty-six thousand (66,000) square feet, with a height of approximately 219 feet.

14. Dilworth House is comprised of a three-story Colonial Revival structure with a front two-story stair well and one- and two-story L-shaped portion in the back or Eastern portion of the building. This rear portion, though sometimes and incorrectly referred to in the testimony as an "addition" or a "wing" is an original component of Dilworth House which contains the dining room and kitchen on the first floor and the master bedroom on the second floor.

15. For purposes of orientation as to the building that comprises "Dilworth House," the rear portion, an original component of the building visible from Randolph Street, was distinguished from the square Colonial Revival portion of the building and the two story stair tower, both visible from South 6th Street and Washington Square, looking East. The Colonial Revival portion of the structure was referred to colloquially in the testimony as the "box" and the two-story stair portion was referred to as the "stair well."

16. It is noted that the Historical Commission considered various iterations of Dilworth House projects and conducted public hearings on them, hearing from numerous witnesses for and against the proposals.

17. On November 19, 2007 the Historical Commission issued an approval of Mr. and Mrs. Turchi's application for the removal of a section of the rear wall of the Colonial Revival

containing the large picture window, the two-story stair tower and the rear one- and two-story L-shaped portion of Dilworth House and for construction of a 16 story condominium tower.

18. Pursuant to Philadelphia Code §14-2007 (10) an appeal was taken from the Historical Commission by Concerned Citizens Opposing the Dilworth Development Project with Robert Greenbaum, Esq. as Trustee, ad litem, Society Hill Civic Association (SHAC) and Matthew DeJulio and Benita Fair Lagsdorf, both members of SHAC. These parties shall collectively be referred to hereinafter as "Appellants."

REMOVAL OF PORTIONS OF DILWORTH HOUSE

19. Philadelphia Code §14-2007 (7) (j) provides standards for demolishing a historic building or a building which contributes to the character of a historic district. That is, the demolition must either be "necessary in the public interest" or demolition is warranted because the building's owner cannot use the building for "any purpose for which it is or may be reasonably adapted."

20. Philadelphia Code §14-2007 (2) (f) provides the following definition:

Demolition or demolish. The razing or destruction, whether entirely or in significant part, of a building, structure, site or object. Demolition includes the removal of a building, structure or object from its site or the removal or destruction of the facade or surface.

21. A fundamental issue in this matter is whether the removal of the front two story stair well, the rear L-shaped portion of Dilworth House along with sections of the Colonial Revival structure's rear wall constitutes "a razing or destruction ... in significant part," Philadelphia Code §14-2007 (2) (f). If not, the proposed development would, pursuant to Philadelphia Code §14-2007 (2) (a), be an "alteration," i.e., merely a change in the appearance of the building, and

not a demolition.

22. The Historical Commission in its November 19, 2007 approval found that the proposed removal of certain parts of Dilworth House does not constitute a "demolition in significant part."

23. The term "significant part" is not defined in Philadelphia Code §14-2007.

24. The Board was presented with numerous documents and heard various testimony as to the amount of square feet of space in Dilworth House and what numerical percentage of the building's footprint is to be removed by the Turchis' proposal.

25. There was conflicting testimony on the precise amount of space either measured by square feet or as a percentage of the building's footprint that would be removed.

26. The Board finds sufficient and substantial evidence in the Record to support a finding that just over half of the building's footprint would be removed by the proposed project, whereas, on September 9, 2006 before the Historical Commission it was stated that 48% of the footprint would be removed.

27. The Board finds sufficient and substantial evidence in the Record to support a finding that a portion of the front facade would be removed.

28. Craig Schelter, an expert in city planning and urban development, provided testimony to the Board.

29. George Thomas, Ph.D., an architectural historian, also provided testimony to the Board.

30. Mr. Schelter encouraged a more global view on the issue of whether removal of portions of Dilworth House would be "significant." That is, rather than looking at the numerical value of square footage or footprint area that would be removed, Mr. Schelter pointed to the

"public experience" when viewing Dilworth House after completion of the proposed project. Both Messrs. Schelter and Thomas testified that the "box" of the Colonial Revival structure of Dilworth House is the "significant" part of the structure and that most of that box would be retained and remain visible to the public.

31. The significance of the rear wing that is to be removed was the subject of varying testimony. Dr. Thomas asserted that it was an "afterthought," an anomaly and of lesser aesthetic value than the Colonial Revival portion of the structure.

32. John Gallery, Executive Director of the Preservation Alliance of Greater Philadelphia, testified that generally alterations are minor things, which may include demolition. However, in his view, the amount of the building to be removed translates into a demolition.

33. Mr. Gallery also testified that the rear wall section of the Colonial Revival structure containing the large picture window and the rear L-shaped portion of Dilworth House are an important part of the building in that they communicate the structure's 1950's attributes and identify the building as a "hybrid" of Colonial and more contemporary (i.e., 1950's) architectural styles.

34. The Board finds the position advanced by Mr. Gallery to be credible and persuasive. Any evidence that is inconsistent with Mr. Gallery's testimony and with the Conclusions of Law of this Board, this Board finds to be not credible.

THE PROPOSED CONDOMINIUM TOWER

35. The Board received testimony from the project's architect, Venturi, Scott Brown & Associates, Inc.; specifically from Carry Yonce, AIA, Project Manager.

36. The Board was also presented with a voluminous amount of scale drawings, renderings,

and photographs portraying the project as well as surrounding buildings and streetscape.

37. But for a section of the rear wall of the Colonial Revival structure being removed, the "box" portion of the building will remain in the proposed development of the condominium tower.

38. The condominium tower itself would be set back behind the box of Dilworth House with a cantilever over the rear wall of the structure to remain.

39. The sixteen (16) story proposed tower, with a height of approximately two hundred nineteen (219) feet, would have brick material at its base and have a stepped facade with a width of approximately fifty feet (50) at the front or Western aspect of the building.

40. The tower would be set back from the footway on Sixth Street and would be erected at and connected to the rear of the structure to remain and wrap the North side, where the tower's entrance would be located.

41. Philadelphia Code §14-2007 (k) provides considerations for determining the appropriateness of proposed alterations, demolition or construction. These include the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," (referred to as "Secretary's Standards"), 36 C.F.R. 67.

42. The Secretary's Standards "are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility." *Id.*

43. Among the Secretary's Standards to be considered is Standard 9 which provides,

New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment. *Id.*

44. Although the Board received testimony from the architect's project manager, Mr. Yonce, that characteristics of the proposed tower are intended to "play off of a traditional Philadelphia row home," the tower will be significantly larger in massing, size and scale than the present Dilworth House structure and its neighboring environment, including the Athenaeum and Lippincott buildings.

CONCLUSIONS OF LAW

1. The Board recognizes that the Historical Commission is a body comprised of experts in the field of historic preservation and other officials and regularly interprets its enabling legislation on historic structures and districts.

2. The Board concludes that there is substantial evidence that a significant part of Dilworth House would be razed or destroyed and that this removal constitutes demolition pursuant to Philadelphia Code §14-2007 (2) (f).

3. The Board concludes that the Record contains substantial evidence that historic materials that characterize Dilworth House would be destroyed.

4. The Board concludes that the Record contains substantial evidence that the dimensions and the configuration of the proposed sixteen (16) story condominium tower are not compatible with the massing, scale, size and architectural features of the Dilworth House and its environment, including the neighboring Athenaeum and Lippincott buildings.

5. The Board concludes that the November 19, 2007 approval by the Historical Commission that Mr. and Mrs. Turchi's application "is not a demolition in significant part" was in error and is not supported by substantial evidence presented to the Board.

6. The Board concludes that the November 19, 2007 approval by the Historical

Commission of Mr. and Mrs. Turchi's application to construct the proposed sixteen (16) story condominium tower was in error and is not supported by substantial evidence presented to the Board.

7. The Board of License and Inspection Review considered testimony and the entire record, and, based on evidence the Board found credible, sustains the appeal of Concerned Citizens Opposing the Dilworth Development Project with Robert Greenbaum, Esq. as Trustee, ad litem, Society Hill Civic Association (SHAC) and Matthew DeJulio and Benita Fair Lagsdorf, both members of SHAC from the Philadelphia Historical Commission's approval of November 19, 2007 for removal work and proposed condominium at 223-225 S. 6th Street through to Randolph Street, Philadelphia, Pennsylvania.

Vote of the Board of License and Inspection Review: Appeal No. 4147

Anthony P. Rabutino, Chair: City Affirmed

Claire Gatzmer, Vice Chair: Appeal Sustained

Beverly Coleman: Appeal Sustained

Tim Kerner: Appeal Sustained

Gary Lee: Appeal Sustained

Danny Rodriguez: Appeal Sustained

Vote of the Board of License and Inspection Review: Appeal No. 4220

Anthony P. Rabutino, Chair: City Affirmed

Claire Gatzmer, Vice Chair: Appeal Sustained

Beverly Coleman: Appeal Sustained

Tim Kerner: Appeal Sustained

Gary Lee: Appeal Sustained

Danny Rodriguez: Appeal Sustained

BY THE BOARD.

Respectfully submitted,

Mary Jane McKinney
Administrator
Board of License and Inspection Review

Kenneth S. Butensky, Esquire
General Counsel
Board of License and Inspection Review