

To: Marty Markowitz

Re: In Opposition To The Casual Dismissal of Our 40 Year Preservation Bulwark: LPC-072059

Sent for Otis Pratt Pearsall

Dear Marty,

I write most respectfully to ask that you reject so much of the application under Section 74-711 in the 130 Court Street matter as would allow the proposed new building on Atlantic Avenue to exceed the height limitation of Cobble Hill's LH-1 50 foot Limited Height District.

For 40 years, almost to the day in the case of Brooklyn Heights and almost as long for Cobble Hill, their LH-1 50 foot Limited Height Districts have stood as a key bulwark, hardly less important than the Landmarks Preservation Law itself, safeguarding the historic architecture and scale of these two jewels of Brooklyn's famous brownstone crescent. They have accomplished this goal, as they were designed to do, first, by removing the incentive to purchase and demolish the low-rise houses and commercial structures characteristic of these districts and, second, by limiting new construction to the predominating 50 foot historic height of the area.

Over this 40 year period it has come to be accepted as an absolute given that in these Limited Height Districts new construction exceeding 50 feet is simply not permitted. There has in fact been no exception. This would be the first. And what a terrible precedent it must surely prove. If, our 40 year unbroken history notwithstanding, one developer on some rationale or another is now permitted an exception, can anyone believe that henceforth every developer will not also seek his own exception? And on what basis of subjective differentiation, of hair-splitting distinctions will it be possible to deny such exceptions? Please, make no mistake. The dam will be broken. And the LH-1 50 foot Limited Height Districts, as a bar in these narrowly limited areas to discordant development, will be history.

Oddly, in neither its 10/2/06 Certificate of Appropriateness (COFA 07-2277) nor its 10/2/06 Report to the City Planning Commission ("CPC") under Section 74-711 does the Landmarks Preservation Commission ("LPC") so much as acknowledge the Cobble Hill LH-1 50 foot Limited Height District, much less analyze or even mention the stark implications of its historic action in countenancing this exception. It appears that in casually sweeping away 40 years of history the LPC either does not appreciate or simply does not care what it has done.

The Limited Height Districts amendment to the Zoning Resolution was not some frivolous surplusage, but a coolly analytical response to the practical limitations placed by the Landmarks Law, at the behest of the real estate community, on the LPC's authority to limit height.

When, shortly after the November 23, 1965 designation of Brooklyn Heights as New York's first Historic District, the Brooklyn Heights Association learned of the Watchtower Society's plan to construct a 12 story "community facility" on the full Columbia Heights block-front between Clark and Pineapple Streets, we were forced to focus on two key provisions of the new Landmarks Law, Sections 207-3.0, and 207-6.b (3) [now sections 25-304 and 25-307.b (3)]. The former, dealing with the "Scope of Commission's Powers", stated that nothing should be construed as authorizing the Commission, in acting with respect to any historic district or improvement therein, to limit the height of buildings. And the latter reiterated that the Commission, in making its determinations, shall not apply any regulation, limitation, determination or restriction as to the height of buildings other than regulations, etc., otherwise provided by "law", which we understood to mean the Zoning Resolution.

Accordingly, on April 29, 1966 we wrote to Chairman Ballard of the CPC, setting forth our analysis and asking that the gap in the Landmarks Law, with its dangerous implications for the Heights, be filled with a clearcut height limitation tailored to the prevailing scale of our brownstones. The CPC agreed with our analysis and, with the crucial support of our Borough President, Abe Stark, so did the Board of Estimate.

The new enabling amendment to the Zoning Resolution authorized the CPC to designate limited height districts in historic districts previously designated by the LPC, and in June 1967 the CPC designated Brooklyn Heights the first LH-1 50 foot Limited Height District, with Board of Estimate confirmation in August, just 40 years ago. In due course Cobble Hill's CPC designation as another 50 foot LH-1 District followed its 1969 LPC designation as an Historic District.

Remember that in early 1966 when, in response to the Watchtower Society's challenge, the limited height district concept was conceived, Brooklyn Heights was the only designated historic district and the Heights Association was in intimate coordination with the LPC and especially with its Heights liaison, Commissioner Bancel La Farge, who remained deeply involved in the Watchtower and limited height issues until their ultimate resolution with the compromise construction of the first new building in an historic district at Columbia Heights and Pineapple Street. While the LPC was not, for obvious reasons, a formal proponent of the Limited Height Districts amendment, its complete consent is evidenced by its failure to offer an objection, which would of course have forestalled the process.

Rather than expand on this history here, I attach as PDFs (1) an excerpt on the origination of the 50 foot limited height district arrangement from my 1993 Reminiscences on the occasion of my Landmark Lion Award, (2) my 12/22/66 Statement to the Board of Estimate, (3) my 6/7/67 Statement to the CPC, and (4) the 8/24/67 Board of Estimate Calendar entry containing the CPC's analysis.

However, given that memories appear to have dimmed concerning the rationale for the LH-1 Districts, I set out below an excerpt from the CPC's report as to Brooklyn

Heights, which is in all essential respects equally applicable to the Cobble Hill issue at hand:

“The Landmarks Preservation Commission, in designating the Brooklyn Heights area as an ‘historic district’, recognized that its history and the general excellence and homogeneity of its buildings warranted keeping the character of the area substantially as it is. This decision has not only been confirmed by the Board of Estimate but the national importance of Brooklyn Heights was recognized by the Federal Government in January 1965 when it was designated a National Historic Landmark.

“While the Landmarks Preservation Commission is empowered to prevent, within statutory limits, the demolition or inappropriate exterior alteration of existing structures within a ‘historic district’, it is quite specifically barred from controlling the height or bulk of new buildings which might be built on parcels which are presently empty or which might, in the future, become available for redevelopment. Yet an important characteristic of Brooklyn Heights is the generally uniform height of buildings – typically three and a half or four stories – and it is essential that this generally uniform height be maintained if the character of the district is to be preserved.

“The proposed establishment of an LH-1 District within most of this ‘historic district’ would limit the height of buildings to a maximum of 50 feet above curb level. It is recognized that there are many existing buildings within the proposed boundaries that presently exceed this limit. The 50 foot height is, however, characteristic of the majority and of the best of the area--the fine individual buildings and, more especially, the many continuous rows of buildings which it is the Nation’s hope and the City’s expressed intention to see preserved. Existing intrusions will, of course, be unaffected by the proposal; constructed before the zoning change they can remain as a matter of right. The LH-1 designation will, however, prevent their replacement by new structures higher than 50 feet. Thus, the proposal will not only prevent the further spread of intrusive structures in a designated ‘historic district’ but may act, over the years, effectively to reduce their number and so bring about throughout the entire district, the harmony and homogeneity that are now characteristic of its best parts.”

Marty, I respectfully submit that when weighed against the important public interest in maintaining the integrity of the Cobble Hill LH-1 District, the private interest of the developer here in adding an additional 10 feet to one new building is insufficient to justify the requested exception, with all of its inevitable consequences.

Sincerely,

Otis Pratt Pearsall