



January 18, 2024

Submitted via email

RE: Case No. CH-DR-2023-00079
4526 Warwick Boulevard, 'George B. Richards Residence'

To Members of the Preservation Commission:

Historic Kansas City has a mission-based commitment to the preservation of our city's historic resources. HKC feels strongly that the demolition of 4526 Warwick Boulevard, would be a significant loss to the historic fabric of Kansas City and to the Southmoreland Neighborhood and we object to its demolition.

This application requests a Certificate Of Economic Hardship to demolish the house and garage on the property at 4526 Warwick Boulevard, an individually listed landmark known as the 'George B. Richards Residence.'

The commission shall issue a certificate of economic hardship if the applicant proves:

- a. For income-producing property, that a reasonable economic return cannot be obtained or that it is impractical to sell or lease the property or no market exists for it at a reasonable price if the property retains its historic features or structures in either its present condition or if its features or structures are rehabilitated; or
- b. For non-income-producing property, such as owner-occupied dwellings or properties owned by institutional, nonprofit organizations or public entities, that the value of the work that meets the Secretary of Interior's Standards for Rehabilitation would be an unreasonable investment based on the overall value of the property in its present condition or if rehabilitated.

ECONOMIC HARDSHIP:

The burden of proof is on the applicant.

As stated in section 88-585-05-F. Certificate Of Economic Hardship, proof of economic hardship shall be the burden of the property owner and any finding in support of economic hardship shall be based solely on the hardship of the property, not circumstances personal to the property owner.

The applicant must prove that they have been denied all reasonable beneficial use or return.

The fact that repairs may be costly is not enough. Even if extensive rehabilitation is required, the applicant must show that the house cannot be sold "as is," or that the fair market value of the property in its current condition plus rehabilitation expenditures will exceed the fair market value of the house upon rehabilitation. [See City of Pittsburgh v. Weinberg, 676 A.2d 207 (Pa. 1996).]

Per the testimony of the applicant before the Historic Preservation Commission on November 17th, the applicant has chosen NOT TO LIST the property for sale on the residential housing market.

In *Penn Central Transportation Co. v. City of New York*, 438 U.S. 104 (1978), the landmark decision upholding the use of preservation ordinances to regulate historic property, the Supreme Court found that a taking did not arise because the owner could continue to use its property as a railroad station.

The Supreme Court has also said that the applicant's "reasonable investment-backed expectations" should be taken into consideration. And that "reasonable" expectations do not include those that are contrary to law. The applicant's expectation of demolishing the historic property subject to a preservation ordinance would not be "reasonable." Neither is the applicant's expectation of an increase in zoning density.

Is the owner's objectives realistic given the condition of the property at the time of inheritance.

The applicant has submitted photos of break ins and trash on the property, which do not demonstrate that the house has been altered to the point that it has lost its historic integrity. The house and carriage house would still be considered contributing structures.

The National Register Bulletin No. 15: How to Apply the National Register Criteria, defines *integrity* as the ability of the property to convey its significance. To retain historic integrity, a property will always possess several, and usually most, of the aspects. The retention of specific aspects of integrity is paramount for a property to convey its significance. There are seven aspects to integrity, location, design, setting, materials, workmanship, feeling and association. Based upon the review of photographs submitted by the applicant of the property and photographs associated with the application to designate the property in 2023, the house still retains the essential physical features and historic integrity that enable it to convey its historic identity for which it was designated.

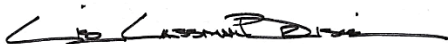
Under takings law, government is not required to compensate property owners for bad business decisions. Nor is the government required to guarantee a return on a speculative investment.

Further, the commission may take into account whether the hardship is self-created.

Has the value of the property declined or rehabilitation expenses increased because the owner allowed the building to deteriorate?

HKC recommends that the Commission vote to deny the application for a Certificate Of Economic Hardship to demolish the home at 4526 Warwick Boulevard, as the evidence has not risen to the level of economic hardship.

Best regards,



Lisa Lassman Briscoe
Executive Director