

ANALYSIS OF PRE-DESIGNATION ACTIVITIES IN NEW YORK CITY DURING THE BLOOMBERG ADMINISTRATION

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1.0 Executive Summary

The purpose of this study is to analyze the pre-designation activities that have occurred during the Bloomberg Administration (2002-2013) as a means of identifying the "windows" of redevelopment opportunities that accompany designation and the ensuing destruction these timeframes have had on the city's historic resources. This study identified 7 individual properties proposed for landmark or interior landmark designation that have been subject to pre-designation activities that have either resulted in their defacement or demolition. This study also found that in 8 of the 43 districts that were designated between 2002 and 2013, there were examples of 19 buildings that were subject to pre-designation activities that either resulted in their demolition or substantial alteration—with 2 additional buildings in the process of being altered, while another 2 are in the process of being substantially altered following a hearing in which they were heard but not designated even as they continue to remain calendared. The majority of these buildings are located in both established neighborhoods (e.g., Manhattan's Greenwich Village, Madison Square, Upper East Side, Union Square, Upper West Side, Midtown East) and in neighborhoods that have experienced a marked increase in development activities (e.g., Brooklyn's DUMBO, Manhattan's Gansevoort Market (aka Meatpacking), NoHo, East Village, Lower East Side, Lower Manhattan, South Village).

It bears noting that the scope of this study was limited to the extent of pre-designation activities that could be identified during the Bloomberg Administration, which may in fact represent only a fraction of overall pre-designation activities occurring during this period. It also bears noting that this study does not encompass pre-designation activities that have occurred during prior mayoral administrations. Thus, it is not definitive, though it is meant to offer insight as to the unintended consequences of the designation process during these three distinct timeframes when a lack of regulatory authority can result in the demolition or defacement of a building.

The timeframes in which these pre-designation activities have occurred fall into three categories:

- Before New York City Landmarks Preservation Commission property owner notification
- Between New York City Landmarks Preservation Commission property owner notification and calendaring
- Between New York City Landmarks Preservation Commission calendaring and designation

Of these three timeframes, buildings subject to pre-designation activities occurring before property owner notification were the most vulnerable, with activities occurring between notification and calendaring as the second most vulnerable, and activities occurring between calendaring and designation outside of the 40-day calendaring period as the least vulnerable.

2.0 Introduction

2.1 Purpose of Study

The purpose of this study is to evaluate the pre-designation activities that have impacted New York City's proposed and/or designated individual landmarks, landmark interiors, and buildings within historic districts during the Bloomberg Administration. In particular, it seeks to identify when, how, and why buildings which are under consideration for designation may be altered, demolished, or otherwise compromised prior to being designated. Because some of the timeframes and owner notifications informing designation are required by law, whereas some are solely discretionary on the part of the New York City Landmarks Preservation Commission (NYC-LPC), this study seeks to distinguish the period of pre-designation when either designated buildings (or buildings intended for designation) were compromised due to the requirements of the law and when they were compromised do to the actions—or inactions—of the NYC-LPC.

2.2 Background

Section 25-313 of the New York City Landmarks Law mandates that the NYC-LPC notify property owners of its intent to calendar (or consider) their property for potential designation 10 days in advance of holding a vote to calendar the property. Once the agency has calendared the property, the New York City Department of Buildings (NYC-DOB) may not issue an alteration or demolition permit for 40 days unless approved by the NYC-LPC.¹ Further, once their property is calendared, the Landmarks Law also mandates that the NYC-LPC give property owners 10 days' notice prior to the scheduling of a designation hearing, at which time the owner, its representatives, and/or members of the public may submit documentation to the Commission to inform their evaluation of the proposed designation. By law, the Commissioners are empowered to vote on the designation of a property at their first public hearing, which has been beneficial in instances where a historic resource has been threatened.

However, more recently the Commission has supplemented the legal notification process by not only notifying property owners of its intent to calendar a property before the actual calendaring notification, but also schedule a meeting with the property owner(s) in advance of the calendaring hearing (Table 1). The unintended consequence of this multiple notification period has resulted in a significant lead time for property owners to secure alteration, construction, and/or demolition permits prior to the agency taking any calendaring action.

Beyond the issues posed by the pre-calendaring notification period, the NYC-LPC does not always schedule a designation hearing after the Commissioners have voted to move forward with designation, thereby affording property owners multiple opportunities to secure alteration, construction, and/or demolition permits once the 40-day calendar timeframe with the NYC-DOB has expired.

¹ The 40-day period to designate calendared buildings was initiated via a memo by the Assistant Commissioner of the New York City Department of Buildings on April 26, 1988. Fredric J. Pocci, "Landmark District Notification Procedures" Memorandum dated April 26, 1988, Operations and Policy Procedure Notice #12/88, (New York: NYC-DOB, 1988).

Table 1. NYC-LPC Designation Process By Practice and By Law

NYC-LPC DESIGNATION PROCESS BY PRACTICE	NYC-LPC DESIGNATION PROCESS BY LAW
Property owner notification and/or meeting to consider calendaring a property	
Property owner notification to calendar a property	Property owner notification to calendar a property
Calendaring hearing	Calendaring hearing
Property owner notification to designate a property	Property owner notification to designate a property
Designation hearing in which: Property is designated; or Property is heard but not designated	Designation hearing in which: Property is designated

2.3 Basis for Study

This study was commissioned by the Greenwich Village Society for Historic Preservation (GVSHP), which has been monitoring both pre- and post-designation activities in Lower Manhattan since its founding in 1980. As unprecedented demand for real estate in desirable locations of the city such as Greenwich Village has led to an intense interest by property owners and real estate developers to capitalize on highest-and-best-use redevelopment scenarios, it has also led to a pattern of destruction that belies the purpose of the city's landmarks law. Consequently, GVSHP and other civic organizations working throughout the city have had to become more vigilant than ever in monitoring redevelopment activities in their neighborhoods in order to ensure that these areas retain their distinct sense of place in the face of ongoing threats to their character.

Although the focus of this analysis is on pre-designation activities affecting buildings that have occurred during the Bloomberg Administration, the willful destruction of historic properties by their owners is not a new phenomenon. An article in *The New York Times* noted that over thirty years ago the owner of a 1931 Bauhaus-inspired loft building with terra cotta cladding on Lexington Avenue and East 57th Street had advised the landowner that "steps must immediately be taken to prevent" landmarks designation," before obtaining a permit to remove the building's terra cotta.² Thus, by the time the New York City Landmarks Preservation Commission (NYC-LPC) had held its hearing to designate the building as an individual landmark, it had been so thoroughly defaced that it was rejected by the Commissioners. More recently, the Frank Lloyd Wright-designed Hoffman Auto Showroom at 430 Park Avenue, whose owners had been notified by the NYC-LPC that the showroom's interior was being considered for designation, responded in kind by gutting it in order to prevent designation and any potential restrictions on the space that would follow.³ The loss of this interior—only one of three projects completed by the pre-eminent modernist in New York City—suggests that even internationally significant resources are not immune to destruction when confronted with local landmark designation.

The demolition of the former Hoffman showroom not only brought international attention to the

² Christopher Gray, "A Ghost With an Impressive Past," *The New York Times*, June 6, 2013.

³ Marc Chaban, "Frank Lloyd Wright park Avenue site wronged," *Craigslist New York*, April 12, 2013.

loss of a Wright-designed interior, but also local awareness to the larger issue of pre-designation activities that have undermined historic properties. For example, a recent article in *New York* magazine entitled "One Step Behind the Bulldozers" chronicled a host of properties that have been lost through such activities, including the Hoffman interior (430 Park Avenue), Screw Factory (30 Great Jones Street), The Dakota Stables (342 Amsterdam Avenue), Odd Job Building (aka Paterson Silks Building, 36 East 14th Street), ASPCA Headquarters (50 Madison Avenue), and Steeplechase Park (Coney Island).⁴ By contrast, a subsequent article by *New York Times* architectural historian, Christopher Gray, entitled "Architecture: Pre-emptive Moves, Predemolition" recounted examples in which the very prospect of local landmark designation had resulted in owners defacing their buildings, irrespective of the NYC-LPC's initiatives to actually designate them.⁵

2.4 Focus of Study

This study focuses on properties that were proposed, calendared, and/or designated by the New York City Landmarks Preservation Commission during the Bloomberg Administration (2002-2013) and were subject to defacement or demolition during that process.

2.5 Dates the Study Was Conducted

Research, analysis, and writing for this study were conducted between January 2013 and June 2014.

2.6 Acknowledgments and Citation

Gregory Dietrich Preservation Consulting (GDPC) would like to especially thank the following individuals for their assistance:

Simeon Bankoff, Historic Districts Council
Andrew Berman, Greenwich Village Society for Historic Preservation
Nadezhda Williams, Historic Districts Council

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Adrienne Asencio, New York City Landmarks Preservation Commission
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Miriam Berman
Doreen Gallo, DUMBO Neighborhood Alliance
Tara Kelly, Friends of the Upper East Side Historic Districts
Christopher LaBarge, Office of Councilwoman Rosie Mendez
Fern Luskin, Friends of Gibbons Underground Railroad Site and Lamartine Place Historic District

⁴ Andre Tartar, "One Step Behind the Bulldozers," *New York*, May 26, 2013.

⁵ Gray's assessment focused on Manhattan buildings that were defaced and/or subsequently demolished during the 1970s and 1980s that included: the Cherokee Club (334 East 79th Street), Rivoli Theatre (1620 Broadway), and the Studebaker Building (1600 Broadway), while bemoaning the forthcoming loss of a 1956 townhouse at 60 East 86th Street. Christopher Gray, "Architecture: Pre-emptive Moves, Predemolition," *The New York Times*, July 18, 2013.

David Mulkins, Bowery Alliance of Neighbors
Virginia Parkhouse
Julia Schoeck, The Douglaston and Little Neck Historical Society
Kevin Wolfe, The Douglaston and Little Neck Historical Society

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Prepared by Gregory Dietrich Preservation Consulting, New York, NY, for the Greenwich Village Society for Historic Preservation, New York, NY.

2.7 Location of Report Copies

Copies of the report are on file at the office of the Greenwich Village Society for Historic Preservation, Neighborhood Preservation Center, New York, NY.

3.0 Scope and Methodology

3.1 Scope

The scope of this study was determined through discussions with the Greenwich Village Society for Historic Preservation (GVSHP), Historic Districts Council (HDC), and Gregory Dietrich Preservation Consulting (GDPC). It focuses on historic buildings proposed for designation and/or designated by the New York City Landmarks Preservation Commission (NYC-LPC) during the Bloomberg Administration (2002-2013), and specifically on the pre-designation activities that have occurred between initial property owner notification and designation. Under the Bloomberg Administration the NYC-LPC has consistently engaged property owners either directly or through community meetings. Although not legally mandated, the agency's initial outreach to property owners has begun with property owner notification about its interest in designating an individual landmark or a landmark interior, or to publicize a community meeting about its interest in designating a district before the property is calendared for designation.⁶

3.2 Methodology

Research of pre-designation activities occurring during the Bloomberg Administration entailed interviews with HDC Executive Director Simeon Bankoff and GVSHP Executive Director Andrew Berman, along with outreach to HDC's neighborhood partners via telephone and email. In addition, archival and online research was also conducted to obtain information about pre-designation activities affecting historic buildings during this period. Archival research consisted of a review of HDC's files for general designation information and pre-designation activities, and communications with the NYC-LPC to obtain specific dates related to individual property owner outreach and community meeting notification.⁷ Online research consisted of a review of the NYC-LPC historic district maps to obtain district calendaring and designation dates, New York City Department of Buildings' (NYC-DOB) database (aka Building Information Search or BIS) to review pre-designation activities and their NYC-DOB permit application/approval dates, and multiple searches for articles documenting pre-designation activities occurring between 2002 and 2013.

⁶ Every New York City designation is preceded by a calendaring hearing in which staff from the NYC-LPC's Research Department presents the proposed designation to the Commissioners for consideration, and the Commissioners are given an opportunity to vote for or against the proposal.

⁷ Since community meeting notification letters are sent via regular U.S. mail, the NYC-LPC's files only reference the dates that letters are sent out to property owners and not the dates in which they are received.

4.0 Pre-Designation Activities

This report identified 2 individual landmarks whose owners secured NYC-DOB permits to deface their buildings during the pre-designation period within the term of the Bloomberg Administration between 2002 and 2013, thus compromising their ability to convey their architectural and/or historical significance. This report also identified 4 proposed individual landmarks and 1 proposed interior landmark that were either substantially altered and/or demolished during this pre-designation time period which ultimately prevented their designation. In addition, the report identified cases in 8 of 43 historic districts which contain buildings that have undergone substantial pre-designation activities that have either adversely affected their ability to contribute to their district's distinct sense of place or created a streetscape void via a vacant lot or unsympathetic new construction. Of these 43 districts, this report identified 19 buildings within those 8 districts that have been affected by pre-designation activities. In addition, 2 additional buildings already received approvals for alterations prior to their recent district designation, while another 2 are in the process of being substantially altered following a hearing in which they were heard but not designated even as they continue to remain calendared.

The 30 buildings identified in this study that have been subject to pre-designation activities have been divided into three categories according to the following timeframes:

- Before property owner notification (14 buildings)
- Between property owner notification and calendaring (9 buildings)
- Between calendaring and designation (7 buildings)

Sections 4.1 - 4.3 below detail the pre-designation activities that have impacted these buildings through alterations and/or demolitions.

4.1 Before Property Owner Notification

The following 2 buildings were subject to filings for pre-designation activities before the NYC-LPC initially notified the property owners of its intent to designate them as individual landmarks.

Table 2. Individual Building Pre-Designation Activities Before Property Owner Notification

PHOTO REF. NO.	BUILDING NAME & ADDRESS	PROPERTY OWNER OUTREACH DATE	NYC-DOB APPLICATION FILING DATE	PRE-DESIGNATION ACTIVITY	NYC-DOB PERMIT/REF. NO.
1	City and Suburban Homes Company: The First Avenue Estate 429 E. 64th St. & 430 E. 65th St. Manhattan	10/21/04	8/31/04	Removal of architectural ornamentation and cornice, and introduction of pink stucco parging	Alt-2 #103915667
2	P.S. 64 605 E. 9th St., Manhattan	10/19/05	3/27/03	Destruction of terra-cotta ornament on E. 9th Street Façade	Alt-1 #103420870

Despite the early timing of these NYC-DOB filings, both of these properties involved willful defacement by their owners: either as a counter-measure against, or in response to, designation. The designation of the City and Suburban Homes Company: The First Avenue Estate originally dates to 1990, when the property was designated as part of a larger tenement complex and then de-designated by the city's Board of Estimate in the same year. Two years later, the other buildings in the complex were re-designated while the East 64th/65th Street buildings went unprotected. On November 12, 2006, the *New York Times* reported that sidewalk sheds were being erected around the East 64th/65th Street buildings for construction work, leading preservationists to worry "that such work could diminish the buildings' architectural value."⁸ By the time the East 64th/65th Street buildings had finally been designated on November 21st, both the architectural ornamentation and cornice had been removed and the facades had been parged over with pink stucco. In addition, the owner filed two lawsuits: first, challenging the validity of the designation, and more recently after losing the first case, claiming economic hardship as a result of the designation. The latter is currently being adjudicated.

Events surrounding P.S. 64 have become even more litigious than those surrounding the First Avenue Estate buildings as P.S. 64's owner first threatened and then resorted to building defacement *after* having his property designated and then filed three lawsuits against the city as a reaction to regulatory controls pertaining to redevelopment, use, and occupancy.⁹ The New York State Court subsequently upheld its designation, while ruling in the owner's favor on the issues of use and

⁸ Jake Mooney, "For a Landmark Un-landmarked, a Bid to Undo the Undoing," *The New York Times*, November 12, 2006.

⁹ The owner had originally proposed a 19-story dormitory tower on the site which was rejected by the city. Sarah Ferguson, "Gregg Singer Chopping Landmarked P.S.64 Now!," *The Village Voice Blogs*, July 25, 2006; Charles V. Bagli, "In East Village, No End Is Seen in War Over a Building," *The New York Times*, January 2, 2007.

occupancy. Consequently, the owner must obtain approvals from the NYC-LPC in order to move forward with his redevelopment. To date, the NYC-LPC Commissioners have endorsed the current proposal with modifications, but have not issued a resolution approving the project, while the community continues to protest the proposed use and occupancy.¹⁰

The following 11 properties were subject to pre-designation activities before the NYC-LPC initially notified the property owners of its community meeting for the district's calendaring.

Table 3. District Pre-Designation Activities Before Property Owner Notification

PHOTO REF. NO.	ADDRESS	HISTORIC DISTRICT: NYC-LPC COMMUNITY MEETING NOTIFICATION DATE	NYC-DOB APPLICATION FILING DATE	PRE-DESIGNATION ACTIVITY	NYC-DOB PERMIT/REF. NO.
3	7 Ninth Ave.	Gansevoort Market: 12/11/02 ¹¹	11/19/02	Installation of illuminated flex-face sign on building	SG #103264888
4	29 Ninth Ave.	Gansevoort Market: 12/11/02	1/22/01	Introduction of storefront	Alt-1 #102950718
5	44-54 Ninth Ave.	Gansevoort Market: 12/11/02	1/4/02	Dormer additions	Alt-2 #103069929
6	205 Water St.	DUMBO: 3/1/07	11/13/06	Demolition of factory building	DM #302251319
7	45 Bond St.	NoHo Extension: 12/3/07 ¹²	5/14/07	2-story rooftop addition	Alt-1 #104761624
8	233-237 Bleecker St.	Greenwich Village Extension 2: 4/16/09	2/25/05	Storefront replacement	Alt-2 #104048488
9	12 Leroy St.	Greenwich Village Extension 2: 4/16/09	8/1/08	Façade alterations & rooftop addition	Alt-1 #110222624
10	7 Cornelia St.	Greenwich Village Extension 2: 4/16/09	11/14/07	Ground-floor alterations to convert apartments into storefronts	Alt-1 #110017320
11	23 Cornelia St.	Greenwich Village Extension 2: 4/16/09	2/20/09	Removal of horse hoof ornamentation	Complaint #1249377
12	861-863 Lexington Ave.	Upper East Side Extension: 5/15/09	6/25/08	Replacement of historic townhouse with new condominium	NB #110214438 ¹³
13	331 E. 6 th St.	East Village/Lower East Side: 3/31/11	11/22/10 (NB) 12/2/10 (DM)	Replacement of historic townhouse	NB #120537990 DM #120547131

¹⁰ Sarah Ferguson, "Landmarks likes 9th St. dorm; Protest march planned," *East Villager and Lower East Side*, May 10, 2013.

¹¹ NYC-LPC was unable to provide the community meeting notification letter date for the Gansevoort Market Historic District so this date reflects the date of the community meeting.

¹² NYC-LPC was unable to provide the community meeting notification letter date for the NoHo Extension Historic District so this date reflects the date of the community meeting.

¹³ No permit was found for the demolition of the Kean House, which was replaced by a condominium known as The Touraine in 2008.

PHOTO REF. NO.	ADDRESS	HISTORIC DISTRICT: NYC-LPC COMMUNITY MEETING NOTIFICATION DATE	NYC-DOB APPLICATION FILING DATE	PRE-DESIGNATION ACTIVITY	NYC-DOB PERMIT/REF. NO.
				with new condominium	
14	9 Minetta St.	South Village: 4/5/13	2/13/13	Alteration of ground floor of building; replacement of front entrance and windows with garage door	Alt-1 #121521004

The timing of these pre-designation activities range in several weeks before the NYC-LPC community meeting notification (e.g., 7 Ninth Ave.) to several years before the NYC-LPC community meeting notification (e.g., 233-237 Bleecker St.). Thus, the impetus for the owners' activities may be attributable to various motives, ranging from an interest in redeveloping their properties exclusive of any known intent by the NYC-LPC to designate them to acting in response to preliminary information about a proposal for a historic district.¹⁴

4.2 Between Property Owner Notification and Calendaring

The following 3 properties were subject to pre-designation activities between the time the NYC-LPC initially notified the property owners of its intent to designate them as individual landmarks and their hearings to be calendared.

Table 4. Individual Building Pre-Designation Activities Between Property Owner Notification and Calendaring

PHOTO REF. NO.	BUILDING NAME & ADDRESS	PROPERTY OWNER OUTREACH DATE	CALENDARING DATE	NYC-DOB APPLICATION FILING DATE	PRE-DESIGNATION ACTIVITY	NYC-DOB PERMIT/REF. NO.
15	Paterson Silks Building 36 E. 14th St. Manhattan	2/7/05	3/8/05	3/1/05	Removal of glass tower (and subsequent building replacement)	Alt-1 #104050198
16	The Dakota Stables 342 Amsterdam Ave. Manhattan	7/28/06	9/19/06	8/21/06	Removal of architectural ornament, cornice, and parapet (and subsequent building replacement)	Alt-2 #104050198

¹⁴ Preliminary information about a district proposal may derive from NYC-LPC staff surveying the area, neighborhood groups seeking district protection, and/or preservation advocacy groups working to galvanize support for a district, among others.

PHOTO REF. NO.	BUILDING NAME & ADDRESS	PROPERTY OWNER OUTREACH DATE	CALENDARING DATE	NYC-DOB APPLICATION FILING DATE	PRE- DESIGNATION ACTIVITY	NYC-DOB PERMIT/REF. NO.
17	Hoffman Auto Showroom interior 430 Park Ave. Manhattan	3/25/13	N/A	3/28/13	Demolition	Alt-2 #121542535

Intent on precluding any regulatory oversight from the NYC-LPC, all three of these pre-designation activities were initiated by their owners as a counter-measure to individual landmark/interior landmark designation and in doing so, succeeded in destroying these historic resources and circumventing the designation process. Local preservation advocacy organizations and coalitions had advocated for designation of the former Paterson Silks Building and The Dakota Stables in the years prior to the NYC-LPC calendaring the buildings, while Frank Lloyd Wright advocates had only learned of the proposal for the Hoffman Auto Showroom interior months before the fact.¹⁵ Commenting on the loss of the Paterson building, Modern Architecture Working Group co-founder Michael Gotkin, stated, "Out of a list of 10 important modern buildings that was submitted to the commission, with the backing of the entire preservation community, over half are now being either altered or have been demolished...Those of us who toil in modern preservation truly believe that we are in a crisis now."¹⁶ A representative from another preservation advocacy organization entitled Friends of the Upper East Side noted, "The Landmarks Preservation Commission has designated some important Modern buildings, but most remain at risk."¹⁷ In the case of the former Hoffman Auto Showroom, the NYC-LPC's call and letter to the owner went unanswered, prompting a reporter from *Crain's New York Business* to write, "Ironically, it was the Landmarks Commission's good intentions, and a disconnect between it and the Department of Buildings, that doomed the dealership."¹⁸ These events suggest that no amount of preservation advocacy can safeguard a building if the NYC-LPC does not support its designation, and that the agency's "good intentions" also have the capacity to undermine the objectives of Historic Preservation and the effectiveness of the agency in carrying out its mission.

¹⁵ Landmark West! had been advocating for designation of the Dakota Stables for nearly twenty years, The Municipal Arts Society had been advocating for the Paterson building for nearly three years, and The Frank Lloyd Wright Building Conservancy submitted its Request for Evaluation eight months before the calendaring hearing. Christopher Faherty, "Bid To Landmark Dakota Stables Is Derailed," *The Sun*, November 15, 2006; Robin Pogrebin, "Wrecking Ball Dashes Hopes for a Lapidus Work," *The New York Times*, March 9, 2005; Phil Patton, "Wright's New York Showroom, Now Just a Memory," *The New York Times*, June 21, 2013.

¹⁶ Pogrebin, "Wrecking Ball Dashes Hopes for a Lapidus Work," *The New York Times*, March 9, 2005.

¹⁷ Robin Pogrebin, "In Preservation Wars, a Focus on Midcentury," *The New York Times*, March 24, 2005.

¹⁸ Chaban.

The following 6 properties were subject to pre-designation activities between the time the NYC-LPC initially notified the property owners of its community meeting for the district and their hearings to be calendared.

Table 5. District Pre-Designation Activities Between Property Owner Notification and Calendaring

PHOTO REF. NO.	ADDRESS	HISTORIC DISTRICT: NYC-LPC COMMUNITY MEETING NOTIFICATION DATE	CALENDARING DATE	NYC-DOB APPLICATION FILING DATE	PRE-DESIGNATION ACTIVITY	NYC-DOB PERMIT/REF. NO.
18	50 Madison Ave.	Madison Square North: 1/5/01	5/29/01	4/12/01	Reconfiguration of a 5-story former mansion to 3 stories with an 8-story rooftop addition	Alt-1 #102527589
19	20 Jay St.	DUMBO: 3/1/07	7/24/07	N/A	Replacement of historic Belgian block sidewalk pavers surrounding the building with concrete	N/A ¹⁹
20	30 Great Jones St.	NoHo Extension: 12/3/07	1/15/08	12/18/07	Replacement of historic factory building with a parking lot	DM #104937437
21	41-43 Bond St.	NoHo Extension: 12/3/07	1/15/08	12/21/07	Demolition of two buildings and construction of new condominium	DM #104935545
22	51-55 E. 2 nd St.	East Village/Lower East Side: 3/31/11	6/28/11	6/3/11	Removal of cornice	Alt-2 #120723100
23	16 Minetta Lane	South Village: 4/5/13	5/21/13	5/11/13	2½-story rooftop addition atop an early-19 th -century, 2½-story dwelling	Alt-1 #121328768

These pre-designation activities were most likely implemented as a counter-measure to district designation since the majority of these activities would most likely not have been approved by the NYC-LPC due to their adverse effects on the historic resource and/or the introduction of inappropriate replacement design and materials.²⁰

¹⁹ Per Doreen Gallo, DUMBO Neighborhood Alliance, complaints re: pavers replacement & other non-permitted work during the Summer of 2007 resulted in multiple Stop Work Orders on the property, though the pavers replacement did not require NYC-DOB approval since it preceded district designation. Email communication from Doreen Gallo to Gregory Dietrich, March 20, 2013.

²⁰ The one anomaly out of the list is 41-43 Bond Street, which according to the NoHo Neighborhood Association (NNA), the owner/developer/architect of the new condominium solicited design guidance from the NYC-LPC in

4.3 Between Calendaring and Designation

The following 2 properties were subject to pre-designation activities between the time the NYC-LPC held a hearing to calendar them and held a hearing to designate them.

Table 6. Individual Building Pre-Designation Activities Between Calendaring and Designation

PHOTO REF. NO.	BUILDING NAME & ADDRESS	CALENDARING DATE	DESIGNATION HEARING	NYC-DOB APPLICATION FILING DATE	PRE-DESIGNATION ACTIVITY	NYC-DOB PERMIT/REF. NO.
24	94½ Greenwich St. Manhattan	10/19/65 & 6/23/70	1/30/07	Multiple	Multiple storefront alterations and stucco parging	Multiple
24	96 Greenwich St. Manhattan	10/19/65 & 6/23/70	1/30/07	Multiple	Multiple storefront alterations ²¹	Multiple

The timing of these pre-designation activities fall outside the limit of 40 days after the date of filing a NYC-DOB application for work on a calendared property. The calendaring of these two buildings, along with 94 Greenwich Street, date back to 1965 and 1970, yet they continued to languish unprotected until 2007, when only one of the three (no. 94 of nos. 94, 94½, and 96) was designated. In its designation report for 94 Greenwich Street, no. 94½ was repeatedly described as "parged" and no. 96 as "greatly altered," affirming the NYC-LPC's rejection of these two buildings due to inappropriate alterations.²²

The following 3 properties were subject to pre-designation activities between the time the NYC-LPC calendared and designated the district.

Table 7. District Pre-Designation Activities Between Calendaring and Designation

PHOTO REF. NO.	ADDRESS	HISTORIC DISTRICT: NYC-LPC CALENDARING DATE	DESIGNATION DATE	NYC-DOB APPLICATION FILING DATE	PRE-DESIGNATION ACTIVITY	NYC-DOB PERMIT/REF. NO.
25	315 E. 10 th St.	East 10 th Street: 6/28/11	1/17/12	11/28/11	Rooftop addition	Alt-1 # 120909268
26	80 E. 2 nd St.	East Village/Lower East Side: 6/28/11	10/9/12	10/12/11	Rooftop addition	Alt-1 #120853031
27	82 Second	East	10/9/12	3/20/12	Cornice removal &	Alt-2

anticipation of replacing the existing building with new construction. Friends of NoHo, "Pictorial Presentation of Excluded Lots in NoHo Landmark District Extension," (New York: Friends of NoHo, n.d.).

²¹ No information could be found in the NYC-DOB database regarding the 2½-story rooftop addition being constructed on this building.

²² Jay Shockley, *94 Greenwich Street House Designation Report*, Designation List 414, LP-2218, June 23, 2009, 5.

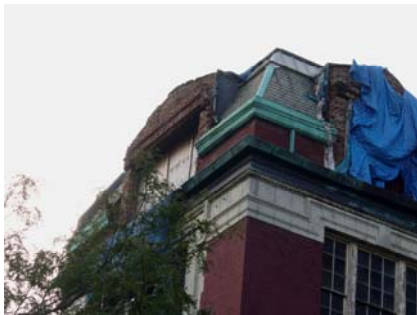
PHOTO REF. NO.	ADDRESS	HISTORIC DISTRICT: NYC-LPC CALENDARING DATE	DESIGNATION DATE	NYC-DOB APPLICATION FILING DATE	PRE-DESIGNATION ACTIVITY	NYC-DOB PERMIT/REF. NO.
	Ave.	Village/Lower East Side: 6/28/11			façade alterations	#121016051
28	38-60 Douglaston Parkway	Douglaston Extension: 3/18/08	6/24/08*	11/14/12	Rooftop and side additions to a c.1864 single-family dwelling	Alt-1 #420786527
29	39-12 Douglaston Parkway	Douglaston Extension: 3/18/08	6/24/08*	11/27/07	Side addition to a 1910 single-family dwelling	Alt-1 # 410034378

*Heard but not designated and still calendared.

Similar to 94½ and 96 Greenwich Street, the timing of these pre-designation activities fall outside the limit of 40 days after the date of filing of a NYC-DOB application. Pre-designation activities undertaken during this time may be attributable to the NYC-LPC's delay in designating a district, thereby inducing a property owner to capitalize on the agency's window of inaction through inappropriate modifications.



**Photo 1. City and Suburban Homes Company:
First Avenue Estates showing loss of
ornamentation and cornice, and the
introduction of pink stucco parging.**
Gregory Dietrich, photographer, 9/21/2013



**Photo 2. P.S. 64 showing destruction of
terra-cotta ornamentation on E. 10th
Street facade.**
Gregory Dietrich, photographer, 9/21/2013



Photo 3. 7 Ninth Avenue showing flex-face sign.
Gregory Dietrich, photographer, 6/6/2013



Photo 4. 29 Ninth Avenue with inset showing storefront replacement detail at right.
Gregory Dietrich, photographer, 6/6/2013



Photo 5. 44-54 Ninth Avenue showing dormers.
Gregory Dietrich, photographer, 6/6/2013

**Photo 6. 205 Water Street showing
new condominium.**
Gregory Dietrich, photographer, 6/6/2013



Photo 7. 45 Bond Street showing 2-story rooftop addition.
Gregory Dietrich, photographer, 6/6/2013



Photo 8. 233-237 Bleecker Street showing storefront replacements.
Gregory Dietrich, photographer, 6/6/2013

Photo 9. 12 Leroy Street showing rooftop addition.
Gregory Dietrich, photographer, 6/6/2013



Photo 10. 7 Cornelia Street with inset showing storefront replacements.
Gregory Dietrich, photographer, 6/6/2013



Photo 11. 23 Cornelia Street showing carriage door entrance surround missing horse-hoof details at their bases.
Gregory Dietrich, photographer, 6/6/2013



Photo 12. 861-863 Lexington Avenue after the loss of the former Kean House.
Gregory Dietrich, photographer, 6/6/2013



Photo 13. 331 E. 6th Street after the loss of its historic townhouse.
Gregory Dietrich, photographer, 6/6/2013



Photo 14. 9 Minetta Street before alterations to replace its front entrance and windows with a garage door.
Gregory Dietrich, photographer, 9/21/2013

Photo 15. 36 E. 14th Street after the loss of the former Paterson Silks Building.
Gregory Dietrich, photographer, 9/21/2013





Photo 16. 342 Amsterdam Avenue after the loss of the former Dakota Stables.
Gregory Dietrich, photographer, 9/21/2013

Photo 17. 430 Park Avenue showing currently vacant retail space after the loss of the former Hoffman Auto Showroom.
Gregory Dietrich, photographer, 9/21/2013



**Photo 18. 50 Madison Avenue showing
8-story rooftop addition.**
Gregory Dietrich, photographer, 6/6/2013



**Photo 19. 20 Jay Street showing
concrete replacement sidewalks.**
Gregory Dietrich, photographer, 6/6/2013



Photo 20. 30 Great Jones Street after the loss of the former Screw Factory.
Gregory Dietrich, photographer, 6/6/2013



Photo 21. 41-43 Bond Street following its replacement.
Gregory Dietrich, photographer, 6/6/2013



**Photo 22. 51-55 E. 2nd Street showing
parapet repair and loss of cornice.**
Gregory Dietrich, photographer, 6/6/2013



**Photo 23. 16 Minetta Lane before the introduction of a 2½
story rooftop addition.**
Gregory Dietrich, photographer, 9/21/2013



Photo 24. 94, 94½ and 96 Greenwich Street (left to right) showing multiple alterations, and rooftop addition to no. 96 under way.
Gregory Dietrich, photographer, 9/21/2013



Photo 25. 315 E. 10th Street showing inset with rooftop addition.
Gregory Dietrich, photographer, 6/6/2013





Photo 26. 80 E. 2nd Street under construction.
Gregory Dietrich, photographer, 6/14/2013



**Photo 27. 82 Second Avenue showing
loss of cornice and façade alterations.**
Gregory Dietrich, photographer, 6/6/2013



**Photo 28. 38-60 Douglaston Parkway
under construction.**
Kevin Wolfe, photographer, 3/7/2014



**Photo 29. 39-12 Douglaston Parkway
showing side and rear addition under
construction.**
Gregory Dietrich, photographer, 4/26/2014

5.0 Analysis

All of the locations of the pre-designation activities discussed in Section 4.0 indicate that buildings located in both established and up-and-coming commercial and residential neighborhoods are the most vulnerable to redevelopment. For example, Manhattan's Greenwich Village, Madison Square, Upper East Side, Upper West Side, Union Square, and Midtown East all share a history of high property values that pre-date the Bloomberg Administration, with the Upper East Side having a long-standing presence that has been synonymous with luxury. By contrast, neighborhoods that have experienced a marked increase in development activities such as Brooklyn's DUMBO and Manhattan's Gansevoort Market (aka Meatpacking), NoHo, East Village, South Village, Lower East Side, and Lower Manhattan present opportunities for greater economic return than their established neighborhood counterparts due to historically lower property values compounded by unprecedented demand. This unprecedented profit potential occurring over the past decade has undoubtedly contributed to the frenzy of owner-developer interest and activity in these latter areas, resulting in a resolve in some cases by these individuals, entities, and their representatives to circumvent any regulatory authority potentially obstructing their objectives of economic gain and expediency.

An analysis of the various categories of pre-designation activities in Section 4.0 suggests that the most vulnerable period for a building to be subject to a pre-designation activity is before the NYC-LPC has begun the process of designating it. Although it is difficult to ascribe motives to a property owner intent on redevelopment beyond basic economic gain, it is highly likely that the prospect of designation can be an unintended incentive for demolition and/or inappropriate alterations to a building as a means of avoiding any potential regulatory oversight.

The second most vulnerable period is between the time that the NYC-LPC has notified the property owner about a designation proposal and the hearing to calendar it. As noted, initial property owner outreach prior to calendaring is not legally mandated by the New York City Landmarks Law. Thus, while transparency from the NYC-LPC is a shared objective for preservation advocates and property owners alike, it should not subvert the process of designating properties for the public good by creating loopholes that enable owners to demolish or disfigure their buildings as a counter-measure against designation.

The third most vulnerable period is the period between the agency's hearing to calendar the property and its designation. It bears noting that the last couple of administrations at the NYC-LPC have been intent on revisiting calendared properties that were never designated as a means of responding to both preservation advocates and property owners who seek resolution of an open-ended designation process. Although the list of pre-designation activities occurring between calendaring and designation contained in this study is short, it does not account for the multiple calendared properties that pre-date the Bloomberg Administration which have been languishing for years and remain vulnerable to inappropriate redevelopment. It does a disservice to both advocates and owners alike for the NYC-LPC to have signified its interest and intent via calendaring, only to have it repeatedly omitted for a designation hearing.²³

²³ One way that the NYC-LPC has dealt with property owners of eligible landmarks who adamantly oppose designation is to engage in a standstill agreement with the property owner, whereby the owner enters into a contract with the NYC-LPC to give the latter an informal review and comment of any proposals affecting the historic

6.0 Conclusions and Recommendations

The New York City Landmarks Law was established to offer regulatory oversight of locally designated historic properties as a means of protecting the city's vast historical and architectural legacy. In accordance with the law and its own administrative procedure to ensure transparency with the public, the NYC-LPC's designation process entails property owner notification and outreach, and hearings for calendaring and designation. When asked about the question of owner consent, NYC-LPC Chair Robert Tierney replied, "Owner consent is not required, but I strongly try to obtain it whenever possible. It helps the process going forward. It's not a continually contentious relationship."²⁴ However, as noted in this study, this transparency—devoid of a legal mandate—comes with unintended consequences that have the capacity to subvert the very process the landmarks law was established to effect: namely, the designation of historic properties for their permanent protection.

As a robust real estate market in select areas of Manhattan and Brooklyn have created unprecedented economic opportunities for real estate owners and developers, some owners have sought ways to exploit timeframes within the process to either subvert the designation altogether or avoid the regulatory oversight that accompanies it. As noted, these "windows" of redevelopment opportunity may pre-date the NYC-LPC's initial notification to the property owner, occur between the time of owner notification and a calendaring hearing, or fall within the often prolonged period between calendaring and designation hearings—if in fact the property actually gets designated. At their very worst, they have the capacity to result in permanent defacement or demolition of the historic building and most notably are all currently permissible under the current system. Thus, each timeframe of the designation process needs to be examined for any potential counter-measures that can be implemented to ensure that any buildings that are being proposed for designation as an individual landmark, landmark interior, or as part of a district are in the same condition upon designation as they were when the NYC-LPC first notified the property owner of its interest and intent to designate them.

Regarding pre-designation activities that pre-date the NYC-LPC's initial notification, it is difficult—if not impossible—to prevent property owners from obtaining preliminary information about a designation proposal emanating from NYC-LPC staff conducting research and surveys on a particular building, neighborhood groups advocating for building or neighborhood protection, and/or preservation advocacy groups intent on galvanizing community support for future protections. It especially bears noting that these types of entities typically include public education and awareness as part of their core mission so the prospect of not disclosing their objectives to actively pursue preservation-related activities would belie their mandates. Thus, despite the potential drawbacks of divulging preliminary information about a designation campaign via research and survey and/or advocating for designation, these types of advocacy activities are still a necessary means of promoting the designation process.

building. Although such agreements have the capacity to serve both owner and agency interests, they also alienate stakeholders and the general public due to a lack of transparency and are therefore not a viable solution to addressing the issue of pre-designation activities.

²⁴ Robin Pogrebin, "Preservationists See Bulldozers Charging Through a Loophole," *The New York Times*, November 29, 2008.

As for the period between community notification and calendaring, the NYC-LPC does have control over the date in which it notifies the property owner of its interest in designation since this is a function of its internal administrative procedure and not of the New York City Landmarks Law. As such, the agency should commit to an internal timeframe that places the calendaring of a property in relatively close succession to property owner notification so that the process moves forward without being undermined by unintended timeframes that enable inappropriate alterations and demolitions.²⁵

In contrast to the NYC-LPC's independent authority to decide when to notify a property owner about its interest in calendaring a property for designation, it is bound as part of a citywide administrative policy to a limited 40-day period to move forward with designation following the submission of a NYC-DOB application for work on a calendared building. In an interview with *The New York Times*, NYC-LPC Chair Tierney stated that "it is difficult to put together a designation in that time frame," adding that the prospect of designating a district "is difficult if not impossible."²⁶ Although extending the timeframe to designate properties that have been calendared would require administrative approval from the New York City Department of Buildings (NYC-DOB), an extension of this regulatory window could conceivably be highly effective in enabling the NYC-LPC to ensure that its calendared properties are designated before they are unduly compromised by inappropriate alterations or demolition. Conversely, the NYC-LPC could expedite its designation process when properties calendared for individual or district designation are under threat of defacement and/or demolition.²⁷

For the time period of the Bloomberg Administration's tenure between 2002 and 2013, this report identified 2 individual landmarks whose owners secured NYC-DOB permits to deface their buildings during the pre-designation period, thus compromising their ability to convey their architectural and/or historical significance. In addition, this report identified 4 proposed individual landmarks and 1 proposed interior landmark that were either substantially altered and/or demolished during the pre-designation period which ultimately prevented their designation. Concurrently, this study identified 19 buildings within 8 districts that were designated during the Bloomberg Administration that have undergone substantial pre-designation activities that have either adversely affected their ability to contribute to their district's distinct sense of place or created a streetscape void via a vacant lot or unsympathetic new construction. In addition, 2 additional

²⁵ Past proposals put forth by Manhattan City Councilmember Rosie Mendez and Queens Councilmember Tony Avella would have the NYC-LPC and NYC-DOB take a more pro-active role in preventing authorization of building applications that would destroy or demolish potential landmarks. However, to date both of these proposals have not moved forward. Pogrebin, "Preservationists See Bulldozers Charging Through a Loophole."

²⁶ Tierney also noted that the agency has been able to mobilize quickly in select situations, such as when it designated the George B. and Susan Elkins House as an individual landmark in advance of designating the Crown Heights North Historic District. Pogrebin, "Preservationists See Bulldozers Charging Through a Loophole."

²⁷ Notwithstanding Chair Tierney's statement regarding the time constraints prohibiting the completion of a designation report, the NYC-LPC has taken a variety of approaches when it comes to expediting a landmark or district designation that include: designating an individual landmark within a calendared district (e.g., the previously noted George B. and Susan Elkins House, Crown Heights North Historic District; James W. and Lucy S. Elwell House, Prospect Lefferts Gardens Historic District); designating a district in phases/sections (e.g., Crown Heights North Historic Districts, Riverside-West End Historic District Extensions); or producing the requisite designation report at the calendaring hearing enabling its designation at that time (e.g., East 10th Street Historic District).

buildings already received approvals for alterations prior to their recent designation, while another 2 are in the process of being substantially altered following a hearing in which they were heard but not designated even as they continue to remain calendared.

As noted, this survey is not exhaustive and does not account for the pre-designation activities that were not uncovered during the course of this investigation. Nor does it account for all of the documented and undocumented historic properties that pre-date the Bloomberg Administration that were targeted for designation by the NYC-LPC and subject to pre-designation activities. Further, the circumvention of regulatory oversight and designation is clearly not a new phenomenon and one that not only affects buildings of local significance, but also buildings of international significance as evinced by the Frank Lloyd Wright designed Hoffman Auto Showroom. Ultimately, this study highlights a problem that is not only endemic to the designation process with its various "windows" of redevelopment opportunities, but also one that will surely be exacerbated in the coming years as demand and profit potential spur both established and untapped areas of the city to be targeted for redevelopment.²⁸ While the reforms recommended in this analysis will not eliminate all of the timing loopholes, they do have the capacity to narrow the gaps that currently exist and in doing so, ensure that the NYC-LPC's presumed objectives for transparency do not fully undermine its objectives to safeguard the city's architectural heritage through a routine designation process.

²⁸ It bears noting that the NYC Department of City Planning's recent proposal to re-zone Midtown East to create an even higher density redevelopment area than what currently exists motivated preservation advocates to rally for protections in the area, resulting in the NYC-LPC's counter-proposal to designate 8 individual landmarks. To date, the agency has notified the buildings' property owners of its intent to designate, and in doing so, once again initiated the "window" of redevelopment opportunity before they have been calendared.

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Appendix
Investigator Qualifications

GREGORY DIETRICH PRESERVATION CONSULTING
PRINCIPAL & SOLE PROPRIETOR

June 2009 –

CONSULTING FIRM SPECIALIZING IN ARCHITECTURAL HISTORY*, PRESERVATION
PLANNING AND LAW, & CULTURAL RESOURCE MANAGEMENT

CULTURAL RESOURCE CONSULTING GROUP

June 2002 – May 2009

**MANAGER, NY OFFICE / DIRECTOR, HISTORIC PRESERVATION
DEPARTMENT /PROJECT MANAGER & PRINCIPAL INVESTIGATOR**

PERSONNEL/PROJECT MANAGEMENT ENTAILING PROJECT BUDGET OVERSIGHT &
ONGOING COMMUNICATIONS WITH CLIENTS, REGULATORY AGENCIES, & ASSORTED
STAKEHOLDERS RELATIVE TO INDIVIDUAL PROJECT NEEDS

PRIMARY INVESTIGATIVE RESEARCH & REPORT AUTHORSHIP; EXPERT TESTIMONY

FORMULATED COMPANY'S STANDARD OPERATING PROCEDURES

LANDMARK WEST!

June 2001 – November 2002

PRIMARY AUTHOR

LINCOLN CENTER NATIONAL REGISTER NOMINATION

NYC LANDMARKS PRESERVATION COMMISSION

July 1999 – September 2000

ACTING DIRECTOR, HISTORIC PRESERVATION GRANT PROGRAM

MANAGED \$268,000 COMMUNITY DEVELOPMENT BLOCK GRANT-FUNDED RESTORATION
PROGRAM OF LOCALLY DESIGNATED PROPERTIES OWNED BY NON-PROFIT AND LOW-
INCOME HOMEOWNERS

REVIEWED AND ADMINISTERED GRANT APPLICATIONS FOR OVER 30 RESTORATION
PROJECTS IN ACCORDANCE WITH NYC-LPC STANDARDS

*Meets Federal qualifications [36 CFR61] for Architectural Historian

EDUCATION

M.S. – HISTORIC PRESERVATION – COLUMBIA UNIVERSITY (2003)

M.S. – REAL ESTATE DEVELOPMENT – COLUMBIA UNIVERSITY (2003)

B.A. – ENGLISH LITERATURE – UNIVERSITY OF CALIFORNIA, LOS ANGELES (1985)

AWARDS

AUSTIN, NICHOLS & COMPANY WAREHOUSE LOCAL DESIGNATION COALITION
HISTORIC DISTRICTS COUNCIL GRASSROOTS PRESERVATION AWARD (2006)

UNION COUNTY PARK SYSTEM CULTURAL LANDSCAPE AND RESOURCE SURVEY
NEW JERSEY CHAPTER OF THE AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS
RESEARCH AWARD (2005)

"AUSTIN, NICHOLS & COMPANY WAREHOUSE"

CLEO & JAMES MARSTON FITCH STUDENT PRIZE, COLUMBIA UNIVERSITY GSAPP (2001)
