



Re: Decision in Case No. PLNAPP2018-00587, appealing Petition Nos. PLNHLC2017-00020, PLNHLC2017-0029 and PLNHLC2017-00030 of the Historic Landmark Commission's effective adoption of the Economic Hardship Review Panel's Findings.

Appellant: International Real Estate Solutions, Inc.

This appeal came before the undersigned for hearing on August 29, 2018, on appeal from a decision by the Historic Landmark Commission ("HLC") effectively adopting findings of the Economic Hardship Review Panel (the "Panel"). In pertinent part the HLC effectively approved the Panel's determination that Appellant International Real Estate Solutions, Inc. ("IRES") had not demonstrated economic hardship sufficient to allow demolition of three (3) out of nine (9) contributing structures, particularly those located at 248 West Bishop Place, 265/67 Bishop Place and 432 North 300 West Bishop Place. IRES appeals from the effective approval.

In making my decision I have considered the record of proceedings before the Panel and HLC, including detailed minutes, as well as all materials submitted to the HLC, the Staff Reports prepared for the Appeal, submissions from IRES and the arguments and materials presented during the hearing.

The decision below was made and the appeal brought pursuant to former City Code §21A.34.020.K. Of note and significance to this opinion, the City has subsequently amended that subsection of the Code to revise the standards applicable to an economic hardship determination, both by requiring more refined estimates based upon proposed designs and by providing more clear direction to decision-makers on how the revised standards should apply to any economic hardship determination. These changes have improved the process going forward and make this decision applicable only to the current appeal under the standards in effect at the time it was made. I find that the parties, including City staff, the Panel and the HLC were hampered by flaws in the former but now improved process.

Under the circumstances, including those described above, I find that the Appellant IRES has met its burden to demonstrate error in the Panel's decision and the HLC's adoption thereof for essentially two reasons, and therefore grant the appeal.

First, the members of Panel who voted against a finding of economic hardship made express findings that the three buildings subject to this appeal could be "rehabilitated." See Report of the Economic Hardship Review Panel – Bishop Place, p. 10 of 131. Rehabilitation alone, however, is not the standard.

Perhaps because of confusion over how to weigh the then applicable standards, the two members of the Panel voting against the economic hardship determination did not make express findings



as to the relative costs associated with the rehabilitation, or stated another way, whether the three buildings at issue could be *economically* rehabilitated. This led to an error of mixed law and fact.

Second and similarly, the Panel concluded that an economic hardship existed for six of the nine structures at issue based upon the information IRES submitted, but found a lack of sufficient engineering information to support economic hardship as to the three structures subject to this appeal. However, the methodology, engineering opinions and estimated costs and hardship justifications IRES submitted were essentially the same for all nine structures.

Even though these three buildings are primarily brick structures and provide a greater potential for rehabilitation, it was not sufficient for the Panel to simply accept the lack of engineering information as to these three structures without giving equal consideration to the cost assumptions which applied to these three as well as the other structures. Under the circumstances, the weight of substantial evidence does not support the Panel's decision to deny economic hardship for these three buildings.

For the reasons stated above, and under the particular facts and circumstances applicable here only, I reverse the HLC's decision effectively adopting the Panel's determination and find that a Certificate of Appropriateness for Demolition should be issued for the three structures subject to the appeal based upon economic hardship.

A handwritten signature in black ink that reads "Jackie Biskupski".

Jackie Biskupski  
Salt Lake City Mayor