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TRAINING MATERIAL

Economic Hardship

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Provisions for economic hardship are intended to provide relief to building owners who have genuine economic constraints, such as elderly people on fixed incomes, or for other circumstances beyond a property owner's control. Economic hardship is not designed to reimburse developers and property owners who have the opportunity to receive a reasonable return on their property as opposed to its maximum use.

Benefits of Hardship Provisions

Commissions must deal with the issue of economic hardship from time to time, so all preservation ordinances should have specific hardship provisions.

Allowing for economic hardship is important for several reasons:

Cultivate a positive public opinion

Building owners may accept ordinances more easily if they provide an outlet for actions that could result in unusually harsh results.

Resolve conflicts

Addressing economic hardship concerns during the hearing phase may resolve differences and help avoid later court battles.

Strengthen court cases

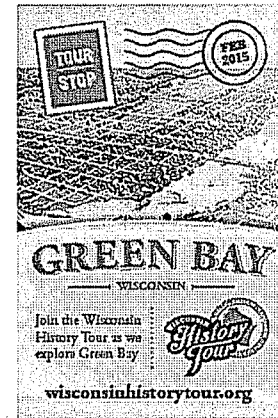
If a commission does go to court, having addressed the economic hardship issue during the original hearing can strengthen its position.

Tips for Considering Hardship Claims

During the initial process of designating a historic property or district, economic hardship should not be considered. Economic hardship should only come into play after a specific proposal is made by a property owner.

When You Consider Economic Hardship Claims

- The burden of proof for economic hardship should be on the property owner, not the commission.
- Make sure sufficient evidence is presented. Consider all aspects of the issue, including:
 - cost and expenditures
 - taxes
 - assessed value
 - vacancy rates
 - financing
 - availability of economic incentives (such as grants or special loans)
 - efforts to find alternative uses
 - efforts to rent or sell the property



- Examine how the economic hardship occurred. A poor business decision does not provide just cause for an economic hardship case. Did the owner pay too much for the property? Has the building been neglected? Only circumstances beyond a property owner's control should entitle the owner to economic hardship relief.

Example of Economic Hardship Provisions

While developing an economic hardship provision in the preservation ordinance, the commission should consider adding this representative language:

"When a claim of undue economic hardship is made owing to the effects of this article, the owner and/or parties in interest must provide evidence during the hearing upon the claim, describing the circumstances of hardship.

The minimum evidence shall include for all property: 1. Nature of ownership (individual, business, or nonprofit) or legal possession, custody, and control; 2. Financial resources of the owner and/or parties in interest; 3. Cost of repairs; 4. Assessed value of the land and improvements; 5. Real estate taxes for the previous two (2) years; 6. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance; 7. Annual debt service, if any, for previous two (2) years received; 8. Any listing of the property for sale or rent, price asked, and offers received, if any.

In addition, for income-producing property, the minimum evidence shall include: 1. Annual gross income from the property for the previous two (2) years; 2. Itemized operating and maintenance expenses for the previous two (2) years; 3. Annual cash flow, if any, for the previous two (2) years.

Within sixty (60) days of the commission's hearing on the claim, the commission shall make a determination of undue or no undue economic hardship and shall enter the reasons for such finding into the record. In the event of a finding of no undue economic hardship, the commission shall report such finding to the City Manager, and the City Manager shall cause to be issued an order for such property to be repaired within the time specified.

In the event of a finding of undue economic hardship, the finding shall be accompanied by a recommended plan to relieve the economic hardship. The commission shall report such finding and plan to the City Manager. The City Manager shall cause to be issued an order for such property to be repaired within the time specified, and according to the provisions of the recommended plan."

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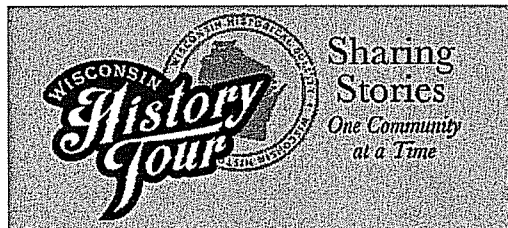
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