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VIA ELECTRONIC AND U.S. MAIL

Jon Farnham, Ph.D.
Executive Director
Philadelphia Historical Commission
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Philadelphia, PA 19102
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1906-1916 Sansom Street and 1918-1920 Sansom Street

Dear Dr. Farnham:

As you know from our previous correspondence, we represent the Singer Family Trust and Michael Singer Real Estate Company in their opposition to the demolition of the above properties. This letter is to request that the application filed by 1911 Walnut Street, LLC be tabled indefinitely by the Historical Commission in light of the Applicant's failure to disclose the full purchase price for the subject properties as well as its neglect of the subject properties, which is leading to their inevitable demolition. In addition, we urge the Historical Commission to view the Applicant's Financial Hardship petition in light of its larger development project.

I. The Applicant has not fully disclosed the value for which it has purchased the subject properties. Thus, the Applicant should be required to amend and/or supplement page 10, paragraph 25 of its affidavit by setting forth, in detail, the events, the occurrence of which, would trigger the incentive purchase price of an additional $10,000,000.00 payment from Applicant to the former owner in addition to the $30,000,000.00 already paid.

Section 9.2(a)(1) of the Historical Commission's Rules & Regulations states:

> 9.2 Additional Submission Requirements for Financial Hardship
> 9.2.a. In addition to the standard submission documents required by Section 6.7 of these Rules & Regulations, an applicant claiming financial hardship shall submit by affidavit, the following information for the entire property, as stipulated by Section 14-2007(f)(.1)-(.7) of the Philadelphia Code:
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> > 1. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship, whether business or familial, if any, between the owner and the person from whom the property was purchased[.]

Moreover, Section 9.8 of the Rules & Regulations states:

> 9.8 Public access to Hardship Documents
> Inasmuch as community organizations, preservation groups, other associations, and private citizens may wish to evaluate and comment on a submission made under the financial hardship provision, the application materials described in Section 6.7 and 9.2 of these Rules & Regulations shall not be subject to confidentiality. Should an applicant attach federal or state tax returns of other materials commonly regarded as confidential, however, these supplementary documents shall not be available to the public.

In light of these provisions, the Applicant's hardship application, and the undisclosed arrangement by which the Applicant potentially pays an additional fee to the former owner, the Applicant's petition to demolish should be stayed. At this time, it is not clear the purpose of the incentive payment of $10,000,000.00. It is feasible that the payment is tied to the Applicant's successful petition to demolish the subject properties due to the subsequent increased value of such prime real estate in the Rittenhouse Square Historic District. However, it would also mean that these funds were not made available for the rehabilitation of the subject properties. Therefore, in addition to complying with the requirements of the Rules, this disclosure will avoid any confusion as to the purpose and timing of the incentive payment.

In addition, the properties are of particular interest to the public, including community organizations, preservation groups, and private citizens, who seek to review the Applicant's petition for demolition due to their location in the historic Rittenhouse Square are, and therefore, per Section 9.8, the Applicant should not be permitted to claim exemption for such disclosures on the basis of confidentiality.

The Applicant is choosing to avoid disclosure by narrowly defining "price" in the regulations, thus avoiding a disclosure that may contradict the very basis for its hardship application. The Historical Commission and the public have a right to know these terms before making their a final determination. To interpret the regulation to exclude the public disclosure of conditions of such high value would render 9.2(a)(1) meaningless.

II. The concept of Demolition by Neglect bars Applicant from proceeding with demolition. Section 13.2 of the Rules & Regulations of the Historical Commission states:

> Demolition by Neglect
> Section 14-2007(8)(c) of the Philadelphia Code provides that the exterior of every historic building, structure and object and of every building, structure and object located within an historic district, and every historic public interior portion of a building or structure, shall be kept in good repaid as shall the interior portions of such buildings, structure and objects, neglect of which may cause or tend to cause the historic portion to deteriorate, decay, become damaged or otherwise fall into a state of disrepair.
> In the event that the Commission staff has reason to regard a condition(s) as posing the threat of demolition by neglect as set forth in section 14-2007-(8)(c) of the Philadelphia Code, the staff shall request, within five (5) working days, that the Department of Licenses and inspections examine the property with a Commission staff member, report its findings to the Commission staff, and, upon the request of the staff, issue an order to repair the condition(s).

The applicant purchased the properties in February 2015 with full knowledge of their condition. Although a chain of owners have held title since 1997, when the subject properties were last occupied, the Applicant has continued the neglect of these properties for over one year, ignoring

the most fundamental elements of maintenance. These include open windows or panes, birds flying in and out of these windows, and a tree growing through the cement at the back of the "Warwick" property, issues which are all plainly visible from the street.

To attribute sole responsibility for this neglect of historically-designated properties to the previous owners would allow the current owners to escape the consequences of the continuing misdeeds of both previous and current owners. Permitting the Applicant to maintain the subject properties as is or allowing the Applicant to sell the subject properties to yet another owner, all without minimal correction, would grant past and current owners immunity from their misdeeds and nullify statutorily authorized consequences.

On the other hand, preventing this practice, would induce market forces to adjust prices to a market value that would encourage maintenance of historic properties. This principle has been applied to corporate and environmental law, where it is now well settled that a corporation is responsible for curing the environmental misdeeds committed by a prior owner even before the current owner acquired the asset involved from the wrongdoer. *See* 42 U.S.C.A. § 9607(a). *See also Litgo New Jersey, Inc. v. Commissioner New Jersey Dept. of Environmental Protection*, 725 F.3d 369, 379 (3rd Cir. 2013); *Pa. Academy of Fine Arts v. Grant*, 5 Pa. D. & C. 4th 655, 657-58 (Pa. Ct. Com. Pls. 1990). We request that this same responsibility be extended to the Applicant pursuant to Section 13.2 so that the subject properties may be maintained at a minimal level of structural integrity until the Applicant's petition is finally decided.

III. Finally, the Applicant should be required to demonstrate its financial hardship in the context of its large-scale development project, which will turn the subject properties and neighboring lots into an extensive residential and commercial complex. The Applicant has

submitted documentation demonstrating that rehabilitating the subject buildings for viable economic use would result in financial hardship. However, the subject properties were purchased concurrently with several adjoining premises, including addresses from 1904 to 1940 Sansom Street and 1907 to 1915 Walnut Street (*see* Application, Exhibit A, "Deeds"). While the subject parcels were separately purchased, they are part of a large proposed residential and commercial development (hereinafter the Project). The Project will need approval in its entirety from the Historical Commission per Section 6.1 of the Rules & Regulations, along with the Philadelphia City Planning Commission and, potentially, the Zoning Board of Adjustment. The cost of the Project, though not disclosed, could equal hundreds of millions of dollars, whereas the cost of rehabilitating the subject properties – and any subsequent potential hardship – will likely amount to a small fraction of the entire cost of development and revenue projections. Thus, it is the economic viability of the Project as a whole, including the cost of rehabilitation and projected revenues, that must be reviewed in any analysis of the Applicant's hardship application.

In summary, the Historical Commission should stay the Applicant's request, based on the Applicant's failure to divulge all necessary information regarding the purchase price of the subject properties and its allowing the subject properties to be demolished by neglect by continuously leaving them exposed to the elements, until such deficiencies are addressed and/or cured. In addition, we urge the Historical Commission to review the Applicant's hardship position in light of the Applicant's utilization of the subject properties as part of a larger and more expansive, revenue-generating development.

We request that a copy of this letter be delivered to each member of the Historical Commission. We have provided copies to you for that purpose. A copy will also be delivered to

counsel for the Applicant. We also request that you post this letter on the Historical Commission's Web site.

Very truly yours,

Samuel M. Lehrer

SML:dk