

February 11, 2004

Testimony of
The Committee of 100 on the Federal City
Before the Mayor's Agent

Application for permit to demolish
Gales School, 65 Massachusetts Avenue, N.W.
HPA No 03-313

The Committee of 100 for the Federal City, located at 1317 G Street, N.W., Washington, D.C., is the City's oldest planning and advocacy organization. More than eighty years ago the Committee was formed to advance the fundamental planning, environmental, and community values that give Washington its historic distinction, natural beauty, and overall livability. The Committee has a strong interest in protecting and preserving historic properties in the District of Columbia through a variety of programs and activities, including advocacy efforts to enforce the District's historic preservation law, D.C. Law 2-144.

Specifically, the Applicant has failed to demonstrate that demolition is "necessary" to carry out their program, i.e., that there are no viable alternatives to demolition. See *In Re Archdiocese of Washington*, HPA 99-219 et al, at 17 (Nov. 10, 1999). The Committee of 100 is particularly concerned that, without holding Applicants strictly to their burden of proving that demolition is "necessary," every landmark in the city could potentially become vulnerable to acquisition and destruction by the hundreds of nonprofits in need of program spaces for what are undoubtedly worthy causes.

According to the Applicant's pre-hearing submission and changes subsequently made to that submission, as we understand them, the Applicant seeks approval to demolish the historic Gales School on a number of grounds. First, the Applicant argues that the project does not contemplate any "demolition," as that term is defined by D.C. Law 2-144, because only interior features and the roof of the building will be destroyed. The Committee strongly disagrees with the Applicant's contention that the demolition of interior features and roofing do not constitute "demolition" absent an interior designation. "Demolish" or "demolition" is defined under D.C. Law 2-144 as "the razing or destruction, entirely or in significant part, of a building or structure and includes the removal or destruction of any facade of a building or structure." D.C. Code § 6-1102(3).

By contrast, the term "alter" or "alteration" is defined as "a change in the exterior appearance of a building or structure or its site, not covered by the definition of demolition, for which a permit is required." *Id.* § 6-1102(1). Accordingly, the definition of "demolition" (as distinct from alteration) does not hinge on a characterization of part of a building as "interior" or "exterior." Instead, the question is whether the Applicant seeks to raze or destroy a "significant part" of a landmarked building. D.C. Code § 5-1001(2). The D.C. Historic Preservation Board has plainly determined that the

demolition proposed by the Applicant constitutes a significant part of the historic Gales School.

The Applicant's reliance on *D.C. Preservation League v. D.C. Department of Consumer and Regulatory Affairs*, 711 A.2d 1273 (D.C. 1998), is misplaced. In that case, the Court merely found that the demolition of an interior wall did not constitute "substantial demolition." The Court did not, as the Applicant suggests, state that the term demolition only covers demolition of exterior features. To the contrary, the Court's full assertion was as follows: "As an interior wall, it was not subject to the provisions of the Act, which covers only exterior structures, or at least substantial demolition including exterior structures of a historic landmark." *Id.* at 1277 (emphasis added). Here the proposed demolition includes the roof, an exterior structure, as well as the floors and interior walls, leaving the building a virtual shell. As the Review Board found, the total amount of demolition is substantial.

The Applicant next argues, in the alternative, that demolition is necessary in order to construct a project of "special merit" – namely, to house a multidisciplinary investigation team to investigate and respond to reports of child abuse. However, we believe the Applicant has not met its burden of demonstrating that all the demolition is necessary to accomplish its purpose. The necessity for co-locating the National Children's Alliance in the same facility has not been demonstrated, nor the reasons why a police substation (as opposed to a more limited facility) needs to be placed within the building.

We ask the Mayor's Agent to be especially demanding in special merit cases. The District is fortunate to have a superabundance of educational, religious, charitable, and eleemosynary institutions, many doing exceptional good work. Were even a fraction of them to be granted license to significantly demolish landmark buildings, the work of generations committed to preserving the District's often-threatened historic structures would be fundamentally reversed. And the legislation intended to continue that legacy would be seriously compromised.

Inasmuch as a special merit justification must be based on a demonstration that there exists no alternative to the taking of substantial historic fabric, we ask that the Mayor's Agent deny demolition and refer the entire project back to the Historic Preservation Review Board for complete review, including more detailed information from the Applicant to justify the special merit claim. Inasmuch as a demolition permit could not be issued until the rest of the project has been reviewed and the Applicant has demonstrated an ability to complete the project, such action would not delay the project or harm the Applicant.

We thank you for your consideration.

Barbara Zartman, Chair