

Landmarks Preservation Commission  
New York City Charter  
Section 3020

LANDMARKS PRESERVATION COMMISSION

1. There shall be a Landmarks Preservation Commission consisting of eleven members. The membership of such commission shall include at least three architects, one historian qualified in the field, one city planner or landscape architect, and one realtor. The membership shall include at least one resident of each of the five boroughs.
2. (a) The members of the commission shall be appointed by the mayor for terms of three years, provided that of those members first taking office, three shall be appointed for one year, four for two years, and four for three years. Each member shall serve until the appointment and qualification of his or her successor. The terms of members first taking office shall commence on the date of their appointment.  
(b) Before making any appointment of a member who is required to be an architect, historian or city planner or landscape architect, the mayor may consult with the fine arts federation of New York and any other similar organization. In the event of a vacancy occurring during the term of a member of the commission, the mayor shall make an interim appointment to fill out the unexpired term of such member, and where such member is herein required to have special qualifications, such vacancy shall be filled by interim appointment of a person having such qualifications, in the manner herein prescribed.
3. The members of the commission other than the chair, shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties.
4. The mayor shall designate one of the members of the commission to be chair and one to be vice-chair. The chair and vice-chair shall serve as such, until a successor or successors are designated. The commission shall appoint an executive director who shall devote full time to his or her duties. The commission shall submit an annual report on its activities to the mayor.
5. The commission may employ technical experts and such other employees as may be required to perform its duties, within the appropriations therefor.
6. The commission shall have such powers and duties as shall be prescribed by law with respect to the establishment and regulation of landmarks, portions of landmarks, landmark sites, interior landmarks, scenic landmarks and historic districts.
7. In order to provide an opportunity for comment, in advance of any hearing on a proposed designation of a landmark, landmark site, interior landmark, scenic landmark or historic district, the commission shall send a notice of the proposed designation and the hearing to the city planning commission, all affected community boards and the office of the borough president in whose borough the property or district is located.

8. All landmarks, landmark sites, interior landmarks, scenic landmarks and historic districts designated by the commission pursuant to any applicable law shall be in full force and effect from and after the date of the action of the commission. Within ten days after making a designation, the commission shall file a copy of such designation with the city planning commission and the council. Within sixty days after such filing, the city planning commission shall (a) hold a public hearing on any such designation of a historic district and (b) shall submit to the council a report with respect to the relation of any such designation, whether of a historic district or a landmark, to the zoning resolution, projected public improvements, and any plans for the development, growth, improvement or renewal of the area involved. The city planning commission shall include with any such report its recommendation, if any, for council action with respect to any such designation of a historic district.

9. The council may modify or disapprove by majority vote any designation of the landmarks preservation commission within one hundred twenty days after a copy of such designation is filed with the council provided that the city planning commission has submitted the report required above or that sixty days have elapsed since the filing of the designation with the council. All votes of the council pursuant to this section shall be filed by the council with the mayor and shall be final unless disapproved by the mayor within five days of such filing. Any such mayoral disapproval shall be filed by the mayor with the council and shall be subject to override by a two-thirds vote of the council within ten days of such filing.

10. (a) There shall be a panel, independent of the commission, consisting of five members appointed by the mayor with the advice and consent of the council in accordance with the procedures in section thirty-one. Such panel shall review appeals from determinations of the commission denying applications for certificates of appropriateness, based on the grounds of hardship, to demolish, alter or reconstruct improvements that are exempt from real property taxes, provided that such appeals may be brought only with respect to applications made under applicable law on the grounds of hardship applicable only to tax-exempt properties.

(b) Within a reasonable time period, the mayor shall submit to the council a proposed local law establishing the procedure, including the standard of review, for reviews by such panel. If such a local law is not enacted within one year of the effective date of this subdivision, the mayor shall promptly establish by executive order the procedures for reviews by such panel. Such panel shall not review appeals from determinations of the commission until the effective date of such a local law or executive order; provided, however, that any of the applications described in paragraph (a) of this subdivision that are denied by the commission after the first day of January, nineteen hundred ninety and prior to the effective date of such local law or executive order may be appealed to such panel during a sixty-day period commencing on the effective date of such local law or executive order.

(c) The provisions of this subdivision shall not be construed to alter or amend the provisions of chapter three of title twenty-five of the administrative code and the judicial interpretations thereof.

(d) The failure to appeal to the panel for review of a determination of the commission described in paragraph (a) of this subdivision shall not preclude the commencement of a judicial action or proceeding for review of such a determination; provided, however, that no such action or proceeding may be brought during the pendency

of an appeal before the panel. Notwithstanding anything to the contrary in this subdivision, the commencement of a judicial action or proceeding for review of a determination of the commission shall preclude the appeal of such a determination to the panel. Any party, including the commission, aggrieved by a final determination of the panel may commence a judicial action or proceeding for review of such determination of the panel.

11. In addition to the powers conferred by this chapter, the commission shall have the powers specifically conferred upon it by chapter thirty-seven of the charter.

## Section 3021

### HARDSHIP APPEALS PANEL

1. Definitions. For the purposes of this section,

- (a) "Panel" means the hardship appeals panel established pursuant to subdivision two of this section.

- (b) "Commission" means the landmarks preservation commission.

2. (a) There is hereby established the hardship appeals panel, independent of the commission, to consist of five members appointed by the mayor with the advice and consent of the council in the manner specified in section thirty-one of the charter. No more than two members of the panel shall be residents of the same borough.

- (b) The term of each member shall be three years, provided, however, that of the members first appointed on or after the effective date of this section, two shall be appointed for a term of two years and one shall be appointed for a term of one year.

- (c) The mayor shall designate one member to be chair.

- (d) The members shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

3. The panel shall review appeals from determinations of the commission denying applications for certificates of appropriateness, based on the grounds of hardship, to demolish, alter or reconstruct improvements that are exempt from real property taxes, provided that such appeals may be brought only with respect to applications made under applicable law on the grounds of hardship applicable only to tax-exempt properties. Notwithstanding the foregoing provision, the panel shall not have jurisdiction to review such appeals if a judicial proceeding for review of such determination of the commission has been commenced.

4. A proceeding for review pursuant to this section shall be commenced by filing a notice of appeal and petition. A notice of appeal shall be filed with the panel and the commission no more than forty-five days after the date that notice of the determination of the commission is served upon the appellant. A petition and any supporting memoranda of law shall be filed with the panel and the commission no later than sixty days after the date on which the notice of appeal was filed with the panel and the commission. Upon the filing of a petition, the panel shall obtain from the commission the record of the proceedings before the commission relating to the matter to be reviewed. The commission shall have the opportunity to

file with the panel responsive memoranda of law within thirty days after receipt of the petition and supporting memoranda. Any other submissions to the panel, including reply memoranda, shall be filed in accordance with a schedule established by the panel. Notwithstanding the foregoing provisions, with respect to applications described in subdivision three of this section that are denied by the commission after the first day of January, nineteen hundred ninety and prior to the effective date of this section the notice of appeal and petition shall be filed with the panel and the commission no more than sixty days after the effective date of this section.

5. The panel shall review the petition, consider the arguments made in the memoranda submitted to it, afford the parties the opportunity to present oral argument, and review the record of the commission including the statements of those who appeared before the commission, the documents in the record, including materials prepared by members of the commission, staff and their consultants, the statements of members of the commission and staff in the record and the findings of, and the reasons given by, the commission for its determination. The panel shall not substitute its own judgment for that of the commission. It shall not take testimony or consider any evidence that was not in the record below. If the panel finds that the determination of the commission has a rational basis supported by substantial evidence in the record, it shall affirm the determination of the commission; otherwise it shall reverse the commission's determination and remand the matter to the commission, which shall then issue a preliminary determination of insufficient return and take such steps as are provided by law following such preliminary determination.

6. The appellant or the commission may commence a judicial proceeding for review of a determination of the panel.

7. The panel shall render a determination expeditiously. If the panel does not render a determination within ninety days after the date of the filing of the petition, the petitioner at his or her option may agree to an extension of time for such determination or may withdraw his or her petition. If the petitioner chooses to withdraw the petition, the panel shall no longer have jurisdiction to hear the appeal and the determination of the commission described in subdivision three of this section shall be considered final and shall be subject to judicial review as provided by law.

8. Any determination of the panel reversing the commission's determination and remanding the matter shall be stayed pending the final resolution of any judicial proceeding for review of the determination of the panel.

9. Nothing in this section shall be construed to affect the provisions of law and procedures governing determinations of the commission, including, but not limited to, the nature and conduct of hearings and the burdens of proof, that are otherwise provided for under chapter three of title twenty-five of the administrative code and any rules promulgated thereunder and any judicial interpretations thereof, or to affect the standards provided in law for judicial review of any determination of the commission or panel.

10. Nothing in this section shall be construed to require a person aggrieved by a determination of the commission to appeal to the panel prior to commencing a judicial proceeding for review of such determinations.

11. The panel may adopt such rules of procedure consistent with this sections as are necessary to carry out the provisions of this section.