

Bradley Wolf has been the City Historic Preservation Officer for the City of Kansas City, Missouri since 2001. He serves as staff to the city's Historic Preservation Commission and provides input to other city planning staff, city commissions and city council on historic preservation initiatives throughout the city.

Creating a Better Process to Review Economic Hardship

By Bradley Wolf

A request for a certificate of economic hardship can be one of the most difficult reviews for a preservation commission and staff. One of the ongoing challenges I have experienced throughout my career is defining economic hardship to the public. To most people, economic hardship invokes visions of a bureaucrat rifling through an applicant's personal bank statements, paystubs and tax returns. Explaining that the economic hardship relates to the value the property and the proposed improvements and not the ability of the owner or developer to pay for the improvements leads to baffled expressions.

Like many cities, Kansas City's previous preservation ordinance language for economic hardship used basic model preservation ordinance language. After the preservation commission reviewed a particularly difficult case for a certificate of economic hardship, the deficiencies of the ordinance were starkly apparent, so the city embarked on an update to the ordinance to make the process clear for the commission and the public. The previous economic hardship language stated that "the Commission shall consider the replacement cost factor, the availability of substitute materials, and the assessed and/or market value of the property as presented by the applicant, when determining economic hardship." That language did not give good guidance on the types

of evidence to consider and what constituted an economic hardship.

The ordinance update was an effort of the city, preservation advocacy groups, developers and the public. One of the key points brought up early in the process was to have a definition of what constituted an economic hardship. The definition separated economic hardship into two categories, income and non-income producing properties. Below is the language the city adopted:

For income-producing property, the updated language for economic hardship stated that "a reasonable economic return cannot be obtained or that it is impractical to sell or lease the

property or no market exists for it at a reasonable price if the property retains its historic features or structures in either its present condition or if its features or structures are rehabilitated.”

For non-income producing property, such as owner-occupied dwellings or properties owned by institutional, nonprofit organizations or public entities, the updated language for economic hardship stated that “the value of the work that meets the Secretary of Interior’s Standards for Rehabilitation would be an unreasonable investment based on the overall value of the property in its present condition or if rehabilitated.”

What the new language did not address was a specific dollar amount or percentage of value of a repair that would constitute an economic hardship. For example, a new tile roof that meets the design standards costs 60% of the value of the home versus a composition roof that does not meet the design standards costs 15% of the value of the home. The commission could determine if that investment that meets the design standards would be considered a hardship based on that information along with other factors.

The second key component was a checklist of evidence the commission could consider. The ordinance did not limit evidence to just the list below but gave a common list of items that had been requested in past commission reviews and from research of other ordinances. The National Alliance of Preservation Commission’s website has good references and articles on economic hardship that were very helpful in our process. <https://napcommissions.org/technical-assistance/>

Checklist of possible evidence to present

- Mortgage balance & debt service for two years
- Appraisals
- Assessed value
- Real estate taxes
- Form of ownership
- Attempts to sell (listings or contracts)
- Reasonableness of price or rent
- Advertisements to sell or rent
- Economically feasible alternatives to reuse property
- Structural reports
- Estimated market value of property
- Evidence of self-created hardship
- Incentives available for rehabilitation
- Financial analysis by an independent third party
- Proposed plans for the site
- Estimated mothballing costs

Under the previous ordinance discussion on whether a project meets the guidelines and if it was an economic hardship were intermingled at the same meeting. To solve this confusing evaluation and to create a clear record of the discussion, the commission required that a certificate of economic hardship could not be reviewed at the same meeting that the certificate of appropriateness is denied. This approach allows for separate evaluations of the design standards and economic hardship by the commission, but also allowed the public to understand the items that would be discussed at each meeting.

On the following pages are three examples of requests for certificates of economic hardship. Two cases review proposed demolitions of contributing historic buildings and the last case is a request to use a material that did not meet the design standards.



Image courtesy of the author.

Apartments Proposed for Demolition.

Case Study – Income Producing Apartments

Request: This case was a request to demolish four apartment buildings designed by a local architect and built between 1902 and 1903.

The apartments are located along a prominent boulevard in Kansas City, which made them a significant part of the streetscape.

Background and Evidence: The developer purchased the occupied apartments in 2008 with the intent of a major rehabilitation. The apartments were vacated in anticipation of rehabilitation. The economic downturn began and the anticipated funding for the project was no longer available, so the buildings were

secured and sat vacant for five years. The developer then requested the demolition of the buildings and construction of two new apartment buildings. There were 24 units between the four buildings.

Economic Hardship Considerations	
Owner's basis in the property	\$800,000
Market Value of Property	Jackson County Assessor Market Value (\$500,000)
Potential Income from property	\$900 per unit x 24 = \$259,200 annual \$21,600 per month
Cost of the repairs according to the Secretary of the Interior's Standards for Rehabilitation	Estimate at meeting \$166,275 per unit x 24 = 3,990,600 Estimate from previously planned renovation plan \$4,196,400.00
Availability of loans or grants for historic preservation	N/A
Value of property after repairs	Not available
Effect on rents	Currently unoccupied
Availability of loans or grants for historic preservation	None
Estimated value of property after repairs	Unknown
Existence of market for resale of repaired building	Unknown
Existence of market for sale of building with repairs to be made by a buyer resale without requirements that repairs be made	The applicant listed the building for sale in for 7 months.



Image courtesy of the author.

1904 Building Proposed for Demolition.

Outcome: The commission denied the request to demolish the apartments based on the fact that the properties had deteriorated since the developer purchased the buildings. Also, based on public testimony, there may have been other options in terms of incentives or a possible sale of the property to another owner. After a city council election, a new city council representative worked with the developer to create an incentive package that made the rehabilitation of the apartments financially viable and the apartments opened for occupancy in 2017.

Case Study – Non-Profit and For-Profit Partnership

Request: This case involved the demolition of a former classroom building at a seminary. The campus consisted of two buildings, a former orphanage built in 1899 and a former home for seniors built in 1904. The seminary purchased the campus in 1922. The seminary is still operational, but it only occupies the 1899 building. The seminary partnered with a developer to rehabilitate the 1899 building and construct townhomes on the rest of the site. The developer proposed to demolish the 1904 building because it was not economically viable to rehabilitate.

Background and Evidence: The applicant provided an analysis for rehabilitation cost and income for a 10-year period. The analysis assumed 12 residential dwelling units in a 16,000 square foot building.

Economic Hardship Considerations	
Gross Income from property years 1 to 10	\$115,960 to 165,451
Total Expenses from property years 1 to 10	\$-91,800 to -119,778
Debt Service on Loans years 1 to 10	\$-65,366 to -61,874
Cash Flow After Debt Service years 1 to 10	\$-41,176 to -16,201
Debt Service Coverage Ratio (DSCR)	.037 to 0.74 (1.2 to 1.3 minimum 1.4 is risky)
Cash on Cash Returns years 1 to 10	-2.08% to -1.29%
Total Development Costs	\$5,105,982
Tax Credit Equity Federal	\$492,236
Tax Credit Equity State	\$576,191



Image courtesy of the author.

Slate Roof.

The applicant provided a professional evaluation of the site and the city had staff from economic development review the applicant's analysis and evaluate it based on the current economic conditions in the area. The economic development staff agreed with the assessment that there would be a negative return. The last part of the consideration of the certificate was evidence of demolition by neglect. The campus was designated to the local historic register in 1988. The seminary was in continuous ownership of the property even though they are partnering with a developer under the current plan. The photographs at the time of designation showed the building in fair condition with no signs of major deterioration. The seminary also had been sent notices to repair the building due to its condition.

Outcome: After reviewing the photographs and service orders, the commission determined that there was evidence of demolition by neglect and denied the application for demolition. The owners appealed to the city council, who approved the demolition.

Case Study – Owner Occupied Roof Replacement

Request: This application requested a certificate of economic hardship based on materials that did not meet the design guidelines. This request was for removal of an original slate roof on a 1902 Georgian Revival house in a historic district.

Background and Evidence: The applicants requested the installation of a composition three-tab shingle roof in a dark grey color to match the color and pattern of the slate roof. The commission

Economic Hardship Considerations	
Appraised value of the property (Jackson County)	\$384,000
Cost of installation of composition roof	\$14,874.00 (composition) \$25,000.00 (polymer slate)
Cost of the repairs (repair and installation of new slate) according to the <i>Secretary of the Interior's Standards for Rehabilitation</i>	\$40,486.00
Difference in cost of repair vs. composition	\$25,612.00 (composition) \$15,486.00 (polymer slate)
Tax credits, grants or loans available	None
Value of property after repairs	unknown

also requested a bid for a polymer slate that more closely matched the existing slate. The replacement of the slate roof will cost 10.5% of the county appraised value of the house compared to 3.9% for the composition and 6.5% for the simulated slate.

Outcome: The commission determined that the composition shingle was not a compatible replacement and given the value of the house, it was not an economic hardship. The commission approved the use of the polymer slate or installation of matching slate.

Best Practices

1. Define what constitutes an economic hardship. It sets a clear expectation for the public and for the commission on what they may consider.
2. Outline the types of evidence the commission can consider so the applicant and public can determine what type of evidence is appropriate to submit.
3. Keep the design review separate from the consideration of the economic hardship. It creates a clear record of the commission's decisions.
4. If the commission feels the applicant has not provided key information to decide economic hardship, even if it's not on the checklist, request more information so you have a clear record of your determination
5. If available, approach staff outside of the preservation staff to assist in the evaluation of the proposal. Engineers from our building and permitting division and staff from our local economic development agency were helpful in reviewing the evidence submitted in economic hardship cases. ■