

Saving a Terminal Case

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If New York's Grand Central Terminal has a new lease on life as a result of the Supreme Court decision in the Penn Central case, so has every historic structure in the country. The grotesque tower atop the terminal that had been proposed by the railroad and its developers and denied by the city may be a building lost for New York — but it represents a principle gained for the nation. The outcome of the case that carried the challenge to the terminal's landmark designation and to New York's landmarks law up to the highest court has decisively established the legitimacy of property regulation for its historic, cultural and esthetic value.

The legal debate over whether such regulation is in the area of zoning or eminent domain has haunted every preservation commission and municipality in the country. Is it a proper function of the police power or must "just compensation" in cash be paid for a "taking" of property? No city can afford to buy its monuments or amenities. Now, the decision has come down firmly on the side of landmarks regulation as an appropriate form of zoning. In the example of Grand Central, the Court held that a reduction of property value cannot be called a "taking" of property; zoning frequently reduces property value, often burdening some owners more than others. The burden can be heavy, but a law such as New York's guarantees a rea-

sonable return on the property and the widest latitude for its use consonant with preservation.

The Court also denied the contention that landmark designation, by singling out individual properties, is discriminatory zoning. Landmark designation is not discriminatory as long as the selection of properties conforms to a comprehensive plan. Nor can it be argued that designation is a matter of personal or subjective taste; those criteria, the Court noted, are subject to legal review, just like zoning criteria.

The Court's decision has clarified and strengthened the relatively new body of preservation law by resolving many issues that have been in a legislative limbo. Cities and towns can now feel much more secure about their ability to protect their historical and architectural heritage — provided that their laws are as carefully and equitably constructed as New York's. Above all, the constitutionality of landmarks legislation is no longer in question.

It is a long way from the interpretation of the "highest and best use of the land" as the maximum profit to be made out of it, to an understanding that the quality of the environment is an essential part of the quality of life. If some vintage champagne is being drunk in some vintage buildings as a result of this decision, we join the celebration.

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