

## A Grand Decision for Grand Central

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New York City has won a resounding victory in the fight to save Grand Central Terminal—a unanimous decision of the state Court of Appeals to uphold the building's landmark status. This was round three of a ten-year legal battle pitting the city against the Penn Central and a developer who wanted the Terminal's air rights for a piggyback office tower.

Denied a certificate of appropriateness by the Landmarks Preservation Commission, Penn Central and the developer went to court. The State Supreme Court found for the railroad, calling the designation a deprivation of property without due process of law.

Now the state's highest court has not only upheld the city's case, but the landmark law's constitutionality as well. Penn Central can still appeal to the United States Supreme Court, but its case grows weaker as the decisions grow stronger, and as time and practice establish the soundness and necessity of landmark legislation as an appropriate police power in the public interest.

Much more has been gained than the Terminal itself. Landmark law is a relatively new field, and the legislation is being slowly, painfully and incrementally established through the courts. Zoning law was tested

in a similar way in the early part of the century.

In this important case, it was found not only that Penn Central failed to prove economic hardship, but that a reasonable return for the owner of a designated building means a fair return, not the greatest possible return a property can yield. The Court of Appeals went yet a significant step farther by defining how a fair return is to be calculated. It said that this figure may not be based on the property's total value, as has been customary; when value has been created in part by private investment and in part by government or public investment, a reasonable return should be figured only on the privately contributed portion. The decision went to the heart of the matter for the first time—defining the rights and responsibilities of the owner and of society.

It is encouraging to see cities protecting their heritage and quality, and it is even more encouraging to see the process turned into a law that is sensitive to both individual rights and social needs. If we shape our buildings and our buildings shape us, as Churchill said, the law shapes both. The Grand Central decision carries that process farther with fairness and vision.

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