



**Statement of the Historic Districts Council
West Park Presbyterian Church Hardship Application
To Landmarks Preservation Commission
June 13, 2023**

As with HDC's previous testimony regarding the West Park Presbyterian Church hardship in 2022, we remain opposed to this application. One of the two arguments the applicant makes continues to be focused on the ability to make a reasonable return on investment. Both the hardship provision and the case law support the fact that the reasonable return test does not apply to charities, but rather the ability of the charity to carry out its mission.

The updated materials provided by the applicant do not provide any additional justification for using the reasonable return argument and in fact, seem to mostly consist of additional studies on neighborhood context and condition assessments. The applicant's proposal to demolish a non-profit-owned landmark to build luxury condos continues to not meet the "charitable purpose" test. And as we stated previously, nothing in the materials references established case law, including the state's highest court, the New York State Court of Appeals, which has opined that a request to demolish a landmark will be denied when the applicant is trying to claim "best use" of its property, and the applicant does not, instead, meet the "charitable purpose" test. This is settled law in the State of New York.

HDC also continues to have serious concerns about the applicant's premise that the building cannot serve the current charitable purpose of the congregation. We know that the building is in active use by multiple parties, from the tenant the Center at West Park and Lighthouse, a separate congregation. If all of these parties are using it and others have expressed interest in using the space and indeed possibly purchasing the building, then how can it not be serving its purpose?

The applicant has not fulfilled its claim that it needs to replace the church immediately to fulfill its charitable mission. While it is clear that this building needs work, the applicant has not demonstrated that analysis of the condition of the building has been fully explored, nor that the entire structure needs to be rehabilitated all at once to become a

more useful site. The applicants concern that any change in “dominant use or occupancy” of the Building would require the issuance of a Certificate of Occupancy, is not valid and would be borne by a new owner if the use changed and would not be necessary if it remained a religious site.

If a hardship is granted, the precedent here could be truly destructive regarding religious institutions across the city, some of whom would use this precedent to seek a reasonable return for their landmarked properties and demolish irreplaceable buildings for highest and best use. HDC strongly supports the need for more incentives and technical assistance for congregations as some of them continue to dwindle in size and resources. Some possibilities include increasing the receiving area for air rights for religious sites and incentives to help adaptively reuse these spaces. But that is not the issue before us today. The only issue is if the applicant has met the charitable purpose hardship provision and the answer remains no.