
The Late Unpleasantness:
St. Bartholomew's Church
and the New York City Landmarks Law

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When the Rev. Thomas Dix Bowers was called as rector of St. Bartholomew's Church in 1978, the parish that awaited him was primarily elderly and stable, but one that sponsored a community club for young adults with over one thousand members. According to the responses to a survey sent to the 1,487 parishioners in September 1978, 33.5% were age sixty-five or over, and another 29.4% were between age fifty and sixty-four. In terms of tenure, 32.7% reported that they had been a member of the parish for twenty-one years or more; 26.1% said their association was between ten and twenty years.¹ Once known for its wealthy, socially prominent congregation, the parish was living off its ten-million-dollar endowment while retaining some customs, such as a number of rented pews, from an earlier era. One couple still arrived on Sundays in their Rolls-Royce, but the popular perception of the parish was of a place where this lady and gentleman were the rule, not an exception.

In 1978, annual giving was \$134,000 (from 468 donors). By 1980, under Bowers's leadership, this would more than double to \$277,754. But expenses were also increasing, at a faster pace. For 1979, St. Bartholomew's posted an operating deficit of

¹ "Summary of Parish Questionnaire Responses", St. Bartholomew's Church, n.d. (author's collection).



*St. Bartholomew's Church
Park Ave. and 50th St., New York City
Photo credit: Christopher Little, 1997*

\$651,000.² Part of the increase in expenses was driven by the rector's desire for new programs, especially ones serving the urban poor and homeless. To Bowers, people who professed and called themselves Christian could not sit comfortably in their church while less fortunate souls outside were going without food or shelter. The "Church is the Body of Christ, it is not a building" was the credo Bowers preached with eloquence and verve throughout his ministry. He also said "[a] magnificent structure like this [St. Bartholomew's] ought to be magnificent in terms of love and caring and outreach."³ In the face of much

² H. Peers Brewer, treasurer, to the parishioners of St. Bartholomew's Church, 17 November 1980, St. Bartholomew's Church, Parish Archives (SBCA). Income from all sources totaled \$2,004,000 in 1979, but expenses were \$2,655,000.

³ *New York Times* (NYT), 10 November 1981, sec. B, 1.

obloquy and criticism over the next ten years, he did not waiver in this belief.

But programs were not the only cause of budgetary pressure. In 1977-78 the parish had been obliged to spend approximately \$200,000 repairing the dome. Given the size and age of the building, further expenses of this magnitude were anticipated.

By 1980, the New York City commercial real estate market had recovered from the slump of the 1970s when the city flirted with bankruptcy. Between 1978 and 1980, the vacancy rate in midtown would decline from 4.48% to 2.70% and the average asking rent would rise from \$14.37 to \$32.83 per square foot.¹ The inevitable result was pressure on developers to bring more space to market and competition for building sites.

The overall economic picture was not as favorable. The country emerged from a recession in July 1980; the unemployment rate for the second quarter was 7.6% nationwide. During 1979, the consumer price index had risen 13.3% and 1980 would see another double-digit increase. The prime rate stood at 12¹/₂% in September 1980. The Dow Jones Industrial Average, which had closed over 1,000 in September 1976, would not close at that level again until November 1980.

The vestry sought to devise a plan to accomplish two goals: increase the amount of space available for church programs and maintain the sacred fabric. In early 1980, a small group of vestrymen began quietly to explore the possibility of taking advantage of the real estate market to develop the site occupied by the community house adjacent to the church.

In 1979, Marc Haas, then the senior warden of the parish, sold his stamp collection for approximately \$11 million.² The next year, he gave one million of the proceeds to St. Bartholomew's as an addition to the endowment. For a time, there was talk of using his gift to spark a capital campaign, and a goal of \$12 million was under discussion. But the vestry concluded that such a goal was not viable, and the proposed campaign was shelved.

¹ *The Gordon Office Market Report*, January 1986.

² *NYY*, 5 August 1979, sec. 2, 1.

In the face of double-digit inflation, a stagnant stock market, the parish's current income not keeping up with current expenses, the likelihood of further large expenses to maintain the building and no immediate prospect of a capital campaign, the vestry felt compelled to explore the real estate option, especially in view of the strong market.

Rumors began circulating that St. Bartholomew's might be "in play" and the story leaked to the press. It broke on 19 September 1980, with the force of the thunderclap: a page one, above-the-fold photograph and story in the *New York Times*. The story reported that the vestry had received an offer of \$100 million from an unnamed corporation for the entire site. As an alternative, sale of the community house was also under consideration. Marc Haas, spokesman for the parish, was quoted as saying "no decision would be reached by the church 'for three to six months' and that the church was not 'going to rush into this'". Later he said "we will give very careful thought to major problems such as the relocation of the parish if we sell."

Haas had amassed a considerable fortune through shrewd investments on Wall Street and through real estate. He had played a major role in attracting Bowers to St. Bartholomew's in 1978 and would remain a staunch supporter until his death in 1990. Not one to brook opposition, he had little talent for public relations and once publicly invited parishioners who were uncomfortable with Bowers's style of leadership to find another church.

The *Times* article speculated that the source of the \$100 million "offer" was the First Boston Corporation, but they denied that they were involved.⁶ In point of fact, there never was a serious offer for the entire site: the \$100 million figure was mentioned in an hypothetical conversation about what the property might bring in a sale.

On the Sunday after the story broke, a *Times* reporter attended the morning service at St. Bartholomew's. By chance, the congregation sang a hymn that included the lines:

⁶ However, First Boston had submitted the outline of a proposal for the development of the community house site. Letter dated 5 September 1980, SBCA.

Foursquare on this foundation
 The Church of Christ remains,
 A house to stand unshaken
 By floods or winds or rains.⁷

The article quoted Marc Haas as saying “This is going to get a long think.” The author continued, “He [Haas] was plainly hopeful that the process might stir the church’s members and large corporate neighbors to greater giving.” Quoting Haas again, “[w]e’re hoping that some people will come forward, [t]hat would make a difference in our considerations.”⁸ If that was indeed Haas’s strategy – to motivate people into greater giving via a threatened sale of the church – it certainly backfired.

People were left with the impression – rightly or wrongly – that the survival of the church building itself was in doubt and the shock waves reverberated throughout the parish and the city. Opposition was not long in getting organized.

THE COMMUNITY REACTION

A group of parishioners formed an organization called “The Committee to Preserve St. Bartholomew’s Church” with J. Sinclair Armstrong as chairman.⁹ Armstrong’s family had a long association with the parish, where he had been baptized and confirmed. A lawyer and banker by profession, he held a number of governmental positions in the Eisenhower administration, including the chairmanship of the Securities

⁷ Hymn #235, *The Hymnal* 1982.

⁸ NYZ, 22 September 1980, sec. II, 3.

⁹ The incorporators were Armstrong, John Clappell and Donald Clappell. The original board of directors included Elizabeth W. Bristol and Marjorie V. Brown and the three incorporators. Robert F. Morris, Jr. was the treasurer. Letter from Armstrong to the author, 31 July 2000.

and Exchange Commission. Active in church affairs throughout his life, he had for a time been a warden at St. Mark's in the Bowery and played a major role in the rebuilding of the church following a fire in 1978. Armstrong was well connected in New York philanthropic and social circles. Under different circumstances he could have been helpful in raising funds for St. Bartholomew's. Recognizing this, Bowers tried to enlist his support early in the building controversy.¹⁰

The reaction within the parish could be traced, in part, to the fact that many people were still getting used to the style and priorities of the rector. St. Bartholomew's had long been known for the quality of its music and preaching. For decades prior to Bowers's arrival in 1978, the services had followed an immutable pattern very much in the low-church tradition. Money was seldom mentioned. Yet on Bowers's first Sunday as rector, parishioners found the new prayer book in the pews, television cameras in the church, different vestments on the clergy and were asked to exchange the "peace" for the first time. Although the changes had been discussed with the vestry, who had given Bowers a mandate to revitalize the parish, little effort had been made to prepare the congregation. Many people found the changes jarring. But by 1980, parishioners had become more accepting. New people were joining the parish (and some had drifted away), but there was not a great reservoir of trust and goodwill between rector, vestry and flock to draw on in the face of a monumental issue such as the building.

St. Bartholomew's Church was founded in 1835 in lower Manhattan. In 1872, the parish moved to a new church at the corner of Madison Avenue and 44th Street. David Greer, rector from 1888 to 1904, and subsequently bishop of New York,

¹⁰ Brent C. Brolin, *The Battle of St. Bart's*, (New York, 1988) 71, 85. Useful for the colorful description of many parts of the controversy, Brolin's book appeared before the U. S. District Court ruled on the church's petition. Furthermore, although Sinclair Armstrong and other members of the Committee gave Brolin their full co-operation, the rector and vestry refused to have anything to do with him.

inspired the parish in a major outreach effort to immigrant families living in tenements. With the support of the Vanderbilts, a large parish house was built on 42nd Street in which a range of programs were offered. For a time, the parish even operated a small hospital. By the late 1920s, changes in the neighborhood had obviated the need for such an institution and the parish house was sold.¹¹ The proceeds were used to build the community house adjacent to the church on Park Avenue and 50th Street to which the parish had moved in 1918. When Bowers arrived in 1978, the parish's outreach effort focused on a community club for young professionals.

At a meeting attended by several hundred parishioners on 9 October 1980, the treasurer painted a bleak picture of the future of the parish without significant additional revenue. The vestry voted on 14 October not to sell the church, but to explore development of the community house site. In a letter to the parish, the rector said the vestry agreed that "[a]s a matter of policy, we will accept no offer, however big, enticing, or seeming to be the 'quick answer' to our growing financial needs, that would in any way harm our world-renowned church or detract from its dedicated missions in God's name."¹²

In November, when the vestry learned that people were donating money to the committee thinking the funds would be used to restore the church, they brought suit in New York State Supreme Court to stop the committee from calling itself a committee to preserve the church. Subsequently, the committee changed its name to "The Committee to Oppose the Sale of St. Bartholomew's Church." This proved to be the first in a long series of litigation between the vestry and the committee, but the only case in which the vestry was the plaintiff. At the same time, Armstrong and his colleagues obtained enough signatures on

¹¹ E. Clowes Chorley, *The Centennial History of St. Bartholomew's Church in the City of New York, 1875-1975*, (privately printed, 1935) 193-211, 310-316.

¹² The Rev. Thomas D. Bowers to his parishioners, 14 October 1980, SBCA.

petitions to put themselves forward as candidates for the vestry at the annual election in January. However, when Armstrong was denied listing as he failed to meet the qualification of being a contributor of record to the parish during the twelve months prior to the election, he petitioned the court claiming that a check for \$50 given in connection with the parish dinner in January 1980 constituted support. As he had not attended the dinner, the judge found that the funds did qualify him as a contributor of record and ordered the vestry to prepare and distribute new ballots listing Armstrong's name.

In the January 1981 election, Armstrong and his colleagues were all defeated, winning between 156 to 199 votes each, to 365 to 484 each for the candidates supporting the rector. A year later, the committee again contested the vestry election winning between 251 to 295 votes for their slate to 333 to 410 for the rector's.¹³

The election set the tone of the frequently acrimonious debate between the committee and the vestry over the next decade. The committee tenaciously resisted the efforts of the vestry to develop part of its property through contesting parochial elections, filing actions in state court, a complaint to the bishop, letter-writing campaigns and skillful use of media to influence public opinion. They also filed a derivative action naming thirty-one present and former vestry members as defendants, claiming they had breached their fiduciary duty and wasted the parish's assets in pursuit of the building project. Although the vestry would lose some skirmishes along the way, in the end the vestry prevailed in all the state court actions.

Preservation of historic or architecturally important buildings is a subject that enjoys wide support in New York City. The landmarks law was enacted to prevent further acts of cultural vandalism such as the destruction of the old Pennsylvania Station and, as the law had been upheld by the United States Supreme Court in a case involving Grand Central Station,¹⁴ the

¹³ Records of parochial elections, St. Bartholomew's Church, SBCA. Although the Committee would contest several more elections, their candidates were always defeated.

¹⁴ Penn. Cental Trans. Co. v. City of New York, 388 U. S. 101, (1978).

preservation community saw the threat to St. Bartholomew's as a call to arms. Several prominent residents, Mrs. Vincent Astor, Jacqueline Kennedy Onassis, Brendan Gill and Philip Johnson, veterans of the Grand Central struggle, organized an informal group to oppose the vestry. None had any formal relationship to the parish. The preservationist organizations, led by the Municipal Art Society, were not slow to make their opposition known. Mrs. Onassis hosted a luncheon at her apartment with a number of editors and prominent New Yorkers to build support for the preservation of the church.¹⁵ Having someone of her prominence aligned on one side of the argument helped give visibility to the struggle. Paul Moore, Jr., the bishop of New York, was one of the very few people of any prominence willing to speak up for St. Bartholomew's.

The press reaction ranged from skeptical to negative. The *New York Times* covered the story as important local news with a total of fifty articles and no less than five editorials over a decade. The *New York Post* was the first to comment editorially (on 20 September 1980) with a barb that concluded, "The elders of St. Bartholomew's do not need forty days and forty nights to find their answer. It is written for them in the New Testament, [I] Timothy, Chapter 6:10: 'For the love of money is the root of all evil.'" The issue generated a small blizzard of letters to the editor, op-ed pieces, articles in a wide range of publications (e.g., in 1981, *New York* would run a cover story under the headline "Holy War on Park Avenue") and, in 1988, a book, Brent Broolin's *The Battle of St. Bart's*. On 26 October 1980, with the controversy little more than a month old, Ada Louise Huxtable, the Pulitzer Prize-winning architectural critic, wrote a scathing *Sunday Week in Review* piece under the headline "The Sell-Off at St. Bartholomew's".

If Faust exchanged his soul for immortality, the temptation of St. Bartholomew's is the more pragmatic lure of financial

¹⁵ *New York*, 11 December 1981, 33.

security....The trials of conscience that have sent saints into poverty and the desert have delivered St. Bart's into the hands of the real estate brokers....That the beauty of the St. Bartholomew's block contributes to the spiritual welfare of the city and all of its people is not part of the reckoning. The quality of the church's art and architecture are well-known, but the serenity and public availability of its sun-filled and flowering garden in the congested commercial heart of the city are a particular gift of grace to New York City. Only in a culture where commercial values have vanquished spiritual values would such a church and its setting not be considered a legacy beyond price from the past to the present.¹⁶

In this article, Huxtable framed the debate as perceived by many people in New York.

St. Bartholomew's Church was designed by Bertram Grosvenor Goodhue and built between 1916 and 1918 incorporating Stanford White's triple portal from the earlier church. The dome and much of the interior decoration were added in 1930. Although Goodhue described St. Bartholomew's in his private correspondence as "a strange aberration in Italian Romanesque of sorts," he succeeded in blending a number of historical forms into a building that conveys the immanence of God, provides a worship space seating 1250 in which everyone could see and hear the preacher, and is richly decorated with biblical scenes in marble, mosaic, bronze, stained glass and painting.¹⁷ Following Goodhue's death in 1924 the community house was constructed in 1927 by his successor firm. Through careful use of similar brick on the western facade of the community house the viewer, especially from the south-west, saw a single, unified composition. Admired as an oasis of beauty and light on one of the busiest

¹⁶NYT, 26 October 1980, sec. II, p. 33.

¹⁷ Richard Oliver, *Bertram Grosvenor Goodhue*, (Cambridge, 1983) 144-151. See also Christine Smith, *St. Bartholomew's Church in the City of New York*, (New York, 1988) for the building history and discussion of the historical sources.

thoroughfares in the city, St. Bartholomew's was also the oldest building on its part of the avenue and valued for the continuity it represented. Any proposed change in it was regarded as an assault on the very fabric—social and physical—of the city. The argument put forward by the rector, that the tenets of Christianity obliged the parish to use its real estate to support its mission, was greeted with skepticism in the press.¹⁸

In December 1980, in an interview with a Virginia newspaper, Bowers expanded on his beliefs:

In every place God has given us some theological issue. Here, as I see it, the issue is between architectural idolatry versus the mission of the church. We've finally got an issue that cuts through the life of the parish and people have to think about what the church means.

In Atlanta the question was whether the poor could be cared for by the church or whether it was a haven just for people who are like-minded. Here the question is what is the place of buildings, some say it is sacrosanct and we cannot change one stone.

If Christ has called me to be the curator of a museum, a caretaker of buildings, if that's really perceived as my major purpose in His name, then I'm wasting my time and His resources.

That piece of property [St. Bartholomew's] can be used to transform the entire Episcopal ministry in this diocese, to help the suffering seminaries, to infuse new life into churches that are about to die.¹⁹

As he implied in the interview, Bowers was no stranger to controversy. In his previous parishes he had confronted issues he felt strongly about head-on and prevailed in the face of resistance. At St. Patrick's Church in Washington, DC during the 1960s the issue was the racial integration of the parish. At St.

¹⁸ For example, see *Wall Street Journal*, 21 January 1986, 26.

¹⁹ *Virginia Pilot, Ledger-Star*, 28 December 1980, sec. G.

Luke's in Atlanta a decade later it was feeding and sheltering the poor and homeless. But both of those matters could be addressed with a degree of moral clarity that did not obtain with the preservation issue.

In June 1981, the vestry sought to present its view and move the debate onto theological ground by publishing "A Theology for the Ministry of St. Bartholomew's Parish". In discussing the role of religion in society, the statement pointed out that "the purpose of most major religions is to bring people into a relationship with God, a relationship that gives meaning and purpose to their lives." The Christian credo was summarized in words familiar to every Episcopalian: "Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind. This is the first and great commandment. And the second is like unto it: Thou shalt love thy neighbor as thyself. On these two commandments hang all the Law and the Prophets."

The statement acknowledged that "Beautiful buildings, particularly churches, have been helpful in bringing people into a relationship and life with God by lifting their spirits, inspiring their imaginations, sensitizing them to the mysterious and holy presence of God, and by simply being the place in which the community of faithful gathers..." It went on to pledge that St. Bartholomew's would strive to use fifty percent of the annual income received from a development of its property outside the parish. It concluded with the belief that there was a moral and Christian imperative to take advantage of the opportunity offered. "To do less would be blasphemy because it would be idolatrous." The statement was signed by the rector and all members of the vestry. When it appeared as a full-page advertisement in the *Times*, it included the endorsements of nineteen religious leaders from a variety of faiths.²⁰ Eventually, another sixteen would add their signatures.

As theology, the statement may have seemed sound, but it appeared nine months into the controversy and St. Bartho-

²⁰NYT, 28 June 1981, sec. E, 22.

lomew's was never able to define the debate on its terms. Brendan Gill, the *New Yorker* writer and chairman of the New York Landmarks Conservancy, responded to the accusation of idolatry in an op-ed piece in 1984. He wrote that after searching his conscience as to whether he had stepped over a line between admiring architecture and worshipping it, "I am convinced that my feelings in respect to architecture remain, like Ben Johnson's feelings in respect to Shakespeare, 'on this side [of] idolatry'".²¹ Clearly, the suggestion that they might be violating the second commandment did not deflect people in the preservation movement from their goal of preserving St. Bartholomew's Church and community house intact.

In October 1981, the vestry prepared and sent to all parishioners a thick volume entitled "Securing the Future of St. Bartholomew's Church and its Ministry". In addition to the theological statement, the book included a history of the parish's outreach to the community, an explanation of why the vestry felt the existing space within the community house was inadequate to the parish's needs, a list of needed repairs and improvements to the physical plant prepared by the church's architects estimated to cost \$7,697,000, audited financial statements for the period 1976 to 1980 and financial projections prepared by the treasurer estimating the parish's income and expenses for the next ten years. The projections indicated that by 1988 the parish would have a cumulative net operating loss of \$11,263,000 and would have completely exhausted its endowment.²² (What the vestry could not anticipate, of course, was the bull market in equities that began in 1982 and, in the manner of a rising tide lifting all boats, would maintain the solvency of the parish.)

Included in the book was background information about the decision of the New York Landmarks Preservation Commission to award landmark status to St. Bartholomew's Church and com-

²¹NYL, 28 January 1984, 23.

²²SBCA.

munity house in 1967. At that time, the then rector and vestry were reluctant to accept such designation fearing that future circumstances might oblige the parish to modify its building or even move. They negotiated some qualifying language with the commission that was included in the designation report. One sentence read “[b]y this designation of the Landmark and Landmark site, it is not intended to freeze the structures in their present state or to prevent the alteration of existing structures or the erection of other structures needed to meet the Church’s requirements in the future.”²³

Although the church accepted the designation in good faith, the commission would later maintain that this qualifying language was only precatory.

To mollify feelings within the parish, in 1981 the vestry adopted a change to its by-laws to require a vote by the full parish prior to any sale or lease of the real estate located at Park Avenue and 50th Street. Such a by-law (first urged by Armstrong) was contrary to both the canons of the Episcopal church and New York State law, which recognized the vestry as the body corporate of the parish with sole authority to make such decisions. Notwithstanding this, once on the books the courts would maintain that the vestry had to obey the by-law.

In December 1981, the parish voted on the proposal to build a fifty-nine story office tower on the site of the community house. A vote held a month earlier had been blocked by court order obtained by the committee. Once the ballots had been cast, the ballot box was transported downtown to the courthouse where the votes were counted under the supervision of the judge. The vote, 375 in favor to 354 against, was announced from the bench.²⁴

²³ Landmarks Preservation Commission designation report #LP-0275, 16 March 1967.

²⁴ NYT, 19 December 1981, 30.

THE PROPOSED BUILDINGS

To help sort through proposals from competing developers, the vestry engaged Landauer Associated, a firm with wide experience in the New York commercial real estate market. Dean Robert Geddes of the Princeton University School of Architecture agreed to serve as consultant on aesthetic matters, to help ensure any new structure would be as compatible as possible with the church.

Beginning with nine developers (including Donald Trump) who expressed interest, the list was reduced to three and the vestry then selected Howard Ronson, a British developer starting to make his mark in New York. Not only did Ronson offer the best deal financially, but also Dean Geddes liked his design best of all. Ronson's architect, Peter Capone of Edward Durrell Stone Associates, had designed a fifty-nine story, glass-sheathed tower containing 760,000 square feet of space. Within the building, the church would have use of a 75,000 square-foot condominium containing a theater, swimming pool, gym, café, meeting rooms, offices, lounges and public areas, much of which would be below grade. This would be an increase of approximately fifty percent in available space over the existing community house. The deal was structured as a 100-year ground lease, with the church retaining ownership of the land. At the end of the 100-year term, ownership of the tower would pass to the church. The church would receive rent of \$9.5 million per year for the first ten years after construction was complete, and higher rents in subsequent years.²⁵

In an effort to leave the terrace and garden intact, and to preserve the view of the church from Park Avenue, the footprint of the proposed building would have been the same as that of the community house. The western facade of the community house would be incorporated into the new building. However, part of the tower would be cantilevered over the apse of the church.

Once the design was made public, it was excoriated by Paul Goldberger in a front-page appraisal in the *New York Times*. He

²⁵ Anthony P. Marshall to the vestry, 11 November 1983, with enclosures, SBCA.

called it "the wrong building in the wrong place" and said "[t]he architects are trying to save St. Bartholomew's with mirrors, and it is a gross and awkward solution."²⁶

The next two years were taken up with obtaining the necessary approvals of the bishop and the standing committee of the diocese, negotiating with Ronson and skirmishing with the committee. The contract to lease was finally signed on 8 December 1983, and the vestry submitted an application to the Landmarks Preservation Commission for a Certificate of Appropriateness on 12 December. The contract included a commitment by the church to pursue all legal avenues up to the United States Supreme Court if necessary.

The Landmarks Preservation Commission's hearing was a very full day, including a presentation by the architect about the proposed building, testimony about the needs of the parish, an endorsement of the project by Bishop Moore and objections from the preservation community. On 12 June 1984, the commission voted 8 to 0 to deny the request. In part, their letter stated that "the proposed new building competes with, minimizes and trivializes the landmark through its massing, size and location relative to the church, by its lack of harmony in terms of materials, and through its destruction of the relationship between the church, the community house and the terraces and gardens."²⁷

The vestry and the developer opted to try again with a new design that would, they hoped, address the concerns of the commissioners expressed at the hearing. The second building was designed to have a masonry exterior, be forty-seven stories high and encompass 343,874 square feet. The parish would have use of a 60,000 square-foot area within the building. Unlike the first design, this was an as-of-right building so no municipal approvals other than that of the landmarks panel were needed. The

²⁶NYT, 30 October 1984, 1.

²⁷Gene A. Norman, chairman, Landmarks Preservation Commission, to the Rev. Thomas D. Bowers, rector, 24 June 1984, SBCA.

annual rental to be received by the parish would be \$3.5 million, or approximately one-third the amount in the first deal.²⁸ This second design would be submitted to a vote of the parish, but not until 1986 and then under court order, when it was approved 403 to 240.²⁹ At the time of the vote on the second building, Bishop Moore again urged parishioners to vote in favor, writing "I uphold your view of the Church as a center of compassion, an instrument of justice and a place of worship, rather than merely an esthetically pleasing monument."³⁰

Paul Goldberger, writing in the *Times*, allowed that the "new design seems earnestly to try to relate to the complex and difficult site on which the community house now stands..." But he clearly had reservations about inserting any building into the block and concluded "[s]o this building is hardly there yet, changed though it is."³¹

While the commission was considering the second application, the *Times* ran an editorial urging City Hall to broker a compromise between the parties. It suggested that one way out would be for the landmarks law to be amended to allow nonprofit owners to sell their development rights ("air rights") over a much greater distance than is now allowed.³²

On 9 July 1985, the Landmarks Preservation Commission unanimously rejected the second proposed building. They "found that the proposed demolition of the community house and terraced gardens and the proposed design for the new building and plaza do not protect or enhance the exterior architectural features which cause the landmark to possess a special

²⁸ Real Estate Development Committee of the vestry to parishioners of St. Bartholomew's Church, 19 December 1981, SBCA.

²⁹ NYZ, 24 September 1986, sec. B, 3.

³⁰ The Rt. Rev. Paul Moore, Jr. to the rector, wardens and vestry of St. Bartholomew's Church, 4 September 1986, SBCA.

³¹ NYZ, 28 December 1984, sec. B, 1.

³² NYZ, 23 March 1985, 22.

aesthetic and historic interest and value."³³ Convinced that no building that could be designed for the site would be approved by the commission, the vestry then made plans to apply for relief under the hardship provision of the landmarks law by making an "application for a certificate of appropriateness on ground of insufficient return." If a charity could successfully demonstrate that maintenance of their landmark property either physically or financially prevented or seriously interfered with carrying out their charitable purpose, then the landmark designation could be voided.

THE HARDSHIP APPLICATION

In connection with this application, the vestry commissioned O'Brien-Kreitzberg & Associates, Inc. to prepare a detailed survey of the condition of the church and community house and estimates of the cost of restoring both to first-class condition, including upgrading the building systems. Their estimates, including contingencies and fees, came to \$5,389,273 for the church, and \$5,673,360 for the community house, totaling \$11,062,633.

Furthermore, to substantiate the claim that the parish lacked sufficient space for its programs, a space analysis of the community house was prepared by Walker Associations, Inc. They found that the community house contained gross area of 51,649 square feet, but only 33,325 square feet of usable space (spread over seven levels) due to the amount of space occupied by building systems, air shafts, thick masonry walls, elevators and the staircase. Walker also analyzed each of the programs and determined that they required an aggregate of 46,981 square feet. Of that amount, 5,521 were available in the church, leaving 41,460 needed in the community house. The result was a shortfall of 8,135 square feet.

³³ Gene A. Norman, chairman, Landmarks Preservation Commission, to the Rev. Thomas D. Bowers, rector, 26 August 1985, SBCA.

The parish's accounting firm, KMG Main Hurdman, prepared detailed reports of the income and expenses recorded over the past ten years to substantiate the vestry's position that the parish could not both conduct its ministry and maintain the building. One particularly telling schedule showed the fund balance of the endowment as of 31 October 1967, (when the parish's fiscal year then ended) at \$9,237,021. On 31 December 1984, at the end of the last fiscal year, the endowment had a value of \$10,984,242. But, as reflected on the schedule, if the figures were adjusted for the increase in the consumer price index for the New York area, then the 1984 figure would amount to only \$3,623,966. In other words, the endowment had lost two-thirds of its value in real terms over seventeen years due to inflation.³⁴

The parish took a number of painful steps to reduce the annual operating deficit during 1984. A dozen staff members were let go, the number of Sunday services reduced, the main body of the church was kept shut during the week (although the chapel remained open), the Sunday afternoon music program curtailed, the amounts budgeted for maintenance and advertising reduced and the diocesan assessment withheld.³⁵ The Landmarks Commission and the press were quick to point out, however, that throughout the period when the parish was pleading hardship the rector and his wife continued to reside in a twelve-room apartment at 860 Park Avenue.

In December, while the hardship application was before the Commission, the vestry's credibility was damaged when Ronald B. Alexander, until April a member of the vestry and chairman of the building project committee, publicly questioned the accuracy of the parish's financial presentation. Specifically, he stated that much more of the endowment fund could legally be spent than the vestry had claimed for the past four years. This caused

³⁴ The referenced documents are in the archives of St. Bartholomew's Church and the Landmarks Preservation Commission archives.

³⁵ The Rev. Thomas D. Bowers to the parishioners of St. Bartholomew's Church, 19 January 1984, SBCA.

something of a sensation, and the *Times* splashed the story across the front page of its Metropolitan Report with the headline "Ex-trustee Says Church Aides Lied at Tower Hearing."³⁶

Alexander's point about the expendability of funds had merit. The vestry had stated in the 1981 "Securing the Future" document that of the \$11,735,708 on hand at 31 August 1981, 95.5% was "not available for the general uses and purposes of the church, but only income derived therefrom may be expended for such purposes." However, this statement was not grounded on a detailed analysis of the terms attached to the various funds given or bequeathed to St. Bartholomew's over the years.

In early 1985, the vestry, prompted by Alexander, commissioned KMG Main Hurdman to investigate thoroughly the source of all funds in the endowment and determine which were restricted by action of the donor. The result of their analysis was incorporated into a schedule forming part of the audited statement for 1984 which was distributed to the parish in July 1985 and submitted to the commission. The report reflected \$4,918,342 in donor-restricted funds. Another \$2,197,618 represented net realized gain on endowment funds that could be expended in accordance with donor restrictions. A further \$1,882,162 represented the gain on endowment funds that could be expended as the vestry saw fit. The report also found \$729,196 in funds restricted by donors for specific purposes, with the balance subject only to vestry-imposed restrictions.³⁷

The commission held public hearings on three days, public executive sessions on five occasions and made a site visit to the church. They received engineering and architectural reports from Polonia Restoration Company, retained by the commission to comment on the condition of the church and community house, that undercut the hardship claim. Secondly, the commission received reports from the city's Department of General

³⁶NYT, 1 December 1985, sec. B, 1.

³⁷The Rev. Thomas D. Bowers to the parishioners of St. Bartholomew's Church, 6 December 1985, enclosing letter from KMG Main Hurdman, 20 August 1985, SBCA.

Services on the building systems and from an accountant retained to evaluate the parish's financial reports. The vestry was not permitted to respond to this post-hearing testimony.³⁸ Polonia and DGS found that the church and community house could be put in good repair for approximately \$3 million or less than one-third the figure estimated by O'Brien-Kreitzberg.³⁹ In issuing its 102-page report, the commission dissected the application and concluded that St. Bartholomew's had failed to establish that the community house was inadequate for carrying out the church's programs⁴⁰. They also concluded "that the grossly inflated description of the proposed work in the O'Brien-Kreitzberg Report has overstated the necessary work for the next two years by a factor in excess of five to one."⁴¹ Not surprisingly, the application was denied.

THE FEDERAL LAWSUIT

In April 1986 St. Bartholomew's filed suit against the City of New York and the Landmarks Preservation Commission of the City of New York in the United States District Court. In an editorial entitled "The Hole in Landmarks Law", the *Times* said that it was just as well that the issue was headed for court as "[t]he city's Landmarks Preservation Commission has shown in this and other cases that it lacks both the standards and standing to resolve a conflict between architectural quality and the social or religious ambitions of a nonprofit agency."⁴²

Based on recent court cases involving other landmarks in New York City, the vestry felt it had some chance for success. For

³⁸ Iulo & Zucotti (attorneys representing church) to Gene A Norman, 13 February 1986, SBCA.

³⁹ Landmarks Preservation Commission, "Determination of application for a certificate of appropriateness to alter designated buildings inappropriately on ground of insufficient return", 24 February 1986, LPC 86-0345, 45, SBCA.

⁴⁰ *Ibid.*, 53, et seq.

⁴¹ *Ibid.*, 87.

⁴² NY7, 22 April 1986, sec. A, 30.

instance, in a case brought by the Lutheran Church over a former mansion converted to offices, the Lutherans were able to prove that the building was now completely inadequate for their charitable purposes. Therefore the landmark designation was voided by the New York Court of Appeals.¹³ But in case involving the Ethical Culture Society, the court held that the desire of a charity to tear down its landmark simply to erect a tower that would generate more income was not sufficient justification to rescind the landmark designation.¹⁴

In the celebrated case involving Grand Central Station that resulted in the United States Supreme Court upholding the constitutionality of the landmarks law, the facts were very different. As a commercial property there were no First Amendment issues. Second, the railroad that owned the terminal also owned other properties that were contiguous and to which the development rights of the station could be transferred. This enabled the court to finesse the Fifth Amendment question of taking property without compensation.

In essence, the church's suit alleged first, that by telling a religious entity what its priorities ought to be, the landmarks law interfered with the free exercise of religion and therefore violated the First Amendment of the U. S. Constitution; second, that the landmarks law involved a taking of property without just compensation in violation of the Fifth Amendment and, third, by setting different standards for hardship relief for commercial and non-profit property, the landmark law violated the equal protection clause of the Fourteenth Amendment.¹⁵

For tactical reasons, the city and the church agreed to a non-jury trial on the record as submitted to the Landmarks Preserva-

¹³ *Lutheran Church in America v. City of New York*, 35 N.Y. 2d 121, 316 N.E. 2d 305, 359 N.Y.S. 2d 7 (1974).

¹⁴ *Society for Ethical Culture v. Splat*, 51 N.Y. 2d 119, 415 N.E. 2d 922, 434 N.Y.S. 2d 932 (1980).

¹⁵ Complaint, 8 April 1986, filed in U. S. District Court, Southern District of New York, SBCA. To stress the theological basis of the church's argument, the complaint quoted Matthew 25:31-46 and John 13:34-35.

tion Commission. By avoiding the time and expense associated with a trial with live witnesses, the hope was to obtain a decision sooner. But when the judge issued his thirty-eight page opinion in December 1989, he swept aside the vestry's arguments and found for the city. Basically, he found that the vestry had not proved that the community house was so small or in such poor condition as to prevent the parish from carrying out its religious mission. He accepted that the much lower cost estimates embraced by the Landmarks panel were reasonable and found that the vestry had failed to show that it could not afford to pay for the necessary repairs to the church and community house. He found that the landmark law did not interfere with the First Amendment as it did not coerce individuals into violating their religious beliefs nor was there any excessive entanglement between church and state over the inquiry into the parish's finances during the hardship application hearing. Finally, the judge said that treating commercial and charitable property differently under the landmark law was perfectly reasonable and not unconstitutional. The judge pointed out that although St. Bartholomew's would have more space in the proposed building than in the community house, much of the space would be below grade and hence less desirable. In his opinion the judge did acknowledge that the United States Supreme Court had not addressed the specific question of whether a landmark law could constitutionally be applied to a church.¹⁶

The vestry appealed this decision to the U. S. Court of Appeals for the Second Circuit. In doing so, the Roman Catholic Archdiocese of New York and the Diocese of Brooklyn, the Council on Religious Freedom, the New York State Interfaith Commission of Landmarking of Religious Property, et al. and the Church of St. Paul and St. Andrew (a Methodist church on Manhattan's west side engaged in its own fight over the landmarks law) filed supporting briefs. The Municipal Art Society,

¹⁶ 728 F. Supp. 958 (S.D.N.Y. 1989).

the National Trust for Historic Preservation, et al. and the Committee to Oppose the Sale of St. Bartholomew's Church filed briefs in support of the city. Although Bishop Moore had personally been very supportive of St. Bartholomew's throughout the fight, the Episcopal Diocese of New York did not file a brief.⁴⁷

After the federal Court of Appeals ruled against the church in September 1990, the vestry prepared an appeal to the U. S. Supreme Court.⁴⁸ In this effort, the parish was supported by many of the same organizations and by the national Episcopal church, which filed an *amicus curae* brief.

However, in March 1991 the court declined to hear an appeal, thereby bringing the matter to a close. Paul Goldberger hailed the news with an article in the *Times* that suggested people should be "dancing in the streets."⁴⁹

In an article published in *Historic Preservation* later in the year, Fletcher Hodges III, a warden in the parish, admitted that "'people who are cultured and educated about the past' had 'a deep sense of concern about the overdevelopment of the midtown area and the indifference of developers...to personal and human values. And for a church to come in and trumpet the needs of the poor without any seeming relationship to the needs of society as a whole seemed like a very treacherous thing to do, a very unfeeling, very stupid thing to do. There was a feeling that it was unnecessary and destructive to human values.'" ⁵⁰

COSTS

St. Bartholomew's spent approximately \$2,180,000 (net of reimbursement from the developer) in attempting to develop part of its property. The funds were paid to five law firms, and an array of public relations consultants, architects, engineers,

⁴⁷ The referenced documents are in the archives of St. Bartholomew's Church.

⁴⁸ 911 F.2d 348 (2d Cir. 1990) see also NYL 13 September 1990, sec. B, 4.

⁴⁹ NYL 17 March 1991, sec. 11, 36.

⁵⁰ *Historic Preservation*, September-October 1991, 60.

accountants and expert witnesses. Of this sum, approximately \$485,000 was charged against the Haas Fund with Mr. Haas's consent. Aside from some gifts made to help defray the cost of the federal lawsuit, the balance came out of the general funds of the parish.⁵¹ The committee spent at least \$250,000 in opposing the vestry.⁵²

The indirect costs are incalculable. The rector, staff and vestry devoted enormous amounts of time to the case, time that could have been put to other uses. Although the pattern of services and outreach programs continued, the controversy had an enervating effect. Other opportunities for capital fund raising were not explored, some people drifted away or simply did not join the parish. One prominent defector was Walter Hoving, retired chairman of Tiffany & Co., who resigned as honorary warden in the parish in October 1980.

New people who supported the rector's position joined St. Bartholomew's throughout the controversy. Many of them are now leaders of the parish. But the attendance figures show a parish not realizing its potential. In 1979, the first full year of Bowers's rectorate, the average Sunday attendance (excluding Easter) was 400 at the eleven o'clock service and 120 at the nine o'clock. But in 1991, the year the issue ended, the attendance figures were 250 and 125, respectively. Pledging by parishioners had risen to around \$450,000 by 1991. (But by 1999, four years after the institution of a new rector and with many new people in the parish, pledging was almost \$1.9 million.)⁵³

RECONCILIATION AND RENEWAL

Followed the Supreme Court's rejection, the wardens reached out to Sinclair Armstrong and Robert E. Morris, Jr., the leaders

⁵¹ The Rev. Thomas D. Bowers to the parishioners of St. Bartholomew's Church, 11 August 1986, with attachments, SBCA.

⁵² Information courtesy of Robert E. Morris, Jr.

⁵³ Figures for attendance and annual giving are from records of St. Bartholomew's Church.

of the committee. The last intra-mural lawsuit, *Morris vs. Scribner*, was settled with the church's insurance company making a payment to the committee and the committee giving \$60,000 to the endowment of the church. Two members of the committee were elected to the vestry in an unopposed election. A service of reconciliation using the 1928 Prayer Book was conducted on a Sunday morning.

In June 1991 the Municipal Art Society held its annual meeting in St. Bartholomew's with Mrs. Onassis and Brendan Gill in attendance. Kent Barwick, the head of the Society, was later quoted in *Historic Preservation* as saying "it is gratifying to have the courts now finally establish beyond the shadow of a doubt that it is not a violation of the First Amendment to regulate the property of churches... Just because the regulations are valid, however, doesn't mean that over the long haul the buildings will survive."⁵⁴

Mr. Bowers retired in February 1993 when he reached sixty-five years of age, and Bishop Moore came out of retirement to serve as interim pastor for five months. The Reverend William McD. Tully became rector in September 1994; he saw the building and its location as a tremendous asset and at his service of institution the program boldly stated "the reaffirmation of the mission and ministry of St. Bartholomew's Church in this place." Seven years later, a person entering the church for the first time would have little reason to suspect that the parish was once riven by a bitter dispute. Although there are many parishioners with vivid memories of the "late unpleasantness", a number of the principal actors have died, others have drifted away, and the leadership has changed completely through rotation. Some activities, such as the athletic facility in the community house, have been curtailed, but new programs and services are attracting people in increasing numbers. The St. Bart's Café on the terrace serves hundreds of meals daily during fair weather and is emblematic of both the parish's openness and its commitment to the neighborhood.

⁵⁴ *Historic Preservation*, September/October 1991, 58.

As the controversy receded, organizations such as the New York Landmarks Conservancy and the Vincent Astor Foundation became supportive as have a few of the corporate neighbors. In 2000, the parish's operating budget was balanced for the first time in decades. Although the parish has before it the challenge of raising the funds needed to restore the building (to say nothing of rebuilding the endowment), it can face the future with confidence. In 2001, St. Bartholomew's was identified as one of the outstanding Protestant congregations in the country.⁵⁵

The words of the old hymn sung by the congregation on that Sunday in 1980 were prophetic: St. Bartholomew's was certainly buffeted, but remained "foursquare on this foundation."

Percy Preston, Jr. is an Honorary Warden, St. Bartholomew's Church

⁵⁵ Wilkes, Paul, *Excellent Protestant Congregations: The Guide to Best Places and Practices*, (Louisville, 2001) 238.