

March 12, 2013

Kansas Senate
Committee on Ethics, Elections and Local Government
Senator Dennis Pyle, Chair

Dear Senator Pyle,

On February 27, 2013, the Kansas House passed HB2118 regarding environs authority deletion for projects near historic listed properties in Kansas. This bill has been referred to the Senate's Committee on Ethics, Elections and Local Government for your consideration.

As a historic preservation architect in Lawrence, Kansas, I am very concerned about the effects of eliminating the environs review for projects near historic listed properties. Many historic properties in Lawrence, and throughout Kansas, have been protected and enhanced by the environs review. Projects that would have had detrimental effects on nearby historic listed properties had they proceeded with their original proposed design, have been improved through the environs review process. The removal of the terms "encroach upon" or "the environs of such property", means there would be less scrutiny of proposed projects near historic listed properties.

In the vast majority of cases, projects near historic listed properties move forward after review by the Kansas Historical Society staff, or the local governing authority, with few changes or concerns. In those rare instances where it is determined that a proposed project "encroaches upon" or "damages" a nearby listed historic property, there are suitable methods for the developer of the proposed project to either adjust their design, or appeal a denial decision. Four very good examples of this process working come from Lawrence.

1. In order to build a new scholarship hall in 2002, the University of Kansas sought to demolish three houses within 500 feet of the Usher House, a fraternity house on the national register; the proposed demolition was reviewed by KU's Campus Historic Preservation Board and the city's Historic Resources Commission. After hearings, the committees remained



deadlocked, and the issue was forwarded to the State Historic Preservation Officer, who issued an opinion that demolition would "encroach upon" the historic environs of the Usher House. The University then asked Governor Bill Graves to exercise his authority under Kansas historic preservation law, and he concluded there was no feasible and prudent alternative to demolition of the properties. Subsequently one of the houses was relocated to a vacant lot on Kentucky Street and rehabilitated, and the University worked through the city's Historic Resources Commission process to design and build a new scholarship hall that minimized its negative effect on the environs of the Usher House.

2. In 2011 a private developer sought to demolish (or to relocate) a house within the environs of the Oread Historic District in order to construct a new apartment complex at the northwest corner of 11th and Indiana Street. The city's Historic Resources Commission determined removal of the house from the corner would "damage" the environs of the historic district. The developer

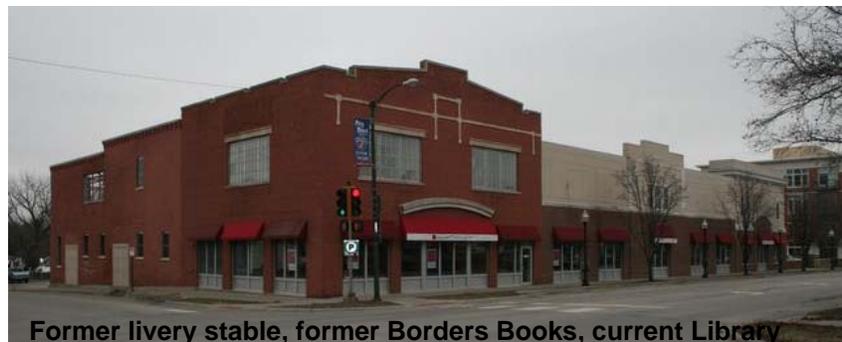


redesigned the project to maintain the houses presence on the corner, and the apartment complex has now taken the name "Varsity House Apartments" due to the saved house's prior use as KU varsity football player housing.

3. In the late 1980s and early 1990s the City of Lawrence was involving in cases in its application of the Historic Preservation Act to the English Lutheran Church at 1040 New Hampshire. The Owner sought to demolish the church, which is in the environs of the national register listed Douglas County Court House. Through various proceedings and two court cases, application of the environs review was clarified by establishment of legal precedence. The church was saved and it is now listed on the National Register of Historic Places.



4. In 1996 Borders Books sought to demolish buildings at the southeast corner of 7th and New Hampshire Street, within the environs of the Eldridge Hotel, to construct a new bookstore. Removal of the livery stable on the corner, built around 1900, was determined by the city's Historic Resources Commission to "damage" the environs of the hotel. Eventually, a deal was reached that Borders would keep two walls of the stable, and the new bookstore was built. In 2011 Borders went through bankruptcy and the store was closed; the building is currently the temporary home of the Lawrence Public Library, while a new addition is constructed to the library on Vermont Street.



The environs law is a classic case of whose property rights prevail, the owner of a listed historic property or the owner of a property near a listed historic property. With the current law in place, **the rights of both parties are weighed and balanced in a well-established process.** With the proposed change in the law, the rights of the historic property owner to reasonable protection of their property from deleterious nearby construction or demolition are subjugated. The owner of a historic property has the right to expect that construction or demolition near their property does not damage or destroy the environs of their property.

It may be claimed that the definition of “environs” is vague, or that development of new projects is diminished through application of the current law. I have worked on new development projects and historic preservation projects for 27 years, and I believe neither of those is true. The concept of “environs” is well established in the historic preservation field, and once understood, it is clear that the things around a historic property (the buildings, streets, landscape) help define a property’s historic character, and dramatic changes to those things can damage the historic property. Developers may complain the environs review makes development of new projects too complicated, but in every project I’m familiar with, the **new development has been improved by the environs review;** the process may have slowed the development, but the end product was definitely improved.

I strongly recommend that HB2118 **not** be advanced from this committee for consideration by the full Senate. Thank you for your consideration of this matter. I would be happy to answer any questions you may have.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stan Hernly", with a long, sweeping underline that extends to the right.

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