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# TAKOMA THEATRE CONSERVANCY

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## Testimony before the DC Council's Committee of the Whole

Oversight Hearing February 16, 2011 on

Office of Planning (OP) and Historic Preservation Office (HPO)

Presented by Loretta Neumann, President

Thank you for the opportunity to testify on behalf of the Takoma Theatre Conservancy. I am also a member of the board of the Committee of 100 on the Federal City and its Historic Preservation Subcommittee, which I am also representing concerning HPO.

### Takoma Theatre

The Takoma Theatre (6833 Fourth Street NW) was built in 1923 and designed by John Jacob Zink, a noted movie theatre architect. It is located in the Takoma Historic District. The Conservancy is a nonprofit organization incorporated in DC in 2007 by community residents to save the theatre when the owner (Mr. Milton O. McGinty) applied for a permit to demolish it. The DC Historic Preservation Review Board (HPRB) subsequently determined that the theatre is a contributing resource in our historic district and in May 2007 and again in October 2009 denied the owner's application.

The owner then appealed to the Mayor's Agent for Historic Preservation to substantially demolish the theater to construct a 43-unit apartment building, saving only the front facade. In May 2010, the Mayor's Agent denied the application, ruling that the owner did not satisfy the burden of proof that demolition is in the public interest because of "special merit" or that failure to issue the permit would result in unreasonable economic hardship. These rulings mean that the historic Takoma Theatre cannot be torn down. This includes "substantial demolition," meaning that most of it must be maintained.

In short, the historic Takoma Theatre, one of the major "icons" in our community would be dust today absent the DC's historic preservation laws, processes, programs and staff. I am here to urge your continued support for the HPO and to provide a few insights into the needs of the Historic Preservation Office (HPO).

**Demolition by Neglect** - In particular we are especially concerned that HPO has not developed regulations to implement the DC Historic Preservation Act's "Demolition by Neglect" provisions, now nearly a decade old (most recently amended in 2006). The Act places an affirmative duty on owners to preserve historic properties against decay, deterioration, and structural defects and to correct conditions that would compromise an historic building's long-term integrity. It also authorizes the Mayor, after determining that a building is threatened by demolition by neglect and obtaining a court order to require the owner to repair defects that threaten the building or take the necessary action itself at cost to the owner.

Unfortunately, the owner of the Takoma Theatre is flaunting these requirements and is allowing the theatre to deteriorate. The theatre was especially affected by the severe storms late last summer. Attached to this testimony is a letter that Mr. McGinty sent on Aug. 17, 2010 to several community residents and the ANC stating that he would no longer maintain it. We brought it to the attention of the HPO, which, because of its lack of regulations, was unable to take action.

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Unable to get help from the HPO we obtained the help of our Council Member Muriel Bowser to ask the DC Department of Consumer and Regulatory Affairs (DCRA) to investigate, using their authorities. DCRA inspected the theatre on September 22, 2010 and a Notice of Violation (NOV) was issued, requiring Mr. McGinty to repair the roof, gutters and downspouts and to repaint the outside surfaces. We were additionally told at a public meeting in October that Mr. McGinty had until November 22 to make the repairs.

Despite the notice, the repairs were not made. Indeed, Mr. McGinty was quoted in the Northwest Current (Nov. 3, 2010) that he had no intention of making the required repairs. Neighbors also reported that no work had been done on the building. After the deadline for repairs passed, in early December I contacted DCRA officials to alert them to this and asked what they were doing to enforce the NOV. I was told it could take months to get through the administrative process.

Well, months have gone by and the theatre continues to deteriorate and the owner continues to refuse to repair it. Meanwhile, in January, on behalf of the Conservancy, I filed a Freedom of Information Act (FOIA) request to obtain DCRA's records on this matter. Just yesterday I finally received electronic copies of various documents. (One complete set is being submitted to you for your files.) I am still awaiting email correspondence that was also requested.

What this saga shows is that historic properties, our most vulnerable and treasured buildings, need better ways to assure that they are properly maintained. It is imperative that HPO get its regulations promulgated for implementing its Demolition by Neglect authorities. Please do what you can to help make that happen, in order to save not only the Takoma Theatre but also other historic structures in the District of Columbia.

In the case of the Takoma Theatre, the situation has become so dire that we also have sent a letter to the Mayor and to you and the other members of the DC Council requesting \$10 million in the capital budget for 2012 for the acquisition and initial renovation of the theatre. We feel strongly that the theatre is not only of great historical significance. It also offers an opportunity to create a much needed cultural arts and education center that would serve a huge section of Washington DC that currently has no facility of that kind.

In summary, saving and reviving the Takoma Theatre is a matter of public interest and should be treated as such. It would be an investment that could bring great social and economic returns in jobs, educational opportunities and new or reinvigorated businesses, In this regard, we would welcome the help of OP in planning for the revitalization of the entire commercial area around the Takoma Theatre. The theatre could be the catalyst for this.

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**Committee of 100 Historic Preservation Subcommittee**

On behalf of the Historic Preservation Subcommittee of the Committee of 100, I would like to add the following comments and recommendations (which the Conservancy also shares) concerning the HPO.

**Funding** - At a time when the HPO is missing staff positions, their case load is returning to pre-economic meltdown levels. Last year they reviewed 4,200 permit applications. At the same time, they are tasked with fulfilling the federal statutory responsibilities of a State Historic Preservation Office. To do this, last year they were awarded \$522,000 from the National Park Service, which administers the national preservation program. The District is required to provide a 40 percent match for these funds. There are threats in Congress of a 15 to 20 percent reduction in federal funding. Coupled with a reduced match, it means that federally mandated responsibilities will have to be completed with less money - taking resources away from local permit reviews and other basic but extremely important tasks. A reduction in funding for the HPO would have terrible consequences.

**Architectural Expertise** - The official architect position on the staff of the HPO is vacant. Due to the hiring freeze they have been unable to fill this important position – and yet one of the major duties of that office is to review architectural plans!

**Demolition By Neglect** - The Committee of 100 shares the concerns of the Takoma Theatre Conservancy and others about the need for HPO to promulgate regulations to implement its authorities under the Demolition by Neglect law. Again, reduced staffing has hampered HPO's ability to fulfill important functions.

**Mayor's Agent** - The designation of the director of the Office of Planning as the Mayor's Agent for Historic Preservation under the former Administration resulted in a series of questionable decisions and potential conflicts of interest with other OP responsibilities. Recognizing this, there seems to be a willingness to return to the former standard procedure of engaging an Administrative Law Judge to serve as the Mayor's Agent. To do this, the HPO will have to have the funds to pay for it. Please help!

Thank you again for the opportunity to testify.

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