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David: Okay, let's get back to it guys. Please return to your seats. Thank you. It's really fun having a microphone. So as we continue I'll introduce our next panel to you as you're returning to your seats and getting those last cups of coffee and last gulps of water. One of the- is this on? If you folks in the back would take your seat we'd really appreciate it so we can stay on track enough to get you guys out for lunch. So remember, there will be more break. Thank you. So one of the things that we heard from the first group is that we need opportunities to see what's happening around the country on the ground in different jurisdictions and what's happening with different landmark ordinances. New York is in so many things proud to be the leader but we're certainly not the only a place where preservation happens and so we had a great opportunity to bring in some experts from around the country to talk about their local preservation ordinances and what issues they are confronted with routinely and they'll be introduced to you by the moderator I have the pleasure of introducing to you now. Tom Mayes is the deputy general counsel for the National Trust for Historic Preservation. He specializes in both corporate and preservation law since joining the Trust in 1986. He is the Trust's principal lawyer for legal matters leading to their 29th historic sites and for historic properties and real estate transactions. Tom has expertise in architectural and technical preservation issues, preservation easements and the Americans with Disabilities Act, and historic shipwrecks and he's written extensively on many of those topics. In addition to his work for the Trust, he has taught at the University of Maryland graduate program in historic preservation. He received his BA with honors in history and his JD from the University of North Carolina at Chapel Hill. He also has a master of the arts in writing from John Hopkins University. He's going to introduce his panelists to you but we're very excited to welcome what we're calling "A Tale of Three Cities: A Look at Historic Preservation around the Country". So thank you Tom and welcome everyone.

Tom: Thank you David. I'm very honored to be asked to speak and thank you all for being here today. I'm a little intimidated to follow that fantastic panel with Jerold and Tersh and Ann and Paul but we'll see what we can do. This is "A Tale of Three Cities" and we've got two cities that have faced or are facing legal challenges to their ordinance, this vagueness issue that Jerold and others referred to and then we have a city, Los Angeles, that is in the process of thinking about changing its ordinance, strengthening its ordinance, another topic that Jerold touched on. I'm looking forward very much to hearing what our panelists have to say about that. I'm going to introduce the three panelists and then they're each going to do a brief presentation for about 10 to 15 minutes with a few slides. You're all visuals so you get to see some visuals and then well come back and have some questions and answers beginning I hope with some questions from the audience who will be thinking about questions as they do their presentations. Linda Dishman will be our first speaker. Linda is the Executive Director of the Los Angeles Conservancy. She's been in that role since 1992. She's been on the Board of Advisors for the National Trust for many years. She is on the board of the California Preservation Foundation and is a leader in preservation that's recognized nationally. Brian who is to her left is the Executive Director for the Commission on Chicago Landmarks. He is the past chair and board member of the National Alliance of Preservation Commissions, an organization that we haven't touched on this morning but it is one of the important national organizations that helps give advice and counsel to preservation commissions and he has been Executive Director for I think 10 years and has been with Chicago for even longer than that. Karen Gordon is the city of

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Seattle's Historic Preservation Officer and has been in that role since 1984. She's also on the board for Washington Trust for Historic Preservation and is also on the board of the National Alliance of Preservation Commissions. That is the briefest of introductions about the individuals' characteristics but let me say all three of them are considered national leaders in the field of local preservation law because even though they're not lawyers they're the forefront of this, interfaced with the public and interfaced with the legal system about legal challenges to their ordinances in their cities and how that plays out between what preservationist do as a legal content and what the law actually says, how its applied in the courts. They have, all three, worked very closely with the National Trust, with the National Alliance of Preservation Commission in helping to defend these ordinances from legal challenges and they worked very closely with our legal defense fund at the National Trust so I'm thrilled that we're going to be able to hear from them this morning and get their perspectives about local preservation ordinances, how they're interpreted and how they can be defended and strengthened from legal challenges and with that I'm going to turn it over to Linda first and I'll invite the other panelist to sit in the audience so we can see the presentation.

Linda: Great, thank you Tom. I'm going to pick up on Ann's point that she ended that's about messaging and knowing that I'm in New York I'm going to tell you we have historic resources in Los Angeles. I know not everybody fits the stereotype but I just want to get that out there. We do actually spend a lot of our time with old buildings and this is an 1846 adobe which is very old for us in Los Angeles but most of our work has to do with more modern resources which I'll get into. We were founded in 1978 to save the Central Library which was going to be torn down, hard to be believe but that was the first of our win-win solutions and it's very important we really use preservation law to craft our win-win solution but the law is just one component of what we do to save these buildings. The conservancy was founded- we always had education, we always had advocacy, partly because not everybody in LA believes we have historic resources so we have to get people out and experience these things. This is just a broad example of the type of historic resources that we have, most of the conservancy's work-we do work within the entire county of Los Angeles but most of our work is within the in the city of LA. Interesting, something I had not noticed until I'd been invited by Tony to come here is that the LA city ordinance is actually older than New York's which none of you would've gotten that question right on the test. So our states since 1962 and ours has never been challenged legally, which is interesting, particularly when you find out how vague it is. We have worked with individual landmarks, we have over 1000. We also have 27 historic preservation districts which we call HPOZs, the H-POZs, you can tell someone's not local when they call them H-POZs, which protects another 22,000 buildings so we actually have a fair number of buildings under protection but this is under the context that there are 880,00 parcels in the city of Los Angeles so we are just beginning our odyssey in terms of designation and protection but in terms of the ordinance for the city it's vague and one of the things and this is maybe it is not the best example often fabulous Los Angeles but it's a recent loss and this is a building that's a more modern building and we had concerns and we worked with the community to build support and on the day that the nomination as being submitted to the city they pulled the demo permit before that happened and it was demolished. So you do live and die by these ordinances and I think that that is very important. One of the things that I think makes the la ordinance interesting is it does not specify

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whether there is interior review but it always has been interpreted that there is interior review so it's sort of like this is our pattern of practice but it's not specified so this is one of the concerns that we actually thought was vulnerable is this component. We also have many fabulous interiors. So this interior issue is very important but we've never had any problems. The only problem we had with our interiors has to do with ***[00:12:35] which had all these great interior light fixtures by the league and when Macys was going bankrupt, the light fixtures were removed and dispersed to Macy's department stores throughout the city and state. The city attorney said that because it required a permit to remove the light fixtures, they didn't have the authority to get the light fixtures back. So that's been kind of our one test of the ordinance in terms of interiors. We did get the light fixtures back by sending thousands and thousands of postcards to the CEO of Macy's who decided okay fine I'll give them back but that's been the one test on the interiors. We started to review the ordinance and began this what turned out to be much more elaborate because we wanted to do consensus building. I decided that consensus building is not the way, anyway we went through three kind of whole processes in trying to figure out how we can do this and one of the things that happened to us is we got out organized by the monument owners. There were a couple of people that really hired paid lobbyists, hired an organizer and brought in a pretty strong opposition to the existing monument owners. Now when you asked them if you had a problem, well no but it was feeding into what was referred to earlier as the property rights agenda is that it just was a problem. So we went through all these different processes, working with the different- the chamber of commerce and everything else, we thought we had an agreement and then we didn't and a lot of this would keep coming back to the interiors. We had been following preservation law across the country which said that interiors typically you would designate the publically accessible buildings. We found out that apparently in the neighborhoods of Los Angeles, locals groups were using this interior review to stop big bungalows from being turned into housing, particularly near USC so they were doing land use de facto with these designations so they did not want to agree to this change of review in terms of public versus private. The other thing that we worked with the business community that I actually think as a preservationist, is a good change is not every alteration has to meet the ***[00:15:00] standards as we're looking at overall eligibility, which we had some projects we had some difficulty with in terms of one small element that didn't meet the standard. Of course 1962 pre-dates the standards, it doesn't even reference the standards in our ordinance. Once again, another area of vulnerability. What are you using to make these decisions? I mentioned that we are the whole county. There are 88 cities in the county of Los Angeles and so the Conservancy has been working very hard to get ordinances in these cities. Seven of 88 got an A on the report card and that means they have an ordinance with some teeth. They have a Mills Act contract which is a property tax incentive we have in California and they have a survey. Now here comes the boring chart slide. Only 36, 40%, have any kind of ordinance. So less than half of our cities have any kind of ordinance and of those only 15% has an ordinance that has some protection for historic recourses and they get a B and what's interesting about this report card is the people in Beverly Hills are pretty damn proud that they have a D and they'll mention that in every conversation I have with them. Well you know we have a D? yes, I'm aware of that and we sort of work through but then we have an example of a community called Huntington Park, 98% Latino which had one person on the city council that didn't like that D and so he worked tirelessly and we worked very closely with him and they have a B+ and the next time we do the

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report card they're going to have an A because they'll have a Mills Act contract by then. So this grading has its pluses and minuses. I would say mostly pluses and this is important work that we're doing with the ordinances but in essence, it really comes down to CEQA and I had somebody say to me, 'who is this native American who keep referring to, CEQA?' and it made me realize we talk in alphabets but it's the California Environment Quality Act and we're very fortunate I always think we are very fortunate. When I went to have lunch with ***[00:17:13] yesterday and talking about advocacy in New York, we have a tool that many other people don't have and that is our state environmental review process and what's important about that is that you don't have to be designated. You just have to be eligible and I think that's really important particularly because so little of Los Angeles has been surveyed. We're currently doing a five million dollar survey right now but we are- the vast majority, undesignated. So CEQA will pick up if something is eligible or not, and if you are eligible then you have to look at a preservation alternative. So Tersh gave his example, of brutalist architecture. I have this one, I thought how appropriate. So this is LA Brutalism and once again, not a building people hug and this was threatened with a multi family housing development. They were going to put a restaurant and a gym on this side. I thought maybe they could adapt this building to that use but they didn't think so. We did a California Register nomination on this because politically, in our city if a city council member doesn't want something to be designated in their district, it won't be. So we did that process and we really were pushing within the CEQA to be determined eligible and what we had is a battle of experts. So CEQA doesn't save buildings it just provides a process to look at whether it's historic and if there are preservation alternatives and those alternatives are really important ***[00:18:50] but that's important. It doesn't at the end of the day save but it does provide a process. We're now getting into a process on the Moore house. This is a Lloyd Wright, very significant, son of Frank building and one of the things in looking at the EIR is you have projects with objectives. This is the property owner that wants to tear it down and build a big old mansion but it will be Mediterranean so it will fit into the neighborhood, which dates after the grey house. So one of the issues we're dealing with that we're actually preparing for a lawsuit when the final EIR comes out is that looking when you have project alternatives, you need a house that fits in with the neighborhood, that isn't really a fair objective. So that is something that we are really working on what is the designation of CEQA I'm going to talk just briefly about ***[00:19:44] Cathedral 1876. Designated one of our very early landmarks, the archdiocese wanted to tear it down and build a new cathedral and we wanted to work with them, do a win-win that was a no on starter. They started to demolish the building without a permit because they got a notice to obey. So we got a temporary restraining order on a Saturday morning which no one thought we could do and they were banking on that and so we were able to just a little top piece was taken off actually, that day, had several law suits and the law suits really had to do with the fact that the city didn't have the right to have this building demolished without going through environmental review. So then the city tried to de-designate the building and once again we came back and filed a lawsuit and said, no, that's a discretionary action, you need to have environmental review. Then we had it where the archdiocese were very powerful, before all the scandal, went to Sacramento and tried to get the whole area of downtown get taken out of the California Environment Quality Act but ultimately CEQA saved us because the process was so long the archdiocese threatened to go to the valley. So he was given another piece of property downtown. The cathedral was saved and has now been turned into event space. This is

GSAPPNEW2011Recordingon201102050906part2

something we worked on and brought a lot of money to the table at both the state and federal level but it really is sort of all the different tools in the tool box and that would sort of be my message on I guess the advocate in today and who uses the law outside of the process as it is about the messaging, it is about having really good friends who are lawyers that will come do pro bono work for you, it's about marshalling people but it really is about ultimately saving the building and making sure it's going to be there for the next generation. Thank you.

Brian: Well good morning, it's been said that in between the *****[00:21:53]** between New York and Chicago to host the 1893 World Columbian exposition a New York Sun editor derisively referred to Chicago as 'that windy city' and popularized the city's *****[00:22:04]** not because the city's weather but because of the long winded talk and the *****[00:22:09]** of its businessmen. I'm going to err on the side of brevity this morning. As an introduction, I thought I'd start with a little background. Like New York City and elsewhere the preservation movement in Chicago grew out of a reaction to urban renewal, interstate highway construction and the loss of major historic buildings. Incidentally, this photo on the left is architectural photographer and early preservationist advocate Richard Nickel around 1960. I think you can read the poster that he's holding up but it says "do we dare squander Chicago's great architectural heritage?" Chicago had a landmarks commission as early as 1957, a precursor to our current commission but only the authority to recommend buildings for an honorary designation and a plaque and not to actually protect them from demolition. As you can imagine important buildings continued to be lost and threatened, including such universally recognized masterpieces as *****[00:23:03]** House from which Frank Lloyd Wright himself visited in Chicago in support of preservation. It wasn't until 1963 that the state of Illinois passed the enabling legislation, several more years before Chicago adapted its current landmarks ordinance in 1968. In its 43 history we have 296 individual properties, 53 districts and seven district extensions encompassing over 10,000 buildings and actually about two thirds of those have been designated under the term of the last mayor, under the term of Mayor Richard Endaly, so about two thirds within the last 20 years of the 43 history of the commission. The landmarks ordinance has had major amendments in the 1980s and in 1997 including a change to require consent only for houses of worship. Chicago also has a city wide survey of historic resources and a demolition delay ordinance for the surveys two high of significance categories. Originally the commission was a free standing agency. In the early 1990s mayor Daily merged the commission with planning and economic development departments for the goal of better coordination on planning, development and preservation issues. The preservation community as you can expect had misgivings about this change. However, the result, I believe, was a stronger program both in terms of greater collaboration and fewer agency conflicts but most significantly greater access to financial tools and systems for the redevelopment of historic buildings. This remains a major component of our program and has benefitted several dozen buildings in just the last few years, be it the use of taxing and financing to reconstruct the missing cornice to restore the elaborate cast iron storefronts of Sullivan's Carson Pirie Scott and Company department store, shown at upper right or county property tax incentive in support of the rehabilitation of such buildings as the art deco Chicago Trade building at center of as well as the use of CDBG housing funds, tax credits, rebate and other development tools and incentives. Finally, one comment regarding the Hanna case which has been eluded to be mentioned by others and I'm sure it will continue to be.

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Incidentally, these are two photos of the district designations that are the basis of the challenge. As the case is still being litigated and as myself a named defendant, my mother is very proud, I am not at liberty to talk about it specifically except to say the Chicago landmarks ordinance was not invalidated and the city continues to designate new landmarks. Let me state up front, that New York City landmarks ordinance remains the leading model nationally in most respects. As we look forward, I've been asked to talk about some of the issues we're currently facing as well as offer my observations on the future. I decided to approach this from the perspective of someone administering a local preservation program. In the interest of time this is by no means comprehensive but hopefully a starting point for an engaging discussion today. Thinking about current trends regarding city staffing and budget level the trends are obvious and show no signs of changing soon. There are competing priorities and demands on local government based on reduced revenues, rising costs and lower staffing levels. We are in competition for limited funds with basic city services and other equally worthy programs. It's therefore an absolute necessity that we continue to do 'more with less' and prioritize what we do, and streamlining how we do it, this may require changes to our ordinances and almost definitely to our rules and regulations. If I had to tell you what the most important function of the commission is, it would not be designation but the review of permits and certificates of appropriateness. And this is why; landmarks review has a reputation of being time consuming, burdening, anti development and expensive. Now we know this is not necessarily the case but it is the first issue raised by property owners when discussing landmark designation and the issue you'll most likely hear from officials is complaints from constituents. We need to do a better job confronting both the myths as well as the truths in this area and in times like these, especially preservation should be seen as contribution to economic development, the creation of jobs and enhanced property values and for all these, there is considerable supporting data an effective and active designation program depends on how well the certificate of appropriateness program functions. Along these same lines we should be concerned about how long it takes to review a permit as well as specifically the number of projects reviewed at the commission level, especially for large cities with professional staff, only a very small percentage of projects should be reviewed by the commission itself. It unnecessarily delays the applicant and it's a waste of staff resources and the time of the commission. I think there's an unfounded fear incommensurate with the amount of time and energy consumed by not streamlining the review process as much as possible for projects that could just as appropriately be handled at the staff level. Additionally, we should constantly be evaluating the acceptability of new projects and materials, how we apply our criteria, and be mindful of big picture. That is, the point of all this after all, is to save historic buildings. We need to be open to new ideas and thinking creatively to balance the continuing investment in these buildings while ensuring that the character defining aspects are preserved. One example, Chicago's bungalow initiative, which isn't regulatory, nor is it a program of the commission but it's been extremely successful of promoting preservation of 80,000 bungalows. We need to also think about how to re take the lead on the discussion of sustainability of which we are a much more significant part, in terms of potential impacts and benefits if we're serious about making major strides in this area. We need to think more about how and what we designate early on. We focus on high style buildings and the works of the master and we've moved on to culturally significant properties, the recent paths, roadside architecture, the vernacular and most recently, cultural landscapes and I'm a big fan of using local landmark

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designations, for properties that may be significant for historical reasons. By developing a historic context combined with designation survey work, it's easier to comparatively evaluate and identify the most significant properties. It can also streamline the designation process. On the left, a group of three architecturally modest buildings but part of the black metropolis, the city within the city created by and for African Americans in Chicago's south side in the years following the great migration of blacks from the rural south to the city. On the right, examples of some recently designated buildings associated with the Chicago black literary renaissance of the 1930s, 40s and 50s, here including the homes of writer Richard Wright and poet Gwendolyn Brookes. Two other examples, neighborhood buildings on the left hand side of the screen and on the right Schlitz Brewery town houses, taverns built and operated by brewers in the years before prohibition for greater vertical integration and control the production and retail sales of their product. Pneumatic designations also allow for much more compelling and detailed story in explaining the significance of these buildings and for designations you could operate a larger group of buildings using thematic designations from across the city in one single process. I know also that local support for designations varies greatly from community to community in terms of depth, interest and organization. New York City for example has many more advocacies, involved in preservation than Chicago and I have no doubt that that has effect on our program. With this in mind, what might work well in one city might be less or more effective in another. Just like the historic properties themselves, preservation programs are the products specific to their cities and their own histories but I want to conclude some hopefully universal questions of some of the things we're going to be discussing in the years to come. They're not new questions for us but timely ones. First, how do you establish priorities for our designation and permit review programs given limited time and resources. Is every historic building equally important? Are all changes to a building important? For example, changes that are least 50 years in age and therefore, must they be preserved. If the building is significant for its cultural or historical significance, does it need to meet the same standards of integrity as buildings with architectural significance? How do you protect the integrity of buildings with cultural significance if it derives from the ephemeral use or occupancy of the building? And is landmark preservation the right tool to do so? I'm not sure. Can buildings of lesser significance continue to convey their importance while allowing greater changes; for example, properties with national or citywide significance versus neighborhood significance? What are the implications of treating some properties differently such as in terms of administration and fairness? Should all historic properties be held to the same standards of authenticity? And for some properties, particularly modernist ones, what's more important to preserve, original materials or the design intent? What if the design intent as essential to the significance of the property could not be achieved at the time due to technical issues or the budget? Lastly, should all buildings that meet landmark criteria necessarily be landmarks and therefore require to be preserved as a matter of public policy. I thank you for the opportunity to speak today and congratulate New York on its 45th anniversary.

Karen: Thank you very much. I was going to show a few slides of Seattle for those of you who hadn't been there. I feel like I'm coming from this hamlet after presentations about New York and Chicago and Los Angeles and we're of course the biggest city for Washington and probably a couple of states so I'm humbled. Okay, so we have all these landmarks but we only have

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600,000 people so, don't panic. The city of Seattle also owes a debt of gratitude to New York City -- our ordinance too is modeled after New York's and our first landmark ordinance was passed in 1973 but before that, we actually had several historic districts that were designated and these are not in chronological order because I put this together a little too quickly but perhaps are the more iconic photos of Seattle, the Pike Place Market, which is a historic district and then followed by Pioneer Square which was the first historic district designated in 1970 which was designated by the citizens initiative, a Ring Road have gone through Pioneer Square and the great story is the then Central Association, the Downtown Association was in favor of the Ring road but their wives were members of the Junior League, they saved Pioneer Square so, a real David and Goliath story and again, the Pergola, Pioneer Square which not only is part of the historic district but a National Historic Landmark along the pioneer building behind it. Like Chicago, our Pioneer Square district was the product of redevelopment after fire so and then some of our more modern resources, again, the more icon Space Needle and the monorail at Seattle center and some of our historic districts as well. See you can see the scale is a little different. I finally had to get a picture of a taller building so okay they don't have a height limit of 10 feet here. we also have modern resources in terms of ***[00:35:49] by northwestern artist Paul ***[00:35:53] at the Seattle Center which is celebrating next year its 50th anniversary and to listen to anyone from Seattle tell that that's what put us on the map was the Seattle World's Fair of 1962 of course at the base of the Space Needle which is a gathering point for people in Seattle. We also have vessels that have been designated as historic buildings, industrial buildings, this is a former Coca-Cola Bottling Plant, schools, and I'm sure many of you have had challenges working with school districts, as have we but have come to an accommodation where we designate buildings and at the beginning of each designation presentation they tell us they don't think we have the authority to do it but then we just make nice and go through with it. Also, Filling stations, the Hatton Booths which is now a part of Seattle, fire stations, which I'm going to talk a little bit about in terms of relationships of other public agencies and churches that you've heard about and Jerold Kayden was very kind in not dissing Seattle and Washington state on their rulings on churches but this is actually a success story church, a building that has been converted to condominiums but many of you who are involved with preservation law might be most familiar with the Methodist Church which the Washington State Supreme Court, almost 20 years ago ruled that our ordinance was unconstitutional as it relates to the designation of religious properties, fortunately, it's always good to have a perseveration angel and Kevin Daniels who's now a National Trust preservation trustee and a developer in town actually purchased the church from the church like the story Tersh told, had a dwindling congregation that was looking to use the profits from the sale of their building to fund their mission and we've been basically having discussions in and out of the courts about this church for probably 25 years until the building was purchased about 2 years ago and the area in between that and the high-rise to the south will become a high rise building but just for all of you, especially the students, preservation solutions do not come quickly, this was an issue when I started my job in 1984. I know many of you may not have been born then, don't tell me that at the break just put it in the historical context but the case I wanted to talk to you about today just very briefly and then address some of the issues that both Linda and Brian have touched on is the Satterlee house which is an individually designated landmark in west Seattle which is literally separated by a bridge from Seattle and sometimes very much considered its own city but it is very much part if

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the city of Seattle and this is a property that was designated by the landmarks board in 1981. Our landmarks ordinance had passed in 1973, the owner of the property at the time actually contacted the office and asked for his property to be considered for landmark designation because he wanted to avail himself of the benefits available to owners of historic properties. It was designated as the Saterlee house but the text of the designating ordinance referred also to the housing grounds and the neighborhood associated with designation also referred to the grounds which became an issue during the court case. So it was we call a classic box and here's another view of it. Then, this is the view from the street so you can see how large the lot itself is, which really plays into the issue that went to court. About 10 years ago, a developer brought the property and it planned to do a demonstration project of cottage housing by putting six cottages on the site in front of the house and they donated a view easement to the nonprofit preservation organization in the city and not because of the landmarks board but because of the neighbors who as you can see was surrounded primarily by single family houses, didn't want six houses in this area and they really, for the most part they threw up enough road blocks, the develops said fine, I'm not going to do it, the projects time had expired but instead but had this house and then short platted the yard to three lots and so the next photo is a picture of what it looks like on the other side of the street so you'd see why the lots would be valuable because everything you see that looks white is water and you can see mountains beyond it so a view in Seattle is like a view in New York, you want the view, and so the line that you see is where the larger houses were going to be built and I'm actually going to go back to some of the pictures because they're prettier than this so we'll just take the context picture. We'll leave it at that. Basically we went through about seven years of meetings between our Architectural Review Committee, Landmarks Board and the Historic Landmarks Preservation Board. Ultimately, the owner was denied a certificate of approval for building the three houses and the board was very specific about the reasons for which the project was denied and in fact, in its decision it was very clear that three houses could be built there but the houses that were being proposed were much larger than the landmark house and really would have destroyed the character of the landmark which included the site which was a point of contention throughout the process and I'm not going to get into a lot of that but basically we denied at the landmarks board level a certificate of approval for the three houses, our hearing examiner upheld it and then the property owners went to King County Superior court where the hearing examiner's decision was upheld and then went to the state court of appeals that also upheld the decision of the previous decision makers. They also appealed to our State Supreme Court who, as I noted earlier, the church cases didn't really have a preservation record but they refused to take thereby upholding the Court of Appeals and we did this very much in concert with the national trust. We are forever indebted for all their help on the vagueness cases. I get to talk about mine because Brian's is still going on. I spent 15 years not being able to talk about church cases so I feel your pain and generally, the court rejected the property owner's arguments that the ordinance was unconstitutional and vague is applied and that the landmark restrictions were an unlawful tax, a regulatory taxing and deprived them of due process. Not being a lawyer, I certainly understand due process but there certainly was enough process in this case. We literally went on for six or seven years. So, having said that, one of the things we talked about on our conference call that really is somewhat applicable to was some of the speakers in both sessions, this session and the previous, I talked about is public support growing or waning for preservation ordinances.

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And I am looking at it in terms of maybe the question should be what else is needed to supplement a community's preservation ordinance? Both Linda and Brian have spoken to that. I just want to emphasize some of the issues I see on a daily basis. One is really a strong constituency, both external and internal and I'm coming from a regulatory standpoint, working for the city but having a nonprofit if you're in a smaller community or nonprofit historical societies is really critical. Those groups can do things I can't do, our board can't do, people on my staff can't do and I teach preservation planning, I always say that the strength of an ordinance or a program reflects the political will of the community and I think that's really important to keep that in mind in doing the work. Having those relationships or at least lines of preservation between each program at the local level and those constituencies. You might not have to agree all the time. I think Linda and Brian can both tell you that there's some people that we are sometimes stunned being in the same room with or side of the table with but it happens and it's good to have that relationship. Brian also talked about money and budget, my other maxim is 'budget is policy'. If your program isn't funded having an ordinance is not as meaningful as it is if you have the funding to do it and really the ability to adapt to changing priorities and the economy. Talked a little bit about sustainability, I think sustainability is in many areas. sometimes preservationists apologize too quickly for not being on the cutting edge of whatever the new trend is but I think on the terms of sustainability we should really take credit for our having really been at the ***[00:46:15] long before anyone had a name for it, energy efficiency, etcetera. There are other ways to achieve energy efficiency without taking out every window and especially in context to the sustainability discussion in terms of sustainability over all and some of the tools we're using, you've heard about some of them, certainly federal law section 106 and section 4F can be very complex but they are understandable. I know a question earlier about why they're difficult, the core of those laws is very clear and I continue to be amazed after 27 years in the city where I always have to raise my hand at meetings and say well, that's fine but you may have a 4F problem or a 106 issue and they say oh, you're so smart you understand all that and it's like well, it's not intuitive. I've learned it over the years. Everyone can learn it and explain it, it's really obvious if it's a federal undertaking, you have a 106 issue and you need to work pretty early on in the process to deal with it. Other things I wanted to mention to, ongoing education, again, that's internal and external, I showed you the picture of the fire station. One of the issues that I really tried to be a leader on is working with capital improvement departments in the City of Seattle, working with them before any levees go to the voters, so that it's really clear that they understand that their historic resources and that the ballot title includes the word rehabilitation and not just modernize because that opens you up to demolition. having a good survey and inventory which I know in the budget times can be difficult but I think that's where having the connections with your other constituents can be helpful, educating your elected officials- all of my colleagues on this panel live in cities that have districts, and you all do too, our has city wide council members so it's very important that every single person there understand the value of preservation. There's some downsides that it might not affect their neighborhood but I think it's important make it a universal issue and I think finally in going to the Connor decision, because that's the name of the property owner even though it's the Saterlee house is really making sure your board members are educated and they can make a defensible decision and that's really having a good relationship with your city attorney's office and making sure that support is there which I've really been blessed in having over 27 years. when I do commission training when the

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board members are first appointed, the first thing I said to them is there are two words 'feel' and 'like' that should never come from your lips during a meeting and the second is- well three, we tape our meetings and make them into transcripts so if you really don't want to hear it aloud in a court room, don't say it and they've heard it and the third is if I invite you out for coffee or lunch, it's not a good thing usually because that means you haven't really listened to the first two things. So it's lovely seeing you but you probably don't want to see me again really quickly because it's probably not good. Some of our challenges are clearly budget enforcement etcetera so I just leave you with just very quickly, a couple of the last images. This actually has a little thing says please save me on it. I finally had to be told it had religious significance. I took it quite literally, what can I say? I was like, oh, it's not about the building but it says ***[00:50:22] and this building actually is a landmark that has been renovated but finally, just leaving you with a few more cartoons. Brian and I didn't coordinate but we often hear this from the owners. Our goal is to modernize it but maintain the historical flavor and how many times have you heard that but from their perspective too, my other favorite cartoon as well so I'll leave you with that. Thank you for being here and it's been a pleasure.

Tom: Well first I would just like to thank our panelists for great presentations it was fantastic to visit Los Angeles and Chicago and Seattle for a little bit to see some green shrubbery and green lawns. Thank you, I really appreciate that. I wanted to start the questions and answers by posing one sort of complicated question then open it up to the audience after I give the panelists and opportunity to respond. I wanted to pick up on a theme from this morning and that is the theme of vagueness which all of you touched upon to some degree. Linda, you said your ordinance was vague. This is being recorded but you can edit it out if you want to.

Linda: It's not a surprise to anybody.

Tom: Karen has survived a vagueness challenge and Brian is in the midst of a vagueness challenge but I wanted to back up away from the specifics of the law and think about it from a more rhetorical point of view again a theme from this morning. Karen I love the fact that you tell your commission that they may not say 'like' or 'feel' and very important, and yet this fundamental issue that we have in preservation where people think it's still simply a subjective exercise of the taste police. We've had that all the way through the history of preservation for 45 years, for 70 years, think back to Charleston. So I wanted to ask the panelists how they respond to that in their day to day work. What's your elevator speech about vagueness and subjectivity? how do you talk about it?

Karen: Well first of all, our ordinance differs from most in that for each property that's designated we indicate what features or what changes require approval by the board and we actually have a graduated- as Brian was talking about, what has to be approved by the board, what can go to staff and doesn't need approval. So we're very specific with people at the beginning and it really helps them understand the process more and feel more comfortable so they know that if the building interior isn't protected, and we do protect building interiors both public and nonpublic in Seattle, that if they want to remodel their kitchen they don't ever need to see us again and that's not a problem unless they're adding to the house someplace its visible but if they want to put on a third story to a house, they do need to see us again. So we have some agreements here, very

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complicated and sometimes some of the elected officials their head starts spinning when they see these come before them but the property owners are happy. They might not be happy, I shouldn't say that, they're less ticked off and they're not using us they're happier than they maybe were when they walked in the door.

Brian: I'm going to talk about, for obvious reasons, the permit review side and not the designation side because that side I'm perfectly free to talk about. I think along the same lines, this is a constant issue even with the secretary of interior standards, all the guidelines that we promulgated, the technical briefs of the park services prepare. There's a lot of information out there but it is never, and this is with constant refrain with talking with my staff, it is never the same exact same situation because by definition, almost every situation with historic property is somewhat unique and obviously we have to treat like properties in like situations similarly but it's very rare in the more than 20 years that I've been doing this that I've ever seen the same situation with the same circumstances. There's always some little important fact or distinction. It drives my staff crazy cause we'll be sitting in a staff meeting and they'll say well this is just like we did this other case and I'll be like 'well, did you think about this? Are you sure about that?' And we should always be doing that that internally and making sure. It helps us solidify our thinking. We do and I think Tom asked us this when we had the conference call to set this up, and we don't require consent with our ordinance except for houses of worship. We do try to get consent and we actively do that and we have a very long consent period, its 45 days ,possibly another 120 and in fact, by mutual agreement we can extend it past that if we're in active negotiations with the idea of reaching some kind of consensus ideally we'd much rather go to a council as a matter of principal with the consent of the property owner. So in addition to identifying significant features, we do sometimes incorporate design guidelines in our ordinance that are specific. New York City has policies I think for banks and I know for theater interiors and we've look at them frequently when we had some weird circumstances. I had the fortunate or the misfortune I guess to be the lead to negotiate with the Chicago Cubs on the only Major League Ballpark that's a designated landmark, if you want to imagine what that process was like. I think I looked the other day and I had more than 35 drafts of the design guidelines that we developed and after that long process of me and I'm a firm believer in I draft my own stuff. I don't take somebody else's stuff so if we agree on changes I redraft and I distribute because I want to make sure there weren't any changes made that I'm not aware of. Went through all those things to try to win the consent of the Tribune Company who was the owner at the time and at the end of the day they did not consent. We decided to go forward with the land use that we negotiated with them even though, arguably, gave some things away in exchange for other things but we felt that it was the right thing to do but that's basically the philosophy in Chicago, we do really try to work hard with the property owners to be fair and predictable and address some of these concerns. A lot of times its things that are very obvious that you look at and say well that's never going to be a concern but to the property owner they don't understand that. So sometimes you're putting things in an ordinance that actually has no material affect in how you administer it but it makes them feel better and there's something to be said for that.

Tom: Do you have an example of that?

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Karen: I can give you one. We have a private club, the Reindeer Club across the street from the Methodist Church there were a designation for years. They wanted a decrease in their tax because they could be a landmark but they didn't want to be a landmark. so that had been going on for like six years before I got there and I said hmm, walks like a duck, talks like a duck, you're going to be a duck and they actually are and we have interiors but they were saying what about when we plant annuals in the spring and the fall. I mean that's the kind of thing we get and we're thinking, oh, we can do gardening, go out there and help them plant their annuals but no we're not going to get into that so in the designating ordinance we talk about what landscape features are included and what are not and they were happy with that. They're fine. They actually go to other downtown property owners now and tell them about how this process really works. They're my ambassadors with other nonprofits.

Linda: I have two points, one is in terms of the vagueness. I think while our overall ordinance is vague there is the really specific issue is that I would say at least half of the 1,000 nominations that we have designated, our city ***[00:59:07] that role, have maybe four or five sentences. So, like on the ***[00:59:12] case, they have three sentences. None of them mention these light fixtures. so we just don't have a lot of information, so one of the proposed change to the ordinance is to have an inventory of character defining features, that will be, as Karen said upfront. Everyone knows what the game is and I think that's where we've had some problems. Although we've had this group of monument owners organizing against the ordinance revisions, none of them have a specific example of a problem and I thought that was really compelling but they were really buying into this property rights thing. I mean I was- I can't tell you that I've had a problem but just overall, I think this is wrong and they've been a monument for 25, 30 years so I think that is something we need to be dealing with in a more formal way and we're fortunate that we have a tax incentive for designating properties in California called the Mills Act which makes it more attractive for people. The other thing I wanted to sort of pick up on is that issue of subjectivity and it's interesting because once we had a vague ordinance with broad criteria but we found with our Cultural Heritage Commission we had a building that was before the 1960s and the commission didn't get it. They were like not really an important architect, not really attractive and there was a land use attorney, well it's been altered, and if you don't like it and it's been altered, high chance you're not going to be designating it. So after that hearing it became clear that if the Cultural Heritage Commission didn't understand '60s, clearly the vast majority of people didn't understand '60s and so the conservancy launched in 2010, 'the '60s turn 50' because 50 years is what people understand so we kind of went to the level that people can understand. fifty years old, that should be considered historic, so guess what, the '60s are going to be considered historic then and so we did a year long series of events to get people thinking about the '60s and one of the reasons that it's so important, particularly for us in Los Angeles is that three quarters of our growth occurred after World War II and we have some amazing examples. Most people agree on the amazing examples. it's the slightly below amazing that we seem to have a lot of disconnect and probably 15 years ago, I was at a Trust conference at a session and somebody made a comment that basically was to identify why surveys were so important is that if we don't know what we have that we will only will take what's left and I will found in talking about even our brutalist building, Columbia Savings, I will tell you not many people liked, is that but don't we need to get out there and figure out what were the best

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buildings of the '60s and that actually was a very important building in terms of the nexus of art and architecture and what was happening in the '60s and so people find that argument compelling. I don't want to just save a '60s bank building because gosh that's what we have left. it took 20 years from now, I want to be able to think through what it is and when we saved the Century Plaza Hotel in 1966 we really found that that was the one that resonated but people didn't necessarily understand why it resonated so part of our job was to explain that and so I think looking at subjectivity, education is so important and education of the commissioners and of the staff but also of a broad audience to be able to make it so people don't go 'what?' because that's not the right repose. So I think that working hand in hand there really is an effort and what was funny to me was our kickoff of the of the 60s turn 50, we invited the Cultural Heritage Commission of course and the chair of the Commission came up to us afterwards and said 'you did that for us didn't you?' No we're 200 people here but it's important.

Tom: Right, I have a follow up **[01:03:10]** and Brian and Karen to respond on the modernism piece. It seems to me that were a lot of comments this morning about **[01:03:20]** core of historic perseveration and I do think there's an issue of modern buildings is outside of our core for some reason and yet, if we go back and look at the past of our own movement. I was already working at a time when preservation didn't recognize Victorian buildings and didn't recognize Art Deco buildings. Now both of those are well within what is considered core preservation value so I just wanted to get two responses on modernism and then we'll open it up to the audience.

Brian: I think one really interesting example, it always fascinates me so I explained we had a precursor commission in 1957 and at that time they didn't think there was such a thing as districts. They thought there was a finite number of buildings that would be important you'd designate them and you'd be done. So they came up with a list with 39 buildings on it- the list I think they finally adapted it in '61, '62. It has the England Steel Building on it. England Steel Building is 1956, so the building is less than five years old at the time that they were considering it. It had several buildings from the 1940s, there was one other building from the '50s as well. You have to remember that at least in Chicago, the preservation movement comes from architects and they're modernists. They wanted to make the connection between modern architecture and the second Chicago school and the first Chicago school being Louis Sullivan and Frank Lloyd Wright and the Prairie School, uniquely American architecture, not that classical stuff that New York is doing but the unique Chicago stuff. So that was always kind of a bias and when the public library- it's an east coast firm and I'm totally blanking on it, Shipley Rattan and Coolidge, major building downtown threatened with demolition, not on anybody's radar screen in the professional preservation category, the public gets upset about it. Chicago Theater, demolition permit gets pulled for our namesake theater which is not designated. The public is in uproar, the city refuses to issue the demolition permit. It goes to court, the judge says you've got two options, issue the permit or buy it and the city ended up having to buy it because there was no way we could live with losing the Chicago Theater. So it was always kind of interesting this stuff and we didn't look at the classical viable stuff in Chicago, the stuff that in other parts of the country would rank highly. Where we are now is, I showed you the example of some of the banks. so we did a group of 16 neighborhood banks, they were all from the early 1900s with the exception of-which I elected to do because I thought it was a really great idea, I

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was going to include one post war neighborhood bank building and it's this little gem of a building. It was by a major firm, really cool inside, floating mezzanine, luminescent ceiling, there's an elevator core with a staircase that goes around it and the core was with little gold tile that was supposed to look like stacked coins really neato bandito. Only one that was post 1930 and it was a horrible experience.

Tom: Maybe because the standard as neato bandito, a little bit hard to explain.

Linda: It's in your ordinance.

Brian: Neato bandito is not 'feel' and it's not 'like' it's a standard. And what was interesting was the commission was I think lukewarm about it but they did start the process on it, property owner as adamantly against it. it didn't have a lot of support from the neighborhood of the preservation community on it and the architects, the problem that they had on it was it wasn't pure enough, international style. Those folks because they're all still around that were there in the '60s, they have their opinions about what was the best architecture. They're still alive, they still think about these things and that was the biggest thing because I had architects showing up at my hearing saying it's not pure international style because the columns aren't pulled out or they're not in the right location. It was really kind of crazy and at the council level-we're by ward and so the individual Alderman had a great say on what happens in land use decisions in their wards and the Alderman who was the vice chair of the council committee on historical landmark preservation said I just don't get it. I like buildings with brick and stone, those look old, those look important to me. I don't get why this one is important and we had to withdraw it because we had the second bite clause in our ordinance, which is you get one bite at the apple. so, if I lose that vote at city council I don't get to take it up again later so we withdrew the designation for that one building in the hopes that we might prevail another day.

Tom: Right, thank you.

Karen: So I agree. I think a lot of it is the education. I mean I think in many ways the preservation movement hasn't been too successful in the image of the brownstone in New York or Pioneer Square or whatever. That is peoples' image of a historic property so I deliberately chose images of the Space Needle and the mural and the monorail some of the places that really define Seattle but the general public and even the decision makers look at it s Pioneer Square and even though the Pike Place Market, the buildings are very vernacular, it really is the heart and soul of the city and a way of life that they are preserving. I think it really is about education and I think that we're beginning to have that discussion but I think we've done such a good job convincing people that the historic districts, many of which we have on the east coast and even other parts of the country that's what historic property should look like.

Tom: Sure. Thank you all and now let's open up to the audience, this gentleman down here.

Audience member: ***[01:09:30] process and 45 days after the public hearing and at the designation, so?

Brian: We have- and I looked at the ordinance and it's in the original 1968 ordinance so it's always been the process. It's very long, there's several steps in it so we have a preliminary

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recommendation which kicks it off, the third step is requesting for formal consent. It's in the ordinance, 45 days and then they can request an additional 120.

Audience member: Forty-five days form when?

Brian: It's tied to the third step in the process, when the commission receives report from the planning department is consistent with the city's planning goals and objectives so it's 45 days from when we send the letter out and then 120 beyond that. If we do not get consent, then there's a clock ticking which is one of the changes in the ordinance that we have to have a public hearing and make a final decision about within a year from when they started the process.

Tom: Just to be clear, you can designate over an owner objection. If the owner doesn't consent you still can designate.

Brian: Correct, except for houses of worship.

Tom: Good, other questions?

Andrew Dolkart: So the New York law which we're going to talk about later allows you to designate interiors if they're publically accessible and not used for religious purposes and Linda mentioned casually about interiors of houses and Karen mentioned in absolute passing that the New York Club has interiors and when I was in Pasadena about a year ago people were talking about how they regulate the interiors of privately owned Green-Green houses. So I'm interested in what the conditions is in your three locations with designating private interiors that are not customarily opened to the public and whether if you have that ability, whether there have been challenges to that.

Linda: I'll go first and I actually know the Pasadena ordinance because I worked for the City of Pasadena during that-

Karen: Me too.

Linda: ***[01:11:40] That's how Karen and I got to be friends.

Karen: Hot problem here.

Linda: So let me just address Los Angeles first and we'll get to Pasadena. It vaguely says interiors but it doesn't say not interiors, so that is the power that's in there now. Under the new process which hopefully will be adopted before our 50th anniversary, it'll be the character defining features. So it'll actually be listed in there what parts of the property or the structure are identified what came out of the planning commission, once again, architects is that we had several architects on the planning commission and one of the justification for needing to have interior review, particularly in residential was for our modern houses which you can stand on the street and if the curtains are open you can see in the house and so there was an argument that there was a public benefit to being able to look in this house.

: I won't say what the benefit is.

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Linda: The curtain people are going to make a fortune once this ordinance goes through but that actually came up in discussion with the inside, outside, that was very important. So, then of course we got into the argument ***[01:12:54] bathroom? Well that's not visible from the street but anyway that was sort of the basis of that but it will all go back to this list of character defining features in the ordinance in terms of how that's regulated. In terms of Pasadena what happened I think there are 33 Green & Green houses in Pasadena and one night, in the middle of the night a Texan came with a truck and took all the fixtures that were designed by Green & Green out of the Blacker House. Now Pasadena is in some ways a conservative community but when a Texan comes in the middle of the night and takes the light fixtures, that is something to get mad about. So there was a lot of uproar and at that point we need to stop this and the problem was these light fixtures, each one individually, was worth more than the house. This was when ***[01:13:50] and they were going for \$500,000 it was just insane so the city said we need to do something. so one of my bosses said well while we're doing it lest just change the ordinance, we'll have a perfect ordinance and so we struggled for a year because we had incrementally just changing the ordinance and the city council didn't really know how much power it had and so all of a sudden they're 'you're reviewing every permit for every building that's over 50 years old?' I don't know about that. So we forgot that we had momentum for that one thing and we tried to get the perfect ordinance so, ultimately, we got the ordinance. It was solidified at my wedding. That was my wedding gift from the mayor and so Brian got to administer this. But I will tell you that it was not seen as controversial, partly because you only have 33 people that could be mad and in terms of education, Pasadena is so identified with Green & Green it was really seen as one of the treasures. Now we will silently talk among ourselves that the Texan had bought the house from an elderly widow who had unfortunately invested in a game show that was not successful so she had a hardship, had she try to sell a couple of light fixtures to buy her cat food, she would've been fine, nobody would've come out but because it was this assault on the city, that was how we had the momentum to do that. So I'm a big believer in when something bad happens, really trying to capitalize on it.

Brian: I'll only drop a footnote that this Texan issue was the first time I think the Trust had a claim of defamation against it. So we're not really permitted to talk about the Texan very much. Just along these lines our ordinance says that we can designate a building all or in part. So in the beginning of time, the first designations, it says the buildings designated in its entirety and then over the years we've administered permits we've kind of decided what are the parts of that. Over the last 20 years in the designation ordinance we've specifically say this is what's designated and in general, the ones that were in their entirety were really cautious about what we're doing on the inside of these buildings, especially if they're houses. While we have the consent requirement for churches we actually probably have designated more churches in the last several years than we did before there was the consent requirement. We've had a lot of churches that we worked with and we include the interiors and on the south side of Chicago where you had martin Luther king or other individuals in there you really need the auditorium interiors to tell part of the story. For private houses now, if I'm going on the inside I would really want to have consent because I think that's what will bolster me if there are any other future challenges. Otherwise if they're publically accessible I think I'm probably fine. The big problem with these interiors though is what requires a permit? You can have the stuff designated in there

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but if it doesn't require a permit it's kind of hard and the problem with the Green & Green stuff, you don't necessarily know what's inside the houses. When they were designated it was blanket. It wasn't like there was a survey or inventory. So I can remember the countless number of times where we had to have the discussion is this a fixture or is this furniture because that makes a difference under the law as to whether we can regulate it or not.

Karen: And in our ordinance, at the time of designation, talk about the features and characteristics of the landmark and we can't – it's nomination and then designation. We can't designate any more than we've nominated so the board tends to cast its widest net at the time of nomination and often includes interior features that ultimately are not designated. So we at the staff level spend a lot of time calming people down that the bathroom won't be designated so just chill for the 45 to 60 days but we're really specific and I think there is the distinction between the privately owned properties and the lobbies of commercial building and often with the privately owned properties it's the owner coming to us wanting to have those features protected because in some cases it's a building that's been in the family for three generations and they're selling it and the enforcement is really the huge issue because if there's this fabulous tile bathroom or kitchen that really is quite special and is part of the landmark feature well, they don't need a permit to take that tile out. As Brian says, I may never know about it but I'm still a little concerned about interior designations of private homes because of the enforcement issue and the whole issue of public benefit and I always know before a designation of a house when I hear my staff whispering on the other side. I know that there are interiors included and they don't want me to hear about it, if I haven't been to the meeting because it's like I don't ever want to see that again, please don't come back to me with another kitchen or bathroom that's designated but we have another opportunity at what we call the Controls and Incentives were we negotiate what's going to have a certificate of approval or not and for the most part, on more recent designations I put some of those interior features under an administrative review so we have an opportunity to look at them at the staff level and then if they have to go to the board make a decision there.

Linda: It's better with interiors, easements are a better tool.

Tom: Well there are issues about enforcement of interiors for easements as well, the same problem. I'm afraid we're out of time for questions.

Audience member: Oh quick question, did Pasadena ever get the light fixtures back and if so, how?

Linda: Some of the light fixtures did come back to the Blacker House. Some of the people who shall remain nameless, did feel some guilt and actually sold them back to the family that bought the Blacker House and then they have replicated the rest of the light fixtures so when you go into the Blacker House your experience was as it was when Green & Green completed the house.

Tom: I'd like to just thank the panel again, wonderful presentation.

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David: Thanks Tom, Linda, Brian and Karen. Have a great lunch and we'll see you back here in an hour. Thanks.

[End of transcription]