POLICIES OF THE READING BOARD OF HISTORICAL ARCHITECTURAL REVIEW

FINANCIAL HARDSHIP

1. INTRODUCTION

1.1 In order for financial considerations to be taken into account in the review of an application for a certificate of appropriateness, the requirements of this policy shall apply.

1.2 All requests for consideration of financial hardship shall be made in the form of the Financial Hardship Application and shall include evidence sufficient to enable the HARB to render a decision, submitted to the Preservation Officer in addition to the Certificate of Appropriateness Application. A request for consideration of financial hardship cannot be reviewed by the HARB until an Applicant has submitted a Financial Hardship Application with the required supporting documentation.

1.3 All requests for consideration of financial hardship shall be reviewed by the HARB.

1.4 The HARB may grant administrative relief from preservation guidelines in situations of financial hardship. A finding that all economically viable use or reasonable return from private property has resulted from compliance with preservation guidelines, commonly referred to as a financial hardship, allows the HARB to consider the approval of an application to alter or demolish a~~n~~ historic property that may not otherwise satisfy the HARB's review standards. However, such a finding does not release the historic resource from review under the HARB's standards, but only allows the HARB to consider alternatives to the most stringent application of its standards. Additionally, a finding of financial hardship does not release the property from any other permit review requirements.

2. DEFINITIONS

2.1 Financial Hardship: An economic impact upon the Applicant that severely limits the economically viable use or reasonable return from private property as a result of compliance with preservation guidelines, which includes regulatory takings and may also include economic infeasibility.

2.2 Economic Infeasibility: An economic impact upon the Applicant in which the expenses resulting from compliance with preservation guidelines for a proposed alteration are greater than the return. For example, the availability of a specialized contractor to complete a particular detail may render a project economically

feasible or infeasible. Economic infeasibility is not considered regulatory taking, but may warrant consideration of alternatives to conventional adherence to preservation guidelines.

2.3 Regulatory Taking: The denial of all economically viable use or reasonable return from private property as a result of compliance with a governing regulation or guideline.

2.4 Guidelines: Any standards or policies adopted by the HARB for use in the evaluation of an application for a Certificate of Appropriateness.

2.5 Self-inflicted Hardship: A hardship that results from a course of action taken by the applicant despite extant preservation guidelines, such as purchasing a property for premium with the expectation of obtaining relief from preservation guidelines, proceeding with alterations without approval to the extent of further compounding the cost of compliance, or failing to perform maintenance on a property to the extent of further accelerating deterioration, thereby compounding the cost of repairs.

2.6 Economic Impact: The effect of a particular course of action on a property's overall value and return. The economic impact on the property is the focus of inquiry into financial hardship rather than the particular economic circumstances of the owner.

3. GENERAL

3.1 In determining financial hardship, the HARB shall consider the following:
   a. The economic impact of the guidelines on the applicant.
   b. The guidelines' interference with reasonable investment-backed expectations.
   c. The character of the municipality's action.

3.2 The municipality may require compliance with preservation standards that adversely affect recognized economic values without its action constituting a regulatory taking.

3.3 That preservation requirements affects owners of properties located within Historic Districts more severely than others does not, itself, result in a regulatory taking.

3.4 In considerations involving the level of economic return, only decisions that deny the property owner all "economically viable use" of a property constitute regulatory takings. The HARB shall consider whether the guideline denies the owner all "economically viable use" of the property or whether it simply restricts modifications to certain features of the property. If the owner can earn a reasonable economic return by continuing the property's current use or condition, a financial hardship does not exist.

3.5 The property owner is entitled to earn a reasonable economic return. However, the property owner must demonstrate that he or she has been denied all reasonable beneficial use of, or return on, the property as a result of the denial of a certificate of appropriateness, including but not limited to:
   a. That the sale of the property "as is" in its current state has been attempted and was found to be impracticable. The owner must demonstrate that he or she has exhausted all attempts to sell the property "as is" to a party interested

in complying with preservation guidelines and must demonstrate that the sale of the property is impracticable.

b. That alternative uses of the property such as a commercial rental have been attempted and that other uses of the property were not found to provide a reasonable economic return.

c. That features of the property cannot be altered in compliance with the standards without denying the owner a reasonable economic return for the property. To substantiate a claim of financial hardship, the applicant must demonstrate that the property cannot be used for any purpose for which it may be adapted in compliance with preservation guidelines. The applicant has an affirmative obligation in good faith to explore potential adaptation of the property.

d. To substantiate a claim of financial hardship to justify a demolition, the applicant must demonstrate that the sale of the property is impracticable and that other potential uses of the property cannot provide a reasonable rate of return. The applicant has an affirmative obligation in good faith to attempt the sale of the property, to seek tenants for it, and to explore potential adaptive reuses for it.

3.6 Evidence that a hardship is self-created through neglect or failure to maintain and repair the property in a timely manner shall constitute grounds for denial of financial hardship.

3.7 A property owner is not entitled to the highest and best use of the property. The mere fact that the guidelines deprive the property owner of the most profitable use of the property is not enough to establish a financial hardship.

3.8 In considering financial hardship, the focus is on the property and not the particular economic circumstances of the owner. While the impact on a particular owner may seem unreasonable based on his or her personal income, the inquiry is primarily based on numerous factors that determine whether the guidelines prevent the owner from putting the property to an economically viable use or realizing a reasonable return.

3.9 A property owner must substantiate having attempted and exhausted all feasible alternatives in order to eliminate the hardship, including but not limited to attempting to raise capital such as bank financing or exploring the availability of tax incentives and grants.

3.10 Speculative investments based on a presumption of redevelopment without HARB approval do not constitute a financial hardship. A hardship may be self-inflicted if the owner purchased the property under a presumption that future alterations might produce an economic return, despite the fact that those alterations are subject to a historical review process.

3.11 Financial hardship within the Historic Districts shall be classified based on the following types of properties:

a. Commercial (including multifamily residential and single-family rentals)

b. Single-Family Residential (Owner-Occupied)
c. Non-Profit

3.12 In the case of non-profit organizations, it is necessary to determine whether preservation guidelines either physically or financially prevent or seriously interfere with carrying out the charitable purpose of a non-profit organization. The Applicant shall further substantiate whether the preservation of these buildings would seriously interfere with the use of the property, whether the buildings are capable of conversion to a useful purpose without excessive cost, or whether the cost of maintaining them without use would entail serious expenditure — all in the light of the purposes and resources of the Applicant.

4. ECONOMIC IMPACT

4.1 Considerations of financial hardship shall be based on an analysis of economic impact including but not limited to the following factors of the property:
a. Income vs. Expenses
b. Property Valuation vs. Purchase Price.
c. Costs of Proposed Alterations vs. the Cost of Compliant Alterations

4.2 In evaluating Income vs. Expenses, the HARB shall consider the following:
a. Current gross and net income, particularly from the property, over an established period of time.
b. Itemized expenses, particularly operating and maintenance.
c. Cash flow before and after debt service, if any, during the same period, particularly remaining mortgage debt.
d. Real estate taxes and depreciation deduction.
e. In order to justify financial hardship in the case of proposed changes in use, significant renovations, additions, or demolition, an applicant must substantiate that the property cannot remain economically viable in its current use or condition.

4.3 In evaluating Property Valuation vs. Purchase Price, the HARB shall consider the following:
a. Amount paid for the property. Was the property purchased for substantially more than market value?
b. Date of purchase.
c. Party from whom purchased, and relationship if any.
d. Appraisals or valuations based on a comparison of similar properties obtained within the last two years.
e. Form of ownership.
f. Applicant must substantiate that the property cannot be sold for a return by submitting “for sale” listings within last two years.

g. Applicant must verify that the initial cap rate was economically viable based on the expectation of preservation in order to substantiate that they did not overpay for a property.

4.4 In evaluating the Costs of Proposed Alterations vs. the Cost of Compliant Alterations, the HARB shall consider the following:

a. Licensed contractor's itemized bid for proposed non-compliant alterations.
b. Licensed contractor's itemized bid to perform alterations in compliance with preservation standards.
c. Value of deferred maintenance should be subtracted from construction costs.
d. Value of available funding incentives should be subtracted from construction costs.
e. Applicant must submit Contractor's bid for alterations that create an alternate use to substantiate that no other uses are economically viable.

4.5 An Economic Impact Ratio (EIR) shall be established as the numeric average of each economic factor. The EIR is to serve as a non-binding guide for the HARB in determining the existence of a financial hardship. An EIR less than one (1) may constitute evidence of financial hardship. An EIR greater than one (1) may not constitute evidence of ~~a~~ financial hardship at the HARB's discretion. An EIR shall be expressed by the following formulas:

a. Commercial (including multifamily residential and single-family rentals)

$$EIR = \frac{\left(\frac{\text{Income}}{\text{Expenses}}\right)+\left(\frac{\text{Property Valuation}}{\text{Purchase Price}}\right)+\left(\frac{\text{Non-compliant Construction Cost}}{\text{Compliant Construction Cost}}\right)}{3}$$

b. Single-Family Residential (Owner-Occupied)

$$EIR = \frac{\left(\frac{\text{Low Income}}{\text{Multiplier}}\right)+\left(\frac{\text{Property Valuation}}{\text{Purchase Price}}\right)+\left(\frac{\text{Non-compliant Construction Cost}}{\text{Compliant Construction Cost}}\right)}{3}$$

i. In the case of an owner-occupied property, personal income is considered to be intertwined with operating expenses for the single-family residence and is therefore a consideration of economic impact. Although the economic impact on the property is the focus of inquiry rather than the particular economic circumstances of the owner, the

HARB grants special consideration to low income applicants. A Low-Income Multiplier of 0.5 shall be applied to the formula above for Single-Family Residential applicants with a gross annual household income (not including income derived by dependents) below the federal poverty guidelines issued in the Federal Register by the Department of Health and Human Services for the current year.

ii. A Low-Income Multiplier of 0.75 shall be applied to the formula above for Single-Family Residential applicants with a gross annual household income (not including income derived by dependents) less than 150% of the federal poverty guidelines issued in the Federal Register by the Department of Health and Human Services for the current year.

iii. The Low-Income Multiplier shall be 1.0 in the formula above for Single-Family Residential applicants with a gross annual household income above 150% of the federal poverty guidelines issued in the Federal Register by the Department of Health and Human Services for the current year.

c. Non-Profit

$$EIR = \frac{\left(\frac{\text{Income}}{\text{Expenses}}\right)+\left(\frac{\text{Assets}}{\text{Liabilities}}\right)+\left(\frac{\text{Property Valuation}}{\text{Purchase Price}}\right)+\left(\frac{\text{Non-compliant Construction Cost}}{\text{Compliant Construction Cost}}\right)}{4}$$

i. In addition to overall operating budget, net assets vs. net liabilities shall be considered in order to provide a broader basis for determining whether preservation guidelines either physically or financially prevent or seriously interfere with carrying out the charitable purpose of a non-profit organization.

4.6 The level to which a property is a contributing resource within the historic district based on the Composite Index Rating as documented under the most recent Historic Resource Survey on file with the local Preservation Office shall be considered in determining financial hardship. Such consideration shall be made by multiplying the Economic Impact Ratio (EIR) by the Composite Index Rating divided by 100. An EIR less than one (1) following this operation may constitute evidence of financial hardship. An EIR greater than one (1) following this operation may not constitute evidence of financial hardship at the HARB's discretion.

4.7 If based on consideration of the economic factors of a property the HARB grants a determination of financial hardship, the HARB may relieve the applicant of compliance with all or a portion of preservation guidelines at its discretion. Regardless of financial hardship, the HARB reserves the right to deny relief from requirements that are explicitly prohibited in preservation guidelines.

4.8 The HARB may offer the following relief from conventional compliance with preservation guidelines in lieu of or in addition to a determination of financial hardship at its discretion:
   a. Alternative materials.
   b. Extended timeframe for corrections.
   c. Less stringent application of standards for violations caused by a previous Owner.
   d. Technical advisory assistance.

5. APPLICATION SUBMITTALS:

5.1 An applicant is required to submit a Financial Hardship Application in order to obtain consideration based on economic constraints.

5.2 An applicant must submit a comprehensive picture of income, expenses, and available financial resources. The HARB cannot grant consideration for financial hardship unless required supporting documentation is submitted to substantiate each economic factor. Incomplete supporting documentation will result in return of a Financial Hardship Application.

5.3 In accordance with submission requirements outlined in Section 295-116 of the Codified Ordinances of the City of Reading, the following supporting documentation shall be submitted to the Preservation Officer:

   a. Income:
      i. Commercial (including multifamily residential): Itemized breakdown indicating gross annual operating income from all sources for the property and total net operating income for the past two years.
      ii. Single-Family Residential: Indicate the gross annual household income from all sources for the past two years.
      iii. Non-Profit: Overall budget report indicating gross annual operating income from all sources for the organization and total net operating income.
   b. Expenses:
      i. Commercial (including multifamily residential): Itemized breakdown indicating gross annual operating expenses from all sources for the property for the past two years.
      ii. Non-Profit: Overall budget report indicating gross annual operating expenses from all sources for the organization.
   c. Assets:
      i. Commercial (including multifamily residential): None required.
      ii. Single-Family Residential: None required.
      iii. Non-Profit: Itemized breakdown indicating net assets of the organization.
   d. Liabilities:
      i. Commercial (including multifamily residential): None required.
      ii. Single-Family Residential: None required.

iii. Non-Profit: Itemized breakdown indicating net liabilities of the organization.

e. Purchase Price:
    i. One (1) official record of the property purchase price such a deed, County of Berks Parcel Search Report, HUD-1 (Alta) Form, etc.
f. Property Valuation:
    i. Listings or valuations posted within the last two (2) years from three (3) credible sources such as a certified appraiser, realtor, Trend MLS, Zillow.com, Realtor.com, Trulia.com, etc.
g. Non-compliant Construction Cost:
    i. A licensed contractor's estimate of the total costs to complete the proposed construction that is not in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as determined by the HARB.
    ii. Costs to complete deferred maintenance and to replace work that was completed without approval from the HARB shall be separately itemized on the contractor's estimate.
h. Compliant Construction Cost:
    i. A licensed contractor's estimate of the total costs to complete the construction in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as determined by the HARB.
    ii. Costs to complete deferred maintenance and to replace work that was completed without approval from the HARB shall be separately itemized on the contractor's estimate.
i. Additional Information:
    i. Documents identifying conditions and stipulations for use of grant funding or tax incentives approved for the proposed project.
    ii. Copies of all zoning permits, variance approvals, and appeal decisions for the subject property issued within the last ten (10) years.
    iii. Copies of all prior Building Permits and Certificates of Appropriateness associated with previously-completed alterations affected by the proposed project.

5.4 The Preservation Officer and Executive Committee shall review Financial Hardship Applications for completeness and to establish the Economic Impact Ratio for consideration by the HARB.

5.5 The HARB may request that the Applicant submit any other additional financial information or detail that it deems necessary to determine financial hardship.

(Adopted March 27, 2018)