

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Sharon Schwartz at 3:35 p.m. on February 12, 2009, in Room 446-N of the Capitol.

All members were present except:

Representative Lana Gordon - Excused  
Representative Michael Peterson - Excused

Committee staff present:

Ken Wilke, Office of the Revisor of Statutes  
Martha Dorsey, Kansas Legislative Research Department  
Jill Shelley, Kansas Legislative Research Department  
Carol Bertram, Committee Assistant

Conferees appearing before the committee:

Luke Bell, Kansas Association of Realtors  
Janine Joslin, Executive Director, Kansas Preservation Alliance  
Michael Bradley, Friends of Bethany Place  
Sally Hatcher, Leavenworth Preservation Commission  
Greg Kite, President of Historic Preservation Alliance  
Sally Kahle, Potwin Place Association  
Bill Wagnon, City of Topeka  
Pedro L. Irigonegaray, Council of Friends of Bethany Place  
Julia Manglitz, American Institute of Architect  
Jennie Chinn, Executive Director, Kansas Historical Society  
Chris Wilson, Executive Director, Kansas Building Industry Association  
Marc Francisco, Kansas State Senator  
Cindy Sundell-Guy, Century 21

Others attending:

See attached list.

Representative Holmes, Vice Chairman, opened the hearing on **HB 2083 – Historical preservation; of environs review**.

Ken Wilke, Office of the Revisor of Statutes, presented an overview of **HB 2083**, explaining to the committee how this bill will affect historic property or the environs of a historic property.

Questions and answers followed.

Proponents:

Luke Bell, Vice President of Governmental Affairs, Kansas Association of Realtors, appeared before the Committee to offer testimony in support of **HB 2083 (Attachment 1)**. He presented a summary of the legislation, an overview of the history of the historic environs review requirements, as well as an overview of historic preservation laws at the federal and state levels. In summary, he concluded that the Kansas Legislature should pass **HB 2083** to protect private property rights by eliminating the historic environs review process. He stated unelected state officials and local historic preservation advocates should not have the authority to unreasonably restrict a property owner's use of his or her property.

Chris Wilson, Executive Director of Kansas Building Industry Association, presented testimony in support of **HB 2083 (Attachment 2)**. She stated that in restricting private property use beyond applicable local zoning, public safety and building code regulations, the statute goes beyond other states' laws, which apply the restrictions to governmental projects. The language in the statute seems to apply only to governmental projects, because it refers to "the state or any political subdivision of the state, or any instrumentality, thereof," but that has been interpreted more broadly to encompass all private property as well.

Questions and answers followed.

Neutral:

## CONTINUATION SHEET

Minutes of the House Local Government Committee at 3:35 p.m. on February 12, 2009, in Room 446-N of the Capitol

Jennie Chinn, Executive Director and State Historic Preservation Officer, Kansas State Historical Society appeared before the Committee as a neutral conferee to provide information on the state preservation law as it now functions, and to answer any questions the Committee may have about the process ([Attachment 3](#)). She stressed that the job of the Kansas State Historical Society is to help the state preserve its history, and that the Society's job is to advise local governments, not to decide local restrictions.

Questions and answers followed. Patrick Zollner, Division Director of Historic Preservation of the Kansas State Historical Society also was available for questions.

### Opponents:

Janine Joslin, Executive Director, Kansas Preservation Alliance, presented testimony in opposition to **HB 2083** ([Attachment 4](#)). She stated **HB 2083** seeks to limit the protection of the Kansas Historic Preservation Act solely to a listed property, thus putting at risk all historic properties in this State. If a property worthy of listing on the National or State Register may nevertheless become the next-door neighbor of any type of development, no matter how detrimental, with no required analysis by the governing body having jurisdiction, then it is of little use to protect the property itself.

Michael Bradley, board member of Friends of Bethany Place, appeared before the Committee in opposition to **HB 2083** ([Attachment 5](#)). (With his testimony he submitted examples of development within environs of historic sites including pictures.) Mr. Bradley stated those who live in the environs of historic sites need the support of the historic preservation laws that have been passed.

Sally Hatcher, Leavenworth, presented testimony in opposition to **HB 2083** ([Attachment 6](#)). She stated **HB 2083** certainly does not protect the property rights of those who restore and maintain the historic homes and commercial buildings that give Kansans their unique sense of place.

Greg Kite, President, Historic Preservation Alliance of Wichita and Sedgwick County, presented testimony in opposition to **HB 2083** ([Attachment 7](#)). He stated the purpose of the Kansas state historic preservation law is to protect the state's historical and architectural treasures and that the bill, which eliminates the historic environs review requirements, would denigrate that purpose.

Sally Paige Kahle, Potwin Place Historic District, presented testimony in opposition to the proposed changes to **HB 2083**. With her testimony she also submitted a signed petition in opposition to the changes ([Attachment 8](#)). Ms. Kahle stated the law is reasoned and well thought out in its original form, and she asked the Committee to deny the proposed changes.

At this time, Vice Chair Holmes, Vice Chairman, turned the meeting over to Chair Schwartz.

Bill Wagon appeared before the Committee in opposition to **HB 2083**. He stated he opposed the purpose of **HB 2083** to remove the requirement for reviews of the environmental impact involving properties designated for historic preservation ([Attachment 9](#)).

Kansas State Senator Francisco submitted written testimony from Dennis J. Brown, President of the Lawrence Preservation Alliance, in opposition to **HB 2083** ([Attachment 10](#)).

Pedro Irigonegaray, Counsel for Friends of Bethany Place, presented testimony in opposition to **HB 2083** ([Attachment 11](#)). He stated the present status of the law provides a fair and reasonable process for the protection and preservation of our historic sites. **HB 2083** removes from our laws important safeguards for the protection of Kansas' historic heritage.

Julia Manglitz, Chair of the American Institute of Architects Kansas Committee for Historic Resources, presented testimony in opposition to **HB 2083** ([Attachment 12](#)). She stated this bill eliminates the notice to the State Historic Preservation Officer of proposed projects that may encroach upon or are within the environs of historic properties listed on the State or National Register of Historic Places. She asked the Committee not to approve the bill, which she said would harm irreplaceable historic properties and the rich stories they tell.

Barbara Quaney, President of Friends of Bethany Place, submitted written only testimony in opposition to the proposed changes in Kansas preservation law, **HB 2083** ([Attachment 13](#)).

CONTINUATION SHEET

Minutes of the House Local Government Committee at 3:35 p.m. on February 12, 2009, in Room 446-N of the Capitol

Chair Schwartz invited anyone else who would like to present testimony in regard to **HB 2083**.

Cindy Sundell-Guy with Century 21 presented testimony in opposition to changes in **HB 2083** (Attachment 14).

Clair Wellenberg, a realtor in the Wichita area, submitted written-only testimony from David Franks, also a realtor in the Wichita area (Attachment 15). Ms. Wellenberg and Mr. Franks both are opposed to any changes to **HB 2083**.

Questions and answers followed.

At this time, Chair Schwartz closed the hearing on **HB 2083**.

Chair Schwartz informed the committee that the Office of the Revisor of Statutes had drafted a balloon amendment for the committee's consideration on the three annexation bills (**HB 2029, HB 2030, and HB 2031**) recommended by the Interim Committee. Ken Wilke, Staff, guided the committee through the balloon amendment pointing out the various amendments necessary to combine the three bills. It was moved by Representative Heubert, seconded by Representative Seiwert that the three bills **HB 2029, HB 2030, and HB 2031** be combined. The motion carried.

After discussion, the Committee determined that additional clarifying language needed to be added to **HB 2029** in regard to qualified voters. Representative Goico offered a substitute motion that clarifying language be added to **HB 2029** as amended. The substitute motion was seconded by Representative Huebert. The motion carried with two opposing votes.

After a brief discussion, it was moved by Representative Goico that the committee pass **HB 2029** as amended favorably for passage, seconded by Representative Otto. The motion carried with one opposing vote.

The next meeting is scheduled for February 17, 2009.

The meeting was adjourned at 5:30 p.m.

---

Representative Sharon Schwartz, Chair

# HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: 2-12-09

NAME	REPRESENTING
Ben Sciocetino	City of Mulvane
PEDRO L. TRIGONFIGARAY	LAWYER
Janine Joslin	Kansas Preservation Alliance Inc
Sally Hatcher	Leavenworth Preservation Comm.
Kate Watson	self (Milford area)
Mike Watson	Self
Joe Desch	Potwin Place
Sally Paige Kahle	Potwin Place Historic District
Barbara Gibson	Episcopal Diocese of Kansas
Greg Kite, President	Historic Preservation Alliance of Wichita and Sedgwick County
David Wilberberg	Self as Realtor & HPB Wichita
Patrick Shurley	Summer Junction
Melba Shapiro	Potwin Place
James C. Turner	Potwin Place
Jenni Chinn	KS State Historical Society
Kim Norton	KS State Historical Society
Patrick Zolner	KS State Historical Society
Judy Gross	Am Inst of Architects
Julia Manglich	AIA - KANSAS

**Please use black ink**

# HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: 2/12/09

NAME	REPRESENTING
Hiram E. Stokell	Friends of Bethany
Michael L. Bradley	Friends of Bethany
Dave Holtwick	Overland Park Chamber
Erik Sartorius	City of Overland Park
Chris Wilson	KS Building Industry Ass'n
Lance Kelly	NTL TRUST FOR HIST. PRES.
RYAN EAGLESON	CAPITOL LOBBY GRP., LLC
marci francisco	Kansas Senator

**Please use black ink**



To: House Local Government Committee

From: Luke Bell, Vice President of Governmental Affairs

Date: February 12, 2009

Subject: **HB 2083** – Protecting Private Property Rights By Eliminating the Historic Environs Review Requirements

Chairperson Schwartz and members of the House Local Government Committee, thank you for the opportunity to appear today on behalf of the Kansas Association of REALTORS® (KAR) to offer testimony in support of **HB 2083**. KAR has faithfully represented the interests of the 9,000 real estate professionals and over 700,000 homeowners in the State of Kansas for over 85 years.

Summary of the Legislation

**HB 2083** would repeal a portion of K.S.A. 2008 Supp. 75-2724 that restricts the rights of private property owners within the environs of structures listed on the state and national historic registers through the historic environs review process. If property owners fall within these restrictions, they cannot make any major modifications to their property without getting approval from an unelected state official or local historic preservation board.

Kansas currently has one of the most strict historic preservation laws in the entire United States. Under the current law, any property owner who owns property within 500 feet in cities and 1,000 feet in unincorporated areas cannot make any major modifications to their property without going through the environs review process.

Kansas should join all 49 other states by eliminating the historic environs review process and protecting the rights of private property owners. As long as homeowners comply with all the applicable local zoning, public safety and building code requirements, they should be free to use their private property as they see fit.

Unelected state officials and local historic preservation advocates should not have the authority to unreasonably restrict a property owner's use of his or her property. For all of the above reasons, the Kansas Legislature should continue to protect private property rights by approving **HB 2083** to eliminate the historic environs review requirements.

785.267.3610  
VOICE

800.366.0069  
TOLL FREE

785.267.1867  
FAX

Local Government

Date: 2-12-09

Attachment # 1-1

W

## Overview of the History of the Historic Environs Review Requirements

As a fundamental concept, historic environs review is generally concerned with controlling the surroundings of a historic property by placing strict controls and guidelines on neighboring property. According to the argument behind this concept, new construction, demolition or any additions may adversely affect nearby historic properties by destroying or compromising their integrity and harmony.

### ▪ **Concept of Historic Environs Review Originated in France in the Early 1940s, Where It Has Been Unpopular and Has Generated Considerable Controversy**

This flawed concept originated in the country of France during the early 1940s. In order to restrict new construction and development near historic properties in urban areas, the French Parliament passed an act in 1943 to require a historic environs review process for all new construction, deforestation, alteration or demolition of buildings located within the environs of a historic landmark.

All parcels of land located within 500 meters of a historic landmark (or the "environs" of the landmark) and within its field of visibility are regulated under the French environs review law. Even if a building is located within 500 meters of a historic landmark, it will only be regulated if it is visible from the historic landmark. If both the 500-meter requirement and the visibility conditions are met, any new construction, demolition, deforestations or alterations affecting any property affected by the act will require administrative authorization from a special administrative court.

### ▪ **Even the French Have Experienced Considerable Problems with Environs Review and Have Adopted Reforms to Reduce the Burdens Associated with This Flawed Process**

Since the early 1940s, the French legislation has been the subject of significant criticism from property owners and local governments. According to some prominent critics of the law, the systematic creation of a protected perimeter around modest and isolated historic properties is disproportionate and unduly burdensome for neighboring property owners.

In small cities, the designation of a single historic property can often lead to administrative control over new development and remodeling projects in the entire community. This is exacerbated by the fact that neighboring property owners are given absolutely no notice when a nearby building is listed or is in the process of being listed.

As a result of these criticisms, the French Parliament has passed several considerable reforms to the French environs review law. The first legislative reform reduced the protective perimeter of 500 meters through the creation of conservation areas. Where enacted, these conservation areas replaced the more strict environs review requirement with a less burdensome and more narrowly defined conservation area.

The second legislative reform again allowed local units of government to reduce the environs distance of 500 meters through the creation of a local zoning plan. Through an agreement between the administrative court and a local government, the arbitrary environs review requirement of 500 meters can be replaced with a case-by-case evaluation of the property surrounding the historic property in a local zoning plan.

## Overview of Historic Preservation Laws at the Federal Level

- **With the Exception of Kansas, All Other States and the Federal Government Have Specifically Declined to Follow the French Approach**

Fortunately, nearly all local and state governments in the United States (with the notable exception of Kansas) have learned from the mistakes of the French and have specifically chosen not to follow the French approach. With the exception of Kansas, no other state in the nation follows the French approach by placing a hard-and-fast environs review requirement on property owners.

At the federal level, the protection of historic properties is provided by the National Historic Preservation Act of 1966 (hereinafter "NHPA"). NHPA basically requires every agency to take into account the effect of any project on any historic building, site, structure or object that is listed on or eligible for the National Register of Historic Places.

Designed to be a planning tool for federal agencies, NHPA applies to all government projects and all private projects involving federal financing or permits. Any state or federal agency undertaking a project in Kansas must evaluate the potential adverse effects of that project on the historic properties in the area. If the project is likely to have an adverse effect on historic properties, the agency must consult with the State Historic Preservation Officer (hereinafter "SHPO") to develop and evaluate alternatives that could avoid or mitigate the adverse effects.

- **Under Federal Law, There is No Obligation to Engage in Specific Activities to Avoid Damage to Historic Properties; Economic Realities Trump Historic Preservation**

Nevertheless, no agencies are required to engage in any specific preservation activities under NHPA. According to the courts that have looked at this issue, economic interests and the necessities of modern life often prevail over historic and environmental preservation interests. When historic preservation collides with economic realities, the economic necessity of property use normally defeats the interest of historic preservation.

## Overview of Historic Preservation Laws in Kansas

- **Kansas Historic Preservation Statutes Go Far Beyond the Federal Requirements by Regulating the "Environs" of a Historic Structure**

In order to meet the requirement imposed by the National Historic Preservation Act of 1966 that each state implement a preservation program, the Kansas Historic Preservation Act was enacted by the Kansas Legislature in 1977. The stated purpose of the act, which goes far beyond the federal requirements, was to prevent any actions that may adversely affect the "environs" of historic properties in Kansas.

As it was originally passed, the act prohibited any governmental entity from undertaking any project that would encroach upon, damage or destroy any historic property listed in the National Register of Historic Places or the Register of Historic Kansas Places or its "environs" until the State Historic Preservation Officer (hereinafter "SHPO") had been given notice. Once the SHPO receives notice of the project, the SHPO has 30 days to initiate an investigation into the project.



If the SHPO fails to initiate an investigation within 30 days of receipt of the notice, the project is automatically approved. The SHPO has the ability to delegate its authority to review projects under the act to local historic preservation committees of cities, counties and Regents institutions.

▪ **Local Governments Can Overrule the SHPO's Decision, But the Process is Very Burdensome and It Has Led to a Great Deal of Litigation**

If the SHPO determines that the project will have an adverse effect on the historic property or its environs, the project may not proceed until the governor, in the case of a state project, or the local governing body finds after consideration of all the relevant factors that there is "no feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm." Although the local governing body retains the ability to overrule the SHPO, it is extremely difficult and has caused a great deal of litigation.

▪ **Historic Environs Review Law Has Been Further Expanded to Include Private Projects, Which is Completely Out-of-Step With Other State Laws**

Unlike the French law, even though the act has led to considerable controversy, numerous changes have actually been proposed by the Kansas State Historical Society to dramatically broaden the applicability of the act.

In the late 1970s, there was some controversy over the definition of the term "project" in the original act. According to an opinion issued by Kansas Attorney General in 1979, the act originally applied only to units of government and did not constrain actions taken by private businesses or individuals. As a result, the term "project" was determined to not encompass construction projects or redevelopment efforts by private businesses or individuals.

In 1981, the Kansas Legislature reacted to this opinion by specifically bringing projects conducted by private businesses and individuals under the act. The impact of this modification to the act is tremendous and should not be underestimated.

This change in the definition of the term "project" took Kansas statutes completely out-of-step with existing laws in other states. To my knowledge, no other state reviews the impact of private projects within the "environs" of a historic structure unless financial incentives from the state are involved.

▪ **Historic Environs Review Law Has Been Expanded to Cover All Properties Within 500 or 1,000 Feet of a Historic Structure, Which is Again Completely Out-of-Step With Other State Laws**

In the late 1980s, there was again controversy over the historic environs review law in general and in particular the meaning of the term "environs." No definition of the term "environs" was included in the act at that time and there was considerable uncertainty among local governments and property owners as to what exactly was meant by that term.

In 1987, the Kansas Attorney General issued another Attorney General's Opinion on the historic environs review law and concluded that the applicability of the environs review law was not limited only to properties adjoining the actual historic structure. Instead, the opinion concluded that the SHPO could use the statute to review a broad swath of properties in the vicinity of the historic structure.

Worried by the Attorney General's broad definition of the term "environs" under the act, the League of Kansas Municipalities requested an amendment to the act to clarify that the term "environs" applied only to properties immediately adjoining the historic property. Unfortunately, the Kansas State Historical Society opposed this definition and instead urged the Kansas Legislature to expand the meaning of the term "environs" to the current definition.

As a result, the act was amended in 1988 to provide that notice must be given to the SHPO when the proposed project is located within 500 feet of a historic property located in a city or within 1,000 feet in rural areas. This change in the definition of the term "environs" again took Kansas statutes completely out-of-step with other state historic preservation laws. To my knowledge, no other state defines the term "environs" to include properties within 500 or 1,000 feet of a historic structure.

### Criticisms of the Historic Environs Review Process

Fortunately, the Kansas Historic Preservation Act has generated much controversy since its drastic expansion in the 1980s. Many property owners and property rights advocates, like the Kansas Association of REALTORS®, have expressed outrage over the ability of an unelected state official or local historic preservation committee to prevent property owners from enjoying the full and free use of their property.

#### ▪ **Even Though It Affects Their Private Property Rights, Neighboring Property Owners Are Given No Notice or Right to Object When a Property is Listed on the State or National Historic Register**

When a property is listed on the state or national historic register, the historic environs review law restricts the rights of private property owners who live within the "environs" of that structure. Unfortunately, there is absolutely no notice given to these neighboring property owners in these situations.

Even though the neighboring property owner will lose important private property rights when a property is listed on a historic register, they are given no opportunity to comment on the pending listing and no right to object to the requirements that will be imposed on the future use of their property. Tragically, the Kansas State Historical Society believes that neighboring property owners have no right to comment on a pending listing because they testified against a bill that would have required such notice in the 2004 Legislative Session.

#### ▪ **The Historic Environs Review Process is Time-Consuming, Burdensome and Overly Restrictive on the Rights of Private Property Owners**

Unfortunately, when a property owner is forced to go through the historic environs review process, it can be time-consuming, burdensome and overly restrictive on his or her private property rights. Even if the SHPO does not determine that the proposed project will "encroach upon" the listed historic property, the property owner of major developments is still forced to incur large legal and architectural fees to successfully navigate the environs review process.

Given the current state of the real estate market and the enormous difficulties facing private property owners who want to use their property for residential, commercial, industrial or agricultural use, it is entirely unreasonable for the state to impose an additional hurdle to this process. The historic environs review process deprives a private property owner of important rights and is another burdensome hurdle to infill development and the productive use of private property.

- **The Inclusion of an Increasing Number of Properties on the State and National Historic Registers Has the Potential to Declare Vast Swaths of Our State Off-Limits for Future Residential, Commercial, Industrial and Agricultural Use**

In recent years, the Kansas State Historical Society and the Kansas Preservation Alliance have started to solicit public interest in listing 1950s-era ranch homes in suburban subdivisions on the state historic register. A large amount of housing stock in Kansas was constructed around that timeframe and could conceivably become eligible for the state historic register in the next few years.

If this trend continues to accelerate, an increasing number of property owners in suburban subdivisions will become subject to the burdens and restrictions of the historic environs review process. In future years, the dramatic expansion of the state historic register coupled with the broad reach of the historic environs review law has the potential to declare vast swaths of our state off-limits for future residential, commercial, industrial and agricultural use.

- **Historic Environs Review Requirements Place Severe Restrictions on the Ability of Property Owners to Use Their Property; Restrictions Can Severely Limit the Future Use and Market Value of the Property**

Under the current historic environs review law, if an unelected state official (the SHPO) or a local historic preservation committee determines that a property owner's planned use of their property does not fully conform with their view of the "environs" of a historic structure, these unelected bureaucrats have the authority to severely restrict the property owner's use of his or her private property. Unfortunately, this authority places severe limits on the future use and market value of the property.

Since property owners are given absolutely no notice when a neighboring property is placed on the state or national historic register, a property owner normally has absolutely no idea they live within 500 or 1,000 feet of a historic structure. If they purchase a given piece of property with a specific use in mind, they may later learn that the historic environs review law will effectively limit their ability to use the property to its full extent.

As long as property owners comply with all the applicable local zoning, public safety and building code requirements, they should be free to use their property as they see fit without interference from an unelected state or local historic preservation advocate.

### Conclusion

Kansas should join all 49 other states by eliminating the historic environs review process and protecting the rights of private property owners. As long as homeowners comply with all the applicable local zoning, public safety and building code requirements, they should be free to use their private property as they see fit.

As a result, the Kansas Legislature should pass **HB 2083** to protect private property rights by eliminating the historic environs review process. Unelected state officials and local historic preservation advocates should not have the authority to unreasonably restrict a property owner's use of his or her property.

Thank you for the opportunity to appear before you today. I would be happy to respond to any questions at the appropriate time.



**STATEMENT OF THE  
KANSAS BUILDING INDUSTRY ASSOCIATION  
TO THE HOUSE LOCAL GOVERNMENT COMMITTEE  
REPRESENTATIVE SHARON SCHWARTZ, CHAIR  
REGARDING H.B. 2083  
FEBRUARY 12, 2009**

Chairman Schwartz and Members of the Committee, I am Chris Wilson, Executive Director of Kansas Building Industry Association. KBIA is the trade and professional organization of the residential housing industry in Kansas, with over 2300 members. We are the Kansas affiliate of the National Association of Home Builders and have local home builders associations throughout the state.

KBIA supports H.B. 2083, which repeals the portion of historic preservation law requiring property owners within the area of historic register properties to go through a review process prior to making modifications to their property. Especially within cities, this can encompass many properties that are required to obtain approval from an unelected state official or local historic preservation board. Also where there are numerous historic register properties, such as in the older area of a city, this can encompass many properties, with no relationship to the historic properties. Kansas is the only state that has such a requirement. Of course, under this bill, the listed property itself would still have to go through the review process.

Consistent with KBIA's position, I will share a personal example. My husband I own a farm with barns that have recently been listed on the national historic register. It is the first listing outside the city in Riley County. This was our choice to pursue the registration, and we are delighted. We willingly subjected ourselves to the review process should we ever wish to make modifications. When the listing process was occurring, we

**Local Government**

**Date:** 2-12-09

**Attachment #** 2

took it on ourselves to inform our neighbors, who would otherwise not have known about the listing.

Neighbors should not have to go through an environs review to make modifications to their property because they are in the expanded “environs” of a listed property. This is particularly relevant to homebuilders and developers in municipal areas working on infill development and redevelopment of city center areas.

In restricting private property use beyond applicable local zoning, public safety and building code regulations, KSA 75-2724 goes beyond other states’ law, which applies the restrictions to governmental projects. The language in KSA 75-2724 seems to apply only to governmental projects, because it refers to “the state or any political subdivision of the state, or any instrumentality, thereof,” but that has been interpreted more broadly to encompass all private property as well.

Thank you for the opportunity to present our support for H.B. 2083.



**Testimony to House Local Government Committee  
House Bill 2083  
February 12, 2009**

Thank you for the opportunity to appear before you this afternoon on House Bill 2083. The State Historic Preservation Office is part of the Kansas State Historical Society. It is our responsibility to facilitate the state and federal statutes for historic preservation as they relate to the state of Kansas. Each year the state receives an annual allocation of federal dollars, matched 60%-40% by state funds to administer these programs. I am here today to provide the committee with information on the state preservation law as it now functions, and to answer any questions you may have about the process.

*Background*

The Kansas Preservation Act was originally enacted in 1977. Initial legislation declared historic preservation the policy of the state and required the activities of governmental entities, which encroached on national or state register properties to be reviewed by the State Historic Preservation Office (SHPO).

In 1981, lawmakers widened the law to require review of all projects involving state and National Register properties and their environs that are directly undertaken by a governmental entity or supported by a governmental entity typically through local building permits or other authorizations. Thus, projects undertaken by individuals, firms, associations, organizations, partnerships, businesses, trusts, corporations or companies became subject to review if (and only if) they require permits.

**Local Government**

**Date:** 2-12-09

**Attachment #** 3-1

A 1988 amendment further defined the "environs" of historic properties, requiring that the SHPO receive notice of any proposed project within 500 feet of a listed historic property located within the corporate limits of a city or within 1000 feet of a listed historic property located in the unincorporated portion of a county.

How the Process Works

If a project requires a building permit and is in the environs of a listed historic building, either the State Historic Preservation Office or a Certified Local Government (CLG) is notified. Nine of the state’s CLGs conduct their own state law review including Abilene, Garden City, Hutchinson, Lawrence, Leavenworth, Newton/North Newton, Salina, Topeka, and Wichita.

The state statute allows for the State Historic Preservation Office or the CLG to comment on a project in the environs of an historic structure listed on the National Register of Historic Places or the Register of Historic Kansas Places. These comments are made using the *Standards and Guidelines for Evaluating the Effect of Projects on Environs* for evaluation. The law limits our comments to either

- no adverse effect on a listed property, or
- determination that the project encroaches upon, damages, or destroys a listed property.

The State Historic Preservation Office or the CLG only comments on the project. We do not have the authority to formally approve or disapprove a project. Approval or disapproval is totally within the authority of the local governing body (usually city councils or county commissioners).

By law, the local governing authority is to take the SHPO or the CLGs comments into consideration when granting permits. However, even if it is determined that the project encroaches upon, damages, or destroys a listed historic building the governing authority is free to determine that there is no feasible or prudent alternative to the proposed project. Therefore, the state preservation law as it currently stands gives each county and city government local control over their residents’ projects.

In the vast majority of cases the SHPO and the CLG return a “no adverse effect” comment when reviewing projects. In general the Kansas State Historical Society staff issues comments within five days of receiving notification of a project. We are sensitive to the short timetables that many property owners face.

FY 2008 State Law Reviews – SHPO Office

Total Projects Reviewed for Comment	Projects Involving Listed Properties		Projects Involving Environs Reviews	
	no adverse effect	encroaches upon, damages, or destroys	no adverse effect	encroaches upon, damages, or destroys
293	102	5	174	12

FY 2008 State Law Reviews – CLGs

Total Projects Reviewed for Comment	Projects Involving Listed Properties		Projects Involving Environs Reviews	
	no adverse effect	encroaches upon, damages, or destroys	no adverse effect	encroaches upon, damages, or destroys
525	119	3	400	3

Purpose of Environs

The protection of historic environs is similar to other zoning laws and real estate covenants. Developments today often place deed restrictions on properties. These restrictions give a development a more standard appearance, and control some of the activities that take place within its boundaries. When enforced, covenants protect property values.

Historic neighborhoods and districts often want the same type of protection. Once an historic property is gone it cannot be replaced. The environs are also used to protect property values. Without environs protection it is much riskier to invest in historic properties. At a time when communities are focused on building green and recycling it is important to recognize that rehabilitating or repurposing an historic building is not only cost effective, it is environmentally friendly. Protecting the environs of historic properties promotes reinvesting in older historic neighborhoods and business districts. Some developers that are investing millions of dollars in the state’s historic business districts have told us that the state preservation law provides some reassurance that their investments will be protected.

Therefore, the state preservation law with its environs review allows the same protection as other deed restrictions and zoning requirements. Its ultimate purpose is to protect property values and thereby promote stable neighborhoods and business districts through economic development in the state.

Conclusion

The changes proposed in House Bill 2083 would eliminate comments from the State Historic Preservation Officer and the Certified Local Government in terms of the environs of listed historic properties. It would eliminate the ability of local governing authorities to protect the environs of an historic property or district. At the same time, it continues to support the preservation of buildings and districts listed on the National Register of Historic Places and the Register of Historic Kansas Places.

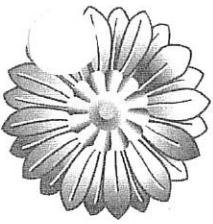


Last fiscal year \$28,622,252 was invested in Kansas through federal historic preservation tax credit projects. Those developers and individuals who took advantage of the state's tax credits for historic rehabilitation contributed \$9,746,364 to the state's economy. Historic preservation in Kansas means business opportunities and jobs for Kansans.

It is our job at the Kansas State Historical Society to help the state preserve its history and we do so in many ways. We assist K-12 classrooms with the teaching of state history and government; we are the trustee of the state's records and collections; and we aid in the state's economic development through the state's historic preservation efforts.

It is my intent today to provide you with practical data as you discuss House Bill 2083. I am happy to answer any of your questions either today or in the future.

Jennie Chinn  
Executive Director and State Historic Preservation Officer  
Kansas State Historical Society  
(785) 272-8681 x205  
[jchinn@kshs.org](mailto:jchinn@kshs.org)



# Kansas Preservation Alliance, Inc.

*Saving the Past to Enrich the Future since 1979*

## Board of Directors

LeeAnne Hays, President  
*Leawood*

Rahim Borhani, VP  
*Manhattan*

Christie Carl, VP  
*Abilene*

Joy Coleman, VP  
*Topeka*

Judith Reynolds, Secy.  
*LaCrosse*

Bobbi Miles, Treasurer  
*Smith Center*

Bobbie Bower  
*Leavenworth*

Norman Chambers  
*Independence*

Randy Clark  
*McPherson*

Dale Nimz  
*Laurence*

Bob Pomeroy  
*Newton*

Jean Schodorf  
*Wichita*

Randal Steiner  
*Wichita*

## Executive Director

Janine E. Joslin  
*Leawood*

## Endangered Program

Kate Haun  
*Olathe*

## Advisory Board

Barbara Anderson  
*Manhattan*

Marti Crow  
*Leavenworth*

Tim Degginger  
*Topeka*

Dennis Enslinger  
*Kansas City*

James Parrish  
*Topeka*

## Trustee:

Bernd Foerster  
*Manhattan*

## National Trust

*for Historic Preservation*

## Advisors

Vance Kelley  
*Topeka*

Daniel Serda  
*Kansas City, KS*

Testimony in Opposition to House Bill 2083

Presented to the

House Local Government Committee

By

Janine Joslin

Executive Director, Kansas Preservation Alliance

February 12, 2009

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in opposition to House Bill 2083, which seeks to eliminate all reference to “environs” from the Kansas Historic Preservation Act (KHPA), K.S.A. 75-2715 et seq.

The Kansas Preservation Alliance (KPA) is the Statewide, not-for-profit organization that advocates for historic preservation in Kansas. The KPA was incorporated in 1979 and works closely with the State Historic Preservation Officer (SHPO), other State and local officials and organizations, and citizens across the State.

The Kansas Legislature adopted the KHPA in 1977, based upon its finding that our State’s architectural, archeological and cultural heritage is an important asset and that its preservation and maintenance “should be among the highest priorities of government.”

The KHPA does not impose substantive restrictions on historic properties or their environs; rather, it provides for a process by which projects that pose a potential threat to historic properties are given a “hard look” by the governing body having jurisdiction.

The protection of the environs of an historic property that is listed on the State or National Register of Historic Places has been part of the KHPA since its adoption in 1977. The Legislature should take pride in the fact that the KHPA is a model for state historic preservation statutory schemes throughout the Country.

K.S.A. 75-2725a provides that the KHPA does not restrict the agricultural use of any land, including construction of agriculturally related structures.

Since 1977, the KHPA procedure has been used to protect our State’s historic resources. Just one recent example in which the KHPA’s environs protection has resulted in a positive outcome for all concerned is Kenyon Hall in Emporia. Kenyon Hall, a majestic building on the grounds of the former College of Emporia that was eligible for, but not yet listed on the National Register of Historic Places, was threatened with demolition. Because it was in the environs of another building that was listed on the National Register, the City of Emporia was

required to take the "hard look" provided for in the KHPA. The end result is that Kenyon Hall has been saved and is being adapted for low income housing.

HB 2083 seeks to limit the protection of the KHPA solely to a listed property, thus putting at risk all historic properties in this State. If a property worthy of listing on the National or State Register may nevertheless become the next-door neighbor of any type of development, no matter how detrimental, with no required analysis by the governing body having jurisdiction, then it is of little use to protect the property itself.

The KPA appreciates your consideration of this important issue and urges this Committee to oppose HB 2083. Thank you.

Janine E. Joslin  
Executive Director

Subject: HB 2083: Proposed Change in Kansas Preservation Law

Dear Legislators;

Thank you for the opportunity to speak in opposition to HB 2083 . My name is Michael Bradley. I speak for myself and as a member of the Board of the Friends of Bethany Place, a non-profit corporation dedicated to historic preservation in Shawnee County and the State of Kansas. The Friends of Bethany Place submitted separate written testimony regarding the economic benefits of maintaining the current law.

In my testimony, I want to make two points today. First, those of us who live in the environs of historic sites (often in the older parts of central cities) really need the support of the historic preservation laws that have been passed by your predecessors. I live just six blocks west of here in the Historic Old Town neighborhood. Our area is gradually improving with noticeably fewer drug and gang houses and fewer incidents of crime. We are a mixed neighborhood economically and racially – as we were from our inception more than 100 years ago. There is a mix of big and small houses. Many of the larger homes had been split up into apartments and had become run down rentals. Now they are being renovated and returned to single family homes. This is no small undertaking and is happening because of the attraction of the historic character of the neighborhood which is being protected by the environs provisions of the state and national preservation laws. Thankfully several recent schemes which were destined to abrogate this progress by expanding flat parking lots into our neighborhood have not progressed in part because of the historic preservation laws which your predecessors had the foresight to enact. *A change that would eliminate the environs provision might decimate the progress we are making.*

As you probably know, building a multi-level parking garage can cost as much as \$20,000 per space. There is no way any home in the inner parts of Topeka, or anywhere in Topeka for that matter, has enough value to prevent it from becoming a parking lot. The only way you can give me and my neighbors any hope of a level playing field is to continue the current provisions of the law. Otherwise you will pave the way for developers and speculators to infiltrate the area, buy up random homes, demolish, allow them to visibly deteriorate, or, worse, rent the houses to gangs or drug dealers so that in time they can acquire neighboring homes cheaply and eventually pave what used to be our little piece of paradise. The result will surely be a return to the slum like conditions in the neighborhood that are only just beginning to fade.

Now I have no doubt that you will hear from developers and their agents about how they are so abused by the current law. This leads to my second point. The reality is that our preservation law doesn't stop development at all. In fact many developers and many real estate agents support the current law. What it does stop is arrogant, unscrupulous development done at the expense of regular folks. It stops development practices that are designed to desecrate the historic fabric of a neighborhood and devastate the equity value of the residents' homes in order to produce cheaper acquisition costs. Remember these homes often are where regular folks like me and my neighbors (many of whom are retired) invest our life savings and try to protect our equity. We count on the value of our homes to help us retire with dignity.

The 'environs' provision of the law creates a chance that those pursuing incompatible development will at least have to consider the adverse effect of their development on regular folks. The Kansas Register and the National Historic Register do not stop development that is appropriate to the time and place. There is provision and precedent that allows the local government to override a ruling of the State Historic Preservation Officer. This local override is generally supported in the courts as well, so long as the local governmental entity has looked at all sides and hasn't acted in an arbitrarily and capricious manner.

I believe the result of the environs provision in the law is DIALOG and Compromise which actually may improve the outcome for the development as well as for the community. I have included some examples attached to my oral testimony.

Please contact me if there is anything I can do to help you protect our historic resources which often also are the homes of your constituents.

Michael Bradley, Board Member  
Friends of Bethany Place, Inc.  
807 SW Western Ave.  
Topeka, KS 66606

**Local Government**

**Date:** 2-12-09

**Attachment #** 5-1

Subject: HB 2083: Proposed Change in Kansas Preservation Law

Below are two quick examples of development within environs of historic sites including some pictures.

First Example: A metal warehouse building is built in the environs of Historic Monroe school.

Monroe is the national historic landmark school which was attended by children of some of the plaintiffs in the Brown Vs Board of Education case. The National Park Service's Brown Vs Board museum is housed there. An initial request for development involving a metal warehouse building a half a block away was not approved. Subsequently the building has been built. There was much community discussion about this and the eventual decision and design were positively informed by all of this discussion.



Second example: Moving an historic home from an expansions site of the Lutheran Church at 9<sup>th</sup> and Fillmore one block east to a vacant lot in the 800 block of Western Ave.

Closer to home for me is a situation which was negotiated amicably before any adverse ruling was issued. This involved an historic up down duplex owned by a local Church which was in the way of their expansion project. It was in the environs of more than one registered site. Through discussions and good will efforts by many different individuals and groups the resulting move of the home was a dramatically better outcome than demolition FOR ALL INVOLVED! I sincerely believe that the collaborative discussion which led to the win-win outcome was directly the result of the environs provision in the law.

Because the Church leadership knew the law and knew that there was a desire in the neighborhood to protect the historic character of the area, they enlisted assistance from the Old Town Neighborhood Improvement Association, and from leaders of preservation groups including members of the Friends of Bethany with the goal of finding a way to mitigate their impact on the environs of several registered sites. Ultimately the Church and the community received assistance from the State Historic Preservation Office, the local school district and the City.

This may actually be the model of how the current preservation law works most effectively! Everyone involved has expressed their belief that the project of moving the duplex to an appropriate vacant lot, actually an under-used parking lot, was absolutely a win-win situation. I strongly believe that if the law had not been in place or if the Church leadership had taken an arrogant stance that, 'it was their property and they should be able to do what they wanted with it', that such a positive outcome would not have been discovered. The Church saved thousands by selling the house 'to be moved' and avoiding the demolition costs. The house moving company benefited with a \$20K+ contract. Dozens of tradesmen earned part of their livelihood working on the project. The new owners benefited by acquiring another property to renovate into an upscale historic rental. (They are a local couple who have purchased several properties on their block including two of the notorious drug/gang houses that had terrorized the neighborhood. They also are principals in the Friends of Bethany. For them, this house move had the added benefit of having a house back on an ugly, rarely used parking lot right next door to their own home.) The school district benefited by selling the lot. The neighbors (including me – I live three doors down from the relocated duplex) benefited from having the ugly parking lot replaced by a home. (The parking lot was rarely used for any legitimate purpose but often attracted illicit activity.) The city benefited by adding another home to the tax role. Along the way, the State Historic Preservation Office assisted in planning and the City helped with the necessary zoning changes and special permission for the move of the house before the basement was completed to make way for the start of the Church expansion.

Again, I truly believe that none of the dialog that led to these remarkably good outcomes would have taken place had the environs portion of the law not been in place or had the Church used its influence to circumvent the law rather than embracing it.

Michael Bradley, Board Member  
Friends of Bethany Place, Inc.  
807 SW Western Ave.  
Topeka, KS 66606

Local Government Affairs Committee---Rep. Sharon Schwartz, chairperson  
HB 2083 testimony  
February 12, 2009  
Sally D. Hatcher

I have served on the Leavenworth Preservation Commission for 3 years, the last year as chairperson. Although our 7 person board is all volunteers, we have an architect, a real estate professional, and those who have restored buildings in historic districts. All 7 understand the economic importance of reuse of older structures as well as the sense of place historic buildings and sites give all our citizens. Although we are volunteers, we are required to attend at least 1 training session each year. Some of us routinely take further training at state and national preservation conferences.

The Leavenworth Preservation Commission has reviewed several Environs cases in recent months. Last week, we considered how a church addition would impact the Merritt Insley mansion at 6<sup>th</sup> and Seneca. In January, we reviewed plans for a home to be built as an infill project in the Environs of the South Esplanade Historic District. Both of these were found to have no adverse impact. The process was not inconvenient or delaying because both projects were in the planning stages with other permitting and contract issues pending. Last fall, we reviewed a request from the Leavenworth County Commissioners to approve demolition of the 1939 WPA former jail which is within 500' of the National Register listed Leavenworth County Courthouse. This request was denied by the Leavenworth Preservation Commission and the Leavenworth City Commission upheld this decision. Now, the County Commission finds they may use that building for juvenile case courtrooms. If a building is demolished, there is no 2<sup>nd</sup> chance to recycle and reuse it and lessen the landfill requirements.

Luke Bell, Kansas Association of Realtors, states "Kansas is the only jurisdiction in the world" to address environs concerns. The state of Georgia, for one, reviews impact on 'surrounding neighborhoods'. European countries also consider environs of historic buildings and neighborhoods.

Our process is NOT unduly time consuming. Our commission called a special meeting last November to review a downtown infill project within 2 weeks of application. It did not detain the building process because financing and construction contracts were not in place.

**Local Government**  
**Date:** 2-12-09  
**Attachment:** 6-1

Mr. Bell also stated that State and National Registers of Historic Places were “growing at an ALARMING PACE”. The next quarterly review of National and State Registers nominations will consider 19 nominations, mostly single structures. In a state the size of Kansas with as many structures over 50 years of age as there are, this doesn’t seem like an alarming pace.

Bell’s KAR electronic newsletter article states “the Environs review law has the potential to declare VAST SWATHS of our state off limits for future residential, commercial, industrial and agricultural use”. To my knowledge, there has been only 1 case where agricultural use was in question and there was found to be no impact on the farmer’s use of property within the Environs of a historic site. It is the application for building or demolition permits that triggers the review. I would say “vast swaths” are not ever going to be affected by the Environs law because most counties and municipalities have no permit requirements.

So far as “failed real estate transactions” are concerned, realtors here do not recall that there has ever been a failed real estate transaction due to the Environs review in the city of Leavenworth, population 35,000, the oldest city in Kansas. Two educational sessions about the Environs and tax credits have been held in Leavenworth in recent years just for realtors. Less than a dozen attended even when the session was certified for advanced educational credit. I believe the real estate professionals need to learn about the incentives there are available for ownership of historic properties and, in turn, help increase sales in those areas.

The KAR electronic newsletter of January 29 stated that HB 2083 will protect property owners. HB 2083 certainly does not protect the property rights of those who restore and maintain the historic homes and commercial buildings that give Kansans their unique sense of place.

Sally D. Hatcher  
912 South Esplanade  
Leavenworth, KS 66048

913-682-8790 or [sdhatcher@kc.rr.com](mailto:sdhatcher@kc.rr.com)

TESTIMONY ON: HB 2083

Proposed Changes to Historic Preservation Act, K.S.A. 75-2724  
Historic "Environs" Review Requirements

PRESENTED TO: House Local Government Committee

PRESENTED BY: J. Greg Kite, President

ON BEHALF OF: Historic Preservation Alliance of Wichita and Sedgwick County, Inc.

HEARING: February 12, 2009 at 3:30 p.m. in Room 446 N

Chairperson Schwartz and Members of the House Local Government Committee:

Good afternoon. My name is Greg Kite. I am an attorney and the President of the Historic Preservation Alliance of Wichita and Sedgwick County, Inc. Thank you for allowing me the opportunity to appear before you today to express H.P.A.'s opposition to HB 2083.

The Historic Preservation Alliance is a 501 (c) (3), not-for-profit corporation, which has as its purpose to identify, preserve and protect historically important and architecturally significant buildings, structures and artifacts. H.P.A. writes grant proposals; prepares historic register nominations; restores historic homes, buildings and other structures according to the Secretary of the Interior's Standards and Guidelines; and maintains an extensive collection of historical and architectural artifacts and memorabilia.

The Kansas Preservation Act was originally enacted in 1977. The initial legislation declared historic preservation the policy of the state and required the activities of governmental entities, which encroached on national or state register properties, to be reviewed by the State Historic Preservation Office (SHPO). In 1981, lawmakers widened the law to require review of all projects involving national and state register properties and their environs, which needed local building permits. An amendment, in 1988, further defined the "environs" of historic properties, requiring that the SHPO receive notice of any proposed project within 500 feet of a listed historic property located within the corporate limits of a city or within 1000 feet of a listed historic property located in the unincorporated portion of a county.

Luke Bell, Kansas Association of Realtors (K.A.R.) Vice President of Governmental Affairs, has introduced legislation in HB 2083 to eliminate the historic environs review requirements in Kansas. Mr. Bell has done so, he says, to "protect private property rights." H.P.A. believes that is a mischaracterization. H.P.A. believes that the real motivation and actual intent behind the legislation is as Mr. Bell described it in the January 26, 2009 Capitol Report to "benefit the real estate industry by preventing problems that can lead to failed real estate transactions..." In other words, Mr. Bell is

**Local Government**

**Date:** 2-12-09

**Attachment #** 7-1



303 SW Woodlawn Avenue  
Topeka, KS 66606  
February 11, 2009

Committee on Local Government  
Kansas House of Representatives  
The Capitol  
Topeka, KS 66612

Dear Committee Members:

Thank you for this opportunity to present testimony regarding House Bill No. 2083, "an Act concerning historic preservation; pertaining to environs review...." In this unusually difficult Session, when so many greater concerns exist regarding the overall state budget shortfall, thank you for attention to this lesser matter.

My name is Sally Paige Kahle, and I live in the Potwin Place Historic District, here in Topeka. For those of you who might not be familiar with this, Potwin is a Topeka community gem. It is a neighborhood nestled in central Topeka, north of Sixth Street and south of the Kansas River. Potwin is on both the National and State Registers of Historic Places, because many of its homes were built during the 1880's. It is a marvelous gem of both architecture and strong community spirit. Over 200 families live in Potwin, and we are proud that it has been the home of our present Governor of the State of Kansas, a current State Senator, a Topeka City Council Member, former State Legislators in both parties, and many Topeka civic and business leaders. I'm not any of those; my status is quite a lot more humble.

I'm here to represent Potwin, and speak in opposition to the proposed changes to House Bill 2083. We believed that the proposed changes diminish the strength of the current law which protects historic property. This law both protects our homes, and it generates tourism and tax income to the City of Topeka, Shawnee County, and therefore, the State of Kansas.

In testimony presented by others regarding this proposed change, such as the Friends of Bethany Place, Inc., evidence of Potwin's economic contribution to the tax base is clear. Just speaking from personal experience, Potwin hosts an annual Hallowe'en event which brings trick or treaters and their parents into the neighborhood. I personally have witnessed private tour and church busses from Kansas City disgorging scores of children from Kansas City who trick or treat in Potwin because they know it's safe. Routine reliable counts of children average 1,200 on that evening. This directly impacts the Topeka economy as those accompanying adults select Topeka restaurants to eat in and feed their children. Potwin has a positive impact on the economics of tourism.

Not to bore you with too many examples, the annual Potwin Christmas Lights Tour is an event that attracts visitors to Topeka from all over surrounding small towns and out-of-state. Special Christmas lighted decorations adorn each Potwin circle, and literally every house in Potwin brightens the winter night with holiday decorations. There is nothing more lovely than Victorian style architecture illuminated by Christmas lights. Estimates of the numbers of visitors for the Potwin Christmas Lights Tour range in

**Local Government**

**Date:** 2-12-09

**Attachment #** 8-1

Subject: HB 2083: Proposed Change in Kansas Preservation Law

Dear Legislators;

Thank you for the opportunity to speak in opposition to HB 2083 . My name is Michael Bradley. I speak for myself and as a member of the Board of the Friends of Bethany Place, a non-profit corporation dedicated to historic preservation in Shawnee County and the State of Kansas. The Friends of Bethany Place submitted separate written testimony regarding the economic benefits of maintaining the current law.

In my testimony, I want to make two points today. First, those of us who live in the environs of historic sites (often in the older parts of central cities) really need the support of the historic preservation laws that have been passed by your predecessors. I live just six blocks west of here in the Historic Old Town neighborhood. Our area is gradually improving with noticeably fewer drug and gang houses and fewer incidents of crime. We are a mixed neighborhood economically and racially – as we were from our inception more than 100 years ago. There is a mix of big and small houses. Many of the larger homes had been split up into apartments and had become run down rentals. Now they are being renovated and returned to single family homes. This is no small undertaking and is happening because of the attraction of the historic character of the neighborhood which is being protected by the environs provisions of the state and national preservation laws. Thankfully several recent schemes which were destined to abrogate this progress by expanding flat parking lots into our neighborhood have not progressed in part because of the historic preservation laws which your predecessors had the foresight to enact. *A change that would eliminate the environs provision might decimate the progress we are making.*

As you probably know, building a multi-level parking garage can cost as much as \$20,000 per space. There is no way any home in the inner parts of Topeka, or anywhere in Topeka for that matter, has enough value to prevent it from becoming a parking lot. The only way you can give me and my neighbors any hope of a level playing field is to continue the current provisions of the law. Otherwise you will pave the way for developers and speculators to infiltrate the area, buy up random homes, demolish, allow them to visibly deteriorate, or, worse, rent the houses to gangs or drug dealers so that in time they can acquire neighboring homes cheaply and eventually pave what used to be our little piece of paradise. The result will surely be a return to the slum like conditions in the neighborhood that are only just beginning to fade.

Now I have no doubt that you will hear from developers and their agents about how they are so abused by the current law. This leads to my second point. The reality is that our preservation law doesn't stop development at all. In fact many developers and many real estate agents support the current law. What it does stop is arrogant, unscrupulous development done at the expense of regular folks. It stops development practices that are designed to desecrate the historic fabric of a neighborhood and devastate the equity value of the residents' homes in order to produce cheaper acquisition costs. Remember these homes often are where regular folks like me and my neighbors (many of whom are retired) invest our life savings and try to protect our equity. We count on the value of our homes to help us retire with dignity.

The 'environs' provision of the law creates a chance that those pursuing incompatible development will at least have to consider the adverse effect of their development on regular folks. The Kansas Register and the National Historic Register do not stop development that is appropriate to the time and place. There is provision and precedent that allows the local government to override a ruling of the State Historic Preservation Officer. This local override is generally supported in the courts as well, so long as the local governmental entity has looked at all sides and hasn't acted in an arbitrarily and capricious manner.

I believe the result of the environs provision in the law is DIALOG and Compromise which actually may improve the outcome for the development as well as for the community. I have included some examples attached to my oral testimony.

Please contact me if there is anything I can do to help you protect our historic resources which often also are the homes of your constituents.

Michael Bradley, Board Member  
Friends of Bethany Place, Inc.  
807 SW Western Ave.  
Topeka, KS 66606

**Local Government**

**Date:** 2-12-09

**Attachment #** 5-1

Subject: HB 2083: Proposed Change in Kansas Preservation Law

Below are two quick examples of development within environs of historic sites including some pictures.

First Example: A metal warehouse building is built in the environs of Historic Monroe school.

Monroe is the national historic landmark school which was attended by children of some of the plaintiffs in the Brown Vs Board of Education case. The National Park Service's Brown Vs Board museum is housed there. An initial request for development involving a metal warehouse building a half a block away was not approved. Subsequently the building has been built. There was much community discussion about this and the eventual decision and design were positively informed by all of this discussion.



Second example: Moving an historic home from an expansions site of the Lutheran Church at 9<sup>th</sup> and Fillmore one block east to a vacant lot in the 800 block of Western Ave.

Closer to home for me is a situation which was negotiated amicably before any adverse ruling was issued. This involved an historic up down duplex owned by a local Church which was in the way of their expansion project. It was in the environs of more than one registered site. Through discussions and good will efforts by many different individuals and groups the resulting move of the home was a dramatically better outcome than demolition FOR ALL INVOLVED! I sincerely believe that the collaborative discussion which led to the win-win outcome was directly the result of the environs provision in the law.

Because the Church leadership knew the law and knew that there was a desire in the neighborhood to protect the historic character of the area, they enlisted assistance from the Old Town Neighborhood Improvement Association, and from leaders of preservation groups including members of the Friends of Bethany with the goal of finding a way to mitigate their impact on the environs of several registered sites. Ultimately the Church and the community received assistance from the State Historic Preservation Office, the local school district and the City.

This may actually be the model of how the current preservation law works most effectively! Everyone involved has expressed their belief that the project of moving the duplex to an appropriate vacant lot, actually an under-used parking lot, was absolutely a win-win situation. I strongly believe that if the law had not been in place or if the Church leadership had taken an arrogant stance that, 'it was their property and they should be able to do what they wanted with it', that such a positive outcome would not have been discovered. The Church saved thousands by selling the house 'to be moved' and avoiding the demolition costs. The house moving company benefited with a \$20K+ contract. Dozens of tradesmen earned part of their livelihood working on the project. The new owners benefited by acquiring another property to renovate into an upscale historic rental. (They are a local couple who have purchased several properties on their block including two of the notorious drug/gang houses that had terrorized the neighborhood. They also are principals in the Friends of Bethany. For them, this house move had the added benefit of having a house back on an ugly, rarely used parking lot right next door to their own home.) The school district benefited by selling the lot. The neighbors (including me – I live three doors down from the relocated duplex) benefited from having the ugly parking lot replaced by a home. (The parking lot was rarely used for any legitimate purpose but often attracted illicit activity.) The city benefited by adding another home to the tax role. Along the way, the State Historic Preservation Office assisted in planning and the City helped with the necessary zoning changes and special permission for the move of the house before the basement was completed to make way for the start of the Church expansion.

Again, I truly believe that none of the dialog that led to these remarkably good outcomes would have taken place had the environs portion of the law not been in place or had the Church used its influence to circumvent the law rather than embracing it.

Michael Bradley, Board Member  
Friends of Bethany Place, Inc.  
807 SW Western Ave.  
Topeka, KS 66606

Local Government Affairs Committee---Rep. Sharon Schwartz, chairperson  
HB 2083 testimony  
February 12, 2009  
Sally D. Hatcher

I have served on the Leavenworth Preservation Commission for 3 years, the last year as chairperson. Although our 7 person board is all volunteers, we have an architect, a real estate professional, and those who have restored buildings in historic districts. All 7 understand the economic importance of reuse of older structures as well as the sense of place historic buildings and sites give all our citizens. Although we are volunteers, we are required to attend at least 1 training session each year. Some of us routinely take further training at state and national preservation conferences.

The Leavenworth Preservation Commission has reviewed several Environs cases in recent months. Last week, we considered how a church addition would impact the Merritt Insley mansion at 6<sup>th</sup> and Seneca. In January, we reviewed plans for a home to be built as an infill project in the Environs of the South Esplanade Historic District. Both of these were found to have no adverse impact. The process was not inconvenient or delaying because both projects were in the planning stages with other permitting and contract issues pending. Last fall, we reviewed a request from the Leavenworth County Commissioners to approve demolition of the 1939 WPA former jail which is within 500' of the National Register listed Leavenworth County Courthouse. This request was denied by the Leavenworth Preservation Commission and the Leavenworth City Commission upheld this decision. Now, the County Commission finds they may use that building for juvenile case courtrooms. If a building is demolished, there is no 2<sup>nd</sup> chance to recycle and reuse it and lessen the landfill requirements.

Luke Bell, Kansas Association of Realtors, states "Kansas is the only jurisdiction in the world" to address environs concerns. The state of Georgia, for one, reviews impact on 'surrounding neighborhoods'. European countries also consider environs of historic buildings and neighborhoods.

Our process is NOT unduly time consuming. Our commission called a special meeting last November to review a downtown infill project within 2 weeks of application. It did not detain the building process because financing and construction contracts were not in place.

**Local Government**  
**Date:** 2-12-09  
**Attachment :** 6-1

Mr. Bell also stated that State and National Registers of Historic Places were “growing at an ALARMING PACE”. The next quarterly review of National and State Registers nominations will consider 19 nominations, mostly single structures. In a state the size of Kansas with as many structures over 50 years of age as there are, this doesn’t seem like an alarming pace.

Bell’s KAR electronic newsletter article states “the Environs review law has the potential to declare VAST SWATHS of our state off limits for future residential, commercial, industrial and agricultural use”. To my knowledge, there has been only 1 case where agricultural use was in question and there was found to be no impact on the farmer’s use of property within the Environs of a historic site. It is the application for building or demolition permits that triggers the review. I would say “vast swaths” are not ever going to be affected by the Environs law because most counties and municipalities have no permit requirements.

So far as “failed real estate transactions” are concerned, realtors here do not recall that there has ever been a failed real estate transaction due to the Environs review in the city of Leavenworth, population 35,000, the oldest city in Kansas. Two educational sessions about the Environs and tax credits have been held in Leavenworth in recent years just for realtors. Less than a dozen attended even when the session was certified for advanced educational credit. I believe the real estate professionals need to learn about the incentives there are available for ownership of historic properties and, in turn, help increase sales in those areas.

The KAR electronic newsletter of January 29 stated that HB 2083 will protect property owners. HB 2083 certainly does not protect the property rights of those who restore and maintain the historic homes and commercial buildings that give Kansans their unique sense of place.

Sally D. Hatcher  
912 South Esplanade  
Leavenworth, KS 66048

913-682-8790 or [sdhatcher@kc.rr.com](mailto:sdhatcher@kc.rr.com)

TESTIMONY ON: HB 2083

Proposed Changes to Historic Preservation Act, K.S.A. 75-2724  
Historic "Environs" Review Requirements

PRESENTED TO: House Local Government Committee

PRESENTED BY: J. Greg Kite, President

ON BEHALF OF: Historic Preservation Alliance of Wichita and Sedgwick County, Inc.

HEARING: February 12, 2009 at 3:30 p.m. in Room 446 N

Chairperson Schwartz and Members of the House Local Government Committee:

Good afternoon. My name is Greg Kite. I am an attorney and the President of the Historic Preservation Alliance of Wichita and Sedgwick County, Inc. Thank you for allowing me the opportunity to appear before you today to express H.P.A.'s opposition to HB 2083.

The Historic Preservation Alliance is a 501 (c) (3), not-for-profit corporation, which has as its purpose to identify, preserve and protect historically important and architecturally significant buildings, structures and artifacts. H.P.A. writes grant proposals; prepares historic register nominations; restores historic homes, buildings and other structures according to the Secretary of the Interior's Standards and Guidelines; and maintains an extensive collection of historical and architectural artifacts and memorabilia.

The Kansas Preservation Act was originally enacted in 1977. The initial legislation declared historic preservation the policy of the state and required the activities of governmental entities, which encroached on national or state register properties, to be reviewed by the State Historic Preservation Office (SHPO). In 1981, lawmakers widened the law to require review of all projects involving national and state register properties and their environs, which needed local building permits. An amendment, in 1988, further defined the "environs" of historic properties, requiring that the SHPO receive notice of any proposed project within 500 feet of a listed historic property located within the corporate limits of a city or within 1000 feet of a listed historic property located in the unincorporated portion of a county.

Luke Bell, Kansas Association of Realtors (K.A.R.) Vice President of Governmental Affairs, has introduced legislation in HB 2083 to eliminate the historic environs review requirements in Kansas. Mr. Bell has done so, he says, to "protect private property rights." H.P.A. believes that is a mischaracterization. H.P.A. believes that the real motivation and actual intent behind the legislation is as Mr. Bell described it in the January 26, 2009 Capitol Report to "benefit the real estate industry by preventing problems that can lead to failed real estate transactions..." In other words, Mr. Bell is

**Local Government**

**Date:** 2-12-09

**Attachment #** 7-1

really concerned about realtors' fees! This legislation has simply been couched in terms of protecting private property rights in an attempt to give it the appearance of credibility.

Mr. Bell states that "Kansas is currently the only jurisdiction in the entire world that restricts the rights of private property owners within the "environs" of a historic structure." Quite to the contrary and limiting the parameter to the United States, the state of Georgia likewise has a similar act and the state of South Dakota actually passed an act not only similar to but patterned after the Kansas legislation in 1987. Mr. Bell also states that "the historic environs review process is time-consuming, burdensome and overly restrictive." Yet, if that is true, why is it he fails to cite a single example - not one! He goes on to state that "in recent years, the number of buildings on the state and national historic registers has been growing at an increasingly alarming pace." Quite frankly, never before have I heard of historic register status being described as "alarming." Only a person opposed to the identification, preservation and protection of the unique historical and architectural fabric of our communities would describe state and national register status as such.

In passing, it is important to note that after talking with a realtor in Wichita, Kansas by the name of Chris Baugher of REALTY PLUS, she stated that "members of K.A.R. were NOT given the opportunity to vote on introducing HB 2083, she is adamantly opposed to HB 2083 and her colleagues with whom she has spoken all shared her opposition to HB 2083." There is a real question, then, whether or not Mr. Bell is actually representing the opinions of and is speaking for the majority of K.A.R. or simply a very select few!

The purpose of the Kansas state historic preservation law is to protect the state's historical and architectural treasures. HB 2083, which eliminates the historic environs review requirements, would denigrate that purpose. The possible benefits of HB 2083, which appear to be very few, are far outweighed by the detrimental impact on historic preservation.

I appreciate this opportunity to present our views on these issues and would be happy to answer any questions the Committee might have.

303 SW Woodlawn Avenue  
Topeka, KS 66606  
February 11, 2009

Committee on Local Government  
Kansas House of Representatives  
The Capitol  
Topeka, KS 66612

Dear Committee Members:

Thank you for this opportunity to present testimony regarding House Bill No. 2083, "an Act concerning historic preservation; pertaining to environs review...." In this unusually difficult Session, when so many greater concerns exist regarding the overall state budget shortfall, thank you for attention to this lesser matter.

My name is Sally Paige Kahle, and I live in the Potwin Place Historic District, here in Topeka. For those of you who might not be familiar with this, Potwin is a Topeka community gem. It is a neighborhood nestled in central Topeka, north of Sixth Street and south of the Kansas River. Potwin is on both the National and State Registers of Historic Places, because many of its homes were built during the 1880's. It is a marvelous gem of both architecture and strong community spirit. Over 200 families live in Potwin, and we are proud that it has been the home of our present Governor of the State of Kansas, a current State Senator, a Topeka City Council Member, former State Legislators in both parties, and many Topeka civic and business leaders. I'm not any of those; my status is quite a lot more humble.

I'm here to represent Potwin, and speak in opposition to the proposed changes to House Bill 2083. We believed that the proposed changes diminish the strength of the current law which protects historic property. This law both protects our homes, and it generates tourism and tax income to the City of Topeka, Shawnee County, and therefore, the State of Kansas.

In testimony presented by others regarding this proposed change, such as the Friends of Bethany Place, Inc., evidence of Potwin's economic contribution to the tax base is clear. Just speaking from personal experience, Potwin hosts an annual Hallowe'en event which brings trick or treaters and their parents into the neighborhood. I personally have witnessed private tour and church busses from Kansas City disgorging scores of children from Kansas City who trick or treat in Potwin because they know it's safe. Routine reliable counts of children average 1,200 on that evening. This directly impacts the Topeka economy as those accompanying adults select Topeka restaurants to eat in and feed their children. Potwin has a positive impact on the economics of tourism.

Not to bore you with too many examples, the annual Potwin Christmas Lights Tour is an event that attracts visitors to Topeka from all over surrounding small towns and out-of-state. Special Christmas lighted decorations adorn each Potwin circle, and literally every house in Potwin brightens the winter night with holiday decorations. There is nothing more lovely than Victorian style architecture illuminated by Christmas lights. Estimates of the numbers of visitors for the Potwin Christmas Lights Tour range in

**Local Government**

**Date:** 2-12-09

**Attachment #** 8-1



the thousands. Frequently the traffic is literally bumper-to-bumper through the neighborhood. This translates into direct economic benefit to the tax base through tourism. This would not exist if Potwin's historic nature were diminished.

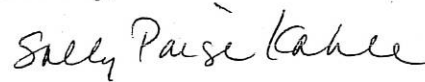
Recently in our environs, the old Potwin Elementary School was demolished and a developer is currently building houses on the site. This directly impacts the Potwin Place Historic District. It is adjacent. It's within 500 feet. Fortunately, the developer worked collaboratively with the Kansas State Historical Society to build houses whose architectural style was compatible with the Historic District. He's very proud of the agreements he reached, and also that this compatibility did not cost him additional money.

The property values of the Potwin Historic District are significantly higher than similar neighborhoods in Shawnee County because of the unique nature of this District. These higher values contribute higher taxes into the Shawnee County tax base. Shawnee County does not want to see any decline in those taxes because of encroaching development which may reduce the historic nature of the District.

While revenue from Historic Districts and other properties is difficult to quantify with exactitude, these first-hand examples provide evidence of the importance of maintaining the protections already within KSA 2008 2008 Supp.75-2724. We believe the law is reasoned and well thought out in its original form, and ask you to deny the proposed changes.

Thank you.

Sincerely,



Sally Paige Kahle

785-554-3137

2-12-09  
 Sally Ka<sup>2</sup>  
 303 SW Woodlawn  
 Topeka, KS 66606

I am opposed to the adoption of HB 2083 which would remove the restrictions placed on any project which will encroach upon any historic property included in the national register of historic places or the state register of historic places or the environs of such property.

NAME	SIGNATURE	ADDRESS
LANAE WORKMAN	Lanae Workman	200 SW Woodlawn
Patty Brown	Patty Brown	3320 SW Clarion Rd
Irina Stakhova	Irina Stakhova	1509 SW College
Michelle Hickling	Michelle Hickling	401 SW Lindenwood Ave.
ALFRED G. Gutierrez	Alfred G. Gutierrez	2612 SW Oakton Rd.
Julie Ames	Julie Ames	1318 SW 32nd
Kathy Jack	Kathy Jack	2209 SW Indian Trail
John Ham	John Ham	130 Woodlawn
Margaret E. Braun	Margaret E. Braun	117 Woodlawn Ave
Sue - 1/2 Todd Hagg	Sue Hagg	131 Woodlawn
Michael Ganson	Michael Ganson	133 Woodlawn
Katie Hoffman	Katie Hoffman	1611 SW 1st.
Michael Key	Michael Key	230 SW Woodlawn
Peter Hagstrand	Peter Hagstrand	207 SW Greenwood
Tina Lewis	Tina Lewis	3501 SE Beck Rd
Thomas Prusch	Thomas Prusch	217 SW Woodlawn
Narcia Cebulski	Narcia Cebulski	217 SW Woodlawn
R m oburn	R m oburn	311 SW Woodlawn Ave
Jenny Johnson	Jenny Johnson	329 SW Woodlawn Ave
Marilyn Ham	Marilyn Ham	412 Woodlawn
Joe Ham	Joe Ham	412 WOODLAWN
Hal Gardner	Hal Gardner	320 Woodlawn
Jean Gardner	Jean Gardner	320 woodlawn
James C. Turner	James C. Turner	238 SW Woodlawn
Susan C. Turner	Susan C. Turner	238 SW Woodlawn
Jackie Rogers	Jackie Rogers	1610 W 1st St.
Paul D. Seders	Paul D. Seders	224 SW Woodlawn Ave
Samuel P. Hord	Samuel P. Hord	217 SW Greenwood
Norma B. Hord	Norma B. Hord	217 SW Greenwood
Rebecca Lange	Rebecca Lange	221 SW Greenwood
Pat Riegan	Pat Riegan	300 SW Woodlawn
Karel A. Lutjehenn	Karel A. Lutjehenn	317 SW Greenwood Ave
Laural Voigt	Laural Voigt	407 SW Greenwood
Marilyn Wray	Marilyn Wray	411 SW Greenwood
Jim Robertsen	Jim Robertsen	425 SW Greenwood.
Richard Coulter	Richard Coulter	429 SW Greenwood
Christa Sloop	Christa Sloop	300 SW Greenwood



Testimony of Bill Wagnon, Topeka, on HB 2083, February 12, 2009

I oppose the purpose of HB 2083 to remove the requirement for reviews of the environmental impact involving properties designated for historic preservation.

The purpose of the requirement is to insure that properties deemed to have historic merit are protected from thoughtless destruction of their immediate environmental context and that any changes in that environment be intentionally considered and agreed to. When property is placed on the state or national historic registry it is considered integral to community and state heritage. The neighborhood around the property is advised of its being considered for special designation, and once the designation is awarded, becomes invested in its preservation. The review process creates a compact between property owners to protect and preserve heritage.

HB 2083 would dissolve that compact and discredit the heritage.

We Kansans have a distinctive heritage, which the list of historic places represents. Awareness of that heritage has been deemed by the legislature to be important enough that it has adopted a law requiring that Kansas history be taught in schools. The state board of education embraced that requirement and has integrated Kansas history into the state curriculum requirements for history and government. Students are tested on the subject at regular intervals.

Heritage awareness is critical, particularly for our young people, if they are to identify with being Kansans. Out migration of our young folks is an ever present concern. When we weaken the celebration of our heritage and those factors which preserve it, we loosen the fabric binding Kansans together, particularly our youth. Similarly the heritage tourist loses interest in visiting our state. Heritage supporters and investors in preserving historic properties place their interests at risk.

The current requirement to conduct a thorough review of the impact to changes in the neighborhood surrounding a property listed as historic doesn't freeze development, but assures that any changes in the context of the property are made after thoughtful analysis. The review respects heritage and gives it a prominent place in decisions made about development. It is the obligation that the current generation of development decision makers has to respect the accomplishments of past generations whose efforts have defined the distinctive heritage that we Kansans enjoy and ought to be proud of.

HB 2083 depreciates that obligation and discredits what it means to be a Kansan in the eyes of our youth and the nation. It should not be enacted.

**Local Government**  
**Date:** 2-12-09  
**Attachment #** 9

# Lawrence Preservation Alliance

---

P.O. BOX 1073 • LAWRENCE, KANSAS 66044

## DIRECTORS

DENNIS BROWN  
*PRESIDENT*

February 8, 2009

BRENNA BUCHANAN

VIRGIL DEAN

House Committee on Local Governments  
re: HB 2083 Environs Review

KATE DINNEEN

ERNE ECK  
*CO-TREASURER*

Please accept the following as testimony regarding this bill. If you have any questions or wish to communicate further, please feel free to contact us.

MIKE GOANS

PAT KEHDE  
*SECRETARY*

Dennis J Brown president  
806 Ohio  
Lawrence Ks 66044  
841 2460

WESTON NORWOOD

NICOLE SABATINI  
*VICE-PRESIDENT*

Nicole Sabatini vice-president  
nsabatini@sabatiniarchitects.com

MICHAEL SHAW

DALE SLUSSER  
*CO-TREASURER*

MARY LYNN STUART

REV. VERDELL TAYLOR JR.

CAROL VON TERSCH

MIKE WILDGEN

DENNIS DOMER  
*EMERITUS*

MARCI FRANCISCO  
*EMERITUS*



Lawrence  
Preservation  
Alliance

---

Serving Lawrence and Douglas County  
[www.lawrencepreservation.org](http://www.lawrencepreservation.org)

Local Government

Date: 2-12-09

Attachment # 10-1

# Lawrence Preservation Alliance

---

P.O. BOX 1073 • LAWRENCE, KANSAS 66044

## Appreciating and Protecting Our Historic Resources Lawrence Preservation Alliance

### DIRECTORS

DENNIS BROWN  
*PRESIDENT*

MARY BURCHILL

VIRGIL DEAN

KATE DINNEEN

ERNE ECK  
*CO-TREASURER*

MIKE GOANS

PAT KEHDE

SANDY MCKENZIE

NICOLE SABATINI  
*VICE-PRESIDENT*

GREG SEIBEL

MICHAEL SHAW

DALE SLUSSER  
*CO-TREASURER*

MARY LYNN STUART  
*SECRETARY*

REV. VERDELL TAYLOR JR.

CAROL VON TERSCH

MIKE WILDGEN

DENNIS DOMER  
*EMERITUS*

MARCI FRANCISCO  
*EMERITUS*

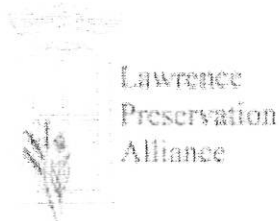
### Position Paper on Environs Review

The protection of Kansas' cultural resources is and should remain a top priority for the state, its municipalities, and its citizens. As a society it is our duty to maintain, enhance, and protect these resources so that future generations and we can better understand the history of our communities and our state. It is only through an appreciation of this history, a vital part of which is the built environment, that we can promote a sense of place, which is key to the promotion and survival of strong, vibrant communities.

It is equally vital that we work to preserve the context surrounding these properties. The environs review provision in our current state preservation law has value because it often initiates a period of negotiation and education. This process, which reviews major environs projects, creates an opportunity for orderly, civil, publicly announced discussion.

### The LPA believes:

- the current environs review process provides a mechanism for keeping the context of historic sites and properties intact, which in turn allows for a greater understanding of the historic site or properties.
- given the importance of the context to historic sites, the state of Kansas must retain environs review to protect the integrity of its historic sites.
- environs review is an effective tool for communities to use to promote the conservation and rehabilitation of historic resources and to preserve their historic fabric.
- the review process can help property owners in the environs of registered properties and districts participate in a discussion of proposed changes that directly affect neighboring unregistered properties as well as listed ones.
- environs review may need to be refined, but the effective elements of the environs review process should be retained.
- the current movement to amend K.S.A. 74-2724 so as to create a state income tax credit (an "Environs Tax Credit") for those properties within

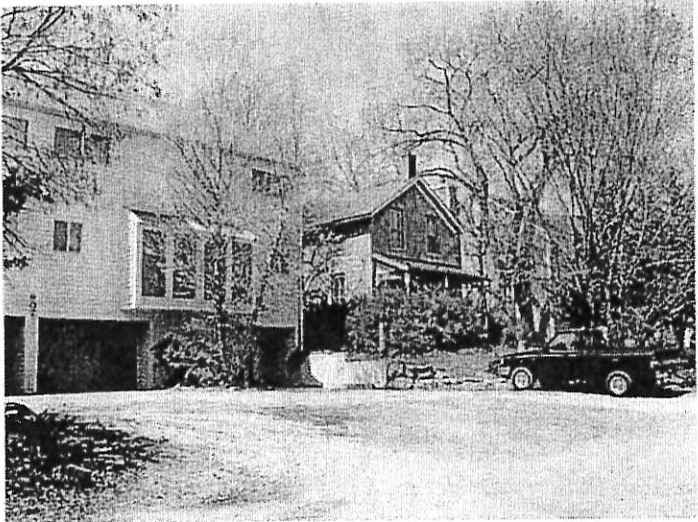


the environs of designated historic properties would help owners of older, eligible properties offset the cost of appropriately rehabilitating and preserving those properties that comprise the character-defining environments surrounding designated historic properties and districts.

As Richard Moe, president of the National Trust for Historic Preservation, stated, "today we realize that a historic site should retain a strong connection with its setting so that visitors can appreciate the site's environment as well as its architecture and furnishings. . . . Historic sites don't exist in isolation." Just as zoning regulations ensure a property's appropriate use in relation to its location, environs review offers some measure of protection for our historic properties. The short-term downside (thirty to sixty day delays) is far outweighed by the benefit derived from expert assistance and the open, public process that assures an architectural and/or historic resource is not carelessly sacrificed for uninformed short-term gain. \_\_\_\_\_

4/9/07

There is something wrong here..... Context is important when preserving historic sites.



*"Historic sites don't exist in isolation"* Richard Moe



ENVIRONS REVIEW FOR HISTORIC  
PROPERTIES IN KANSAS

As an interested member of the public who has attended nearly every meeting of the Lawrence Historic Resources Commission over the last five years, I have some expertise regarding environs review.

While I have noticed that not every applicant leaves thrilled with the result of their agenda item, many do leave with an approved project that meets their objectives and minimizes harm to listed properties in ways they hadn't thought of. You get out of it what you put into it: an applicant who comes in angry and defiant is less likely to leave with a result they may be happy with. This is no different than many other governmental processes in our democracy.

Environs review demands thought and dialogue to find a balance that achieves the objectives of the applicant and the listed property. Those who make loud statements such as "I won't be able to sell my property", "you're putting a lien on my property", "the addition I'm thinking of will have to be in the same style as the listed property", "I'll need government approval to plant a tree", need to take some time to observe the process so they can realize how untrue those statements are. Very seldom have I seen environs projects denied. Much more likely is a suggestion or two that greatly improves the project's relationship to the listed property, and may even improve the project for the applicant as well.

Rather than eliminating environs review or drastically altering it, I believe some tweaking might be in order. There is already a sense that projects in the immediate environs, while still subject to less stringent review than, in ascending order, noncontributing properties in districts, or contributing or listed properties, will have more oversight than projects on the far outskirts of the environs. But to me the real issue is line of sight. If a person can stand at the perimeter of the proposed structure and directly see any portion of the listed structure, <sup>then</sup> ~~there~~ project could affect the listed property. Any number (500', 400', 250'), becomes somewhat arbitrary.

It might be best to add qualifying language to the existing law, such as "up to 500'", except when there is no direct line of sight from any part of the proposed structure to the listed property.

I myself live in the environs of listed properties. If, for example, my immediate neighbor decided to tear down his well-maintained smaller home and build a mc mansion, under the current law I would have the benefit of written notification of a period of open public comment, even though I do not own the listed property that triggers the review. My neighbor might find himself unable to maximize his profit at the expense of the listed property and all of his neighbors, but there would still be a project for him to be had, his neighbor's property rights would be protected, and the historic property would be protected for townspeople and passersby to understand and enjoy. Thought and dialogue take more time than unfettered action, but the end results are better.

Kansas is actually way ahead of other states regarding preservation law, and the tax credit program. Fine-tuning by those with a strong understanding of the process might be in order here, but drastic measures that suggest a basic misunderstanding of preservation objectives and public processes are not.

Dennis J Brown  
806 Ohio  
Lawrence ks 66044  
785 841 2460

# IRIGONEGARAY & ASSOCIATES

1535 S.W. 29TH STREET  
TOPEKA, KANSAS 66611-1901  
(785) 267-6115

\* PEDRO LUIS IRIGONEGARAY, J.D.  
† ELIZABETH R. HERBERT, J.D.  
ROBERT V. EYE, J.D.

\* Also Admitted in Florida  
† Also Admitted in Alabama  
Fax No. (785) 267-9458

House Local Government Committee  
Chairperson Ms. Sharon Schwartz

Madam Chairwoman:

Members of the Committee, I am here today to testify in opposition to HB 2083.

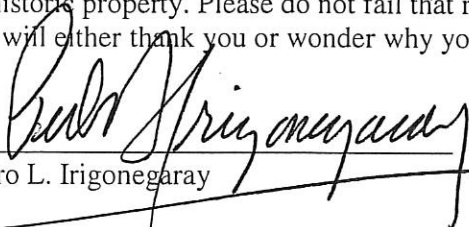
The historical, architectural, archeological, and cultural heritage of Kansas is an important state asset. Its preservation and maintenance should be among the highest priorities of government. These words are yours; they are the law as set forth in Kansas Statute Annotated 75-2715. The Kansas Legislature recognized and declared that it is its public policy, and in the public interest of Kansas, to engage in a comprehensive program of historic preservation as well as foster and promote the conservation and use of historic property for education, inspiration, pleasure, and enrichment of the citizens of Kansas.

HB 2083 significantly and unnecessarily undermines historic preservation in Kansas. The historic properties are much more than bricks and boards; they also include the environs, the surrounding environment which give the historic property its character and guards it from inappropriate encroachment. Why should we do away with historic preservation? Who gains as we lose our treasured heritage? Why should someone's short term economic gain be of greater importance than the long term benefit future generations are provided by historic sites?

The present status of the law, Kansas Statute Annotated 75-2724, provides a fair and reasonable process for the protection and preservation of our historic sites. HB 2083 removes from our laws important safeguards for the protection of Kansas' historic heritage. By removing the term "encroach upon", you remove an important protection for historic sites. Keep in mind that the character of the historic property is most often congruous with the environs. A lack of respect for the environs may well diminish, if not dramatically alter, the historic site's unique characteristics and diminish its historic heritage.

Many Kansas families have dedicated their time and money to refurbish and protect historic buildings for their homes, offices, and business. There is real value in doing so. By ignoring the potential impact of inappropriate encroachment on these properties we put at risk the monetary investment that so many of our fellow Kansas citizens have made.

I urge you not to be persuaded by those whose desire to make a dollar now will in the long term cost us much more. The loss of our heritage, the encroachment into our historic sites, the historic character loss associated with new developments, is simply not worth it. You, each of you, have a duty to Kansas and its historic property. Please do not fail that responsibility. Future generations will look back on this day and will either thank you or wonder why you permitted our heritage to be so easily disposed.

  
Pedro L. Irigonegaray

**Local Government**

**Date:** 2-12-09

**Attachment #** 11



**AIA Kansas**  
A Chapter of the American  
Institute of Architects

February 12, 2009

**TO:** House Local Government Committee  
**FROM:** Julia Manglitz, AIA  
**RE:** Opposition to HB 2083

Good Morning, Chair Schwartz and Members of the Committee. I am Julia Manglitz representing the American Institute of Architects in Kansas. I am an architect and serve as the Chair of the AIA Kansas Committee for Historic Resources.

AIA Kansas is a statewide association of architects and intern architects. Most of our 700 members work in over 120 private practice architectural firms designing a variety of project types for both public and private clients. Our members are designing projects for the future, aiming to meet the "triple bottom line": economy, healthy people and environment.

AIA Kansas opposes HB 2083 that eliminates the notice to the State Historic Preservation Officer, SHPO, of proposed projects that may encroach upon or are within the environs of historic properties listed on the State or National Register of Historic Places. The current process allows the State Historic Preservation Officer to investigate and comment upon the proposed projects to the local authority. The local authority may take the advice of the SHPO, or may not.

As a society, we have many rules and regulations affecting where and how we build. Building codes, zoning, planning, easements for utilities, and even eminent domain are all tools our society uses. Whether they protect the life and health of our citizens or provide needed infrastructure, they provide for the greater good of a community. These processes and regulations began with the basic idea that one property owner may not encroach upon another. The first time one neighbor did something that adversely affected the health or wealth of their neighbors we began to define methods for protecting property owner's rights and property values. These processes inhibit someone from coming in and building a landfill or a factory next to your child's school or across the street from your house. They stabilize property values and they encourage development because they reduce, to some degree, the financial risk of owning or developing a property.

So what does this have to do with encroachment on historic properties or environs? Well, all of these processes and regulations I've just listed control encroachment of others on the rights of their neighbors, particularly the neighbors that were already there - they protect the investment already made. And the environs regulation works in the same manner. It protects the oldest of our investments.

Relatively recently, we have had the distinction of having a National Heritage Area designated that contains much of eastern Kansas. Heritage areas have the potential to be a vehicle for economic development, but they depend heavily on intelligently and sensitively developing existing resources - natural and historic. The things we have that make us unique, the places, the artifacts and the stories that make us who we are. They encourage development and re-investment into what we already have. That requires protection of those resources, for the greater good, for the future. It is a progressive idea.

It is a sustainable idea. The State of Kansas has a leg up on the other states with such areas. Why? Because we have an environs clause in our State Historic Preservation Statute that is already working to protect our historic resources.

The environs language in our Statute does not stymie progress, new construction, or the like. It simply gives the SHPO an opportunity to comment, it is part of a process intended to make

President  
David S. Heit, AIA  
Topeka  
President Elect  
J. Michael Vieux, AIA  
Leavenworth  
Secretary  
Hans Nettelblad, AIA  
Overland Park  
Treasurer  
Nadia Zhiri, AIA  
Lawrence

Richard Brown, AIA  
Wichita  
Christie Carl, AIA  
Abilene  
Randle L. Clark, AIA  
McPherson  
Keith Diaz-Moore, AIA  
Lawrence  
Dale R. Duncan, AIA  
Olathe  
Gwenda S. Gigos, AIA  
Topeka  
David Livingood, AIA  
Lawrence  
Peter Magyar, Assoc. AIA  
Manhattan  
Katherine Nichols, Assoc. AIA  
Gary Nevius, AIA  
Overland Park  
C. Stan Peterson, FAIA  
Topeka  
Daniel Sabatini, AIA  
Lawrence  
Charles Smith, AIA  
Topeka  
Daniel (Terry) Tevis, AIA  
Lenexa  
Jason VanHecke, AIA  
Wichita

Executive Director  
Trudy Aron, Hon. AIA, CAE  
info@aiaaks.org

**Local Government**  
Date: 2-12-09  
Attachment # 12-1

2-12-09

Subject: RE: HB 2083: Proposed change in KS Preservation law

Dear Legislators,

The Friends of Bethany Place, Inc. is submitting testimony in opposition of HB 2083, which seeks to alter K.S.A. 75-2724 preservation law. Friends of Bethany Place is a 501C3-preservation group within Shawnee County, Kansas, dedicated to protecting the registered sites to preserve the historical cultural resources of Kansas. We **oppose** HB 2083 because of the negative financial impacts for our state. K.S.A. 75-2724 is a protective, revenue- generating law for the private and public sectors. We provide several examples of revenue generation within Shawnee County as a direct result of K.S.A. 75-2724:

1. Potwin Place Historical District, Topeka, Kansas, is an example of local government, developers and property owners receiving direct financial benefit from the environs law (K.S.A. 75-2724). Potwin lies between 1<sup>st</sup>-4<sup>th</sup> St. on Woodlawn and Greenwood Ave. These victorian homes (c.a. 1880) have been preserved in their original character. Recently, four homes were built adjacent to this district fell within the evirons law (**see pictures below**). K.S.A. 75-2724 required the developers to build homes which historically matched the existing Victorian homes, which produced three revenue sources for Kansas: **a) developer, b) property owner, and c) government.** The newly built Victorian homes commanded high selling prices (**approximately twice the value of the same home if built in newer subdivisions**) because they were adjacent to an intact historic district. High property values within Potwin were maintained because the neighborhood character remained intact, resulting in high tax revenues for Shawnee County.



Potwin Place Historic District produces tourism revenue for Kansas because of its intact historical character and has been cited as 'significant' in tourism/housing venues: *Leisure and Sport Review Travel and Recreation(continual)*, *Midwest Living (1997)*, *Topeka Chamber*, *www.livingplaces.com* and *Topeka Multi-listing Service (Realtors Assn.)*. Notably, 'Living Places (Gombach Group) describes Potwin Place:

"What makes the buildings of Potwin Place Historic District a distinctive collection of residences is not simply that there are the Queen Anne and Italianate types of designs here, but that they are as a **totality a harmonious mixture** of 19th century and early 20th century designs because of continuities in scale and form that reflect continuities of conditions and taste. Although bound together by distinctive street layout and setback, **these structures would in any event sit apart in character from those in the surrounding neighborhoods because of their larger scale, because of the variety of historic periods represented and because of the dominant presence of 19th century elements.** In surrounding neighborhoods the development has occurred primarily since the turn-of-the-century and is of small scale and modest character".

(See: [http://www.livingplaces.com/KS/Shawnee\\_County/Topeka\\_City/Potwin\\_Place\\_Historic\\_District.html](http://www.livingplaces.com/KS/Shawnee_County/Topeka_City/Potwin_Place_Historic_District.html))

Also, Travel and Leisure magazine suggests a driving tour from Perry Lake (Jefferson County) to Potwin Neighborhood, which would suggest each county receives revenue benefits from K.S.A. 75-2724 through unique means.

(See: [http://www.lasr.net/pages/city.php?Topeka&Kansas&City\\_ID=KS0305006&VA=Y&Attraction\\_ID=KS0305006a008](http://www.lasr.net/pages/city.php?Topeka&Kansas&City_ID=KS0305006&VA=Y&Attraction_ID=KS0305006a008))

2. K.S.A. 75-2724 was important in the \$10 million Federal Grant for the Freedoms Frontier National Heritage Area designation awarded to eastern Kansas through the notable efforts of Senators Brownback and Roberts. This Area celebrates sites such as Brown vs. Board Museum, Bethany Place, Constitution Hall in Kansas history. Maintaining historic neighborhoods and retail business provides continuity for the tourist revenue.

K.S.A. 75-2724 is responsible governance for citizens and business. Property owners receive notice and allowed comment prior being awarded the designation of 'historic registry'. Therefore, Friends of Bethany Place, Inc. does not find the historic environs review process restrictive in the least. Thank you for your time and consideration of this bill. Your legislative efforts do not go unnoticed and are very much appreciated by all Kansans.

Sincerely,

Barbara M. Quaney, President  
Friends of Bethany Place, Inc.  
821 SW Western Ave  
Topeka, KS 66606

Local Government

Date: 2-12-09

Attachment # 13

Cindy Sundell Guy  
Century 21 Advantage  
316 264-2121

I am csg. I am here today because my usual voice, my husband, Jim Guy, is in a required Family Law Annual Legal Seminar and could not figure out how to be in Wichita and Topeka at the same time. He has been a member of Wichita's Historic Preservation Board for 30 or so years and was a Historic Cowtown board member for the same length of time. I am the Broker-owner of Century 21 Advantage.. I have been a licensed agent since 1974 selling Commercial and Residential properties. In addition to sales, For the last 25 years, I have owned, managed and trained real estate agents and am the largest century 21 office in Kansas. I am president of the Kansas brokers council for c21. Since we moved into the Historic midtown neighborhood in 1972, Jim and I have been active preservationists, committing many of our resources to saving historic neighborhoods, hoping that if we could create a very stable and safe inner-City, Wichita would be able to revitalize our downtown and rebuild Old Town and Delano. We knew that without a stable residential inner-City, downtown would never be a thriving force again. So we began the plan to create residential and commercial historic districts. Jim wrote the legislation for the first historic district in Kansas and then we, with the help of fellow preservationists began saving many residential and commercial buildings from the wrecking ball, helping Wichita keep what is left of our rich cultural heritage. I was Pres. Of Midtown for many years and created the 1<sup>st</sup> National Resister Mini District for a Commercial Project. I was involved with Midtown and Victiorian Society of Kansas from it's very early days, and was a founding member of Kansas Preservation ALLLIANCE, THE WICHITA PRESERVATION ALLIANCE WHICH IS NOW CALL HPA AND WE HELPED MANY OF WICHITA'S NEIGHBORHOOD ALLIANCES FORM THEIR ASSOCIATIONS. WE OWNED A RESTORATION CONSTRUCTION COMPANY AND OWNED 50 RENTAL UNITS IN THE INNER-CITY, RESTORING EACH OF THEM. WE HAVE ALSO RESTORED SEVERAL VERY EARLY HOMES FOR OUR PERSONAL USE AND ARE CURRENTLY LIVING IN THE OLDEST OCCUPIED HOME IN WICHITA.

I AM OFFERING YOU THIS INFORMAITOJN SO THAT YOU ARE AWARE THAT WE HAVE HAD MANY HANDS ON EXPERIENCES IN DEALING WITH RESIDENTIAL AND COMMERCIAL BUILDINGS THAT ARE AFFECTED BY WICHITA'S BUILDING CODES.

**Local Government**

**Date:** 2-12-09

**Attachment #** 14-1

I WAS VERY SURPRISED AND DISMAYED WHEN I HEARD THAT OUR WICHTIA BD OF REALTORS HAD TAKEN A POSITION ON CHANGING THE ENVIRONS LAW. I WAS EVEN MORE DISMAYED WHEN I REALIZED THAT MANY REALTORS THAT HAD EXTENSIVE HISTORIC PROPERTY EXPERIENCE WERE NOT CONSULTED BEFORE OUR BOARD TOOK ACTION ON THIS ISSUE. I HAVE TALKED TO SOME OF THE COMMERCIAL DEVELOPERS THAT HAVE DONE PROJECTS IN WICHITA, AND THEY DEPEND ON THE ENVIRONS LAW TO OFFER PROTECTION FOR THEIR PROJECTS, SO THIS IS NOT A RESIDENTIAL PERSON VS COMMERCIAL PERSON ISSUE. IT IS AN ISSUE OF SUPPORTING AND HONORING BASIC EXPECTATIONS THAT HAVE BEEN GIVEN TO US FOR MANY YEARS.

AT MY LAST SALES MEETING, I VISITED WITH ABOUT 20 OF MY AGENTS ABOUT THIS ISSUE AND THE ONE THING THAT WAS LOUD AND CLEAR WAS THAT PEOPLE THAT BUY PROPERTIES IN HISTORIC NEIGHBORHOODS HAVE CERTAIN EXPECTATIONS WHEN THEY PURCHASE THERE. WE WERE ALL IN AGREEMENT THAT PROTECTED HISTORIC AREAS BRING HIGHER PRICES, AS DO OTHER PROTECTED NEIGHBORHOODS. WE DISCUSSED WHAT PROTECTION MEANS TO A BUYER. IT MAY MEAN A HISTORIC DISTRICT, AN AREA LIKE OLD TOWN OR COLLEGE HILL. IT MAY MEAN A GATED COMMUNITY OR AN AREA WITH A STRONG HOMEOWNERS ASSOCIATION. WE DISCUSSED THAT MOST PEOPLE EXPECT PROTECTION FROM THE RESTRICTIVE COVENANTS IN THEIR AREA. THOSE OF US IN MY OFFICE THAT LIVE IN HISTORIC HOUSES, AND THERE ARE 13 OR SO - NOTED THAT WE DO NOT HAVE THE PROTECTION OF RESTRICTIVE COVENANTS AND HAVE TO RELY ON OTHER MEANS OF UPHOLDING OUR PROPERTY VALUES. WE HAVE DEPENDED ON THE HELP OF THE ENVIRONS LAW TO HELP PROTECT AND KEEP OUR AREAS STABLE AND VISUALLY APPROPRIATE FOR SEVERAL GENERATIONS NOW.

PEOPLE BUY IN HISTORIC AREAS WITH THOSE EXPECTATIONS. THOSE EXPECTATIONS ARE AS REAL AND CRITICAL AS ANY OTHER PROPERTY RIGHT THAT THE REALTOR ASSOCITATIONS HAVE BEEN SO PROTECTIVE OF ALL OF THE 35 YEARS I HAVE BEEN A MEMBER. THE COMMERCIAL PEOPLE I HAVE PERSONALLY WORKED WITH ON PROJECTS WANT THIS PROTECTION FOR THEIR PROPERTY. WE ALL KNOW THAT PROTECTIONS CAN OFTEN BE A PAIN IN THE TUSH BUT WE ALSO

KNOW THAT ANY BENEFIT IN LIFE COMES WITH RESPONSIBILITIES AND ALL AREAS HAVE THESE RESPONSIBILITIES. JUST THINK ABOUT WHAT IT IS LIKE TO LIVE IN NEW SUBDIVISIONS WHERE THE HOURS YOU CAN HAVE YOUR GARAGE DOOR OPEN, THE TYPE OF ROOF THAT YOU CAN INSTALL, WHERE YOU CAN PARK YOUR CAR, THE TYPE OF FENCE AND THE SIZE OF YOUR HOUSE CAN ALL BE CONTROLLED BY RESTRICTIVE COVENANTS. I WOULD VENTURE TO GUESS THAT MOST OF THE PEOPLE OPPOSED TO THE ENVIRONS ORDINANCE LIVE IN HOMES WITH RESTRICTIVE COVENANTS AND I WOULD ASK THEM IF THEY WOULD BE COMFORTABLE IF THE GATES WERE REMOVED FROM THEIR COMMUNITIES, AND OTHER PROTECTIONS WERE REMOVED. EACH OF US SEEKS A LEVEL OF COMFORT OF WHERE WE WANT TO WORK, LIVE AND PLAY AND CHOSE WHERE WE GO BY THESE COMFORT LEVELS. WE DO NOT WANT CHANGES TO BE MADE THAT TAKES AWAY THESE RIGHTS . THAT IS THE BASIS OF ALL PROPERTY RIGHTS AND IT IS AMAZING TO ME THAT A REALTORS ASSOCIATION WOULD WANT TO TAKE THESE RIGHTS AWAY.

ON THE OTHER SIDE OF THE FENCE, I THINK THE ORDINANCE NEEDS UPDATING AND NEW CRITERIA ESTABLISHED. I THINK THAT WE NEED TO FIND OTHER CRITERIA FOR DESIGN REVIEW BESIDES BUILDING PERMITS. I KNOW THAT IN WICHTIAT THE CITY STAFF CAN APPROVE MINOR CHANGES LIKE ROOF MATERIALS IF SAME MATERIALS ARE GOING ON AND THINGS LIKE THAT WHICH HELP EXPEDITE THE PROCESS. I THINK THAT THE ORDINANCE COULD ADDRESS THAT AND JUST ELIMINATE THAT STEP. BUT I ALSO THINK THAT PERMANENT ITEMS THAT DO NOT REQUIRE A BUILDING PERMIT SHOULD BE INCLUDED IN THE ORDINANCE. THERE IS NOTHING MORE DESTRUCTIVE TO A HISTORIC BUILDING THAN INAPPROPRIATE REPLACEMENT OF WINDOWS AND YOU DO NOT HAVE TO HAVE A PERMIT TO REPLACE WINDOWS. WINDOWS, THE PITCH OF THE ROOF, PORCHES OR OTHER ENTRY WAY FEATURES ARE WHAT KEEP THE VISUAL INTEGRITY OF A BUILDING AND ARE CRITICAL TO KEEPING THE CHARACTER .

OVER THE WEEKEND, I WAS DRIVING BY MY PREVIOUS HOME, AN EARLY 1880'S QUEEN ANNE COTTAGE. I HAD SPENT A LOT OF MONEY HAVING CUSTOM STORMS PUT ON THE NARROW 7' HIGH WINDOWS AND TO MY DISMAY, THE NEW OWNERS HAD TAKEN OFF THE CUSTOM STORMS AND PUT UP 2 SETS OF



STORM ON EACH OF THE WINDOWS . IT MAKES THIS LOVELY , QUAIN T HOUSE LOOK LIKE A OUTDATED MOBILE HOME AND IT IS DREADFUL. IT MEETS CODE BUT I AM SURE CREATES LOTS OF HEARTBURN FOR THE NEIGHBORS.

I ALSO THINK ABOUT THE COMMERCIAL BUILDING AT THE CENTER OF DOWN TOWN IN WICHITA WHERE THEY PULLED OUT ALL OF THE WINDOWS AND PUT IN MODERN ONES. THAT BUILDING LOST ALL OF ITS PERSONALITY AND VISUALLY DISTRACTS. JUST TAKE A MOMENT TO THINK ABOUT HOW MANY TIMES YOU HAVE DRIVEN THROUGH A UNFAMILIAR DOWNTOWN WHERE THE ORIGINAL STOREFRONTS HAVE BEEN COVERED OVER WITH METAL SIDING, OR PINK BRICK OR BAD MOVIE SET FRONTIER DESIGN AND YOU THOUGHT TO YOURSELF, WHAT WERE THEY THINKING OF IN THE 1950'S OR '60'S OF WHATEVER PERIOD OF BAD DESIGN THAT HAPPENED TO SWEEP THROUGH THEIR DOWNTOWN. - AND REMEMBER THE 1940'S ASBESTUS SIDING GUYS THAT OVERTOOK WHOLE NEIGHBORHOODS AND THE PERMANENT SIDING GUYS WHO OBLIVERATED ALL OF THE ARCHITECTURAL DETAILING ON THE VICTORIAN HOMES? THESE ARE THE THINGS THAT WE MUST REMEMBER AND PROTECT OUR PROPERTY RIGHTS AGAINST.

PLEASE DO NOT INVALIDATE THE ENVIRONS LAW. IF IT NEEDS TO BE CHANGED, LETS KEEP THE BASIC CONCEPT, STREAMLINE THE PROCESS , ELIMININATE THE FLUFF AND STRENGTHEN REQUIREMENTS ON WINDOWS AND FENISTRATION ITEMS. PROTECT THOSE OF US THAT DEPEND ON OUR FORM OF RESTRICTIVE COVENANTS. PLEASE DO NOT TAKE VALUE AWAY FROM US TO MAKE IT EASIER FOR THOSE THAT DO NOT YET HAVE AN INVESTMENT IN THE AREA. DO NOT LET THEM TAKE ADVANTAGE OF ALL OF OUR COMMITMENTS TO THE HISTORIC AREAS THAT WE HAVE WORKED SO LONG AND HARD TO PROTECT. LET THOSE PEOPLE PUT IN A LITTLE MORE EFFORT AND NOT PENALIZE THE BUILDINGS BECAUSE THEY WANT TO MAKE IT "EASY". THESE BUILDINGS DO NOT JUST BELONG TO THE TITLE HOLDER. HISTORIC BUILDINGS BELONG TO ALL OF THE PEOPLE. OUR JOB AS PRESERVATIONISTS IS TO SEE THAT OUR HERITAGE IS KEPT VIABLE AND INTACT FOR FUTURE GENERATIONS OF CITIZENS TO LEARN FROM, LOVE AND APPRECIATE THE AREAS CULTURAL HERITAGE.

	Next Unread	Reply	Reply To All	Forward	
	Back to InBox	Delete	Set Flag	Close as Unread	

*Claire  
Weigand*

**From:** D Franks <david.franks@cox.net>  
**Subject:** E-mail to Local Government Committee  
**Date:** Thu, 12 Feb 2009 09:42:55 -0600  
**To:** clairew@weigand.com

My e-mail to the committee members follows. If you would be so kind, please ask that my e-mail be entered into the record. If you print from this e-mail, you will have a record of my request, in case it is needed.

Thank you.

--

**David Franks**



CENTURY 21 Advantage  
216 North Mosley—in Old Town  
Wichita, Kansas 67202  
Phone: (316) 838-0805  
Toll-free: (800) 321-4894  
Fax: (316) 838-7873

Good Day--

Although I am a REALTOR, and despite support for HB 2083 by the Wichita Area Association of REALTORS and the Kansas Association of REALTORS, I must object to this bill. It appears to be the commercial and new-development component of these organizations that is behind said support. I, on the other hand, live in and support an older neighborhood and have conducted the great majority of my business on behalf of home buyers and sellers in older neighborhoods and historic districts. I have never met anybody who was burdened by the requirements of our environs laws. In fact, most buyers and sellers I've dealt with are glad they are in force.

The historic environs laws have created viability for the restoration and renovation of housing stock in older neighborhoods of Wichita and other cities, including many properties of historical significance, that otherwise could not have attracted the interest of owner-occupants and conscientious investors. Consider:

- Older neighborhoods are growing in importance as the current economic situation makes it more and more dangerous to consider anything disposable. Older neighborhoods will become even more important to a large segment of the buying market: first-time buyers, young professionals and those who need to downsize. The economy needs homebuyers. Sprawl isn't working.
- Part of the charm and desirability of an older home is its environment. That holds true from the age and size of the trees to the building setbacks to the porches to such details as window size, exterior trim and siding.
- It usually costs more to properly repair and maintain an older home than a newer one. This is particularly true for landmark buildings, and it is these individually-designated buildings that are specifically protected by the environs law. Without the advantage of appropriate environs, it becomes more difficult to overcome the hurdle of additional expense.

**Local Government**  
**Date:** 2-12-09  
**Attachment #** 15-1

-- V property owners take advantage of tax incentives as part of their efforts to improve a property in a affected neighborhood, the environs laws help to protect government investment by helping to keep property values higher.

-- The environs laws do not affect interior work, so they do not infringe on the right or ability to upgrade systems or amenities. In fact, they encourage homeowners to invest more in upgrades because good environs help to maximize the resale value of a property. In most cases, "functional obsolescence" can be overcome if the incentives are as clear as the obstacles.

-- In Wichita, at least, most proposals for work on residential properties get an automatic pass. There is little inconvenience to the homeowner, unless he acquired the property for the wrong reasons or under mistaken impressions. That is not the fault of other owners in the environs, however, and they should not be penalized by this proposed undermining of the principles under which they undertook to do the right thing.

-- Commercial encroachment is a destructive force that eats away at many older neighborhoods. Doing away with the environs law will make it easier for commercial uses to rend the fabric of an older neighborhood. Very few conversions to commercial use in older neighborhoods actually serve the affected neighborhoods; they are instead contrived to cheaply take in drive-by traffic from elsewhere.



Rather than abandon the pioneers who have rebuilt neighborhoods in order to allow some real state people to make money more easily, keep the environs laws in place and make the real estate industry responsible for training itself to properly market, search for, and sell properties in historic areas.

By the way: The Kansas Association of REALTORS has asked members to send a form letter lobbying for passage of this bill. That letter does not make it clear that the sender is a real estate professional. I believe it is misleading because it refers to "the rights of private property owners like myself" without disclosing the underlying motives of part of the REALTOR community. I hope you will consider the multiple copies of this letter you receive in light of this omission.

While the environs laws cannot do away with ignorance and ineptitude, they can help to reduce willful destruction of quality of life. Keeping the environs laws in place will protect more rights than repealing them will.

Thank you.

David Franks

	<a href="#">Next Unread</a>	<a href="#">Reply</a>	<a href="#">Reply To All</a>	<a href="#">Forward</a>	
	<a href="#">Back to InBox</a>	<a href="#">Delete</a>	<a href="#">Set Flag</a>	<a href="#">Close as Unread</a>	

<a href="#">Copy to...</a>	<a href="#">Move to...</a>	<a href="#">Redirect to...</a>
<a href="#">Take Address</a>		

<a href="#">Mailboxes</a>	<a href="#">New:</a>	<a href="#">Mail</a>	<a href="#">Event</a>	<a href="#">Task</a>	<a href="#">Note</a>	<a href="#">Rules</a>	<a href="#">Settings</a>	<a href="#">Log Out</a>
---------------------------	----------------------	----------------------	-----------------------	----------------------	----------------------	-----------------------	--------------------------	-------------------------