



Chanute
a TRADITION of INNOVATION

HB 2089 Testimony

February 5, 2013

J.D. Lester, Chanute City Manager

To the House Local Government Committee

I would like to thank Chairman Hubert and this committee for considering this bill and for the opportunity to testify about the proposed changes to some of the statutes regarding historic preservation. I believe I am speaking for all five of our City Commissioners in making this request in support of the proposed changes. **It has been our experience that the 500' environs rule has caused lengthy delays in preserving our historic structures. Our objective is to clearly provide the local governing body the ability to determine, themselves, the application of a 500' environs rule.**

We want to do this in a way that makes the most sense for local governments' particular economic development needs, especially as it impacts downtown revitalization and preservation of commercial buildings. Our downtown remains the heart and soul of our community, as we believe is also the case for communities across Kansas.

The proposed changes are in congruence with the Home Rule provision of the Kansas Constitution which states, “Cities are hereby empowered to determine their local affairs and government” (Article 12, Paragraph 5). Further, “Powers and authority granted cities pursuant to this section shall be liberally construed for the purpose of giving to cities the largest measure of self-government” (Article 12, Paragraph 5(d)).

The language in this bill was created to hold harmless those communities which desire to keep in place the 500’ environs rule, because it fits within their preservation objectives. In other words, we don’t mean to prohibit other communities from using this rule. We only wish for communities be able to opt out under the principal of home rule if they choose and if they have demonstrated the commitment to local preservation by creating mechanisms for local oversight, such as the creation of a CLG (Certified Local Government) per Kansas preservation laws.

Background:

Chanute has been a Kansas Main Street community since 1995 and has a well-organized board and committee structure with regular community events, shopping district, and an obvious historic charm, but it does not have a historic district designation. The City of Chanute has financially and administratively fostered public and private investment in the downtown. Still, some of Chanute’s downtown buildings are at risk of being lost forever (see pictures on final page).

In 2009, at the urging of Main Street Chanute, the Chanute City Commission worked towards creating a downtown historic district. We went through several public meetings where experts, including the Kansas State Historic Preservation Office (SHPO), attended and spoke to those in attendance about the state historic designation. Main Street’s goals were 1) to access financial resources

through tax credits and grants both at the state and local level to assist property owners in making improvements to their buildings and 2) to revive some buildings which need significant investment and, in some cases, bringing them up to building codes. The process took over a year and a half. The focus was to continue economic development, revitalization of downtown, and expand our retail business sector.

As we began the process establishing of a local historic authority (per 75-2714, Becoming a Certified Local Government - CLG) as well as the designation of the historic district, we had local individuals come forth and expressed the following concerns.

1. The loss of their property rights directly related the 500' environs rule. The argument was that the requirement of the state preservation office review of those buildings within the environs would take too long and drive up the costs of their improvements
2. The argument was also made that even those buildings which currently did not contribute to the historic nature of a specific building would have to make unnecessary, as well expensive, improvements.

Case studies were provided as to civic/legal action that has taken place in Kansas related to the environs. Consequently, there was enough concern for the Chanute elected officials to take a step back and re-evaluate. Although there was much emotion attached to the debate, ***both sides could agree on one thing: having a designated historic building should not automatically subject all the other adjoining property owners to a review of their improvements based upon the 500' environs rule.***

I have been told that Kansas may be only one of few states in the country that have a 500' environ condition. There is confusion about the requirement. First, it is unclear whether the 500' environ rule applies to both public and private property. Based upon my reading of a West Law case study, it appears a court and a public official at one time may have interpreted the part of the statute which refers to a "public project" (75-2724 a) **to include any private improvement which requires a building permit.** Because of their ruling, it has become the precedent. We suspect, based upon the wording of the Kansas legislature, the intention is that if the State of Kansas, a city or county, or a direct sub-division **had their own specific project (i.e. improving one of their own buildings)** then it should be reviewed by the SHPO if it is within the 500' environs.

Another area which has caused some confusion is- who has the **final determination** on a project's impact on the environs, even a private project based upon the language 75-2724 (1) where it refers to "no feasible or prudent alternatives." Is it truly the local body or the State Historic Office? The proposed language before you clarifies that the local body has the final authority.

The goal is for all of us to do our best to preserve the Kansas and local heritage of our communities. We also believe that under Home Rule, local bodies should be able to determine what is best for its community and apply its own standard based upon local conditions. **The bottom line is that if the environs issue creates enough controversy that a building cannot be designated and/or saved, then preservation goals may not be fully realized.**

In conclusion, please support this legislative change in order to clarify the process and the roles of each party. We believe that the ultimate decisions for historical local projects should be made locally based upon a community's desire and objective for preservation and economic development. The language change

as proposed would remain in effect for those communities who choose not to opt out.

Thank you for your time and consideration.

John D. Lester, City Manager

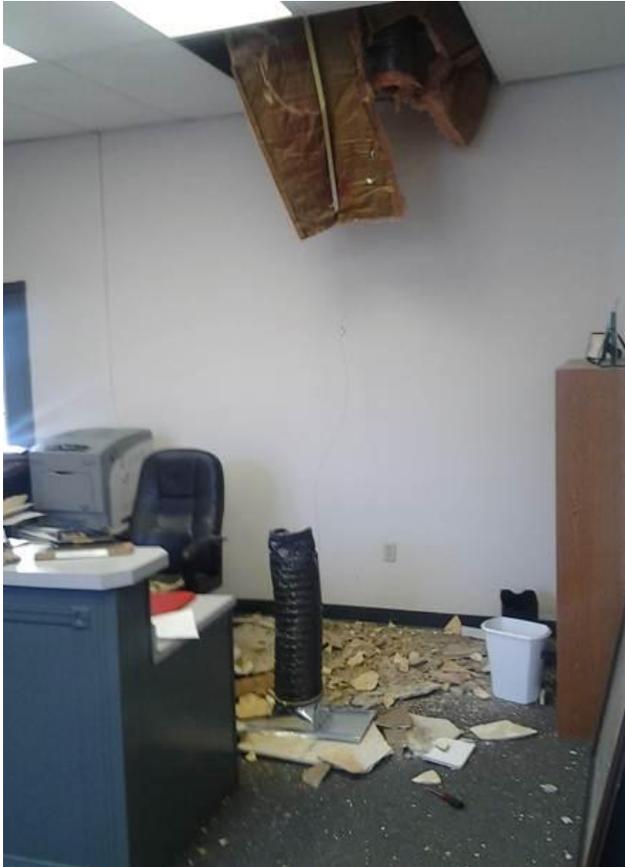
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Downtown Building Issues (1/31/2013 following a rain)



City of Chanute Investment in Downtown: Center of Google Earth Brick Paver and Infrastructure improvements at Main & Lincoln (Summer 2012)