

## **Testimony to the Advisory Council on Historic Preservation**

by Harvey Smith, President, National New Deal Preservation Association

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Welcome to the Bay Area. As board president of the National New Deal Preservation association, I speak not only as a resident of Berkeley concerned about my Downtown Post Office, but on behalf of my organization and its concern for the over 1,100 New Deal post offices and the art work displayed in over 1,000 post offices nationwide in both New Deal and earlier constructed postal buildings.

This meeting is focused on Section 106, but we feel it is important to provide some context to avoid being so narrowly focused that we miss broader historic preservation issues. When government buildings and property are decommissioned, they normally revert to local government ownership. Here in the Bay Area we have many examples.

This normal practice has been subverted by the USPS, a hybrid agency, still controlled by Congress but also semi-independent, neither wholly public nor entirely private. Within the 1970 Postal Reorganization Act is the phrase "public interest," and I believe that the intention of Congress was that the newly formed USPS would remain an agency that continued to serve the public in the fullest sense. Public interest certainly cannot be defined strictly as a service issue. Presidential executive orders make explicit the importance of preservation of historical federal properties in our cities.

In the legal proceedings regarding the sale of the Stamford, Connecticut Post Office, the extension of the public trust doctrine is being suggested as applicable to postal and other federal properties. Government should be the steward for what the American people value and have paid for through taxation. What kind of a society are moving toward when the USPS can view its authority to include the selling to private parties the historic public resources of our nation?

The late professor emeritus of law at UC Berkeley Joseph Sax in an article on the public trust doctrine discusses how government agencies may become insulated from their relevant constituencies. He says that these agencies "may feel quite free to hold perfunctory and essentially predetermined public hearings. In such circumstances, the decision-making process may be inadequate even though a proceeding called a public hearing has been held."

This sounds very familiar to any community that has had to deal with the USPS. Citizen activists across the country report the USPS more or less adhering to the letter of the law but totally ignoring its spirit.

President Roosevelt stated, "Art in America has always belonged to the people and has never been the property of an academy or a class. The great Treasury projects, through which our public buildings are being decorated, are an excellent example of this tradition." The democratization of culture was a hallmark of the New Deal, and the architecture and art work in post offices were part of this effort.

Contracts with artists for this art work were between the artists and the United States of America. The completed art work was to "become the property of the

United States," and I know from the many New Deal tours I have done that citizens take great pride in their New Deal legacy.

Although preparing a historic covenant gives protection to the art work, the context and public access to the work is critical. The context of the building for which it was created should not be denied as it was in Ukiah, California. If the art work remains in a sold post office and public access is limited, this also denies its importance as a public legacy as it was in Venice, California.

I could recommend changes or improvement in the manner in which the USPS conducts Section 106 reviews. However, what comes first is the bad faith of the USPS in the entire proceeding of selling historic buildings and art work and the partisan political motivation of the entire matter. What we need at this point is a very loud cry from agencies like yours that this entire issue of the liquidation of postal properties is fraught with irregularities. It should be clear that we should not be concerned about mitigating adverse effects before we question what is nothing more than a heist of our cultural heritage.

The National New Deal Preservation Association, as well as the Berkeley-based Living New Deal, are deeply concerned about what we regard as a theft of our historic public assets. The redistribution of postal resources to the private sector certainly does not reflect the values under which they were originally created and betrays the expected stewardship responsibility for them by the USPS. Therefore, the National New Deal Preservation Association would request being appointed a consulting party under Section 106 for any New Deal post office or art work which is being considered for sale.

Thank you for your time.