

# Historic Preservation



# Historic Preservation

## *Law and Culture*

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### Cases and Materials

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*We dedicate this casebook with gratitude in honor of Dorothy M. Miner.*

Nicholas A. Robinson and Shelby D. Green



New York Preservation Archive Project



# Dedication

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## *Dorothy Marie Miner*

1936–2008

Dorothy Miner taught Historic Preservation Law at the Columbia University’s School of Architecture and at Pace University’s School of Law, for each of the fourteen years before her death. She curated many of the materials included in this casebook. For nineteen years before her academic life, she served as the first General Counsel to the New York City Landmarks Preservation Commission. What she accomplished with and for the Landmarks Preservation Commission was extraordinary. Within weeks of her death, New York City Corporation Counsel’s office honored her by rededicating its highest service award, which recognizes legal counsel serving across all the City’s agencies, in her name. The State of New York coincidentally honored her the very same day. One lawyer can make all the difference.

Perpetually understaffed, the Landmarks Preservation Commission hired Dorothy to become its only staff attorney in 1975. This was a time of great uncertainty about the constitutionality of the City’s Landmarks Preservation Law. State courts had divided over the legality of the landmark status conferred upon Grand Central Terminal and the case was on appeal. The New York City Real Estate Board had told Mayor Robert Wagner that the law was unconstitutional before he signed it into law in 1965. Dorothy became a key player on the City’s small legal team that won the 1978 United States Supreme Court’s ruling in *Penn Central Transp. Co. v. New York City*, upholding the constitutionality of New York’s landmarks law. Dorothy loved the enduring quality of Justice William J. Brennan’s decision. When opponents of landmarks laws railed on, she never tired of quoting Justice Sandra Day O’Connor’s later ruling in 2002 that “Our polestar remains the principles set forth in *Penn Central* . . .” Today, municipalities across the United States pattern their landmark procedures on those that Dorothy Miner designed in New York City. She loved to recall how Justice Brennan exclaimed, every time he walked out of Grand Central Terminal, how great it was to see the sky above the landmark terminal.

Throughout her life, Dorothy’s integrity and commitment to core values was invincible, leaving no room for expedient compromising. She loved accuracy and truth, for its own sake, and had an appetite for meticulous and tireless craftsmanship in drafting legal documents replete with all their minutia and detail. She served the Landmarks Preservation Commission and a succession of Commission chairs with

dedication. Self-effacing to a fault, Dorothy sought no limelight, serving both her principals and her principles ably. On April 27, 1965, after the City's Landmarks Preservation Law was adopted, the *New York Times* warned that "The past is yet to be secured for the future." Its editorial page opined that "It will take imagination, dedication, concern, citizen action, private financing and public cooperation to effect preservation under the new law." When Dorothy died on October 23, 2008, the *New York Times* hailed her as "a legal innovator." Historic preservation law thrives today, imbued with Dorothy's intellect.



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