

STATE OF MICHIGAN
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
STATE HISTORIC PRESERVATION REVIEW BOARD

SHANTEZ HENDERSON,
Petitioner,

v

MSHDA Case No. 12-002-HP
SOAHR Docket No. 12-000048

CITY OF DETROIT HISTORIC DISTRICT
COMMISSION,
Respondent.

FINAL DECISION AND ORDER

This matter involves an appeal of a November 14, 2011 written decision of the City of Detroit Historic District Commission, which denied a request to issue a Certificate of Appropriateness to demolish the historic resource located at 350 Parkview in the Berry Subdivision Historic District, Detroit, Michigan.

The State Historic Preservation Review Board (Board) has jurisdiction to consider this appeal under Section 5(2) of the Local Historic Districts Act, as amended, being Section 399.205 of the Michigan Compiled Laws.

At the request of the Board, the Michigan Administrative Hearing Services (MAHS), which is housed in the Michigan Department of Licensing and Regulatory Affairs, convened an administrative hearing on May 2, 2012. This was a limited hearing focused on the issue of whether the Commission improperly denied the Petitioner's request for a Certificate of Appropriateness. Presiding at the hearing was MAHS Administrative Law Judge David Cohen.

Before commencement of the proceeding, Judge Cohen requested that the parties speak to one another to assess whether a negotiated settlement was possible. Judge Cohen clearly indicated that if a negotiated resolution could not be attained that the hearing would proceed. During the following conversation between the parties, Petitioner Henderson left before the parties could resolve the matter. After waiting for a reasonable period of time for the Petitioner to reappear and checking the hallway for the Petitioner, the hearing proceeded in his absence pursuant to Section 72(1) of the Administrative Procedures Act of 1969, as amended, being Section 24.272 of Michigan Compiled Laws.

Sec. 72(1) provides in pertinent part that “[i]f a party fails to appear in a contested case after proper service of notice, the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party.”

On May 3, 2012, Judge Cohen issued and entered into the record a Proposal for Decision and true copies of the Proposal for Decision were served on the parties and their legal representatives, if any, pursuant to Section 81(1) of the Administrative Procedures Act of 1969, as amended, being Section 24.281 of Michigan Compiled Laws.

The Board considered this appeal, along with the Proposal for Decision and all post-hearing filings and responses to filings submitted by the parties, at its regularly scheduled meeting conducted on September 14, 2012. After considering the Proposal for Decision and the official record made in this matter, the Board determined that the Petitioner had been provided with the opportunity to be heard on two separate occasions, first by the City of Detroit Historic District Commission and second by Judge Cohen as provided by Section 5(2) of 1970 PA 169, as amended. The Board then voted

6-0, with 1 abstention(s), to ratify, adopt and promulgate the Proposal for Decision as the Final Decision of the Board in this matter, and to incorporate the Proposal for Decision into this document; and,

Having done so,

IT IS ORDERED that the appeal is DENIED and the case is DISMISSED.

IT IS FURTHER ORDERED that a true copy of this Final Decision and Order shall be served on the parties and their legal representatives, if any, as soon as is practicable.

Dated: 22 October 2012



Dr. Richard H. Harms, Chairperson
State Historic Preservation Review Board

NOTE: Section 5(2) of the Local Historic Districts Act provides that an applicant aggrieved by a decision of the State Historic Preservation Review Board may appeal the Board's decision to the circuit court having jurisdiction over the commission whose decision was appealed to the Board. Under section 104(1) of the Administrative Procedures Act, such appeals must be filed with the circuit court within 60 days after the date notice of the Board's Final Decision and Order is mailed to the parties.

PROOF OF SERVICE

I hereby certify that a copy of the foregoing Final Decision and Order was served upon all parties named in this matter, their attorneys of record if any, and other appropriate State of Michigan officials and employees, by inter-departmental mail to those persons employed by the State, and by first class United States mail and/or certified mail return receipt requested, to all others at their respective addresses noted below, as disclosed by the official case record, on October 26, 2012.

Scott M. Grammer
Administrative Law Specialist
Legal Affairs – Preservation Office

Shantez Henderson
PO Box 1519
Warren, MI 48090

Susan McBride
City of Detroit Historic District Commission
65 Cadillac Square, Suite 1300
Detroit, MI 49001

John Nader
City of Detroit Law Department
660 Woodward Avenue, Suite 1650
Detroit, MI 48226

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:

Shantez Henderson,
Petitioner

v

City of Detroit Historic District Commission,
Respondent

Docket No.: 12-000048-HAL

Case No.: 12-002-HP
Agency: History Arts Library

Case Type: HAL

Filing Type: Appeal

Issued and entered
this 3rd day of May, 2012
by: David M. Cohen
Administrative Law Judge

PROPOSAL FOR DECISION

This is a proceeding held pursuant to the authority granted in Section 5(2) of 1970 PA 169, as amended, MCL 399.205(2), the Local Historic Districts Act (Act 169) and 1969 PA 306, as amended, MCL 24.101 *et seq.*, the Administrative Procedures Act (APA).

The purpose of this review is to examine Petitioner's January 3, 2012 appeal to the State Historic Preservation Review Board regarding a November 14, 2011 Notice of Denial issued by the Detroit Historic District Commission. Specifically, Petitioner appeals a denial of an application for building permits regarding 350 Parkview, Berry Subdivision Historic District.

A hearing was held on May 2, 2012, at the at the Michigan Administrative Hearing System, Cadillac Place, 2nd Floor Annex, Suite 2-700, 3026 West Grand Boulevard, Detroit, Michigan. Present for the Hearing was Attorney John Nader for Respondent. Also present for Respondent was Susan McBride and Building Inspector Glenn Davis. Attorney Cheryl Smith Williams accompanied Attorney Nader for observational purposes.

Petitioner Shantez Henderson was initially present for the hearing. Before commencement of the proceeding, I requested that the parties speak to one another to assess whether a negotiated settlement was possible. It was clearly indicated that the hearing would proceed if a negotiated resolution was not obtained. I then removed myself from the room.

During the following conversation between the parties, Petitioner Henderson left. The representation of Respondent's representatives was to the effect that Petitioner's departure was unsettling. It was indicated that the Petitioner slammed the swinging gate in the back of hearing room with such force that it put a crack into the wall.

After waiting more than a reasonable period of time for the Petitioner to reappear, and checking the hallway for the Petitioner, the hearing proceeded in his absence pursuant to Section 72(1) of the APA.

§ 72(1) of the APA provides, in pertinent part:

If a party fails to appear in a contested case after proper service of notice, the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party.

Based on the above, I find that the Petitioner failed to appear for the scheduled hearing. I find that Petitioner, as the moving party, had a duty to appear in order to present competent evidence to support the appeal.

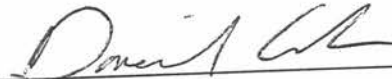
In light of the above, it is recommended that Petitioner's appeal be dismissed.

EXCEPTIONS

If a party chooses to file Exceptions to this Proposal for Decision, the Exceptions must be filed within fifteen (15) days after the Proposal for Decision is issued. If an opposing party chooses to file a Response to the Exceptions, it must be filed within ten (10) days after the Exceptions are filed. All Exceptions and Responses to Exceptions must be filed with the State Historic Preservation Review Board, by submission to the:

Michigan State Housing Development Authority
Attention: Scott M. Grammer
702 West Kalamazoo Street
P.O. Box 30740
Lansing, Michigan 48909

All filings must also be served on all other parties to the proceeding.



David M. Cohen
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed below this 3rd day of May, 2012.

Maria Ardelean

Maria Ardelean

Michigan Administrative Hearing System

John Nader
City of Detroit Law Department
660 Woodward Avenue, Suite 1650
Detroit, MI 48226

Scott M. Grammer
State Historic Preservation Review Board
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Susan McBride
City of Detroit Historic District Commission
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Detroit, MI 49001

Shantez Henderson
P.O. Box 1519
Warren, MI 48090

Grammer, Scott (MSHDA)

From: Grammer, Scott (MSHDA)
Sent: Monday, October 22, 2012 2:29 PM
To: RHARMS@calvin.edu
Subject: Final Decision and Order: Henderson v. Detroit HDC; Case No. 12-002-HP
Attachments: 01 FDO Henderson v City of Detroit HDC 10.22.12.doc

Dear Dr. Harms,

Please find attached a draft Final Decision and Order (FD&O) to reflect the Review Board's thinking and decision in the Shantez Henderson v Detroit Historic District Commission appeal presented at the Board's September 14, 2012 meeting. As you may recall, this case concerns the City of Detroit's denial of a certificate of appropriateness for the demolition of historic resources at 350 Parkview in the Berry Subdivision Historic District, Detroit, Michigan. You may also recall that Mr. Henderson left before the hearing was commenced.

In the draft FD&O, I have tried to stay as true as possible to the minutes of the Board meeting, in particular referencing Ms. Knibbe's statements that the Petitioner had received two separate opportunities to be heard.

Please review the FDO at your convenience and make any changes you deem necessary. When you are satisfied with the text, please print the signature page and sign and date it in blue ink; then, please mail it to me at the address noted below. If you make any changes, please send me an electronic copy of the revised document.

I will mail the decision to the parties and their attorneys as soon as I receive your signed signature page. If you have any questions, please feel free to call.

Best Regards,

Scott M. Grammer
Counsel for Historic Preservation
Legal Affairs - Preservation Office
Michigan State Housing Development Authority
702 W. Kalamazoo Street PO Box 30740
Lansing, MI 48909-8240
Office: (517) 373-4765 Fax: (517) 335-0348

For information about MSHDA and social networking, visit <http://www.michigan.gov/mshdasocialnetwork>

This email is intended for informational purposes only and should not be construed as legal advice. It may, however, contain information that is privileged or otherwise exempt from disclosure under law. If you believe you've received this email in error, please advise me by return email and delete it from your mailbox. If you are not the intended recipient, you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited. Thank you.

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:

Docket No.: 12-000048

Shantez Henderson,
Petitioner

Case No.: 12-002-HP

V

Agency: History Arts Library

City of Detroit Historic District
Commission,
Respondent

Case Type: HAL

CERTIFICATION OF RECORD

I, Maria Ardelean hereby certify that the attached Register of Actions constitutes the entire record of the proceedings in the above captioned matter.

In Witness Whereof, I have hereunto set my hand and caused the Seal of the Michigan Administrative Hearing System to be hereunto affixed this Thursday, May 31, 2012.



Maria Ardelean
Michigan Administrative Hearing System

MAHS Lansing Office
History Arts Library
Register of Actions

Case Number: 12-000048 (Shantez Henderson v City of Detroit Historic District Commission)

Parties	Representatives
Shantez Henderson Petitioner	Self Represented
City of Detroit Historic District Commission	Scott M. Grammer
City of Detroit Historic District Commission	Susan McBride
City of Detroit Historic District Commission	Timothy Beckett
Respondents	

Active Assignments

Judge: David M. Cohen
Scheduler: Jackie Peoples
Secretary: Maria Ardelean

Action Date	Action	Amount Transaction
1/25/2012	An evidentiary hearing has been scheduled.	Schedule:110758
1/25/2012	A Request for Hearing was received.	Document:134404
1/25/2012	Notice of Hearing with Proof of Service	Document:134405
2/16/2012	Appearance with Proof of Service filed by John M. Nader on behalf of the Respondent	Document:134772
2/16/2012	Respondent's Motion to Dismiss Appeal or for Adjournment of Appeal	Document:134773
2/22/2012	An evidentiary hearing has been scheduled.	Schedule:110953
2/22/2012	Hearing Adjourned w/ Fixed Date.	Evt Result:110758
2/23/2012	Order Granting Adjournment with Proof of Service	Document:134898
3/30/2012	An evidentiary hearing has been scheduled.	Schedule:111446
4/2/2012	Hearing Adjourned w/ Fixed Date.	Evt Result:110953
4/3/2012	Order of Adjournment with Proof of Service	Document:136381
5/2/2012	Hearing was completed.	Evt Result:111446
5/3/2012	Proposal for Decision with Proof of Service	Document:137931
5/3/2012	Proposed Final Decision	Disposition:124806
5/31/2012	Certification of Record with Register of Actions	Document:139367

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM**

IN THE MATTER OF:

Docket No.: 12-000048-HAL

**Shantez Henderson,
Petitioner**

**Case No.: 12-002-HP
Agency: History Arts Library**

v

Case Type: HAL

**City of Detroit Historic District Commission,
Respondent**

Filing Type: Appeal

**Issued and entered
this 3rd day of May, 2012
by: David M. Cohen
Administrative Law Judge**

PROPOSAL FOR DECISION

This is a proceeding held pursuant to the authority granted in Section 5(2) of 1970 PA 169, as amended, MCL 399.205(2), the Local Historic Districts Act (Act 169) and 1969 PA 306, as amended, MCL 24.101 *et seq.*, the Administrative Procedures Act (APA).

The purpose of this review is to examine Petitioner's January 3, 2012 appeal to the State Historic Preservation Review Board regarding a November 14, 2011 Notice of Denial issued by the Detroit Historic District Commission. Specifically, Petitioner appeals a denial of an application for building permits regarding 350 Parkview, Berry Subdivision Historic District.

A hearing was held on May 2, 2012, at the at the Michigan Administrative Hearing System, Cadillac Place, 2nd Floor Annex, Suite 2-700, 3026 West Grand Boulevard, Detroit, Michigan. Present for the Hearing was Attorney John Nader for Respondent. Also present for Respondent was Susan McBride and Building Inspector Glenn Davis. Attorney Cheryl Smith Williams accompanied Attorney Nader for observational purposes.

Petitioner Shantez Henderson was initially present for the hearing. Before commencement of the proceeding, I requested that the parties speak to one another to assess whether a negotiated settlement was possible. It was clearly indicated that the hearing would proceed if a negotiated resolution was not obtained. I then removed myself from the room.

During the following conversation between the parties, Petitioner Henderson left. The representation of Respondent's representatives was to the effect that Petitioner's departure was unsettling. It was indicated that the Petitioner slammed the swinging gate in the back of hearing room with such force that it put a crack into the wall.

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§ 72(1) of the APA provides, in pertinent part:

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Based on the above, I find that the Petitioner failed to appear for the scheduled hearing. I find that Petitioner, as the moving party, had a duty to appear in order to present competent evidence to support the appeal.


In light of the above, it is recommended that Petitioner's appeal be dismissed.

EXCEPTIONS

If a party chooses to file Exceptions to this Proposal for Decision, the Exceptions must be filed within fifteen (15) days after the Proposal for Decision is issued. If an opposing party chooses to file a Response to the Exceptions, it must be filed within ten (10) days after the Exceptions are filed. All Exceptions and Responses to Exceptions must be filed with the State Historic Preservation Review Board, by submission to the:

Michigan State Housing Development Authority
Attention: Scott M. Grammer
702 West Kalamazoo Street
P.O. Box 30740
Lansing, Michigan 48909

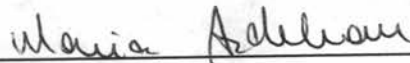
All filings must also be served on all other parties to the proceeding.



David M. Cohen
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed below this 3rd day of May, 2012.



Maria Ardelean

Michigan Administrative Hearing System

John Nader
City of Detroit Law Department
660 Woodward Avenue, Suite 1650
Detroit, MI 48226

Scott M. Grammer
State Historic Preservation Review Board
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Susan McBride
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Detroit, MI 49001

Shantez Henderson
P.O. Box 1519
Warren, MI 48090

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:

Docket No.: 12-000048-HAL

Shantez Henderson,
Petitioner

Case No.: 12-002-HP
Agency: History Arts &
Library

v

City of Detroit Historic District Commission,
Respondent

Case Type: HAL


Filing Type: Appeal

Issued and entered
this 3rd day of April, 2012
by:
David M. Cohen
Administrative Law Judge

ORDER OF ADJOURNMENT

Pursuant to notice a hearing date was scheduled in the above captioned matter for March 29, 2012 at 9:00 a.m. Due to a conflict in the Administrative Law Judge's schedule this matter was adjourned.

NOW THEREFORE, IT IS ORDERED that the hearing scheduled for March 29, 2012, is adjourned. The hearing in the above captioned matter will be held at **9:00 a.m.** on **May 2, 2012**, at the Michigan Administrative Hearing System, Cadillac Place, 2nd Floor Annex, Suite 2-700, 3026 W. Grand Blvd., Detroit, Michigan.



David M. Cohen
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed below this 3rd day of April, 2012.



Maria Ardelean

Michigan Administrative Hearing System

Timothy Beckett/John Nader
City of Detroit Law Department
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Susan McBride
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Detroit, MI 49001

Shantez Henderson
P.O. Box 1519
Warren, MI 48090

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:

Docket No.: 12-000048

Shantez Henderson,
Petitioner

12-002-HP

Case No.:

v

Agency: History Arts &
Library

City of Detroit Historic District
Commission,
Respondent

Case Type: Appeal

Issued and entered
this 23rd day of February, 2012
by:
David M. Cohen
Administrative Law Judge

ORDER GRANTING ADJOURNMENT

On February 15, 2012, John M. Nader, Senior Assistant Corporation Counsel, on behalf of the Respondent, City of Detroit, requested an adjournment of the hearing scheduled for February 23, 2012, in the above captioned matter.

NOW THEREFORE, IT IS ORDERED that the hearing scheduled for February 23, 2012, is adjourned. The hearing in the above captioned matter will be held at **9:00 a.m.** on **March 29, 2012**, the Michigan Administrative Hearing System, Cadillac Place, 2nd Floor Annex, Suite 2-700, 3026 W. Grand Blvd., Detroit, Michigan



David M. Cohen
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed below this 23rd day of February, 2012.

Maria Ardelean

Maria Ardelean

Michigan Administrative Hearing System

John Nader/Timothy Beckett
City of Detroit Law Department
660 Woodward Avenue, Suite 1650
Detroit, MI 48226

Scott M. Grammer
State Historic Preservation Review Board
702 West Kalamazoo Street
Lansing, MI 48909

Susan McBride
City of Detroit Historic District Commission
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Detroit, MI 49001

Shantez Henderson
P.O. Box 1519
Warren, MI 48090

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

*Grant a
30 day
adjournment
DMC
2-12-12*

IN THE MATTER OF:

Shantez Henderson,
Petitioner

Docket No.: 12-000048-HAL

Case No. 12-002-HP

V

Agency: History, Arts & Library

Administrative Law Judge: David Cohen

City of Detroit Historic District Commission,

Respondent.

Shantez Henderson
In Propria Persona
Petitioner
P. O. Box 1519
Warren, MI 48090
(313) 333-5849
email: ShantezHenderson@hotmail.com

CITY OF DETROIT LAW DEPARTMENT
By: John M. Nader (P41610)
Senior Assistant Corporation Counsel
Attorneys For Respondent
660 Woodward Avenue, Suite 1650
Detroit, MI 48226
(313) 237-3034
Fax: (313) 237-6327
Email: nadej@detroitmi.gov

**RESPONDENT'S MOTION TO DISMISS APPEAL OR FOR
ADJOURNMENT OF APPEAL**

The Respondent, City of Detroit Historic District Commission, through its attorneys, the City of Detroit Law Department, for its Motion To Dismiss Appeal or To Adjourn Appeal, states as follows:

- 1) The application to the Detroit Historic District Commission (hereinafter "DHDC") in this matter was first heard at the October 12, 2011 DHDC meeting. Petitioner Mr. Henderson was not present at that meeting. Instead, he sent a representative from his neighborhood to

attend. The Commissioners did not have complete plans from him, nor could he answer their questions about the application. They therefore adjourned his application to the November 2011 meeting.

2) At the November 9, 2011 Detroit Historic District Commission Meeting, Mr. Henderson again did not appear. Having no way to have their questions answered by Mr. Henderson, and also having an incomplete set of plans before them, the DHDC denied his application. It is from this denial that he now appeals.

3) After filing this Appeal, Mr. Henderson asked to be included on the February 8, 2012 agenda as a new application before the Detroit Historic District Commission. Mr. Henderson then failed to submit the materials timely, and did not appear at the meeting. His application was deemed incomplete, and thus was removed from the February 8, 2012 DHDC meeting agenda.

4) When Mr. Nader, the attorney for the DHDC received the Notice of Appeal, he contacted Mr. Henderson by email (as he could not leave a voice mail on Mr. Henderson's phone) to ask if Mr. Henderson had ordered the transcripts from the October 12, 2011 and the November 9, 2011 DHDC meetings.

5) Mr. Nader determined that Mr. Henderson had not ordered either transcript. Mr. Nader then immediately called Susan McBride, Staff Person at the City of Detroit Planning and Development Department responsible for ordering all transcripts, and asked her to order both immediately. She advised Mr. Nader that neither transcript would be ready for the February 23, 2012 Appeal hearing in this matter.

6) Mr. Nader then called and emailed Mr. Henderson asking for a stipulated adjournment of

the hearing due to the unavailability of the transcripts. As Mr. Henderson refused to stipulate to an adjournment, Mr. Nader was forced to file this motion, as the transcripts are essential to the Appeal.

7) The transcripts are essential to the Appeal because the DHDC's decision must be reviewed to see if it was based on competent, material and substantial evidence on the record. Without the transcripts, it will be impossible for the Administrative Law Judge to determine how the DHDC reached their decision, and the thought processes involved therein.

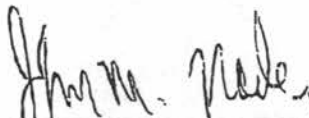
8) Lastly, Mr. Nader received a telephone call from Brian Hurtienne, an architect with significant experience in appearing before the Detroit Historic District Commission and other City of Detroit Departments such as the Board of Zoning Appeals, and the Buildings, Safety, Engineering and Environmental Department. Mr. Hurtienne indicated that he may be assisting Petitioner, and that another hearing on a new application before the Detroit Historic District Commission may be filed. That new application would render this Appeal moot, especially if the DHDC were to grant Petitioner's application for either a Notice To Proceed or a Certificate of Appropriateness. This Appeal should thus be dismissed if a new application is filed.

WHEREFORE, Respondent Detroit Historic District Commission requests that this Administrative Law Judge:

- 1) Dismiss this Appeal if the Court determines that mr. Henderson will file a new application with the DHDC; or, in the alternative,
- 2) Adjourn the February 23, 2012 Appeal hearing, until the transcripts are available; or, in the alternative,

- 3) Allow the filing of the transcripts as supplemental exhibits if the Court is inclined to proceed with the February 23, 2012 hearing on the Appeal.

Respectfully Submitted,

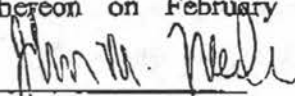


CITY OF DETROIT LAW DEPARTMENT
By: John M. Nader (P41610)
Senior Assistant Corporation Counsel
Attorneys for Respondent
660 Woodward Avenue, Suite 1650
Detroit, MI 48226 (313) 237-3034
Fax: (313) 237-6327
nadej@detroitmi.gov

Dated: February 15, 2012

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument and documents were served on the attorney(s) of record of all parties and all unrepresented parties to the above cause by mail, fax where available, and email to them at their respective mail and email addresses as disclosed by the pleading of record herein, with postage fully prepaid thereon on February 15, 2012.



John M. Nader

STATE OF MICHIGAN

MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:

Shantez Henderson,

Petitioner

V

City of Detroit Historic District Commission,

Respondent

Docket No.: 12-000048-HAL

Case No. 12-002-HP

Agency: History, Arts & Library

Administrative Law Judge: David Cohen

Shantez Henderson
In Propria Persona
Petitioner
P. O. Box 1519
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(313) 333-5849
email: ShantezHenderson@hotmail.com

CITY OF DETROIT LAW DEPARTMENT
By: John M. Nader (P41610)
Senior Assistant Corporation Counsel
Attorneys For Respondent
660 Woodward Avenue, Suite 1650
Detroit, MI 48226
(313) 237-3034
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Email: nadej@detroitmi.gov

APPEARANCE

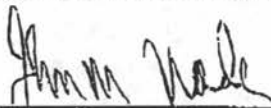
TO: Jacqueline R. Peoples
Michigan Administrative Hearing System
P.O. Box 30695
Lansing, MI 48909
Fax No. (517) 241-8541

Scott M. Grammer
State Historic Preservation Review Board
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grammars@michigan.gov

Shantez Henderson, Petitioner
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Warren, MI 48090
(313) 333-5849
email: ShantezHenderson@hotmail.com

I appear on behalf of the Respondent City of Detroit Historic District Commission
as their attorney, and request copies of all papers filed in this case.

I certify that I represent no other interest whatsoever of any party to this cause.

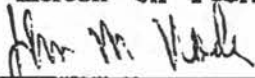


CITY OF DETROIT LAW DEPARTMENT
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Detroit, MI 48226 (313) 237-3034
Fax: (313) 237-6327
nadej@detroitmi.gov

Dated: February 15, 2012

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The undersigned certifies that a copy of the foregoing instrument and documents were served on the attorney(s) of record of all parties and all unrepresented parties to the above cause by mail, fax where applicable, and email to them at their respective mail and email addresses as disclosed by the pleading of record herein, with postage fully prepaid thereon on February 15, 2012.



John M. Nader



CITY OF DETROIT LAW DEPARTMENT FAX

First Fax To: Jacquelyn H. Peoples Fax Number: (517) 241-8541

Second Fax To: _____ Fax Number: _____

Third Fax To: _____ Fax Number: _____

Date and Time: 2-15-12 3:30pm

From: John M. Nadeau Telephone Number: (313) 224-5304

Number of pages: 7

including covers

COMMENTS: MS. Peoples: (Case 12-007-HP)

Enclosed via fax is my appearance

and motion to adjourn the February

23, 2012 appeal.

John M. Nadeau

IMPORTANT NOTICE

The transmitted documents are intended only for the person named above, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient or the person responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of the documents transmitted with this transmittal sheet is strictly prohibited. If you have received this communication in error, please notify us immediately at (313) 224-5300, Ext. 22210.

Thank you.

CITY OF DETROIT
LAW DEPARTMENT
1650 First National Building
Detroit, Michigan 48226
Telephone: (313) 224-5300
Facsimile: (313) 224-5306

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

DATE NOTICE MAILED: 1/26/2012

IN THE MATTER OF:

Shantez Henderson,
Petitioner

Docket No.: 12-000048-HAL

Case No.: 12-002-HP

V

Agency: History, Arts &
Library

City of Detroit Historic District
Commission,
Respondent

Case Type: Appeal

NOTICE OF HEARING

You are hereby notified that a formal administrative hearing under the jurisdiction of the 1970 PA 169, SEC. 5 (2), as amended, MCL 399.205 has been scheduled before an Administrative Law Judge on:

Date: Thursday, February 23, 2012

Time: 9:00 AM

Administrative Law Judge: David Cohen

Location: Detroit Hearing Room #5
3026 W. Grand Blvd
Suite 2-700
2nd Floor Annex, Cadillac Place
Detroit, MI 48202

Issue: Whether the City of Detroit Historic District Commission's (Commission) denial of the Petitioner's request to demolish the historic structure located in the City of Detroit's Berry Subdivision Historic District at 350 Parkview, is erroneous and should be reversed because the Commission's decision is arbitrary and capricious, is in contravention of the Secretary of Interior's standards for Rehabilitation, and had been previously approved.

The case will be conducted in accordance with procedures applicable to the trial of contested cases under the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.201 et seq. At the discretion of the Administrative Law Judge, a pre-hearing conference may be held among the parties at the beginning of the hearing.

12-000048-HAL

All pleadings and motions shall be filed with the **Michigan Administrative Hearing System at P.O. Box 30695, Lansing, Michigan 48909**; or by facsimile at **(517) 241-8541**. You must send a copy of everything you file to the opposing party as listed on the proof of service accompanying this Notice.

If the opposing party files a motion, you must respond within seven days after you receive it, unless the Administrative Law Judge sets a different time for response. You are further notified that you may be represented by an attorney or representative; law permitting, at the hearing. You may present evidence or call witnesses. If you wish to offer any document(s) into evidence at the hearing, you must bring the document to introduce into the record, your own copy, and a copy for the opposing party. The Michigan Administrative Hearing System is not responsible for photocopying your documents.

In the event that you fail to appear at the hearing as scheduled, a default judgment or decision may be entered against you pursuant to the Administrative Procedures Act.

All hearings are conducted in a barrier free location and are in compliance with the 1990 Americans with Disabilities Act. A disabled individual requiring accommodation for effective participation in a hearing should call the Michigan Administrative Hearing System at: (517) 335-2484 to make arrangements. To ensure the availability of accommodations, a request should be made at least one week in advance.

All hearing attendees must present picture identification to gain access to State Office Buildings. Failure to present picture identification will result in denial of access.

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 26th day of January, 2012.

Jacquelyn R. Peoples

Jacquelyn R. Peoples
Michigan Administrative Hearing System

Timothy Beckett
City of Detroit Law Department
660 Woodward Avenue, Suite 1650
Detroit, MI 48226

Scott M. Grammer
State Historic Preservation Review Board
702 West Kalamazoo Street
Lansing, MI 48909

Susan McBride
City of Detroit Historic District Commission
65 Cadillac Square, Suite 1300
Detroit, MI 49001

Shantez Henderson
P.O. Box 1519
Warren, MI 48090

REQUEST FOR HEARING

RECEIVED

JAN 19 2012

MICHIGAN ADMINISTRATIVE HEARING SYSTEM

1. IN THE MATTER OF
Shantez Henderson,
Petitioner

v
City of Detroit Historic District Commission,
Respondent.

2. ISSUE
Whether the City of Detroit Historic District Commission's (Commission) denial of the Petitioner's request to demolish the historic structure located in the City of Detroit's Berry Subdivision Historic District at 350 Parkview, is erroneous and should be reversed because the Commission's decision is arbitrary and capricious, is in contravention of the Secretary of Interior's Standards for Rehabilitation, and had been previously approved.

3. INITIATING AGENCY'S FILE NUMBER 12-002-HP	4a. STATUTORY START DATE January 3, 2012	4b. DAYS ALLOWED 120
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5. AGENCY Michigan State Housing Development Authority	6. DIVISION State Historic Preservation Review Board (SHPRB)
---	---

7. ACT/ CODE OF LAW
Local Historic Districts Act, 1970 PA 169, as amended

8. PROVISION OF LAW
Section 5(2) of the LHDA, MCL 399.205

9. CHAPTER/ SECTION OF LAW

10. CASE TYPE Appeal	11. CASE SUB-TYPE Certificate of Appropriateness
-------------------------	---

12. GEOGRAPHICAL AREA
Detroit, MI

13. PREPARED BY Scott M. Grammer	PHONE NUMBER 373-4765	FAX NUMBER 335-1630	DATE PREPARED January 11, 2012
-------------------------------------	--------------------------	------------------------	-----------------------------------

14. Refer to Request for Hearing Instructions.

15. COMMENTS
Please append the attached "Claim of Appeal" (dated January 3, 2012) and the HDC denial letter (dated November 14, 2011) to the first Notice of Nearing that SOAHR will issue in this case.

The next SHPRB meeting is tentatively scheduled for January 20, 2012.

For Bureau of Hearings Use Only

DATE RECEIVED 1-19-12	DATE COMPLETED	COMPLETED BY JRP
DOCKET NUMBER 12-000048	ALJ ASSIGNED Cohen	

COMMENTS
Thu, 2-23-12 9⁰⁰ CT PM 5-D Grammer



RICK SNYDER
GOVERNOR


STATE OF MICHIGAN
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
STATE HISTORIC PRESERVATION OFFICE

GARY HEIDEL
EXECUTIVE DIRECTOR

MEMORANDUM

DATE: January 11, 2012

TO: Jacquelyn Peoples, Scheduler
State Office of Administrative Hearings and Rules

FROM: Scott M. Grammer 
Legal Affairs – Preservation Office
Michigan State Housing Development Authority

SUBJECT: **Shantez Henderson, Petitioner v City of Detroit Historic District
Commission, Respondent; Legal Affairs – Preservation Office File No. 12-
002-HP**

Attached is a completed SOAHR Request for Hearing form regarding the above-referenced contested case. Also attached are the pleadings and related documents filed to date in the case.

Please proceed to schedule an administrative hearing for this case at your earliest convenience.

As always, thank you for your assistance in this matter and please feel free to call me if you have any questions (3-4765).

Attachments

Shantez Henderson

P.O. BOX 1519 • Warren, MI 48090 • Phone: 313-333-5849 •
E-Mail: ShantezHenderson@hotmail.com

Date: January 3, 2012

Brian D. Conway
State Historic Preservation Officer
Michigan Historical Center
702 W. Kalamazoo Street
P.O. box 30740
Lansing, Michigan 48909-8240

RE: Application Number 11-140 & 11-141; 350 Parkview; Berry Subdivision Historic District

Dear Mr. Conway:

I would like to appeal the decision made by the Detroit Historic Commission made on November 9th 2011. I was granted permission to in September 2009 to build two additions and remove a complete change the exterior of the home with only the reuse of the exterior brick on one portion of the home. During the construction phase we had a number of building structural irregularities that lead to a complete demolition of the framing, with only the basement and foundation remaining.

I have not changed my prints and still have plans to build the exact same home using the same materials that I was approved for back in 2009. The Detroit Zoning board agrees and has no argument and understands that I'm bonded by the same set backs and restrictions that I had before. I would like to build the home back to the same scale and size that it was before with the proposed additions that I had back in 2009, which the board approved.

In that previous judgment the structure did not meet the standards but the board approved it. Now that the framing is not there I'm not sure why the decision has change.

Sincerely,

Shantez Henderson

November 14, 2011

NOTICE OF DENIAL

Mr. Shantez Henderson
P.O. Box 1519
Warren, MI 48090

**RE: Application Number 11-140 & 11-141; 350 Parkview; Berry Subdivision
Historic District**

Dear Mr. Henderson:

At its regularly scheduled meeting on November 9, 2011, the Detroit Historic District Commission ("Commission") reviewed the above-referenced application for building permit. Pursuant to Section 25-2-24 of the 1984 Detroit City Code, the Commission hereby issues a notice of denial which is effective as of November 11, 2011. The Commission finds that the proposed work does not qualify for a certificate of appropriateness for the following reasons:

The demolition of a historic resource and rebuilding the resource as a renovation does not meet the Secretary of the Interior's Standards for Rehabilitation standard number 9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

You may file a new application for consideration if the application is corrected, if new information is obtained regarding the application, or if the scope of work changes. The application can be corrected by applying to do the following:

Submit drawings for new construction that meet the current building codes, zoning and set back requirements along with the cleaning and securing of the property.

The Commission has ordered a fine in the amount of \$500.00 for the demolition of the home under section 25-2-10(c) Enforcement-any person, or organization, individual, partnership, firm, corporation, institution, or agency of government performing work on a resource prior to the issuance of or contrary to conditions specified in a certificate of appropriateness or notice to proceed, or permit issued for work on a resource shall, upon conviction, be subject to a five hundred dollar (\$500.00) fine.

Please be advised that a permit applicant that is aggrieved by a decision of the Detroit Historic District Commission concerning a permit application, may file an appeal with the State Historic Preservation Review Board. Within sixty (60) days of your receipt of this notice, an appeal may be filed with:

CITY OF DETROIT
HISTORIC DISTRICT COMMISSION

65 CADILLAC SQ., SUITE 1300
DETROIT, MICHIGAN 48226
PHONE 313-224-6536
FAX 313-224-1310

Brian D. Conway
State Historic Preservation Officer
Michigan Historical Center
702 W. Kalamazoo Street
PO Box 30740
Lansing, Michigan 48909-8240

Once this administrative right of appeal has been exhausted, a permit applicant may file an appeal of the decision of the State Historic Preservation Review Board with the circuit court.

If you have any questions regarding the foregoing, please contact Timothy Beckett, Counsel for the Commission at (313)237-3008.

On behalf of the commission:



Susan M. McBride
Staff
Detroit Historic District Commission

copy: Daljit Benipal, BSE&E
Timothy Beckett, Law Department



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
LANSING

GARY HEIDEL
EXECUTIVE DIRECTOR

August 13, 2012

SHANTEZ HENDERSON
PO BOX 1519
WARREN, MI 48090

NOTICE OF BOARD MEETING

JOHN NADER
CITY OF DETROIT LAW DEPARTMENT
660 WOODWARD AVENUE, SUITE 1650
DETROIT, MI 48226

Re: *Shantez Henderson v City of Detroit Historic District Commission*
State Office of Administrative Hearings and Rules Docket No. 12-000048
Michigan State Housing Development Authority, Preservation Office Case No. 12-002-HP

Dear Ms. Henderson and Mr. Nader:

Please take notice that the State Historic Preservation Review Board (Board) has tentatively scheduled this case for consideration at its next regularly scheduled meeting currently set for Friday, September 14, 2012. For your approximate time, please review the enclosed preliminary meeting agenda. (For an updated/final agenda, please contact me at the telephone number provided below). The Board will conduct the meeting at the Michigan State Housing Development Authority located at 735 East Michigan Avenue, Lansing, Michigan, 48909.

Please further note that the Board will review any Exceptions to the Proposal for Decision and any Responses to Exceptions that have been filed in advance of the meeting; however, please note that oral argument is typically not allowed without prior, express Board consent.

Sincerely,

Scott M. Grammer
Legal Affairs
MSHDA
Telephone: (517) 373-4765

cc w/enc: Susan McBride



AGENDA

State Historic Preservation Review Board
September 14, 2012, 10:00 a.m.
Board Room, MSHDA, 735 E. Michigan Ave.
Lansing, Michigan

- 10:00
1. Approval of Agenda
 2. Approval of Minutes of May 18, 2012
 3. Staff Reports
 4. National Register Nominations
- 10:30
- Williamston Downtown Historic District, Williamston, Ingham County – Robert Christensen
Lippsett Hardware Building, Pickford Township, Chippewa County – Robert Christensen
Grand Circus Park Historic District (Additional Documentation), Detroit, Wayne County –
Robert Christensen
Boyne City Central Historic District, Boyne City, Charlevoix County – William Rutter
Hanover High School Complex, Hanover, Jackson County – Elaine Robinson
Benjamin and Maria (Ogden) Drake Farmstead, Oshtemo Charter Township, Kalamazoo
County – Pamela O'Connor
Grand Rapids Storage and Van Company Building, Grand Rapids, Kent County –
Pamela O'Connor
Willard Building, Grand Rapids, Kent County – Grace Smith
Midgaard, Marquette Township, Marquette County – Amanda Reintjes
- 11:40
5. Historic District Study Committee Reports – Amy Arnold
- List forthcoming
6. Appeals/Annual Resolutions – Scott Grammer
- Shantez Henderson v. Detroit Historic District Commission
7. Next Meeting:
January 25, 2013
- 12:15
8. Adjournment

People with disabilities needing accommodations for effective participation in this meeting should contact Bethany Berdes at 517/373-1630 (voice) or 1800/827-7007 (TDD) one week in advance to request mobility, visual, hearing or other assistance.

STATE OF MICHIGAN
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
STATE HISTORIC PRESERVATION REVIEW BOARD

SHANTEZ HENDERSON

Petitioner,

v

MSHDA-PO Case No. 12-002-HP
SOAHR Docket No. 12-000048

CITY OF DETROIT HISTORIC
DISTRICT COMMISSION,

Respondent.

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the NOTICE OF BOARD MEETING was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by United State Postal Service via first class mail to all others at their respective addresses as disclosed by the file on August 13, 2012.



Scott M. Grammer
Legal Affairs
MSHDA – Preservation Office

Shantez Henderson
PO Box 1519
Warren, MI 48090

John Nader
City of Detroit Law Department
660 Woodward Avenue, Suite 1650
Detroit, MI 48226

Susan McBride
City of Detroit Historic District Commission
65 Cadillac Square, Suite 1300
Detroit, MI 49001

RECEIVED

MAY 17 2012

P.O.Box 1519
Warren MI 48090

May 14, 2012

Scott M. Grammer
Michigan State Housing Development Authority
702 West Kalamazoo Street
P.O. Box 30740
Lansing, Michigan 48909

Dear Scott M. Grammar:

I would like to file an exception to the proposal in the case in regards to the property on 350 Parkview. I was unable to represent myself after the conversation conducted with the members representing the city of Detroit. I was extremely frustrated and very flustered to the point that I felt it was best for me to remove myself from the court room immediately. I apologize for my actions, but this is very emotional for me and I was very disappointed and sadden by the rhetoric used by the opposing party.

I would like to request another opportunity to present my side of the case prior to the case being dismissed.

Sincerely,

Shantez Henderson



CITY OF DETROIT
LAW DEPARTMENT

RECEIVED

MAY 29 2012

FIRST NATIONAL BUILDING
660 WOODWARD AVENUE, SUITE 1650
DETROIT, MICHIGAN 48226-3535
PHONE 313•224•4550 TTY:311
FAX 313•224•5505
WWW.DETROITMI.GOV

JOHN M. NADER, ESQ.
DIRECT DIAL: 313•237•3034

May 23, 2012

Shantez Henderson
In Propria Persona Petitioner
P. O. Box 1519
Warren, MI 48090

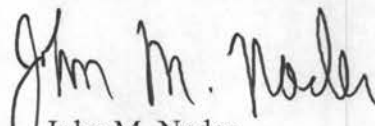
Attn: Scott M. Grammer
Michigan State Housing Development Authority
702 West Kalamazoo Street
P. O. Box 30740
Lansing, MI 48909

*Re: Appeal, Docket12-000048-HAL, Case No. 12-002-HP, History,
Arts&Libraries, Shantez Henderson v Detroit Historic District
Commission, 350 Parkview,
Respondent's Response To Petitioner's Exceptions to Proposal For Decision
Proof of Service*

Dear Messrs. Grammer, Henderson:

Enclosed is a copy of Respondent's Response To Petitioner's Exceptions to Proposal For Decision, and Proof of Service for the above matter. I have also sent a copy to both of you via email to your email addresses on today's date.

Sincerely,


John M. Nader
Senior Assistant Corporation Counsel

/jmr

Enclosures

Grammer, Scott (MSHDA)

From: Grammer, Scott (MSHDA)
Sent: Tuesday, August 21, 2012 2:34 PM
To: 'Carolyn Susan Loeb'; 'Elisabeth Knibbe'; 'Janese Chapman'; 'Jennifer Radcliff'; 'Lynn Evans'; 'Richard Harms'; 'Ron Staley'; 'Scott Beld'; 'Theodore Ligibel'
Cc: Conway, Brian (MSHDA)
Subject: Appeal, 9/14: Henderson v Detroit HDC
Attachments: PFD Exceptions Henderson v Detroit HDC.pdf; Henderson Letter of Appeal.pdf; Notice of Denial Henderson v Detroit HDC.pdf

Dear Review Board Members:

Attached you will find a Proposal for Decision (PFD) to consider at your upcoming meeting, set for Friday, September 14, 2012. Also attached is a copy of the Petitioner's appeal letter and the historic district commission's denial.

The appeal concerns Petitioner Shantez Henderson's application to demolish portions of the residence at 350 Parkview, located within the Historic Berry Subdivision, Detroit, Michigan. The Commission denied his request at its November 14, 2011 meeting stating in part that "demolition of a historic resource and rebuilding the resource as a renovation does not meet the Secretary of Interior's Standards for Rehabilitation standard number 9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property." (See attached Notice of Denial).

The case went to administrative hearing on May 2, 2012. The PFD recommends that the Board dismiss Mr. Henderson's appeal. (Mr. Henderson apparently appeared and subsequently left the hearing. Mr. Henderson never reappeared). Consequently, the PFD recommends that the Board dismiss the case; however, it appears that without Mr. Henderson's present, Administrative Law Judge (ALJ) could not neither explore the merits of the case nor develop the facts. Consequently, I direct your attention to both Mr. Henderson's Letter of Appeal, as well as Mr. Nader's Exceptions filed in support of Administrative Law Judge Cohen's recommendation to the Board.

I look forward to seeing you all in a few weeks – enjoy your Labor Day Holiday.

Best Regards,

Scott M. Grammer
Counsel for Historic Preservation
Legal Affairs - Preservation Office
Michigan State Housing Development Authority
702 W. Kalamazoo Street PO Box 30740
Lansing, MI 48909-8240
Office: (517) 373-4765 Fax: (517) 335-0348

For information about MSHDA and social networking, visit <http://www.michigan.gov/mshdasocialnetwork>

This email is intended for informational purposes only and should not be construed as legal advice. It may, however, contain information that is privileged or otherwise exempt from disclosure under law. If you believe you've received this email in error, please advise me by return email and delete it from your mailbox. If you are not the intended recipient, you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited. Thank you.

MAY 29 2012

STATE OF MICHIGAN

MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:

Shantez Henderson,

Petitioner

V

City of Detroit Historic District Commission,

Respondent

Docket No.: 12-000048-HAL

Case No. 12-002-HP

Agency: History, Arts & Library

Case Type: HAL

Filing Type: Appeal

Administrative Law Judge: David Cohen

Shantez Henderson
 In Propria Persona
 Petitioner
 P. O. Box 1519
 Warren, MI 48090
 (313) 333-5849
 email: ShantezHenderson@hotmail.com

CITY OF DETROIT LAW DEPARTMENT
 By: John M. Nader (P41610)
 Senior Assistant Corporation Counsel
 Attorneys For Respondent
 660 Woodward Avenue, Suite 1650
 Detroit, MI 48226
 (313) 237-3034
 Fax: (313) 237-6327
 Email: nadej@detroitmi.gov

RESPONDENT DETROIT HISTORIC DISTRICT COMMISSION'S RESPONSE TO EXCEPTIONS FILED BY PETITIONER TO PROPOSAL FOR DECISION

The Respondent, Detroit Historic District Commission, through its attorneys, the City of Detroit Law Department, for its Response To Exceptions Filed By Petitioner To Proposal For Decision, states as follows:

RESPONSE

1. Respondent concurs with the Administrative Law Judge Cohen's Proposal For Decision, and urges the State Historic Preservation Review Board to accept the

decision reached by Judge Cohen in the Proposal For Decision, and deny the relief requested by Petitioner Shantez Henderson in his Exceptions for the following reasons.

The Petitioner Mr. Henderson asks in his Exceptions that he be given another opportunity to present his case before the case is dismissed. Mr. Henderson states that during the ten minutes time that Judge Cohen set aside prior to the hearing for the parties to discuss possible settlement, "he was not able to represent himself." He states that he was unable to represent himself because "the City of Detroit made him extremely frustrated and very flustered to the point where I felt that it was best for me to remove myself from the court room immediately." He further states that he "was very disappointed and sadden (sic) by the rhetoric of the opposing party."

In response, the hearing is conducted under MCL 24.101 et seq, the Administrative Procedures Act, which incorporates and follows the Michigan Court Rules and Michigan Rules of Evidence, even for persons who represent themselves, such as petitioner. Petitioner is asking for the Default and Default Judgment as proposed by Judge Cohen to be set aside. MCR 2.603 (D)(1) provides that a Motion to Set Aside a Default or Default Judgment, except when grounded on lack of jurisdiction over the Defendant, shall be granted only if good cause is shown and an affidavit of facts showing a meritorious defense is filed. Accordingly, Petitioner must meet a two-pronged requirement in order to have a Default or Default Judgment set aside. Petitioner has failed to meet either requirement of this test.

In Gavulic v Boyer, 195 Mich App 20, 24-25; 489 NW2d 124 (1992), the Court interpreted the good cause prong of the Court Rule:

Good cause sufficient to warrant that Setting Aside of a Default or Default Judgment includes (1) a substantial defect or irregularity in the proceedings upon which the Default was based, (2) a reasonable excuse for failure to comply with the requirements that created the Default or (3) some other reason showing that manifest injustice would result if the Default and Default Judgment were allowed to stand.

Applying this ruling to our case, as Petitioner appeared at the hearing, but alleges in his Exceptions, and not in an affidavit, merely that he was upset and emotional with Respondent's position at the pretrial discussion, Petitioner has failed to state a valid legal reason why he did not remain at the hearing. Petitioner cannot thus allege good cause or a substantial defect or irregularity in the proceedings upon which the Proposed Default Judgment was based.

In Mid West Mental Health Clinic, P.C. v Blue Cross Blue Shield of Michigan, 119 Mich App 671, 675; 326 NW2d 599 (1982), the Michigan Court of Appeals held:

In light of the foregoing, Defendant's assertion that BCBSM has a Meritorious Defense is immaterial, because both good cause and a Meritorious Defense must be shown before a Default Judgment may be set aside. GCR 1963, 520.4; First Bank of Cadillac v Benson, 81 Mich App 550; 265 NW2d 413 (1978); Butler v Cann, 62 Mich App 663; 233 NW2d 827 (1975).

As this holding is applied to our case, because Petitioner does not have good cause to set aside the proposed Default Judgment, whether or not there is a meritorious defense is immaterial because both good cause and a meritorious defense must be shown before a Default and Default Judgment may be set aside. Thus, this Honorable Board of Review and Administrative Law Judge must deny Petitioner's requested relief in his Exceptions

To Proposal For Decision that he be allowed to have another hearing before the case is dismissed.

Further, MCR 2.603 (D)(1) states that an affidavit of meritorious defense must be filed in support of a Motion To Set Aside a Default Judgment. The Michigan Court of Appeals, in interpreting this requirement of the Michigan Court Rule, held that the trial court did not abuse its discretion in refusing to set aside a default and default judgment pursuant to MCR 2.603, because the defendant failed to file an affidavit setting forth a meritorious defense. Young v. Shull, 149 Mich App 367, 385 NW2d 789 (1986). Ferguson v. Delaware International Speedway, 164 Mich App 283, 416 NW2d 415 (1987.) Applying this ruling to our case, not only has Petitioner failed to file an affidavit setting forth a meritorious defense, but the excuse given, even if treated as an affidavit, is legally insufficient to grant a new hearing and to set aside the proposed Default Judgment. The relief requested by Petitioner in his Exceptions To Proposal For Decision should thus be denied.

Lastly, an examination of the Statement of Facts, as set forth below, shows that Petitioner never attended either the October, 2011 or November, 2011 Detroit Historic District Commission Meetings where his application for a Notice To Proceed was discussed and decided upon by the Respondent Detroit Historic District Commission. The Respondent Commission decided that they did not have sufficient evidence or information to be able to grant the Petitioner's Notice To Proceed. If the Board of Review were to grant Petitioner the relief he requests, it would in essence be a fourth chance for a hearing. Since Petitioner declined the first two chances to attend Detroit Historic District Commission hearings, and a third chance to attend and stay for the

hearing before Judge Cohen, he has no good cause to be granted a fourth hearing. As he failed to present any valid meritorious defenses (that he met any of the required 4 prongs necessary to obtain a Notice To Proceed from the Commission) at either the two Detroit Historic District Commission hearings, or the third hearing before Judge Cohen, he has no meritorious defenses that this Board of Review can consider in granting him a fourth opportunity for a hearing. Thus, the Respondent prays that this Honorable Board of Review adopt the Proposal For Decision as written, and deny Petitioner another hearing, and enter the Proposed Default and Default Judgment as written by Judge Cohen.

STATEMENT OF FACTS

The property owner, Petitioner Shantez Henderson, owns the property that is the subject of this Appeal, namely, 350 Parkview, Detroit, MI, (hereinafter "subject property") in the Historic Berry Subdivision. Petitioner applied to the Respondent Detroit Historic District Commission (hereinafter "Respondent" and "DHDC") in 2009 for a Notice To Proceed to perform work on his historic home. At the September, 2009 meeting of the Detroit Historic District Commission, Respondent granted Petitioner a Notice To Proceed, dated September 10, 2009, for "The construction of the addition over the garage and breezeway, the porch addition, the elimination of all of the dormers, the installation of vinyl shingles and the Landmarkstone, the construction of the rear addition." The Petitioner also got a Grant from the City of Detroit Board of Zoning Appeals (hereinafter "BZA"), dated September 1, 2009, which allowed him to renovate an existing 2,400 square foot two (2) story single family dwelling and add a second story to an existing 594 square foot detached garage and attach the garage with a new two (2)

story 504 square foot addition, bring the total square footage to a 3,700 square foot single family two story dwelling including the attached garage.

Petitioner did not demolish the property to renovate it until two years after the BZA Grant was issued, or until June 2011. After the City of Detroit Buildings & Safety Engineering Department (hereinafter "BSE") discovered that the property had been demolished without a demolition permit, BSE inspected and issued a Stop Work Order. Petitioner was told by BSE that he would also have to obtain a new Notice To Proceed from Respondent, as he had demolished beyond what was allowed in the Respondent's September 10, 2009 Notice To Proceed. BSE also informed Petitioner that in order to lift the Stop Work Order, he would need to resubmit current plans to BSE, as the plans submitted did not allow for a permit for the whole project. Previously, he had only submitted plans for the addition above the garage, but not for the whole project, including the addition.

Petitioner applied to Respondent for a new Notice To Proceed, and his application was set for hearing at the October 12, 2011 DHDC Meeting. Petitioner did not appear at the October 12, 2011 DHDC Meeting, nor did he submit updated plans that reflected the current state of the subject property nor the entire scope of the work to be performed. The Commissioners had questions that only Petitioner could answer, so they felt that they did not have enough information to be able to decide on the application. Further, they did not have current plans that showed the current state of the property, including the demolition, nor did the old plans show the complete renovation to be performed. Additionally, the work performed exceeded the previously issued Notice To Proceed, and thus, the Commissioners needed to see new updated plans before they could discuss the matter and decide it thoroughly. They stated that they were not able to issue a new Notice To Proceed with just the current outdated plans previously submitted. They

also stated that, based on the neighbors' complaints, they wanted to see the subject property cleaned up and made safe (it had big holes in the ground) prior to deciding on the new Notice To proceed, as it was a danger to the public. They thus adjourned the Petitioner's application until the November 9, 2011 DHDC Meeting.

At the November 9, 2011 DHDC Meeting, although he was given notice of the adjourned meeting, and encouraged to attend, Petitioner did not attend the meeting. His application for the October 2011 Meeting was resubmitted at the November 9, 2011 Meeting. The Commission again stated that they needed specific information, namely, new drawings, to be able to decide the application. They thus had no choice but to deny the application. Although the Transcript of the November 9, 2011 DHDC Meeting is unavailable due to recording equipment failure, the Commission's denial is evidenced in the Minutes of the Meeting.

As the subject property is within the Historic Berry Subdivision, which was established pursuant to the State Historic Act, MCL 399.201, et seq., and the Local Historic District Act, Chapter 25, Article 2 of the 1984 Detroit City Code, all work such as the proposed demolition by Petitioner must be brought in the form of an application for approval before the Detroit Historic District Commission. The demolition work was done without DHDC permission.

Petitioner was sent a November 14, 2011 Notice of Denial of his application to demolish and renovate the subject property. It is from this Denial Letter that the Petitioner now appeals.

STATE HISTORIC PRESERVATION OFFICE APPEAL UNDER APA

At the May 2, 2012 hearing, Petitioner appeared, as did John M. Nader from the City of Detroit Law Department, representing Respondent Detroit Historic District Commission, Susan McBride, Staff Person for the Detroit Historic District Commission, Inspector Glenn Davis from the City of Detroit Building & Safety Engineering Department (BSE), and Cheryl Smith-

Williams, an attorney from the City of Detroit Law Department who was observing the proceedings. Judge David Cohen asked the parties to take ten minutes prior to the hearing to discuss settlement. He clearly indicated that he was ready to hear the matter if the parties could not reach a resolution.

When Judge Cohen left the room, the, Mr. Nader offered to explain how Mr. Henderson could obtain the Notice To Proceed to continue the renovation of his home. Mr. Davis from BSE explained what Mr. Henderson needed to do to remove the Stop Work Order placed on his property by BSE. It quickly became apparent that Mr. Henderson was not satisfied with anything any of the participants offered, because he began raising his voice, and continued to communicate in that manner. Finally, he began gathering up his belongings, while in a loud voice exclaiming twice "This is a waste of my f*****g (expletive deleted) time." He then exited through the swinging door with such force that the door hit the wall and made an approximately one foot long by 4-inch wide hole in the wall. The entire length of the attachment to the wall to which the hinges of the swinging door are affixed also cracked under the force of Mr. Henderson's violent exit. Mr. Nader then called Judger Cohen back into the room, and Judge Cohen asked Mr. Nader to make a record of what had occurred outside of Judge Cohen's presence.

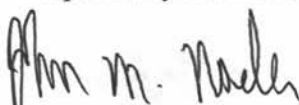
After the record was made, Mr. Davis, Ms. McBride, Ms. Smith-Williams, as well as Mr. Nader all commented that they felt physically threatened by Mr. Henderson's behavior.

CONCLUSION

For all of the reasons stated above, Respondent asserts that Petitioner has not met his burden of proof on any and all of the arguments proffered in support of his appeal, and not met

any of the requirements necessary to set aside the proposed Default and Default Judgment in the Proposal For Decision. Therefore, Respondent asks that this Honorable Board of Review adopt the Proposal For Decision as written, and deny Petitioner another hearing, and enter the Proposed Default and Default Judgment as written by Judge Cohen, all of which affirms the decision of the Detroit Historic District Commission in this matter and denies Petitioner the relief he seeks in his appeal. Or, in the alternative, if this Honorable Board of Review does grant Petitioner another hearing, it should be conditioned upon: 1) his payment of: the costs to repair the damages to State Property that he caused at the May 2, 2012 hearing; 2) his payment of Mr. Nader's costs to prepare for and attend the hearing, in the amount of \$500.00; and 3) the condition that an armed Court Officer or Bailiff be present at the hearing with Mr. Henderson at all times.

Respectfully submitted,



City of Detroit Law Department
By: John M. Nader (P41610)
Senior Assistant Corporation Counsel
Attorney For Respondent
660 Woodward Avenue, Suite 1650
Detroit, MI 48226 (313) 237-3034

Dated: May 23, 2012

STATE OF MICHIGAN

MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:

Shantez Henderson,
Petitioner

Docket No.: 12-000048-HAL

Case No. 12-002-HP

V

Agency: History, Arts & Library

City of Detroit Historic District Commission,
Respondent

Case Type: HAL

Filing Type: Appeal

Administrative Law Judge: David Cohen

Shantez Henderson
In Propria Persona
Petitioner
P. O. Box 1519
Warren, MI 48090
(313) 333-5849
email: ShantezHenderson@hotmail.com

CITY OF DETROIT LAW DEPARTMENT
By: John M. Nader (P41610)
Senior Assistant Corporation Counsel
Attorneys For Respondent
660 Woodward Avenue, Suite 1650
Detroit, MI 48226
(313) 237-3034
Fax: (313) 237-6327
Email: nadej@detroitmi.gov

Proof of Service

STATE OF MICHIGAN)
)SS
COUNTY OF WAYNE)

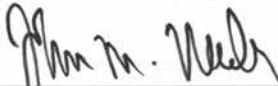
John M. Nader says that on May 23, 2012, he served a copy of **Respondent's Response To Petitioner's Exceptions To Proposal For Decision, and Proof of Service on:**

Shantez Henderson
In Propria Persona Petitioner
P. O. Box 1519
Warren, MI 48090
(313) 333-5849
Email: ShantezHenderson@hotmail.com

and

Michigan State Housing Development Authority
Attn: Scott M. Grammer
702 West Kalamazoo Street
P. O. Box 30740
Lansing, MI 48909
Email: GrammerS@michigan.gov

Via email to their respective email addresses as listed above and by placing same in envelope and after securely sealing same and affixing sufficient first-class postage thereto, deposited same in the United States mail for transmission to the addressee thereof.



John M. Nader (P41610)

Shantez Henderson

P.O. BOX 1519 • Warren, MI 48090 • Phone: 313-333-5849 •
E-Mail: ShantezHenderson@hotmail.com

RECEIVED
JAN 09 2012

Date: January 3, 2012

Brian D. Conway
State Historic Preservation Officer
Michigan Historical Center
702 W. Kalamazoo Street
P.O. box 30740
Lansing, Michigan 48909-8240

RE: Application Number 11-140 & 11-141; 350 Parkview; Berry Subdivision Historic District

Dear Mr. Conway:

I would like to appeal the decision made by the Detroit Historic Commission made on November 9th 2011. I was granted permission to in September 2009 to build two additions and remove a complete change the exterior of the home with only the reuse of the exterior brick on one portion of the home. During the construction phase we had a number of building structural irregularities that lead to a complete demolition of the framing, with only the basement and foundation remaining.

I have not changed my prints and still have plans to build the exact same home using the same materials that I was approved for back in 2009. The Detroit Zoning board agrees and has no argument and understands that I'm bonded by the same set backs and restrictions that I had before. I would like to build the home back to the same scale and size that it was before with the proposed additions that I had back in 2009, which the board approved.

In that previous judgment the structure did not meet the standards but the board approved it. Now that the framing is not there I'm not sure why the decision has change.

Sincerely,

Shantez Henderson

November 14, 2011

NOTICE OF DENIAL

Mr. Shantez Henderson
P.O. Box 1519
Warren, MI 48090

**RE: Application Number 11-140 & 11-141; 350 Parkview; Berry Subdivision
Historic District**

Dear Mr. Henderson:

At its regularly scheduled meeting on November 9, 2011, the Detroit Historic District Commission ("Commission") reviewed the above-referenced application for building permit. Pursuant to Section 25-2-24 of the 1984 Detroit City Code, the Commission hereby issues a notice of denial which is effective as of November 11, 2011. The Commission finds that the proposed work does not qualify for a certificate of appropriateness for the following reasons:

The demolition of a historic resource and rebuilding the resource as a renovation does not meet the Secretary of the Interior's Standards for Rehabilitation standard number 9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

You may file a new application for consideration if the application is corrected, if new information is obtained regarding the application, or if the scope of work changes. The application can be corrected by applying to do the following:

Submit drawings for new construction that meet the current building codes, zoning and set back requirements along with the cleaning and securing of the property.

The Commission has ordered a fine in the amount of \$500.00 for the demolition of the home under section 25-2-10(c) Enforcement-any person, or organization, individual, partnership, firm, corporation, institution, or agency of government performing work on a resource prior to the issuance of or contrary to conditions specified in a certificate of appropriateness or notice to proceed, or permit issued for work on a resource shall, upon conviction, be subject to a five hundred dollar (\$500.00) fine.

Please be advised that a permit applicant that is aggrieved by a decision of the Detroit Historic District Commission concerning a permit application, may file an appeal with the State Historic Preservation Review Board. Within sixty (60) days of your receipt of this notice, an appeal may be filed with:

CITY OF DETROIT
HISTORIC DISTRICT COMMISSION

65 CADILLAC SQ., SUITE 1300
DETROIT, MICHIGAN 48226
PHONE 313-224-6536
FAX 313-224-1310

Brian D. Conway
State Historic Preservation Officer
Michigan Historical Center
702 W. Kalamazoo Street
PO Box 30740
Lansing, Michigan 48909-8240

Once this administrative right of appeal has been exhausted, a permit applicant may file an appeal of the decision of the State Historic Preservation Review Board with the circuit court.

If you have any questions regarding the foregoing, please contact Timothy Beckett, Counsel for the Commission at (313)237-3008.

On behalf of the commission:



Susan M. McBride
Staff
Detroit Historic District Commission

copy: Daljit Benipal, BSE&E
Timothy Beckett, Law Department

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:

Docket No.: 12-000048-HAL

Shantez Henderson,
Petitioner

Case No.: 12-002-HP
Agency: History Arts &
Library

v

City of Detroit Historic District Commission,
Respondent

Case Type: HAL


Filing Type: Appeal

Issued and entered
this 3rd day of April, 2012
by:
David M. Cohen
Administrative Law Judge

ORDER OF ADJOURNMENT

Pursuant to notice a hearing date was scheduled in the above captioned matter for March 29, 2012 at 9:00 a.m. Due to a conflict in the Administrative Law Judge's schedule this matter was adjourned.

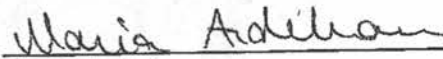
NOW THEREFORE, IT IS ORDERED that the hearing scheduled for March 29, 2012, is adjourned. The hearing in the above captioned matter will be held at **9:00 a.m.** on **May 2, 2012**, at the Michigan Administrative Hearing System, Cadillac Place, 2nd Floor Annex, Suite 2-700, 3026 W. Grand Blvd., Detroit, Michigan.



David M. Cohen
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed below this 3rd day of April, 2012.



Maria Ardelean

Michigan Administrative Hearing System

Timothy Beckett/John Nader
City of Detroit Law Department
660 Woodward Avenue, Suite 1650
Detroit, MI 48226

Scott M. Grammer
State Historic Preservation Review Board
702 West Kalamazoo Street
Lansing, MI 48909

Susan McBride
City of Detroit Historic District Commission
65 Cadillac Square, Suite 1300
Detroit, MI 49001

Shantez Henderson
P.O. Box 1519
Warren, MI 48090

RECEIVED
APR 06 2012

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:

Shantez Henderson,
Petitioner

v

City of Detroit Historic District Commission,
Respondent

Docket No.: 12-000048-HAL

Case No.: 12-002-HP
Agency: History Arts &
Library

Case Type: HAL


Filing Type: Appeal

Issued and entered
this 3rd day of April, 2012
by:
David M. Cohen
Administrative Law Judge

ORDER OF ADJOURNMENT

Pursuant to notice a hearing date was scheduled in the above captioned matter for March 29, 2012 at 9:00 a.m. Due to a conflict in the Administrative Law Judge's schedule this matter was adjourned.

NOW THEREFORE, IT IS ORDERED that the hearing scheduled for March 29, 2012, is adjourned. The hearing in the above captioned matter will be held at **9:00 a.m.** on **May 2, 2012**, at the Michigan Administrative Hearing System, Cadillac Place, 2nd Floor Annex, Suite 2-700, 3026 W. Grand Blvd., Detroit, Michigan.



David M. Cohen
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed below this 3rd day of April, 2012.



Maria Ardelean

Michigan Administrative Hearing System

Timothy Beckett/John Nader
City of Detroit Law Department
660 Woodward Avenue, Suite 1650
Detroit, MI 48226

Scott M. Grammer
State Historic Preservation Review Board
702 West Kalamazoo Street
Lansing, MI 48909

Susan McBride
City of Detroit Historic District Commission
65 Cadillac Square, Suite 1300
Detroit, MI 49001

Shantez Henderson
P.O. Box 1519
Warren, MI 48090

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

RECEIVED
FEB 28 2012

IN THE MATTER OF:

Shantez Henderson,
Petitioner

v

City of Detroit Historic District
Commission,
Respondent

Docket No.: 12-000048

12-002-HP

Case No.:

Agency: History Arts &
Library

Case Type: Appeal

Issued and entered
this 23rd day of February, 2012
by:
David M. Cohen
Administrative Law Judge

ORDER GRANTING ADJOURNMENT

On February 15, 2012, John M. Nader, Senior Assistant Corporation Counsel, on behalf of the Respondent, City of Detroit, requested an adjournment of the hearing scheduled for February 23, 2012, in the above captioned matter.

NOW THEREFORE, IT IS ORDERED that the hearing scheduled for February 23, 2012, is adjourned. The hearing in the above captioned matter will be held at **9:00 a.m.** on **March 29, 2012**, the Michigan Administrative Hearing System, Cadillac Place, 2nd Floor Annex, Suite 2-700, 3026 W. Grand Blvd., Detroit, Michigan



David M. Cohen
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed below this 23rd day of February, 2012.



Maria Ardelean

Michigan Administrative Hearing System

John Nader/Timothy Beckett
City of Detroit Law Department
660 Woodward Avenue, Suite 1650
Detroit, MI 48226

Scott M. Grammer
State Historic Preservation Review Board
702 West Kalamazoo Street
Lansing, MI 48909

Susan McBride
City of Detroit Historic District Commission
65 Cadillac Square, Suite 1300
Detroit, MI 49001

Shantez Henderson
P.O. Box 1519
Warren, MI 48090

REQUEST FOR HEARING

1. IN THE MATTER OF
Shantez Henderson,
Petitioner
v
City of Detroit Historic District Commission,
Respondent.

2. ISSUE
Whether the City of Detroit Historic District Commission's (Commission) denial of the Petitioner's request to demolish the historic structure located in the City of Detroit's Berry Subdivision Historic District at 350 Parkview, is erroneous and should be reversed because the Commission's decision is arbitrary and capricious, is in contravention of the Secretary of Interior's Standards for Rehabilitation, and had been previously approved.

3. INITIATING AGENCY'S FILE NUMBER 12-002-HP	4a. STATUTORY START DATE January 3, 2012	4b. DAYS ALLOWED 120
---	---	-------------------------

5. AGENCY Michigan State Housing Development Authority	6. DIVISION State Historic Preservation Review Board (SHPRB)
---	---

7. ACT/ CODE OF LAW
Local Historic Districts Act, 1970 PA 169, as amended

8. PROVISION OF LAW
Section 5(2) of the LHDA, MCL 399.205

9. CHAPTER/ SECTION OF LAW

10. CASE TYPE Appeal	11. CASE SUB-TYPE Certificate of Appropriateness
-------------------------	---

12. GEOGRAPHICAL AREA
Detroit, MI

13. PREPARED BY Scott M. Grammer	PHONE NUMBER 373-4765	FAX NUMBER 335-1630	DATE PREPARED January 11, 2012
-------------------------------------	--------------------------	------------------------	-----------------------------------

14. Refer to Request for Hearing Instructions.

15. COMMENTS
Please append the attached "Claim of Appeal" (dated January 3, 2012) and the HDC denial letter (dated November 14, 2011) to the first Notice of Nearing that SOAHR will issue in this case.

The next SHPRB meeting is tentatively scheduled for January 20, 2012.

For Bureau of Hearings Use Only

DATE RECEIVED	DATE COMPLETED	COMPLETED BY
DOCKET NUMBER	ALJ ASSIGNED	

COMMENTS

PERSONS INVOLVED WITH THE REQUEST FOR HEARING

1. IN THE MATTER OF Shantez Henderson, Petitioner v City of Detroit Historic District Commission, Respondent.				2. AGENCY FILE NUMBER 12-002-HP		3. BOH DOCKET NUMBER	
4. CHECK ONE (X) <input checked="" type="checkbox"/> Petitioner <input type="checkbox"/> Petitioner Attorney <input type="checkbox"/> Petitioner Non-Attorney				<input type="checkbox"/> Respondent <input type="checkbox"/> Respondent Attorney <input type="checkbox"/> Respondent Non-Attorney		<input type="checkbox"/> Intervenor <input type="checkbox"/> Intervenor Attorney <input type="checkbox"/> Intervenor Non-Attorney	
5. NAME Shantez Henderson							
6. FIRM							
7. ON BEHALF OF							
8. STREET ADDRESS / P.O. BOX PO Box 1519							
9. CITY Warren			10. STATE MI	11. ZIP CODE 48090	12. PHONE 313-333-5849		13. FAX
4. CHECK ONE (X) <input type="checkbox"/> Petitioner <input type="checkbox"/> Petitioner Attorney <input type="checkbox"/> Petitioner Non-Attorney				<input checked="" type="checkbox"/> Respondent <input type="checkbox"/> Respondent Attorney <input type="checkbox"/> Respondent Non-Attorney		<input type="checkbox"/> Intervenor <input type="checkbox"/> Intervenor Attorney <input type="checkbox"/> Intervenor Non-Attorney	
5. NAME Susan McBride, Staff							
6. FIRM City of Detroit Historic District Commission							
7. ON BEHALF OF							
8. STREET ADDRESS / P.O. BOX 65 Cadillac Square, Suite 1300							
9. CITY Detroit			10. STATE MI	11. ZIP CODE 49001	12. PHONE 313-224-6536		13. FAX 313-224-1310
4. CHECK ONE (X) <input type="checkbox"/> Petitioner <input type="checkbox"/> Petitioner Attorney <input type="checkbox"/> Petitioner Non-Attorney				<input type="checkbox"/> Respondent <input checked="" type="checkbox"/> Respondent Attorney <input type="checkbox"/> Respondent Non-Attorney		<input type="checkbox"/> Intervenor <input type="checkbox"/> Intervenor Attorney <input type="checkbox"/> Intervenor Non-Attorney	
5. NAME Timothy Beckett							
6. FIRM City of Detroit Law Department							
7. ON BEHALF OF City of Detroit							
8. STREET ADDRESS / P.O. BOX 660 Woodward Avenue Ste 1650							
9. CITY Detroit			10. STATE MI	11. ZIP CODE 48226	12. PHONE 313-237-3008		13. FAX 313-237-2909
4. CHECK ONE (X) <input type="checkbox"/> Petitioner <input type="checkbox"/> Petitioner Attorney <input type="checkbox"/> Petitioner Non-Attorney				<input type="checkbox"/> Respondent <input type="checkbox"/> Respondent Attorney <input type="checkbox"/> Respondent Non-Attorney		<input type="checkbox"/> Intervenor <input type="checkbox"/> Intervenor Attorney <input type="checkbox"/> Intervenor Non-Attorney	
5. NAME Scott M. Grammer							
6. FIRM Legal Affairs, MSHDA							
7. ON BEHALF OF State Historic Preservation Review Board							
8. STREET ADDRESS / P.O. BOX 702 W. Kalamazoo Street							
9. CITY Lansing			10. STATE MI	11. ZIP CODE 48909	12. PHONE 373-4765		13. FAX 335-1630



RICK SNYDER
GOVERNOR


STATE OF MICHIGAN
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
STATE HISTORIC PRESERVATION OFFICE

GARY HEIDEL
EXECUTIVE DIRECTOR

MEMORANDUM

DATE: January 11, 2012

TO: Jacquelyn Peoples, Scheduler
State Office of Administrative Hearings and Rules

FROM: Scott M. Grammer 
Legal Affairs – Preservation Office
Michigan State Housing Development Authority

SUBJECT: Shantez Henderson, Petitioner v City of Detroit Historic District
Commission, Respondent; Legal Affairs – Preservation Office File No. 12-002-HP

Attached is a completed SOAHR Request for Hearing form regarding the above-referenced contested case. Also attached are the pleadings and related documents filed to date in the case.

Please proceed to schedule an administrative hearing for this case at your earliest convenience.

As always, thank you for your assistance in this matter and please feel free to call me if you have any questions (3-4765).

Attachments



RECEIVED
JAN 30 2012

Rev 01/12

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

DATE NOTICE MAILED: 1/26/2012

IN THE MATTER OF:

Shantez Henderson,
Petitioner

Docket No.: 12-000048-HAL

Case No.: 12-002-HP

V

Agency: History, Arts &
Library

City of Detroit Historic District
Commission,
Respondent

Case Type: Appeal

NOTICE OF HEARING

You are hereby notified that a formal administrative hearing under the jurisdiction of the 1970 PA 169, SEC. 5 (2), as amended, MCL 399.205 has been scheduled before an Administrative Law Judge on:

Date: Thursday, February 23, 2012

Time: 9:00 AM

Administrative Law Judge: David Cohen

Location: Detroit Hearing Room #5
3026 W. Grand Blvd
Suite 2-700
2nd Floor Annex, Cadillac Place
Detroit, MI 48202

Issue: Whether the City of Detroit Historic District Commission's (Commission) denial of the Petitioner's request to demolish the historic structure located in the City of Detroit's Berry Subdivision Historic District at 350 Parkview, is erroneous and should be reversed because the Commission's decision is arbitrary and capricious, is in contravention of the Secretary of Interior's standards for Rehabilitation, and had been previously approved.

The case will be conducted in accordance with procedures applicable to the trial of contested cases under the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.201 et seq. At the discretion of the Administrative Law Judge, a pre-hearing conference may be held among the parties at the beginning of the hearing.

12-000048-HAL

Page 1

All pleadings and motions shall be filed with the **Michigan Administrative Hearing System at P.O. Box 30695, Lansing, Michigan 48909**; or by facsimile at **(517) 241-8541**. You must send a copy of everything you file to the opposing party as listed on the proof of service accompanying this Notice.

If the opposing party files a motion, you must respond within seven days after you receive it, unless the Administrative Law Judge sets a different time for response. You are further notified that you may be represented by an attorney or representative; law permitting, at the hearing. You may present evidence or call witnesses. If you wish to offer any document(s) into evidence at the hearing, you must bring the document to introduce into the record, your own copy, and a copy for the opposing party. The Michigan Administrative Hearing System is not responsible for photocopying your documents.

In the event that you fail to appear at the hearing as scheduled, a default judgment or decision may be entered against you pursuant to the Administrative Procedures Act.

All hearings are conducted in a barrier free location and are in compliance with the 1990 Americans with Disabilities Act. A disabled individual requiring accommodation for effective participation in a hearing should call the Michigan Administrative Hearing System at: (517) 335-2484 to make arrangements. To ensure the availability of accommodations, a request should be made at least one week in advance.

All hearing attendees must present picture identification to gain access to State Office Buildings. Failure to present picture identification will result in denial of access.

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 26th day of January, 2012.

Jacquelyn R. Peoples

Jacquelyn R. Peoples
Michigan Administrative Hearing System

Timothy Beckett
City of Detroit Law Department
660 Woodward Avenue, Suite 1650
Detroit, MI 48226

Scott M. Grammer
State Historic Preservation Review Board
702 West Kalamazoo Street
Lansing, MI 48909

Susan McBride
City of Detroit Historic District Commission
65 Cadillac Square, Suite 1300
Detroit, MI 49001

Shantez Henderson
P.O. Box 1519
Warren, MI 48090

Shantez Henderson

P.O. BOX 1519 • Warren, MI 48090 • Phone: 313-333-5849 •
E-Mail: ShantezHenderson@hotmail.com

Date: January 3, 2012

Brian D. Conway
State Historic Preservation Officer
Michigan Historical Center
702 W. Kalamazoo Street
P.O. box 30740
Lansing, Michigan 48909-8240

RE: Application Number 11-140 & 11-141; 350 Parkview; Berry Subdivision Historic District

Dear Mr. Conway:

I would like to appeal the decision made by the Detroit Historic Commission made on November 9th 2011. I was granted permission to in September 2009 to build two additions and remove a complete change the exterior of the home with only the reuse of the exterior brick on one portion of the home. During the construction phase we had a number of building structural irregularities that lead to a complete demolition of the framing, with only the basement and foundation remaining.

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In that previous judgment the structure did not meet the standards but the board approved it. Now that the framing is not there I'm not sure why the decision has change.

Sincerely,

Shantez Henderson

November 14, 2011

NOTICE OF DENIAL

Mr. Shantez Henderson
P.O. Box 1519
Warren, MI 48090

**RE: Application Number 11-140 & 11-141; 350 Parkview; Berry Subdivision
Historic District**

Dear Mr. Henderson:

At its regularly scheduled meeting on November 9, 2011, the Detroit Historic District Commission ("Commission") reviewed the above-referenced application for building permit. Pursuant to Section 25-2-24 of the 1984 Detroit City Code, the Commission hereby issues a notice of denial which is effective as of November 11, 2011. The Commission finds that the proposed work does not qualify for a certificate of appropriateness for the following reasons:

The demolition of a historic resource and rebuilding the resource as a renovation does not meet the Secretary of the Interior's Standards for Rehabilitation standard number 9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

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Submit drawings for new construction that meet the current building codes, zoning and set back requirements along with the cleaning and securing of the property.

The Commission has ordered a fine in the amount of \$500.00 for the demolition of the home under section 25-2-10(c) Enforcement-any person, or organization, individual, partnership, firm, corporation, institution, or agency of government performing work on a resource prior to the issuance of or contrary to conditions specified in a certificate of appropriateness or notice to proceed, or permit issued for work on a resource shall, upon conviction, be subject to a five hundred dollar (\$500.00) fine.

Please be advised that a permit applicant that is aggrieved by a decision of the Detroit Historic District Commission concerning a permit application, may file an appeal with the State Historic Preservation Review Board. Within sixty (60) days of your receipt of this notice, an appeal may be filed with:

CITY OF DETROIT
HISTORIC DISTRICT COMMISSION

65 CADILLAC SQ., SUITE 1300
DETROIT, MICHIGAN 48226
PHONE 313-224-6536
FAX 313-224-1310

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State Historic Preservation Officer
Michigan Historical Center
702 W. Kalamazoo Street
PO Box 30740
Lansing, Michigan 48909-8240

Once this administrative right of appeal has been exhausted, a permit applicant may file an appeal of the decision of the State Historic Preservation Review Board with the circuit court.

If you have any questions regarding the foregoing, please contact Timothy Beckett, Counsel for the Commission at (313)237-3008.

On behalf of the commission:



Susan M. McBride
Staff
Detroit Historic District Commission

copy: Daljit Benipal, BSE&E
Timothy Beckett, Law Department



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
STATE HISTORIC PRESERVATION OFFICE

GARY HEIDEL
EXECUTIVE DIRECTOR

MEMORANDUM

DATE: January 11, 2012

TO: Jacquelyn Peoples, Scheduler
State Office of Administrative Hearings and Rules

FROM: Scott M. Grammer
Legal Affairs – Preservation Office
Michigan State Housing Development Authority

SUBJECT: **Shantez Henderson, Petitioner v City of Detroit Historic District
Commission, Respondent; Legal Affairs – Preservation Office File No. 12-
002-HP**

Attached is a completed SOAHR Request for Hearing form regarding the above-referenced contested case. Also attached are the pleadings and related documents filed to date in the case.

Please proceed to schedule an administrative hearing for this case at your earliest convenience.

As always, thank you for your assistance in this matter and please feel free to call me if you have any questions (3-4765).

Attachments

REQUEST FOR HEARING

1. IN THE MATTER OF Shantez Henderson, Petitioner v City of Detroit Historic District Commission, Respondent.
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2. ISSUE Whether the City of Detroit Historic District Commission's (Commission) denial of the Petitioner's request to demolish the historic structure located in the City of Detroit's Berry Subdivision Historic District at 350 Parkview, is erroneous and should be reversed because the Commission's decision is arbitrary and capricious, is in contravention of the Secretary of Interior's Standards for Rehabilitation, and had been previously approved.

3. INITIATING AGENCY'S FILE NUMBER 12-002-HP	4a. STATUTORY START DATE January 3, 2012	4b. DAYS ALLOWED 120
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5. AGENCY Michigan State Housing Development Authority	6. DIVISION State Historic Preservation Review Board (SHPRB)
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7. ACT/ CODE OF LAW Local Historic Districts Act, 1970 PA 169, as amended
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8. PROVISION OF LAW Section 5(2) of the LHDA, MCL 399.205
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9. CHAPTER/ SECTION OF LAW

10. CASE TYPE Appeal	11. CASE SUB-TYPE Certificate of Appropriateness
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12. GEOGRAPHICAL AREA Detroit, MI

13. PREPARED BY Scott M. Grammer	PHONE NUMBER 373-4765	FAX NUMBER 335-1630	DATE PREPARED January 11, 2012
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14. Refer to Request for Hearing Instructions.

15. COMMENTS Please append the attached "Claim of Appeal" (dated January 3, 2012) and the HDC denial letter (dated November 14, 2011) to the first Notice of Nearing that SOAHR will issue in this case. The next SHPRB meeting is tentatively scheduled for January 20, 2012.
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For Bureau of Hearings Use Only

DATE RECEIVED	DATE COMPLETED	COMPLETED BY
DOCKET NUMBER	ALJ ASSIGNED	

COMMENTS

PERSONS INVOLVED WITH THE REQUEST FOR HEARING

1. IN THE MATTER OF Shantez Henderson, Petitioner v City of Detroit Historic District Commission, Respondent.				2. AGENCY FILE NUMBER 12-002-HP		3. BOH DOCKET NUMBER	
4. CHECK ONE (X) <input checked="" type="checkbox"/> Petitioner <input type="checkbox"/> Petitioner Attorney <input type="checkbox"/> Petitioner Non-Attorney				<input type="checkbox"/> Respondent <input type="checkbox"/> Respondent Attorney <input type="checkbox"/> Respondent Non-Attorney		<input type="checkbox"/> Intervenor <input type="checkbox"/> Intervenor Attorney <input type="checkbox"/> Intervenor Non-Attorney	
5. NAME Shantez Henderson							
6. FIRM							
7. ON BEHALF OF							
8. STREET ADDRESS / P.O. BOX PO Box 1519							
9. CITY Warren			10. STATE MI	11. ZIP CODE 48090	12. PHONE 313-333-5849		13. FAX
4. CHECK ONE (X) <input type="checkbox"/> Petitioner <input type="checkbox"/> Petitioner Attorney <input type="checkbox"/> Petitioner Non-Attorney				<input checked="" type="checkbox"/> Respondent <input type="checkbox"/> Respondent Attorney <input type="checkbox"/> Respondent Non-Attorney		<input type="checkbox"/> Intervenor <input type="checkbox"/> Intervenor Attorney <input type="checkbox"/> Intervenor Non-Attorney	
5. NAME Susan McBride, Staff							
6. FIRM City of Detroit Historic District Commission							
7. ON BEHALF OF							
8. STREET ADDRESS / P.O. BOX 65 Cadillac Square, Suite 1300							
9. CITY Detroit			10. STATE MI	11. ZIP CODE 49001	12. PHONE 313-224-6536		13. FAX 313-224-1310
4. CHECK ONE (X) <input type="checkbox"/> Petitioner <input type="checkbox"/> Petitioner Attorney <input type="checkbox"/> Petitioner Non-Attorney				<input type="checkbox"/> Respondent <input checked="" type="checkbox"/> Respondent Attorney <input type="checkbox"/> Respondent Non-Attorney		<input type="checkbox"/> Intervenor <input type="checkbox"/> Intervenor Attorney <input type="checkbox"/> Intervenor Non-Attorney	
5. NAME Timothy Beckett							
6. FIRM City of Detroit Law Department							
7. ON BEHALF OF City of Detroit							
8. STREET ADDRESS / P.O. BOX 660 Woodward Avenue Ste 1650							
9. CITY Detroit			10. STATE MI	11. ZIP CODE 48226	12. PHONE 313-237-3008		13. FAX 313-237-2909
4. CHECK ONE (X) <input type="checkbox"/> Petitioner <input type="checkbox"/> Petitioner Attorney <input type="checkbox"/> Petitioner Non-Attorney				<input type="checkbox"/> Respondent <input type="checkbox"/> Respondent Attorney <input type="checkbox"/> Respondent Non-Attorney		<input type="checkbox"/> Intervenor <input type="checkbox"/> Intervenor Attorney <input type="checkbox"/> Intervenor Non-Attorney	
5. NAME Scott M. Grammer							
6. FIRM Legal Affairs, MSHDA							
7. ON BEHALF OF State Historic Preservation Review Board							
8. STREET ADDRESS / P.O. BOX 702 W. Kalamazoo Street							
9. CITY Lansing			10. STATE MI	11. ZIP CODE 48909	12. PHONE 373-4765		13. FAX 335-1630

The proposed replacement garage doors are not appropriate. The historic doors are flat panel units whereas the replacements have simulated raised panels. A different door which reproduces the flat panel appearance must be used. C.H.I. Overhead Doors, Clopay, Garaga, General Doors Company, and Wayne-Dalton all appear to make flat panel garage doors that would be appropriate replacement units.

Additional your letter indicates that you are in the process of identifying replacement units for the existing historically significant industrial steel windows. When seeking to replace this type of window it is extremely important that the replacement product reproduces the very thin qualities of the existing units as closely as possible. The specific product cited in your letter has had difficulties achieving the required sight lines in the past and could result in a finding of adverse effect. We believe that it is in the best interest of the project to explore the options available from more than a single vender.

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s:\mhc_erfiles\drafts\4197_2-1-12.doc

November 14, 2011

NOTICE OF DENIAL

Mr. Shantez Henderson
P.O. Box 1519
Warren, MI 48090

**RE: Application Number 11-140 & 11-141; 350 Parkview; Berry Subdivision
Historic District**

Dear Mr. Henderson:

At its regularly scheduled meeting on November 9, 2011, the Detroit Historic District Commission ("Commission") reviewed the above-referenced application for building permit. Pursuant to Section 25-2-24 of the 1984 Detroit City Code, the Commission hereby issues a notice of denial which is effective as of November 11, 2011. The Commission finds that the proposed work does not qualify for a certificate of appropriateness for the following reasons:

The demolition of a historic resource and rebuilding the resource as a renovation does not meet the Secretary of the Interior's Standards for Rehabilitation standard number 9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

You may file a new application for consideration if the application is corrected, if new information is obtained regarding the application, or if the scope of work changes. The application can be corrected by applying to do the following:

Submit drawings for new construction that meet the current building codes, zoning and set back requirements along with the cleaning and securing of the property.

The Commission has ordered a fine in the amount of \$500.00 for the demolition of the home under section 25-2-10(c) Enforcement-any person, or organization, individual, partnership, firm, corporation, institution, or agency of government performing work on a resource prior to the issuance of or contrary to conditions specified in a certificate of appropriateness or notice to proceed, or permit issued for work on a resource shall, upon conviction, be subject to a five hundred dollar (\$500.00) fine.

Please be advised that a permit applicant that is aggrieved by a decision of the Detroit Historic District Commission concerning a permit application, may file an appeal with the State Historic Preservation Review Board. Within sixty (60) days of your receipt of this notice, an appeal may be filed with:

CITY OF DETROIT
HISTORIC DISTRICT COMMISSION

65 CADILLAC SQ., SUITE 1300
DETROIT, MICHIGAN 48226
PHONE 313-224-6536
FAX 313-224-1310

Brian D. Conway
State Historic Preservation Officer
Michigan Historical Center
702 W. Kalamazoo Street
PO Box 30740
Lansing, Michigan 48909-8240

Once this administrative right of appeal has been exhausted, a permit applicant may file an appeal of the decision of the State Historic Preservation Review Board with the circuit court.

If you have any questions regarding the foregoing, please contact Timothy Beckett, Counsel for the Commission at (313)237-3008.

On behalf of the commission:



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