

**STATE OF MICHIGAN
MICHIGAN DEPARTMENT OF STATE
STATE HISTORIC PRESERVATION REVIEW BOARD**

In the Matter of:

TIMOTHY R. BUCK,
Applicant/Appellant,

v

Docket No. 99-10-HP

GRAND RAPIDS HISTORIC PRESERVATION COMMISSION,
Respondent/Appellee.

FINAL DECISION AND ORDER

This matter involves an appeal of a decision of the Grand Rapids Historic Preservation Commission denying an application for retroactive approval for the installation of two metal doors at the front entrance of an apartment house located at 714 Cherry Street SE, Grand Rapids, Michigan, which is located in the Cherry Hill Historic District.

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

At the direction of the Board, an administrative hearing was held on April 29, 1999, for the purpose of receiving evidence and argument.

A Proposal for Decision was issued on May 18, 1999, and copies were mailed to all parties pursuant to section 81 of the Administrative Procedures Act, as amended, being section 24.281 of Michigan Compiled Laws.

The Board considered the appeal, along with the Proposal for Decision and all materials submitted by the parties, at its regularly scheduled meeting conducted on Friday, June 4, 1999.

Having considered the Proposal for Decision and the official record made in this matter, the Board voted 6 to 0, with 0 abstention(s), to ratify, adopt, and promulgate the

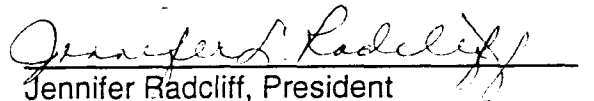
Proposal for Decision as the Final Decision of the Board, and to incorporate the Proposal into this document, and,

Having done so,

IT IS ORDERED that the Commission shall issue a Certificate of appropriateness for the installation of the two metal doors,

IT IS FURTHER ORDERED that a copy of this Final Decision and Order shall be transmitted to all parties as soon as practicable.

Dated: June 4, 1999


Jennifer Radcliff, President
State Historic Preservation Review Board

STATE OF MICHIGAN
MICHIGAN DEPARTMENT OF STATE
ADMINISTRATIVE LAW DIVISION

In the Matter of:

TIMOTHY R. BUCK,
Applicant/Appellant,

v

Docket No. 99-10-HP

GRAND RAPIDS HISTORIC
PRESERVATION COMMISSION,
Appellee.

PROPOSAL FOR DECISION

This matter involves an appeal of a decision of the Grand Rapids Historic Preservation Commission (the Commission) denying a request for retroactive approval for the installation of two metal doors at the front entrances of an apartment house located at 714 Cherry Street SE, Grand Rapids, Michigan. The property is situated in Grand Rapids' Cherry Hill Historic District (the District).

The appeal was filed under section 5(2) of the Local Historic Districts Act (the Act).¹ Section 5 provides that a person who is aggrieved by a decision of an historic district commission may appeal the decision to the State Historic Preservation Review Board

¹ 1970 PA 169, § 5; MCL 399.205; MSA 5.3407(5).

(the Review Board), which is an agency of the Michigan Department of State.

Upon receipt of the appeal, the Review Board directed the Michigan Department of State, Administrative Law Division, to convene an administrative hearing for the purpose of taking relevant evidence and argument. The Administrative Law Division conducted a hearing on April 29, 1999, in Hearing Room No. 121, the Mutual Building, 208 N. Capitol Avenue, Lansing, Michigan. The hearing was held pursuant to the procedures prescribed in Chapter 4 of the Administrative Procedures Act.²

The Appellant/property owner, Timothy R. Buck, appeared at the administrative hearing. Mr. Buck was not represented by legal counsel. Kay Moul, a Zoning Inspector for the City of Grand Rapids, attended the hearing as a representative of the Commission/Appellee. Kenneth L. Teter, Jr., Administrative Law Examiner, Michigan Department of State, Administrative Law Division, presided at the hearing. Robert O. Christensen, National Register Coordinator for the Michigan Department of State, Michigan Historical Center, State Historic Preservation Office, attended as an observer/representative on behalf of the Review Board.

² 1969 PA 306, § 71 et seq; MCL 24.271 et seq; MSA 3.560(171) et seq.

Issues on Appeal

In a written Appeal of Denial letter, dated April 2, 1999, Mr. Buck indicated that the Commission, at its meeting of February 3, 1999, had erroneously denied his request for retroactive approval of the installation of two entry doors. Appended to the appeal claim was a copy of the Notice of Denial letter, dated February 11, 1999, which the Commission sent to the Appellant. Buck's letter indicated that the Commission based its decision on a determination that the replacement doors could not be approved because they were "not a like for like design . . . due to the size and material (not wood)". Buck asserted that the Commission's decision was wrong because the doors that he installed were in fact the same exact size and material (i.e., steel) as the doors that were replaced. (Hearing Officer Exhibit No. 1)

At the administrative hearing, the Appellant essentially reiterated his contention that the Commission had incorrectly determined that the replacement doors were not 'like for like' when compared with the doors which were removed. Buck contended that when he bought the house the two existing front doors were each made of steel, that both were in disrepair, and that he simply replaced them with two steel doors that fit perfectly into the existing door frames. The Appellant further asserted that the

replacement doors were an improvement and were compatible with the character of both the house and the neighborhood as a whole.

By way of response, the Commission asserted at the administrative hearing that the replacement doors installed impermissibly changed the doors' design in terms of size and material. In particular, the Commission had determined that the replacement doors were smaller than the old doors and that they were made of metal instead of wood. The Commission maintained that its decision was proper in view of the pertinent federal and local preservation standards and guidelines it was required to follow, especially Standard 6 of the Secretary of the Interior's Standards for Rehabilitation.

Summary of Evidence

Under Michigan law, a party who occupies the position of plaintiff, applicant, or appellant generally has the burden of proof in an administrative proceeding. 8 Callaghan's Michigan Pleading and Practice (2d ed), § 60.48, p 176, Lafayette Market and Sales Co v City of Detroit, 43 Mich App 129, 133; 203 NW2d 745 (1972), Prechel v Dep't of Social Services, 186 Mich App 547, 549; 465 NW2d 337 (1990). The Appellant clearly occupies that position in this matter and consequently bears the burden of proof.

Section 5(2) of the Local Historic Districts Act, supra, indicates that appellants may submit all or any part of their

evidence and arguments in written form. In that vein, the Appellant submitted one exhibit to establish his factual assertions. Appellant's Exhibit No. 1 consisted of two photographs of the front exterior of the house located at 714 Cherry. One photograph shows the two maroon-colored steel doors that were in place when Buck purchased the house, and the other shows the two replacement cream-colored steel doors which Buck installed.

In addition to exhibits, the Appellant, Timothy Buck, testified on his own behalf. In brief, Buck explained that when he purchased the house in the fall of 1995, the first floor was being used as two separate rental apartments and the second floor was vacant and in a rundown condition. Soon thereafter, he undertook significant renovation work in the house's interior, converting the first and second floors into one apartment each. Buck stated that, during this work, he decided to replace the two front steel doors, which were in poor shape. Those doors were identical in size and appearance, that is, they were maroon-colored, flat-surfaced, and had a small 4" x 6" window. For replacements, Buck installed two steel doors which he had removed from the interior of the house. Each replacement door (which were both cream-colored, with raised panels and a "peep hole") fit perfectly into the existing door frame.

Buck also testified that the prior owner had told him that major exterior alterations were performed on the house during the mid-1980s, including the installation of vinyl siding and vinyl shake shingles. Buck stated that the front entranceway was likely reconstructed during that project, which included the removal of large, glass-paneled wood doors, and the installation of the smaller, maroon-colored steel doors that he recently replaced. Buck further indicated that part of the front porch area is the only exterior portion of the house where real wood remains.

Buck indicated that he was aware that his property was located in the Cherry Hill Historic District and that he also knew special regulations affecting exterior changes were applicable because he owned other properties situated in historic districts. Buck acknowledged that his failure to apply for a permit prior to replacing the doors was due to his own oversight, but he nevertheless expressed support of the underlying purposes and goals of the regulations. However, Buck disagreed with the Commission's determination that using his replacement doors would be improper on the basis that they were of a different "size and material". To the contrary, Buck argued that the steel replacement doors which he installed were the exact same size and material as the old steel doors which he had removed.

The Appellee/Commission also presented documentary evidence at the administrative hearing. Commission Exhibit No. 1 was a copy of a Record of Complaint, dated "12-9-98", concerning unauthorized replacement of two front doors on the house at 714 Cherry Street. Commission Exhibit No. 2 consisted of a copy of a 1981 photograph showing both front doors, as well as two color photographs of the front doors, one taken around May of 1997 and the other around December of 1998. Commission Exhibit No. 3 was a copy of a letter, dated December 17, 1998, from the City of Grand Rapids Neighborhood Improvement Department to Timothy Buck informing him of a complaint regarding the installation of the front doors and the need to submit an application to the Commission. Commission Exhibit No. 4 was a copy of a Application For Certificate of Appropriateness, dated "1-10-99", which Buck submitted to the Commission.

Commission Exhibit No. 5 consisted of a copy of a 1960 photograph displaying the front exterior of the house at 714 Cherry, including the front doors. Commission Exhibit No. 6 was a copy of excerpts from the minutes of the Commission meeting held on February 3, 1999, pertaining to the Appellant's request for approval of the completed installation of two steel entry doors. Commission Exhibit No. 7 was a copy of the U.S. Secretary of Interior's Standards For Rehabilitation. Commission Exhibit No. 8 was a copy of a Notice of Denial issued by the Commission, dated

February 3, 1999, which rejected approval of the doors installation. Commission Exhibit No. 9 embodied copies of two staff reports concerning the Commission's decision and an inspection of the Appellant's property on April 6, 1999.

Commission Exhibit No. 10 was a copy of the portion of the Commission's "Guidelines For Historic Districts And Designated Historic Properties", dealing with windows, doors, skylights, solar systems and roof accessories. Commission Exhibit No. 11 was a 1997 photograph of the front of the house showing one of the front doors prior to replacement. Finally, Commission Exhibit No. 12 was a copy of a letter, dated May 3, 1999, from Kay Moul to the Review Board, which indicated that the Cherry Hill Historic District was established on June 7, 1994, and that it could not be determined from a review of the files of Grand Rapids' Building Inspection Department when prior major exterior renovations at 714 Cherry had been performed³.

In addition, Kay Moul, a City of Grand Rapids building inspector who also serves as staff for the Commission, gave testimony on behalf of the Commission. Moul testified regarding

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By agreement of the parties at the April 29, 1999 hearing, the evidentiary record was left open so that the Commission would have the opportunity to present additional proofs to show when the Cherry Hill Historic District was established and when the prior owner had undertaken major exterior renovation work.

the Commission's handling of the Appellant's application for retroactive approval of steel front doors installed at 714 Cherry, including actions taken at the Commission meeting held on February 3, 1999. She described how the Commission applied the Secretary of Interior's Standards For Rehabilitation, as well as local guidelines pertaining to exterior doors.

Moul pointed out that the Commission reviewed historic photographs of the house, some showing wooden front doors with large glass panes and others showing the maroon-colored steel doors that were replaced by Buck. Moul further indicated that the Commission was not able to ascertain when the maroon-colored steel doors were originally installed. Based on the photo-documentation presented, the Commission concluded that it was duty bound to disapprove the installation of the new cream-colored steel doors because they produced a "change in design" relative to their "size and material(not wood)".

Findings of Fact

Based on the evidence presented at the administrative hearing, the facts of this matter are found to be as follows:

A. Grand Rapid's Preservation Program and Cherry Hill

1. On June 7, 1994, the City of Grand Rapids established the Cherry Hill Historic District by ordinance as part of a comprehensive program designed to recognize, preserve, and protect

historic and architectural sites, buildings, structures, objects, open spaces, and features significant to the heritage of the City of Grand Rapids.

2. Among other things, the City's preservation ordinance provisions established a design review process, administered by the Commission, to ensure that all exterior changes to properties within Grand Rapids' historic districts would serve to maintain the historic character and value of the districts. Among its duties, the Commission is charged with reviewing all building permit applications for properties located within Grand Rapids' historic districts, if proposed work would have a major impact on the exterior of a building or a structure, including the installation or alteration of front entry doors.

3. The property at 714 Cherry Street SE is situated within the Cherry Hill Historic District.

B. Background Information on 714 Cherry

4. Built around 1905, the house at 714 Cherry is a two-story, wood-framed structure with a basement. The building was originally designed for use as a single-family residence.

5. Sometime in the mid-1980s, the owner of the property, Frank Ortiz, performed major alterations on the exterior of the house, including the installation of vinyl siding and vinyl shake shingles. Also around this time, Ortiz had the front entranceway

reconstructed, which involved the installation of standard-sized, maroon-colored steel doors in the place of bigger, glass-paneled wood doors. Each steel door had a flat surface and a small 4" x 6" window.

6. Ortiz utilized the house as rental property. The first floor was divided into two separate apartments, but the second floor was not used for occupancy.

C. Buck's Acquisition of the Property

7. In the late fall of 1997, Timothy Buck purchased the property at 714 Cherry from Ortiz. Buck acquired the property with the intention of continuing to rent the two first floor apartments. He also wanted to carry forward a plan devised by Ortiz to convert the second floor into two more apartments. However, after Buck submitted his own request for approval with Grand Rapids' building officials, he was told that a four-unit apartment house could not be approved due to a lack of parking space at the property.

8. After learning four apartments were not possible, Buck decided to completely reconfigure the house so that one apartment was on the first floor and one apartment was on the second floor. In the process of remodeling the interior, Buck removed two cream-colored steel doors which had served as the entrances to the first floor apartments. Those doors have raised panels and small peepholes.

9. During this project, Buck also observed that the two maroon-colored front doors were badly deteriorated. They had broken hinges, loose locks, chipped paint, and had rust on the bottoms.

10. Since the cream-colored doors that had been used in the interior were still in good condition and were the proper size of each front entranceway, Buck felt that they could be used as attractive replacements for the old front doors. Buck then removed the maroon-colored steel doors and replaced them with the cream-colored doors. Buck discarded one of the old doors and stored the other one in the basement.

11. Although Buck was generally aware that a property owner must obtain Commission approval before making changes to the exterior of a house, he forgot to apply for a permit prior to replacing the front doors.

12. Sometime around the beginning of December of 1998, the Commission received a citizen complaint which indicated that two metal front doors at 714 Cherry had been installed without prior review or approval.

13. Soon thereafter, Grand Rapids Zoning Inspector Michael Page visited the property, inspected the doors, checked the Commission's files, and determined that the complaint had validity. Page then sent Buck two similar letters advising him that

unauthorized front door alterations constituted a violation of the City Code, Chapter 68, Section 5.395(1), and that Buck, as the property owner, needed to submit a permit application with the Commission. In addition, Page enclosed an application form to request a Certificate of Appropriateness, as well as a copy of the Commission's Guidelines for Alterations and an informational brochure. He also informed Buck that "(a)pplications that reflect the Guidelines are most likely to be approved".

14. On or about January 10, 1999, Buck filed an application for Certificate of Appropriateness with the Commission. In space provided to describe the "proposed exterior alteration, improvement or repair", Buck wrote:

"Replaced two steel front doors that were painted red with two steel doors that were painted a creme color. The replaced doors were dented, hinges were bent and loose and paint was chipped. The replacement doors are of the same material as the old doors but in much better condition and aesthetically more pleasing."

D. Commission Meeting and Determination

15. The Commission considered Buck's application at its regular meeting held on February 3, 1999. Buck attended the meeting and spoke to the Commission about the replacement of the two steel doors at the front entranceways at 714 Cherry.

16. Commissioner Logan noted that the application appeared to be a like for like alteration. He further stated that, although the use of steel doors are considered inappropriate, like for like repairs were allowable.

17. The Commissioners also reviewed historic photographs of the front exterior of the house. During their review, it was noted that two older photographs seemed to depict large-sized wooden front doors with glass panels covering the top half. Additional photographs showed either the maroon-colored doors that were removed by Buck or the cream-colored doors that he installed as replacements. Logan observed that there was a difference in the design, pointing out that the previous steel doors had windows in them and that both new steel doors appeared to be shorter than the previous doors. The Commission could not determine when the maroon-colored steel doors had originally been installed. The Commissioners also reviewed the Secretary of the Interior's Standards For Rehabilitation, giving special attention to Standard No. 6. It was again mentioned that the pertinent city ordinance provides that if proposed work is a like for like repair, it may be permitted.

18. Susan Thompson, Supervisor of the Historic Preservation Enforcement Division of the City of Grand Rapids, stated that staff

approval would have been given if it were the same design, but that Buck's request is for a different design.

19. At the conclusion of a discussion of the merits of Buck's application, Commissioner Misner made a motion to deny the request for approval "as this is not a like for like design. The change in design may not be approved due to the size and material (not wood)". Commissioner Metz supported Commissioner Misner's motion. The motion carried by unanimous vote of the Commission members present.

20. On February 11, 1999, the Commission's Recording Secretary, Carol Gornowich, sent a Notice of Denial to Buck. Regarding an explanation of the Commission's decision to deny Buck's permit application, the Notice provided:

The Historic Preservation Commission, at their meeting held on February 3, 1999, took the following action on your request: Ms. Misner **MOVED TO DENY**, as this is not a like for like design. The change in design may not be approved due to the size and material (not wood). **SUPPORTED** by Ms. Metz. All in favor. **MOTION CARRIED.** (Emphasis in original)

Conclusions of Law

As previously indicated, section 5(2) of the Local Historic Districts Act, *supra*, allows persons aggrieved by decisions of commissions to appeal to the State Historic Preservation Review Board. Section 5(2) also provides that the Board may affirm,

modify, or set aside a commission's decision and may order a commission to issue a certificate of appropriateness or a notice to proceed. Relief should, of course, be granted where a commission has, among other things, acted in an arbitrary or capricious manner, exceeded its legal authority, or committed some other substantial and material error of law. Conversely, where a commission has reached a correct decision, relief should not be ordered.

A. Compliance with Historic Preservation Standards

In a case such as this, the criteria that a commission must use to act on an application concerning work affecting the exterior of a resource, either by approving or denying a certificate of appropriateness, is set forth in section 5(3) of the Local Historic Districts Act.⁴ The section provides as follows:

Sec. 5. * * *

(3) In reviewing plans, the commission shall follow the U.S. secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 C.F.R. part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the commission may be followed if they are equivalent in guidance to the secretary of interior's standards and guidelines and are established or approved by the bureau. The commission shall also consider all of the following:

(a) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.

⁴ See footnote 1.

(b) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.

(c) The general compatibility of the design, arrangement, texture, and materials proposed to be used.

(d) Other factors, such as aesthetic value, that the commission finds relevant. (Emphasis added)

The Commission has maintained that allowing Buck to retain the replacement steel doors that he installed would violate Standard 6 of the Standards for Rehabilitation of Historic Properties promulgated by the U.S. Secretary of the Interior.⁵ Standard 6 provides as follows:

(6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence. (Emphasis added)

In addition to Standard 6, Standards 5 and 9, which deal with replacing rather than repairing deteriorated materials, are also important to consider. Respectively, Standards 5 and 9 state as follows:

(5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved. (Emphasis added)

* * *

⁵ 36 CFR § 67.7.

(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, scale, and architectural features to protect the historic integrity of the property and its environment. (Emphasis added)

It is also instructive to take cognizance of written guidelines prepared by the U.S. Secretary of the Interior which are designed to implement the Standards. The specific guidelines referred to, which are applicable to exterior doors, provide as follows:

Entrances and Porches

Recommended

Identifying, retaining, and preserving entrances--and their functional and decorative features--that are important in defining the overall historic character of the building such as doors, fanlights, sidelights, pilasters, entablatures, columns, balustrades, and stairs.

Not Recommended

Removing or radically changing entrances and porches which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Stripping entrances and porches of historic material such as wood, iron, cast iron, terra cotta, tile and brick.

Removing an entrance or porch because the building has been re-oriented to accommodate a new use.

* * *

Recommended

Replacing in kind an entire entrance or porch that is too deteriorated to repair--if the form and detailing are still evident--using the physical evidence to guide the new work. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered.

Not Recommended

Removing an entrance or porch that is unrepairable and not replacing it; or replacing it with a new entrance or porch that does not convey the same visual appearance.⁶

The Commission also asserted that it acted in conformity with its own local guidelines applicable to doors. These guidelines, which are contained in Commission Exhibit No. 10, provide in relevant part that:

IV. Guidelines

A. Windows and Doors

Window and doors present a variety of problems due to period of construction, size of opening, method of operation, and other features. The guidelines will be applied with flexibility to allow for these differences. At the same time, windows and doors are often important historic features as part of the structure and in their own right. For that reason, every effort should be made to preserve or duplicate the unique features of the original windows and doors.

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Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, U.S. Department of the Interior, pp. 28 and 29 (rev. 1990).

* * *

Specific issues considered by the Commission include the following:

1. Size, Shape and Proportion

Replacement windows and doors should fit existing openings and be consistent with existing trim and other features of the structure. Replacement windows should duplicate the appearance of the existing original windows in design, size, proportion, reflective qualities and profile including the profile of sash rails, stiles and muntins. Other design features reflecting the style of the structure should be considered, particularly original windows, doors, moldings and surface finish.

2. Materials

Appearance of the finished window or door is the paramount concern. Steel, vinyl, aluminum or fiberglass seldom match the appearance of wood, and they do not lend themselves to the application of added detailing. Window bars and metal security doors generally are not appropriate additions. Other security measures are less intrusive and equally effective. If the original windows are wood, then wood replacement windows should be used unless the specific alternative product is approved by the Commission.

3. Details

Detailing, such as the use of inset panels, carving, bevelled glass and other features may be considered if consistent with the style of the structure. (Emphasis added)

B. Basis for Appeal and Grounds for Reversal

The Appellant has appealed on the basis of a single assignment of error; namely, that the Commission incorrectly concluded that the two front entry doors which were installed on the front entrances on the house located at 714 Cherry embodied improper design changes. In particular, the Commission specified that the objectionable changes pertained to the doors' size and material, i.e., the doors should be made of wood.

According to the proofs presented by both parties at the hearing, it appears that the Commission took the position at its February 3, 1999 meeting that if the maroon-colored front doors needed to be placed, the property owner would have to change those entrances back to their historic characteristics, those being, a larger size and made of wood. It further appears that the Commission was influenced by the presence of historic photographs which documented those historic characteristics and by the fact that it could not be determined with any degree of certainty when the existing maroon-colored steel doors were first installed on the house. The Commission seems to have followed the premise that if the entryway reconstruction and use of steel doors occurred after the Cherry Hill Historic District was established (and without Commission review and approval), then the replacement doors would have to match the original historic characteristics.

Based on the evidentiary record, however, it is apparent that the maroon-colored steel doors were originally installed well before the Cherry Hill District existed. The evidence demonstrated that the Cherry Hill District was established on June 7, 1994, pursuant to the enactment of a municipal ordinance. On the other hand, the testimony of Buck established that the prior owner had informed him the exterior renovations had been completed in the mid-1980s. Moreover, Buck's description of the deteriorated condition of the old doors as they appeared in the fall of 1997, suggests that they had been in use much longer than a couple of years.

In addition, the files of the City of Grand Rapids are apparently devoid of any evidence indicating that proposed use of steel doors was scrutinized by City officials after the Commission began undertaking its duties and responsibilities. One might expect that the Commission would have dealt with unauthorized repair work had it taken place during the Commission's tenure. And without resorting to conjecture, the evidence does not support a finding that the maroon-colored steel doors were installed illegally. Certainly, the property owner (Buck) in this case had no reason to believe that the steel doors that were extant on the house when he bought it were in violation of the law.

It is clear from a review of the federal and local standards and guidelines pertaining to the replacement of the features of a house, that a property owner is entitled to (and should) match the existing features, including size and material, whenever possible. Given the foregoing analysis, it must be concluded that the Appellant's proposed utilization of doors of the same size and material as the existing doors was appropriate. In short, this is Buck's argument that he properly matched the old doors by installing replacement steel doors with the same dimensions.

Before concluding a discussion of the merits of this appeal, it is worth noting that, beyond the size and material issues, the replacement doors did not have the same visual appearance as the old doors. Each of the old steel doors was maroon or red-colored, with a flat surface and a small 4" x 6" window; whereas each replacement door was cream-colored, with raised panels and a peephole.

The presence of those three differences might lead some to suggest that the replacement steel doors used by Buck were inappropriate. To be sure, the federal and local standards and guidelines make duplication a primary concern when the replacement of a house's features is considered. However, the mere presence of a variation does not automatically exclude a replacement part. For example, the Commission's own guidelines on windows and doors

provides that "detailing, such as the use of inset panels, carving, bevelled glass and other features may be considered if consistent with the style of the structure".

Moreover, in the case at hand, given the wide use of man-made products (i.e., vinyl siding and vinyl shake shingles), the historic character of the house at 714 Cherry is questionable. Thus, the use of steel doors with virtually any feature could be compatible with the house. The main consideration would then be whether or not those features detracted from the district as a whole. In the case of the cream-colored doors installed by Buck, their appearance was not shown to be inappropriate for or incompatible with either the house or the neighborhood.

In any event, the Commission did not inform the Appellant that the design change in surface and window features and in color were part of the basis for the denial. Pursuant to section 9 of the Act,⁷ commissions must give clear, written explanations of their decisions. In the case at hand, the Commission sent to Buck a Notice of Denial which only indicated that the doors' size and material were objectionable.

Based on a review of the evidence in the record, the Appellant's position has more merit than the Commission's.

⁷ 1970 PA 169, §9; MCL 399.209; MSA 5.3407(9).

Conclusion

In consideration of the entire hearing record developed in this case, it is concluded that the Appellant did show that permitting the front entry doors installed on the building situated at 714 Cherry to remain would comply with applicable standards and guidelines regulating architectural features.

It is further concluded that the Commission did not properly apply the law, and that it acted improperly in denying Buck's request to keep the front entry doors under section 5(3) of the Local Historic Districts Act, supra.

Recommendation

In consideration of the above, it is recommended that the appeal be granted.

Dated: May 18, 1999

Kenneth L. Teter Jr.
Kenneth L. Teter, Jr. (P23898)
Administrative Law Examiner

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