IN RE:

10 - 8th St, SE
Washington, DC 20003
Square 920 Lot 821

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
Office of Adjudication
613 G Street, N.W. - Seventh Floor
P.O. Box 37140
Washington, D.C. 20013-7200
(202) 727-7900

DECISION AND ORDER

Background

On or about October 3, 1989, Claude Hubbs, representative of John A. Kendrick, owner of the premises known as 10 - 8th St, SE, Washington, DC 20003 (hereinafter the "premises"), entered into a contract with Washington Gas Light Company for the replacement of the aged and rotting wooden windows of the premises to eliminate severe drafts throughout the house and to conserve energy. This contract was canceled and on October 19, 1989, Claude Hubbs as representative entered into a contract with Variety Windows and Doors to replace the aged and rotting wooden windows with vinyl windows. Although advertising in the Washington Post, Variety Windows and Doors was not licensed in the District of Columbia and did not obtain the required building permit prior to removing the windows at a cost of $1,795.24.

On or about November 27, 1989, John A. Kendrick (hereinafter the "owner") was cited under the Civil Infraction Act for 'constructing without a permit in violation of D.C. Code §5-426 and at a hearing held on March 9, 1990 was fined $375.00. Meanwhile the owner applied for the necessary building permit on January 11, 1990. However, at a hearing before the Historic Preservation Review Board on March 21, 1990, the requested application for the permit was denied on the grounds that the "...alteration is not consistent with the purposes of D.C. Law 2-144."
of the Historic Preservation Division had recommended denying the permit since the "...removal of the original sash and the replacement with historically incorrect sash to be inappropriate to the historic character of the house and streetscape and therefore inconsistent with the purposes of D.C. Law 2-144."

After being advised of the determination of the Historic Preservation Review Board to deny his application, the owner filed a request for a Public hearing before the Mayor's Agent. That hearing was held on June 5, 1990 by the then Mayor's Agent, Cassandra Sneed-Ogden. While waiting for a Decision by the Mayor's Agent, owner filed a complaint against Variety Windows and Floors, the home improvement contractor, with the Department of Consumer and Regulatory Affairs. By letter dated December 11, 1991, owner advised the mayor's Agent that through the efforts of DCRA a negotiated settlement occurred between the owner and the home improvement contractor which provides for Variety Windows and Floors to apply for the proper permits for alternation, remove the existing vinyl windows the contractor installed and to install new windows that meet with the approval of the Historic Preservation Division.

**Jurisdiction**

Pursuant to D.C. Code §5-1005, before the Mayor may issue a permit to alter the exterior of an historic landmark or of a building or structure in an historic district, the Mayor shall review the application in accordance with this section. The Historic Preservation Review Board, after reviewing the evidence denied the application. Pursuant to 10 DCMR 2508.7, Applicant requested a hearing before the Mayor's Agent. Administrative Issuance 2-54A, dated July 18, 1991, delegated the authority to conduct hearings as the Mayor's Agent for Historic Preservation under sections 5 through 9, 12 and 13 of D.C. Law 2-144, the Historic Landmark and Historic District Protection Act of 1978 to the undersigned.
**Finding of Fact**

ACCORDINGLY, based upon the Record as established and taken as a whole, the following Findings of Fact are made -

1. John A. Kendrick is the owner of the premises known as 10 - 8th Street, SE, Washington, DC 20003.

2. The premises are located in the Historic District known as Capitol Hill.

3. After having an unlicensed home improvement contractor install vinyl windows to replace the aging and rotten wooden ones, owner was cited under the Civil Infraction Act and subsequently fined.

4. Owner applied for the necessary permit but it was denied by the Historic preservation Review Board.

5. Owner requested a public hearing before the Mayor's Agent and had a hearing on June 5, 1990.

6. Prior to the issuance of a Decision by the Mayor's Agent, owner was able to enter into a consent decree with Variety Windows and Floors.

7. Owner so informed the Mayor's Agent in writing on December 11, 1991.

**CONCLUSIONS OF LAW**

Based upon the Record as - ._-_.-I ned and taken as a whole, the following Conclusions of Law are made -

8. The moving party to an appeal may withdraw that appeal at any time. However, when the appeal is withdrawn, the holding being appealed is reinstated.

9. In this matter since the denial of the Historic Preservation Review Board was being appealed, that denial is reinstated with the withdrawal of the appeal.

ACCORDINGLY, it is this 30th day of March, 1992

ORDERED that for the reasons stated above, the owner is permitted to withdraw his appeal from the ruling of the Historic Preservation Review Board; and it is

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FURTHER ORDERED that the ruling of the Historic Preservation Review Board of March 26, 1990 be and same is hereby reinstated; and it is

FURTHERED ORDERED that the owner be commended for working out a Consent Decree, one of the terms of which is to work—with the Capitol Hill Restoration Society to ensure compliance with the provisions of the Historic Landmark and Historic District Protection Act of 1978.

[Signature]

Donald J. Sheehy
Chief Administrative Law Judge, D.C.
Mayor's Agent — D.C. Law 2-144