

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
Office of Adjudication
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IN RE:

3153 Nineteenth St, NW
Washington, DC
Square 2603 - Lot 91

HPA Case #91-43

DECISION AND ORDER

Background

On or about January 3, 1991, the Applicant, Ms. Alice Taylor of 3153 Nineteenth St, NW, Washington, DC was advised by Stephen J. Raiche, Chief, Historic Preservation Division, that the Historic Preservation Review Board at its public hearing on December 5, 1990 had determined not to issue the requested permit for her proposed porch alteration since the "porch design is not consistent with the purposes of D.C. Law 2-144 [The Historic Landmark and Historic District Protection Act]." (Exh. #4) The Applicant appealed that ruling.

On October 9, 1991 the appeal hearing was heard before Donald J. Sheehy, Chief Administrative Law Judge and the Mayor's Agent pursuant to D.C. Law 2-144. Also present at that hearing **were** Ms. Alice Taylor, Applicant and Glen Leiner, Historian with the Historic Preservation Division representing the government.

Finding of Fact

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

1. Alice Taylor, the owner/occupant of the premises known as 3153 Nineteenth St, NW, Washington, DC is the Applicant. (Exh #1)
2. The premises known as 3153 Nineteenth St, NW, Washington, D.C., is within the Historic District known as Mount Pleasant and, therefore, subject to the provisions of D.C. Law 2-144. (Exh #2)
3. The Application for a porch alteration at the above

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premises was duly considered by the Historic Preservation Review Board at its December 5, 1990 meeting. (Exh #3)

4. The Historic Preservation Review Board refused to order the issuance of the permit for porch alteration as requested by the Applicant on the grounds that said porch alteration was inconsistent with the purposes of D.C. Law 2-144. (Exh #4)

5. On or about January 14, 1991 the Applicant filed a notice of appeal requesting a Public Hearing before the Mayor's Agent and stated as the grounds for her appeal that "...failure to issue it will result in unreasonable economic hardship to me..." (Exh. #5)

6. Accordingly, the matter was set for a Public Hearing by the Mayor's Agent on October 9, 1991 at 10:00 A.M. Notice was provided to the Applicant, abutting property owners, affected ANC and those listed on the Historic Preservation Division mailing list. (Exh. #7)

7. The Applicant did not file her financial records and written statements to substantiate her economic hardship prior to the hearing on October 9, 1991. (Tr. 8)

8. Since all parties were present, and the Historic Preservation Division did not object, the mayor's agent agreed to allow the Public Hearing to proceed in the interest of 'judicial economy.' (Tr. 13) The Applicant represented that the required financial records and statements would be submitted by High Noon of November 7, 1991. (Tr. 43-50)

9. The Applicant was admonished that should the required financial records and statements not be submitted by that time, the matter would be decided on the Record as submitted. (Tr. 50)

10. The Applicant was advised on the Record that should she have any question regarding this required material, she was to contact Ms. Sheila Bennett of the Historic Preservation Division who was present and identified in the Hearing at the time. (Tr. 50)

11. During the Public Hearing, the Applicant failed to submit any substantial evidence concerning her claimed economic hardship. (Tr. 44)

12. At the request of the Applicant the deadline for filing any required and requested documentation was extended until November 20, 1991. (Exh #8)

13. As of the date of this Decision and Order, the Applicant, for reasons best known only to her, has not filed the required and requested documentation.

14. Porches are one of the important features of the [Mount Pleasant] neighborhood, which is part of why the Historic Preservation Review Board made it the Historic District in the first place. (Testimony of Mr. Leiner, p. 39)

15. Mr. Leiner further testified that it was the government's position that -

"The Applicant proposes to build an uncovered porch which will resemble the face of the original. The distinctive columns and roof of the porch would not be reconstructed. The subject property is one of a continuous row, which are defined by the covered front porches. And proposal for a partial front porch would adversely affect the appearance of the residence and its surroundings by introducing a new form." (Tr. 40)

16. No evidence has been submitted to warrant a finding of economic hardship with respect to the application at issue.

Conclusions of Law

Based upon the Record as established and taken as a whole, I make the following Conclusions of Law -

17. Prior to the Public Hearing by the Mayor's Agent, 10 DCMR 2516.4(a)1 requires that when an Applicant appeals on the basis of

¹ 10 DCMR 2516.4(a) provides in pertinent part that when the Applicant claims 'unreasonable economic hardship', at least twenty (20) days prior to the hearing the Applicant shall file

"(a) For all property:

(1) The amount paid for the property; the date of purchase; the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased;

(2) The assessed value of the land and improvements on the land according to the two (2) most recent
(continued...)

'economic hardship', the Applicant must submit financial records and statements to substantiate the economic hardship at least twenty (20) days prior to the Public Hearing.

18. While Applicant was clearly required to submit documentations prior to the hearing, because the government did not object and on the basis of 'judicial economy', the Public Hearing was permitted to proceed.

19. However the documentation requirement was never waived. Rather the Applicant was granted an extension to submit the documentation required by 10 DCMR 2516.4(a) to determine any 'economic hardship'.

20. The Applicant's failure to comply with the original filing requirement of 10 DCMR 2516.4 is by itself sufficient grounds to deny the appeal. The Applicant however, not only failed to comply with the original filing requirement of twenty (20) days prior to the hearing but also failed to file the required documents on either the original agreed upon extension date of November 7, 1991 or the second extension date of November 20, 1991 which the Applicant requested and was granted.

21. Furthermore, the Applicant has failed to provide any evidence substantiating her claimed economic hardship at the Public Hearing.

22. Therefore Applicant has failed to sustain her 'burden of

¹(...continued)

- assessments;
- (3) The amount of real estate taxes for the previous two (2) years;
- (4) The amount of annual debt service, if any, for the previous two (2) years;
- (5) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with his or her purchase, financing, or ownership of the property;
- (6) Any listing of the property for sale or rent, the price asked and offers received, if any; and
- (7) Annual cash flow, if any, for the previous two (2) years.

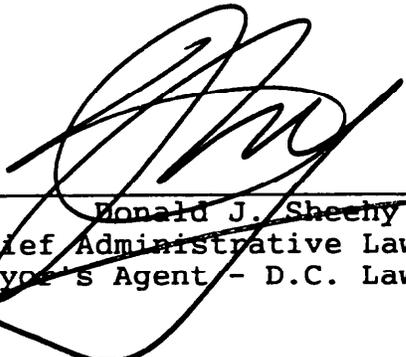
proof' as required by 10 DCMR 2516.4(a).

ORDER

Accordingly, it is this **14th** day of **January, 1992**

ORDERED that the Building and Land Regulation Administration, DCRA, **not** issue the requested permit for the porch alteration of the premises known as 3153 Nineteenth St, NW, Washington, DC; and it is

FURTHER ORDERED that the application for the porch alteration of the premises known as 3153 Nineteenth St, NW, Washington, DC be, and the same is hereby, **DISMISSED**.



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