

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING, HISTORIC PRESERVATION OFFICE
801 NORTH CAPITOL STREET, N.E., THIRD FLOOR
WASHINGTON, D.C. 20002**

In the Matter of:

MOUNT LEBANON BAPTIST CHURCH

HPA: 00-369

Applicant

Locations:

**1219 New Jersey Avenue, N.W.
Washington, D.C. (Sanctuary)**

and

**228 Morgan Street, N.W.
Washington, D.C. (Parsonage)**

Subject area: Nonconforming windows in historic district

DECISION AND ORDER

Background

This matter came before Rohulamin Quander, Senior Administrative Judge and Mayor's Agent for Historic Preservation on February 7 2007, pursuant to the D.C. Administrative Procedure Act, codified at *D.C. Official Code*, § 2-509 (2001 ed), the *D.C. Historic Landmark and Historic District Protection Act of 1978* (the "Act"), D.C. Law 2-144, codified at *D.C. Official Code*, § 6-1101, *et seq.*, and Title 10A of the D.C. Municipal Regulations, and upon the request for an administrative hearing, dated September 30, 2006, filed by Deborah Collins, Chairperson, Mount Lebanon Baptist Church, Board of Trustees, (the "Applicant").

Summary of the Evidence

The Applicant seeks approval for the partially completed installation of 22¹ vinyl-type replacement windows, 13 of which are on the front façade of the corner building, which carries the address of 228 Morgan Street, N.W. It is connected to the church sanctuary building, which carries the address of 1219 New Jersey Avenue, N.W. Both buildings are located in the Mount Vernon Triangle Historic District (the "Historic District"), which was established in 1999, and are deemed to be contributing buildings to the Historic District. The Historic Preservation Review Board (the "HPRB" or the "Board") determined, at its monthly meeting held on September 27, 2006, that the alteration window installation was incompatible with the architectural significance of the Applicant's structures. Further, the Board adopted the staff report, which concluded that the application was inconsistent with the purposes of the historic

¹ Applicant's contract was for installation of 22 windows. However and although Applicant neglected to seek an installation permit before undertaking this project, the HPRB elected not to pursue conformity on all 22 windows, and focused its concern on the 13 windows deemed to be most architecturally significant to the Historic District.

preservation Act and Title 10A DC Municipal Regulations, § 2308, of the Window Replacement Standards, and more particularly were not consistent with the “Special Window” Standards of 10A DCMR, § 2301.3.²

The church community, which was founded in 1899 by freed slaves, has approximately 400 members, and has worshiped at this site since about 1963. Many of its congregants are elderly and live on fixed incomes. As well, the pastor of the church has consistently resided at the parsonage, located at 228 Morgan Street, N.W. The church is one of the oldest African American church communities in Washington, D.C.

The following persons testified on behalf of the Applicant: a) Hiawatha Burris, Member, Trustee Board; b) Deborah Collins, Chair, Trustee Board; and c) H. Lionel Edmonds, Pastor. Brendan Meyer, a member of the Historic Preservation Office staff, D.C. government, appeared and testified against the granting of the application. Although duly notified of the date, time, and place of the hearing, there was no representation from the local Advisory Neighborhood Commission (the “ANC”). Likewise, the ANC did not file anything in writing to declare a position regarding the Mayor’s Agent’s consideration of this matter.

FINDINGS OF FACT

Based upon the entire record established in this matter, the Mayor’s Agent makes the following Findings of Fact:

1. The Applicant purchased these two adjoining properties in May 1963 for \$145,000.00. The sanctuary is located at 1219 New Jersey Avenue, N.W., while the adjacent parsonage is located at 228 Morgan Street, N.W. The congregation consists of approximately 400 African American members, many of whom are senior citizens living on fixed incomes. During their active working years, a significant percentage of the congregation worked in careers that did not necessarily accord them opportunities to earn significantly higher personal income.
2. In addition to its spiritual mission, the Applicant’s congregation has devoted the church’s mission to: enhancing local civic life; taking the lead in developing affordable housing projects in the immediate area; improved education, job training, and recreation for the local community, especially the after-school youth; and programs designed to reduce the influence of drug dealers, vagrancy, alcohol, prostitutes, and other undesirable elements in the community.
3. While much of the local community worked to become gentrified, to a major extent, gentrification passed the Applicant by. Their resources were more directly focused upon providing both spiritual and civic service to the community, rather than taking a bricks and mortar approach towards repairing the immediate neighborhood. However, Applicant recognized that its two facilities were in dire need of window replacement, and did establish a window replacement fund.

² The Staff Report inadvertently transposed two numbers referring to Window Standard regulation “2103.03”. In actuality, the location of the standard is codified at 2301.3.

4. On May 11, 2006, Applicant entered a contract with Master Seal, a Baltimore, Maryland, contractor, for removal and replacement of 22 existing parsonage windows. The contract was for \$10,556.00, and indicated that the new windows would all be “vinyl high performance” windows. A deposit of \$3,400.00 was given to the contractor, with a balance due of \$7,156.00. The contract was signed by Robert E. Vessels, a church trustee. The windows were delivered, and while they were being installed on June 13, 2006, the D.C. government’s Historic Preservation Office received a telephone call from a citizen, advising that the existing windows were being currently removed from the building and that new windows were in the process of being installed.
5. A quick investigation revealed that there was neither a permit application on file nor a permit issued. Keith Lambert, an historic district construction inspector, rushed to the property, noted that work in process, and issued a Stop Work Order at 12:50 p.m. The Stop Work Order was likewise served on Robert E. Vessels, the same Board of Trustee member who executed the window replacement contract.
6. Applicant filed a window replacement permit application with the D.C. Department of Consumer and Regulatory Affairs on June 20, 2006, which application was referred to the Board for consideration at its monthly meeting, convened on July 27, 2006. The Board denied the application, adopting the staff report which recommended that, “the application as inconsistent with the purposes of the preservation act and the Window Standards.”³
7. With regard to 13 specific windows, the staff report also recommended that the Board require the application to: 1) repair and restore the still existing six historic curved windows; 2) remove the three flat vinyl windows already installed in the curved bays and to replace them with the appropriate wood windows; and 3) that all of the remaining four windows on the front façade of the structures be replaced with compatible wood windows. All of the replacement windows should generally replicate the historic window characteristics of the front façade.
8. Unhappy with the Board’s position, Applicant appealed to the Mayor’s Agent, who convened an evidentiary hearing on February 7, 2007.
9. Hiawatha Burris, church trustee and Applicant’s lead witness, stated Applicant’s position essentially as follows:
 - a) Applicant should be allowed to install the requested 13 windows. The changes are not “alterations”, as defined by the Act, since this project is merely the removal of a window and replacing it with another window at the same site in a manner which is noticeable only upon an in depth inspection, and the change of the windows is truly insignificant when weighed in the context of all of the

³ This is a reference to Title 10A, DCMR, § 2300, *et seq.*, Standards for Window Repair and Replacement (the Window Standards), adopted by the Board on January 25, 2001.

many good things that the church community is dedicated to, and determined to achieve;

- b) Other than the raising of the issues by the Board, the level of care and concern within the community about this window project is miniscule, compared with the pressing social issues the church community is addressing on a sustained basis, as it seeks to eradicate the challenges posed by drugs, alcohol, prostitution, vagrancy, teenage pregnancy, car thefts, lack of education, and unsanitary human conditions, to name but a few of the considerations that are a part of the church community's daily mission;
- c) More emphasis needs to focus upon the service that the Applicant's church community provides, and that new windows will keep the cold out, rather than placing misguided emphasis upon a claim that the windows adversely affect the ambiance of the community for the present and the future;
- d) The Applicant was denied due process several years ago when the Historic District was created, as they received no notice of the application to create the district, had no opportunity to respond to the government when the district's creations was pending, and were likewise unaware of the restrictions, limitations, and extra burdens that being located in an historic district imposed;
- e) He challenged the Board-adapted Window Standards, both as to the content of the document and the process by which the standards were promulgated and adopted;
- f) At the time that the window contract was signed with the contractor, the contractor did not mention that the church was located in an Historic District, and that this situation imposed specific compliance requirements before the windows could be installed;
- g) Requested that the Applicant, a long-standing pillar of the local African American community, be given a "waiver", on the basis that the Applicant has been singled out for specific enforcement, while there are several other alleged violators,
- h) Many local residents, and especially the more recent "gentrifiers", most all of whom are not African American, have replaced their windows, but have not been cited for this same violation.

10. Deborah Collins, Chairperson of the Board:

- a) A lifetime member of the congregation, and recalling when the church relocated to this site in 1963, she never recalled seeing any document from either the Board or the D.C. government relevant to the creation of this area as a part of an Historic District, and is of the opinion that the church community was not notified;

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- b) Because the membership is elderly, most all of whom are on fixed income, the church established a window replacement fundraising campaign and raised approximately \$20,000.00 for the entire project, which includes both alley and rear windows, in addition to the windows that are the subject of this Application. This effort took a number of years to establish and complete, but was necessary, given the presence of rags and other unsightly, non conforming materials that were placed in the parsonage's windows, to ward off the cold and elements;
- c) Several other properties in the neighborhood have non confirming windows, but to identify the Applicant for selective enforcement is both unfair and wrong;
- d) The signs that are now posted, advising that they are located in an historic district, were installed after the fact. They were not present at the time Applicant entered its contract or sought to install the windows;
- e) The cash flow is precarious, as indicated by the submitted bank records. The church and parsonage were purchased together as a single transaction in 1963, at a cost of \$145,000.00. At present, the primary operating account is maintained by the PNC Bank, while Sun Trust holds the loan for the roof and other repairs, and receives a monthly installment payment of \$1,460.00.

11. Reverend Herbert Lionel Edmonds, current pastor, testified:

- a) He has served as pastor since 1992, and is the fourth pastor since the congregation was founded by freed slaves in 1899, establishing the congregation as one of the oldest African American churches located in Washington, D.C. Located just one block from the acclaimed Dunbar Senior High School, their objective is to remain a viable part of the local urban community, while achieving the church's many goals. The church is at the forefront of several community projects which focus upon creating and enhancing leadership, affordable housing, and investment in local educational, recreation, and job training projects for D.C. residents, especially those who reside in the immediate neighborhood, to help stabilize the neighborhood, and to encourage those who currently reside in the area to continue to do so;
- b) Although he denied awareness at the time that the Historic District was created, he underscored that several other property owners in the Morgan Street block obviously have vinyl windows. However, he was not specifically able to state whether those windows were installed prior or subsequent to the establishment of the Historic District;
- c) The church has several uninstalled vinyl windows currently retained inside the property, and has not explored the options of either returning the windows to the manufacturer or getting a refund of their money, as the church's objective is to gain a favorable ruling from the Mayor's Agent to install these actual windows.

12. Brendan Meyer, D.C. government employee, was the sole witness to testify on behalf of the D.C. Historic Preservation Office. The essence of his testimony is the following:

- a) The Mount Vernon Historic District was created in 1999, pursuant to and consistent with the standards established by the National Park Service, with 1845-1945 selected as the relevant period of historical significance;
- b) At the time that the designation process was ongoing, all of the property owners of record in the Historic District were directly notified by regular first class U.S. mail that their property was located within the boundaries of the anticipated historic district. Further, official notification was sent to the relevant Advisory Neighborhood Commissions;⁴
- c) A check of the government's archival records relative to the creation of the Historic District in 1999, reveals that, although several letters were received from various neighborhood organizations, mostly endorsing the creation of the Historic District, no letter of either support for, or opposition to, the creation of the Historic District, was found from the Applicant;
- d) While Applicant is correct in asserting that there are many structures with non conforming windows in the Morgan Street area, the Office's staff consists of only five persons, and responds to every complaint of non compliance. Because of limitations in both personnel and other resources, not every incident of non compliance or law violation is detected or reported. However, all complaints are investigated, and persons cited, if applicable. As time progresses and residents become more widely familiar with and appreciative of the historic district concept, there is much voluntary compliance;
- e) More than a reasonable accommodation has been accorded to the Applicant, which has been allowed to retain the installation of the remaining non-conforming windows on the side/alley and rear facades. The sole issue at hand is the 13 parsonage windows, which are located on the front façade of this contributing corner building;
- f) Several of the old windows were in curved window frames, located in a curved architectural tower. Therefore, to install a straight-line, flat window into a curved frame is an immediately noticeable, non conforming alteration. Further, under the guidelines of the Window Standards, all new window replacements must comply with the *original* (emphasis added) type windows, and not be a replication of the most recent windows, which might themselves not have been in compliance with historic district mandates;
- g) Having conducted a recent walk though of the 200 block of Morgan Street, Applicant's windows are the only "special windows" in that block. All of the other windows are flat, double-hung windows. Applicant's structure has a

⁴ This record does not reflect which Advisory Neighborhood Commission services this location.

three-story tower. Each level contains three special curved window frames and three curved double-hung window panes, both of which characteristic make Applicant's windows "special" within the context of the regulations;

- h) In order to come into compliance with the law, the Window Standards, and proper historical context, Applicant needs to install nine curved special wooden windows in the three-level bay, plus four non special, but still conforming wooden windows at the Morgan Street residential structure. All of the windows should utilize glass, not plastic or Plexiglas;
 - i) Contrary to Applicant's assertions, the average passerby will immediately notice if certain window panes are plastic or glass. As well, the passerby will likewise detect the distinct difference between a curved glass wooden window that is placed into a curved wooden window frame, installed into a curved bay, from a flat vinyl window that is placed into a flat window frame, but likewise set into a curved bay where curved windows were previously installed;
 - j) Despite this disagreement between Applicant and the government over the window project, Applicant is cooperatively working with the Historic Preservation Office on an approved elevator installation project at the church site.
13. Within just the last few years, numerous owners of residential properties in this immediate community of the Historic District have renovated their real properties, most all of which are row houses. Generally, the owners have likewise met the requirements of the Act, including adhering to the window *Guidelines* and *Standards* issued by the Board.⁵ As well, the government has an ongoing compliance effort, which includes working with homeowners to secure their voluntary cooperation, and bringing civil actions and imposing civil penalties upon those who are uncooperative or who refuse to abate the violations when directed to do so.
14. The Applicant, as a property owner, has a duty to be aware of the laws and regulations affecting its property, and to likewise take all relevant steps to be in compliance with said laws. If a property owner has any doubts about what is required before an installation or construction can be undertaken, an inquiry to either the D.C. Department of Consumer and Regulatory Affairs or the Historic Preservation Office of the D.C. Office of Planning, prior to undertaking the replacement of the windows in question, would have made the Applicant aware of these historic restrictions. As well, the Preservation Office staff has access to companies that specialize in wooden windows, which effort might help reduce the Applicant's wooden window cost.
15. Based upon a compilation of resources, i.e., the sworn testimony of Applicant's witnesses, the sworn testimony of Agency's sole witness, and a consultation with the

⁵ See *Rules Relating to the Repair and Replacement of Windows in Historic Landmarks and Historic Districts*, formally adopted by the Board on January 25, 2001, but used widely as a window standard guideline for a number of years before the *Rules* were adopted.

real estate property assessment records for the District of Columbia, the following is the pattern of real estate valuations for both properties from 2004 to the present.

- a) 1219 New Jersey Avenue, N.W., Lot 813, Square 0555 – 2004 - \$314,780; 2005 - \$346,260; 2006 - \$523,350; and 2007 - \$570,930
- b) 228 Morgan Street, N.W, Lot 814, Square 0555 – 2004 - \$142,550; 2005 - \$213,830; 2006 - \$267,290, and 2007 - \$298,380. The increased assessment from year to year is significant. However, the fair market value of real properties in this immediate neighborhood has likewise increased and reflects that the Applicant’s two adjoining real properties have gained significant value as well.

16. While it is generally not necessary to obtain a construction permit to install replacement windows on most buildings in this jurisdiction, whenever exterior renovations are performed, including the replacement of windows in a historic district, a permit is required, and the underlying application for the permit must have been reviewed and approved by the Historic Preservation Office, prior to the issuance of the permit.

DISCUSSION

In 1997, the Board adopted the District of Columbia Historic Preservation Guidelines, including a documented titled, *Windows and Doors For Historic Buildings* (the “*Guidelines*”). It was not long before the Board realized that the *Guidelines* were quite strict, and did not accord much room for deviation. The Board determined that flexibility needed to be incorporated into the *Guidelines*, but that with regard to the principal facades, most typically located on the front of the buildings, it would adhere to a strict policy of mandating that those windows must be in full compliance with the *Guidelines*.

Under the *Guidelines*, window replacements must reasonably match the prior historic windows in all respects – configuration, method of operation, profile, dimension, material, and finish. Adherence to this policy has been the procedure by which the Board has consistently assessed window replacement applications in historic districts in the District of Columbia.

To accommodate some measure of flexibility, on January 25, 2001, the Board formally adopted the current standards for window replacement, which carried the title of *Rules Relating to the Repair and Replacement of Windows in Historic Landmarks and Historic Districts* (the “*Standards*”). The public notice announcing the Board meeting at which the *Standards* were to be considered for final approval, stated:

These *Standards*, represent a refinement and more precise codification of the principles articulated in the *District of Columbia Historic Preservation Guidelines: Windows and Doors for Historic Buildings*, adopted by the Board in 1997. When approved by the HPRB, the *Standards* will establish rules for repair, maintenance, and replacement of windows in historic landmarks and contributing buildings within historic districts. The *Standards* will also guide the staff and applicants in the approval of certain window replacement projects under the authority delegated by the Board.

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Therefore, initially since 1997, and more particularly since 2001, there has been a widely known and publicly stated process by which a property owner may pursue window repair, maintenance, and replacements in historic districts in the District of Columbia.

At its monthly meeting held on September 27, 2006, the Board adopted the staff report, which concluded that this Applicant's application to install vinyl windows on the front façade of the above-noted Morgan Street property was not consistent with the purposes of the Act. The window replacements did not adhere to the windows replacement policy for the primary facades of row buildings located in historic districts. In this action, the Board followed its own 1997-adopted *Guidelines* and the 2001-adopted window *Standards* for principal facades.⁶

The Applicant's hearing request asserted economic hardship, but also sought a "waiver", that would allow the Applicant to retain the already installed vinyl windows. With regard to the as yet uninstalled windows, Applicant seeks Mayor's Agent approval to remove the old, rotten wooden windows and replace them with vinyl windows. At present, the remaining and as yet uninstalled vinyl windows are stored in the parsonage, awaiting a hopefully favorable ruling from the Mayor's Agent. In support of the economic hardship claim, the Applicant submitted several documents related to the purchase and operation of the realty, in an effort to buttress the Applicant's alleged difficult financial situation.

Documents submitted and considered included: a) Applicant's settlement papers from 1963, reflecting a total purchase price of \$145,000 for the two adjacent buildings; b) monthly mortgage payment information on the current renovation loan that Applicant is servicing; c) the assessed valuation statements from 2004 to the present for each realty; d) limited financial information regarding amount currently on deposit in two bank accounts; and e) A copy of the window replacement contract, reflecting replacement of 22 windows at a total cost of \$10,556. The Applicant did not obtain any estimates for the replacement installation of conforming wooden windows.

DCMR 10A, Chapter 99, Definitions, defines "Unreasonable Economic Hardship" as, "circumstances where failure to issue a permit would amount to a taking of the owner's property without just compensation or, in the case of a low income owner or owners, as determined by the Mayor, when failure to issue a permit would place an onerous and excessive financial burden upon the owner(s)." "Low income owner(s)" is defined as, "an owner whose household income is 80% or less of the median household income for the Washington Metropolitan Area as established from time to time by the U.S. Department of Housing and Urban Development (when used in the context of an application for demolition, alteration, or subdivision of a building or site that serves as the owner's principal residence, and is subject to the Act." Based upon the established record herein, Applicant's claim upon both "economic hardship" and "low income owner" status is tenuous at best, and has not been established within the guidelines of the Act and governing regulations.

Applicant denies ever having been notified when the Historic District was created in 1999. However, credible testimony in the record establishes that once the Mount Vernon Historic District was created by the Board, all real property owners were directly notified by regular first

⁶ See the *Standards*, 10A DCMR, § 2300, *et seq.*

class U.S. mail that the area had been designated as an historic district. Further, prior to the finalization of that status, the relevant ANC was notified, and the respective duly elected ANC commissioners were integrally involved in the process.⁷ This included a visible and public consideration of the issue of whether the district should be created. Exactly which individuals in the community participated in the process is not a part of this record. The Applicant may well have ignored the change in neighborhood status, deeming that the change was not relevant to their daily lives and the many social-related challenges the church community was facing related to crime, drugs, alcohol, prostitution, and the goals of upgrading the educational and social awareness of the local community.

Despite Applicant's claim of a lack of knowledge of the historic preservation regulations governing the replacement of these windows, ignorance of the law cannot be permitted to rise to the level of a valid legal defense. Such a defense, if permitted, would undermine and eventually destroy the effectiveness all law and regulations. There has been significant renovation in this neighborhood during the last few years, with most property owners having voluntarily complied with the requirements for replacement of windows. Accepting a lack of knowledge defense, as posed by the Applicant, would encourage other property owners to attempt to circumvent not only these window replacement requirements and then use this defense if caught in violation, but would also lead to area-wide disobedience of laws that were adopted for legitimate reasons.

The Mayor's Agent has carefully examined all documents submitted, and assessed each aspect of this present situation, including the claim of unreasonable economic hardship, and is of the opinion that such hardship, although asserted, has not been established. That the Applicant has sustained a significant inconvenience, which will cost them a financial outlay to correct, cannot be denied. But the Applicant's unilateral voluntary actions of May-June 2006, likewise cannot be condoned. The Applicant must still abate the violation, and come into legal compliance with the Act, the regulations, and the policy regarding appropriate standards for replacing windows in the historic district.

The implementation of this Mayor's Agent's ruling does not impose an impermissible taking upon the Applicant, as the desired end result will be a substantially improved residential property, with a concomitant increase in its net worth, by reason of being in compliance with the law and regulations previously adopted for the Historic District. If necessary, Applicant can sell the property, as the value will be enhanced by the presence of windows which are in compliance with the law.

CONCLUSIONS OF LAW

The foregoing having been considered, the Mayor's Agent now makes the following Conclusions of Law:

1. The Applicant, who bears the burden of proving that the window alterations that were unilaterally implemented in 2006 were consistent with the purposes of the Act, has

⁷ The record does not reflect what ANC was involved in this process in 1999, when the designation was made.

not met that burden by the preponderance of the evidence presented to the Mayor's Agent.

2. The 22 vinyl window contract was entered into between the Applicant and Master Seal, a window contracting company, and several of the vinyl windows were installed in June 2006, without the Applicant's first having notified the D.C. government or obtaining a construction permit. Although the Board has elected to allow the Applicant to retain certain vinyl windows installed on the alley and rear facades of the parsonage, consistent with the intended flexibility of the adopted *Standards*, the Mayor's Agent will not condone this Applicant's course of conduct with reference to the nine windows located in the three-story turret, three on each level, or the four windows located in the front façade of the parsonage, a total of 13 non-conforming windows.
3. The Board, consistent with the law and its established regulations and polices, including the *Guidelines* and *Standards*, was correct when it adopted the staff report and denied the Applicant's request to retain the non confirming windows on the primary façade, and for leave to install other non-confirming windows which are already in the Applicant's possession. The Mayor's Agent adopts the Board's position as that of the Mayor's Agent.
4. The Applicant has asserted that a denial of this request by the Mayor's Agent will impose an unreasonable financial hardship. However, the Applicant has failed to present sufficient evidence showing what the cost of replacement of the windows would be. Further, the Mayor's Agent, while not unmindful of the financial inconvenience that an order to replace these new windows will impose, concludes that unreasonable economic hardship has not been established. Nor can the Mayor's Agent ignore the effect that permitting Applicant to keep these windows will have on other property owners in this area who spent the additional costs necessary to comply with the historic preservation restrictions with respect to window replacement.
5. The Mayor's Agent further concludes that Applicant must replace all 13 of the non-conforming windows in question which are visible from Morgan Street and/or New Jersey Avenue, N.W., but, consistent with the Board's and staff's determination, may retain the other vinyl windows which were installed on the alley and rear facades of the property. The new windows must conform with the 1997-adopted *Guidelines*, the 2001-adopted *Standards*, and the nine special windows must likewise comply with the "special windows" requirements of 10A DCMR § 2301.3.
6. The Applicant is neither without a remedy, nor has been deprived of the property by a regulatory taking. The regulations have a sound basis for why they were adopted, and the Applicant's election to voluntarily own a property in the Historic District subjects them to abide by the law, regulations, and standards that govern the exterior of the premises located in the Historic District. If the Applicant does not wish to abide by these standards, and given the improved value of real property located in the Historic District, there is a great likelihood that the Applicant can sell the realty and realize a sales price return far greater than the \$145,000 initially paid

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in 1963, plus any incidental costs incurred to renovate the property to maintain and upgrade its habitability.

7. The Mayor's Agent concludes that, for the foregoing reasons noted above, this Application for a permit to install non-conforming windows on the façade of this contributing building located in the Mount Vernon Historic District, must be denied.

ORDER

ACCORDINGLY, it is this 6th day of June 2007:

ORDERED that the Application of the Applicant for a construction permit that would allow installation of 13 non-conforming windows on the façade of the contributing building located at 228 Morgan Street, N.W., Washington, D.C., is **DENIED**, and that the respective claims of unreasonable economic hardship and no prior notification of the creation of the Historic District, are likewise rejected; and it is

FURTHER ORDERED that the Applicant is directed to remove all non-conforming vinyl windows from the front façade of the parsonage, and to replace them with windows which conform to, and are likewise in compliance with the Act, the regulations, and the current *Standards* which address and govern the installation of windows in the Historic District. Such removal and replacement installation shall occur within one hundred and twenty (120) days of the date when this Order becomes effective. In their place, new wooden windows are to be installed that are compatible with the character of the Historic District; and it is

FURTHER ORDERED that any extensions of time for such removal and installation may be given to Applicant by the D.C. Office of Planning, Historic Preservation Office staff. To the extent that Applicant does not remove and install the windows within the time as stated herein, or any extensions thereof, Applicant may then be immediately subject to the imposition of a civil infraction for construction without a permit in a historic district, which infraction carries a civil penalty of \$500.00 for each citation issued; and it is

FURTHER ORDERED that the Applicant is directed to work with the D.C. Office of Planning, Historic Preservation Office staff, either by amending the initial construction permit application or by filing a new application for window installation, which application must comply with all of the historic district guidelines, in order to come into full compliance with the Act. Further, the staff may well be able to recommend compatible windows, which are less expensive than the Applicant's resources indicate and it is

FURTHER ORDERED that pursuant to 10A DCMR § 410.5, this Decision and Order shall not become final until fifteen (15) days after issuance, as evidenced by the following Certificate of Service pursuant to 10A DCMR § 410.3.

ROHULAMIN QUANDER
Senior Administrative Judge,
And Mayor's Agent For
Historic Preservation

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CERTIFICATE OF SERVICE

I hereby certify that on the **6th day of June 2007**, a copy of the foregoing Decision and Order was sent via first class, postage prepaid, U.S. mail, or via e mail, or both, to the following:

Hiawatha Burris, *pro se*
Trustee and Lead Advocate,
Mount Lebanon Baptist Church
1219 New Jersey Avenue, N.W.
Washington, D.C. 20001
Applicant

Deborah Collins, Chairperson, Trustee Board
Mount Lebanon Baptist Church
1219 New Jersey Avenue, N.W.
Washington, D.C. 20001

Tersh Boasberg, Esquire, Chair
The Historic Preservation Review Board
e-mail – Tershboasberg@aol.com

David Maloney, Deputy Program Manager
D.C. Office of Planning
Historic Preservation Office
801 North Capitol Street, N.E., #3000
Washington, D.C. 20002
e-mail – David.Maloney@dc.gov

Janette Anderson
Associate Director for Technical Services
Georgetown University Law Center Library
e-mail - anderjan@law.georgetown.edu

Certifying Officer