

**HARB Appeal Hearing**  
**317 North 5th Street**  
**Council Chambers**  
**Monday, February 6, 2012**  
**5 p.m.**

Mr. Acosta, President of Council, called the hearing to order and stated that the purpose of this hearing is to take testimony regarding the appeal of the HARB denial for the installation of vinyl windows at 317 North 5<sup>th</sup> Street. He explained the hearing procedure.

**Attending:** City Councilors Acosta, Sterner, Reed, Goodman-Hinnershitz, Corcoran, Marmarou, City Clerk Kelleher, City Solicitor Younger, Historic Preservation Specialist Johnson.

Council President Acosta explained the hearing procedures.

**I. Testimony from Applicant** (No more than 10 minutes)  
**Peter Hart, owner of 317 North 5<sup>th</sup> Street.**

Mr. Hart distributed a packet of information about the project in question, including before and after photographs. He stated that he purchased the property in June 2010 and began to rehab the building. He stated that he obtained a copy of the window replacement policy that was in effect in 2010, which allows vinyl window replacement. He stated that he obtained quotes from Anderson and Pella and they recommended replacement due to the severe deterioration of the wooden frames. Both companies said that they could not replace the windows with wood due to the size of the windows and both could not incorporate the existing stained glass. Mr. Hart stated that he then contacted Rozzi Windows who recommended using a vinyl product as they could incorporate the stained glass windows into a custom vinyl product.

Mr. Hart stated that while shopping he ran into Ms. Johnson who inquired about the boarded up windows at the property and he explained that the replacement project was underway. He stated that at that time, Ms. Johnson informed him about the new policy that prohibits vinyl replacement windows. He asked Council to overturn HARB's denial of the Certificate of Appropriateness.

**Council Cross Examination**

Councilor Marmarou asked Mr. Hart how many new windows were installed. Mr. Hart stated that two (2) windows on the upper floors were installed.

Ms. Reed inquired about the painted sandstone shown on the photographs. Mr. Hart stated that the sandstone was painted when he purchased the property. He also stated that he

plans to paint the frames of all windows facing the public right of way to make them match the façade color.

Councilor Goodman-Hinnershitz asked Mr. Hart if he has a copy of the new policy. Mr. Hart stated that a copy of the former policy is included in the packet.

Councilor Goodman-Hinnershitz asked Mr. Hart if he obtained a building permit or permit from Ms. Johnson. Mr. Hart stated that he obtained only a building permit. He noted that HARB is concerned that encasing the stained glass between two panes of glass may cause deterioration of the stained glass. He stated that Rozzi Windows provided a lifetime warranty, which includes the stained glass.

Councilor Reed questioned if the other windows facing the public right of way were replaced. Mr. Hart stated that the other windows were replaced by the previous owner and that aluminum windows were installed.

Council President Acosta inquired about the cost for the window project. Mr. Hart stated that he paid \$2,000 per window. He noted that Rozzi Windows is a local contractor.

Council President Acosta asked Mr. Hart if the windows were purchased before Mr. Hart learned about the policy change. Mr. Hart stated that he made arrangements to purchase and install the windows before he learned of the policy change when he ran into Ms. Johnson over a weekend.

Councilor Sterner inquired about the number of replacement windows in other properties in the block. Mr. Hart stated that approximately 40% of the windows in this block have vinyl or aluminum replacement windows. He noted that his is the only property that has stained glass.

### **Testimony from City Staff**

Ms. Johnson stated this property has a historic rating of 130. She explained that 134 is the highest historic rating a property can have. She distributed photographs showing the property in the late 1970's and 2012.

Ms. Johnson described her interaction with the property owner and stated that he was provided with the previous policy when he purchased the property in 2010. She stated that she received a complaint about the boarded up windows at this property and followed up with a letter to the property owner. She stated that she ran into Mr. Hart over a weekend and inquired about the windows and learned that they had been replaced with vinyl windows. She stated that she then informed Mr. Hart about the change in the policy. She stated that had Mr. Hart obtained a building permit for the replacement windows, he would have been

informed about the new policy. She stated that all windows at this property were installed without the proper City permits. She noted that the HARB Board addressed only the two (2) windows replaced by Mr. Hart and that he was provided with two (2) years to have wooden windows re-installed.

Laura James, representing the HARB Board, read a prepared statement noting that the property owner did not offer any testimony regarding the potential financial hardship that the installation of windows would cause. He also offered no testimony regarding the extreme deterioration of the original windows. Therefore the Board was unable to consider hardship and deterioration into their decision. She also noted the Board's concern that the encasement of the stained glass windows would damage the windows due to the lack of ventilation. She also noted the Board's belief that the use of vinyl negatively affects the historical integrity of the property.

Councilor Corcoran asked Ms. Johnson to explain the rating of properties. Ms. Johnson stated that in the late 1970's all properties in the City were evaluated and received a rating based on their historical integrity. Properties with ratings over 60 are considered historically significant. Ms. Kelleher stated that at that time City-wide neighborhoods and areas were divided into potential historic districts, based on the age of the buildings in the area. Mr. Johnson stated that this project enabled the first three (3) City historic districts: Centre Park, Prince and Callowhill.

Councilor Corcoran inquired if projects that occurred prior to the change in policy are grandfathered. Ms. Johnson replied affirmatively.

Councilor Reed provided some historical facts about this property and again inquired about the painted sand stone. Ms. Johnson stated that a COA (Certificate of Appropriateness) was issued for the painted sand stone because the sand stone was painted by a previous owner.

Councilor Reed inquired if any documentation showing the dangers of encasing the stained glass could be provided. Ms. Johnson stated that documentation is unavailable and that the HARB consultant provided that opinion.

Council President Acosta instructed the property owner to provide the Council Office with a copy of the building permit issued for the two (2) replacement windows.

Councilor Goodman-Hinnershitz asked Ms. Johnson how HARB publicizes information about the requirements for properties in historical districts. Ms. Johnson stated that the information is posted on the City's website. She also again stated that if the property owner had obtained a building permit for the window project, he would have been advised about the change in the policy and would have been referred to her for a COA.

## **Other Testimony**

None.

## **Rebuttal from Applicant**

Mr. Hart challenged the rating of his property and he stated that other properties in the block are rated at 100. He again stated that he obtained a building permit for the project. He also noted that in today's market technology has provided property owners with better products to improve their properties.

## **Public Comment**

Council President Acosta opened the floor for public comment. No one came forward to speak. The public comment period was closed.

Council President Acosta announced that the decision for this appeal will be made by resolution at the February 27th regular meeting of Council.

The hearing was adjourned.

*Respectfully submitted by Linda A. Kelleher CMC, City Clerk*