

**DEMERSSEMAN JENSEN
TELLINGHUISEN & HUFFMAN, LLP**

LAWYERS

P.O. BOX 1820, RAPID CITY SD 57709-1820
516 FIFTH STREET, RAPID CITY SD 57701-2703
TELEPHONE 605-342-2814 FAX 605-342-0732

MICHAEL B. DEMERSSEMAN
CURTIS S. JENSEN
ROGER A. TELLINGHUISEN
RICHARD E. HUFFMAN

October 18, 2024

MICHAEL V. WHEELER
GREGORY G. STROMMEN
NATHAN R. CHICOINE
ELLIE BASTIAN

Via US Mail and Email

jessicca@cityofdeadwood.com

Jessicca McKoewn

Deadwood Historic Preservation Commission

102 Sherman St

Deadwood, SD 57732

RE: Dale and Susan Berg – 874 Main Street, approval of work
already completed
Item 8 d on September 25, 2024 Commission Agenda
continued to October 23, 2024

Dear Commissioners:

I represent George Milos. He is a property owner at 872 Main Street, which adjoins the Berg's residence at 874 Main Street. As set forth on the September 25, 2024 Agenda, at item 8 d, the Bergs are seeking approval of work they already completed on their property which appears to be in clear violation of the applicable City of Deadwood Ordinances concerning historic preservation and the applicable rules and regulations. I understand this matter will be considered by the Commission at its October 23, 2024 meeting. My client, George Milos, objects to approval of the work based upon the flagrant and intentional disregard of the applicable ordinances of which the Bergs were most definitely aware of.

Mr. Milos objects on grounds that the alterations and additions to the Berg property have negatively impacted his property. The subject changes

October 18, 2024

Page 2

are visible from the Milos property as well as clearly visible from Main Street.

The City of Deadwood Ordinances at 17.68.120 provide the enforcement mechanisms and penalties for “those persons, firms, or corporations found to have violated requirements or prohibitions contained within this chapter.” Specifically, “any person who constructs, alters, relocates, or demolishes any building or resource in violation of this chapter or causes any building or resource to be constructed, altered, relocated, or demolished in violation of this chapter, may be required to restore the building or resource to its appearance or setting prior to the violation.” *17.68.120 (A)(1)*. Additionally, if any project other than the demolition of a building or resource “occurs without a required certificate of appropriateness or project approval, then any permits on the subject property, with the exception of a permit to restore the building or resources as set forth above, may be denied for a period of five (5) years.” *17.68.120 (A)(3)*. A violation of the historic preservation ordinances also constitutes a Class 2 misdemeanor punishable by the maximum sentence as set for in SDCL 22-6-2, and each day the violation continues to exist shall be punishable as a separate offense. *17.68.120 (B)*.

The Bergs alterations and construction on the property clearly required prior project approval which was to be guided by the criteria set forth at Ordinance 17.68.050. The procedure for obtaining a certificate of appropriateness and project approval is also set forth in the City of Deadwood Ordinances at 17.68.060. The Bergs simply went ahead and ignored these procedures and requirements and completed the construction on their property located within the Historic Preservation District. Mr. Berg is clearly aware of these procedures and criteria for two reasons: 1) they are published online and are available to the public; and 2) Mr. Berg was a prior Chairman of the Historic Preservation Commission.

If an individual can proceed to make substantial alterations and construction to his or her property without regard to the appropriate procedures and requirements, and then come before this Commission to obtain project approval after the fact, then these ordinances really serve no purpose. If the rules can be blatantly and intentionally ignored, why have them? The fact is, these ordinances are in place, the Bergs knew of them, and my client, as an owner of adjoining property within the Historic Preservation

October 18, 2024

Page 3

District, is entitled to expect that other lot owners are going to follow the ordinances and that this Commission will enforce them.

Thank you for your attention to this matter. Please contact me with any questions or concerns.

Sincerely,



Michael V. Wheeler (mvw@demjen.com)
DEMERSSEMAN JENSEN
TELLINGHUISEN & HUFFMAN, LLP

MVW/ag

cc: Quentin L. Riggins (via email)
client