

Katie Pereny

From: Gary <grentrop@rentropmorrison.com>
Sent: Monday, March 18, 2024 11:25 AM
To: jim Murrery (jmurray@plunkettcooney.com)
Cc: Katie Pereny
Subject: FW: Mackinac Island - Red House - response to 3-14-24 letter

Jim

Below see my response in Caps and Bold to your letter of 3.4.24.

Call if you wish to discuss

Gary

RENTROP & MORRISON, P.C.
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MURRAY LETTER 3.14.24 WITH RENTROP RESPONSE IN CAPS AND BOLD

**Gary Rentrop and Mackinac Historic District Commission PO Box 176
Cross Village,
MI 49723 Re: Mackinac Island Historic District Commission 6948 Main
Street,
Mackinac Island, Michigan ("Property") HB24-041-009 Dear Mackinac
HDC:**

On February 13, 2024, we appeared on behalf of our client, Cheryl Nephew Jaquiss, as owner of 6948 Main Street. The meeting was to address the Application for Demolition dated January 24, 2024 (submitted on January 30, 2024). Since that meeting, there has been confusion regarding the Application for Demolition of the subject property. The purpose of this correspondence is to clarify some of the confusion and to otherwise supplement the application.

We are advised by the City's attorney, Gary Rentrop, that the Application for

Demolition was incomplete. **NOTE THAT MY EMAIL TO JIM MURRAY STATED "I WILL BE ADVISING THE COMMISSION OF MY OPINION THAT THE APPLICATION FOR DEMOLITION OF THE RED HOUSE IS INCOMPLETE..."**. In our legal opinion, the application is complete.

To claim otherwise is illogical and not supported by the facts. The actual Application

for Demolition was filed in 2022 **THAT WAS NOT AN APPLICATION FILED WITH THE HDC** as noted in previous correspondence. Moreover, in an attempt to

accommodate the City, (and not as an admission that an application to the HDC is

even lawfully required), we once again filed on January 30, 2024.

THIS FIRST FILING WITH THE HDC WAS DONE NEARLY 1 YEAR AFTER RICHARD CLEMENTS AND RICHARD NEUMANN HAD DISCUSSED A DIFFERENT PRIOR PLAN FOR THE MODIFICATION OF THE EXISTING HOUSE. RICHARD NEUMANN HAD INDICATED TO MR. CLEMENTS THAT THE PROPOSED DESIGN DATED 2-20-23 RETAINING (NOT DEMOLISHING) THE EXISTING FRONT OF THE HISTORIC HOUSE WAS ACCEPTABLE TO RICHARD NEUMANN AS THE CITY'S REVIEWING ARCHITECT.

The City placed this matter on the agenda before the HDC and the HDC considered the application at its meeting on February 13, 2024. The city cashed the \$1,500 application fee. At no time during that meeting, or anytime soon thereafter, was there any suggestion of an incomplete application.

CORRECT. I DO NOT DO THE ADMINISTRATIVE REVIEW OF APPLICATIONS. IT IS THE RESPONSIBILITY OF THE APPLICANT TO SUBMIT A COMPLETE APPLICATION. THE GENERAL DIRECTIONS REQUIREMENTS ARE ON THE CITY'S WEBSITE AND THE APPLICANT AND MR.MURRAY WERE ALERTED TO IT IN THAT THE BOX WAS CHECKED ON THE FIRST PAGE OF THE APPLICATION AT THE LINE TITLED "DEMOLITION (COMPLETE SECTION B AND REFER TO GENERAL DIRECTIONS AND ITEM C)". ALSO NOTE THAT APPLICANT WAS ADVISED IN THE APPLICATION FORM -- "DECISION BY THE COMMISSION WILL NOT NECESSARILY OCCUR AT THE MEETING AT WHICH THE APPLICATION MATERIALS ARE FIRST RECEIVED."

Based on the advice of the HDC's attorney, the HDC resolved to proceed down the road of securing an "independent engineering report". Not until February 29th, when apparently Mr. Rentrop discovered the HDC did not have a quorum for its March 12, 2024, meeting, did he make the unilateral decision to declare the application as being incomplete.

I MADE NO SUCH "UNILATERAL DECISION". AS NOTED ABOVE, MY EMAIL TO MR. MURRAY STATED: "I WILL BE ADVISING THE COMMISSION OF MY OPINION THAT THE APPLICATION FOR DEMOLITION OF THE RED HOUSE IS INCOMPLETE..."

Apparently the HDC's attorney is attempting to make "decisions" concerning this

application. A decision is defined under the Open Meetings Act as: "a

determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, order, ordinance, bill, or measure on which a vote

by members of a public body is required and by which a public body effectuates

or formulates public policy." At no time did the HDC make a decision to declare

the application incomplete.

SEE MY STATEMENT ABOVE. I MADE NO SUCH "DECISIONS."

Now, at this late stage, we also understand Mr. Rentrop has made the unilateral

decision to schedule a special meeting for March 21, 2024.

THE MEETING WAS CALLED BY CHAIR LEE FINKEL, NOT BY ME, AFTER HE WAS ADVISED BY ME THAT

NO QUORUM WAS AVAILABLE FOR THE REGULAR MARCH MEETING.

Clearly this "decision" of Mr. Rentrop is motivated to preclude automatic approval pursuant to Section 162 (d) of the City ordinance which provides that

approval is automatically given unless the application is denied within 60 days. **THIS CITED PROVISION ONLY APPLIES TO A "COMPLETE APPLICATION". AS NOTED ABOVE, IT IS MY OPINION THAT THE APPLICATION IS NOT COMPLETE, AND THUS, THIS PROVISION WOULD NOT APPLY.**

Had we received the courtesy of any prior notice from Mr. Rentrop, he would

have discovered that our client is scheduled to be on a flight that date and will be

unavailable.

GIVEN THAT NO QUORUM OF THE HDC WAS AVAILABLE FOR THE REGULARLY SCHEDULED MEETING, THE SPECIAL MEETING DATE WAS SELECTED SO THAT A QUORUM COULD BE OBTAINED IN ORDER TO HAVE A MARCH MEETING, AND I CERTAINLY MEANT NO DISCOURTESY.

As Cheryl Nephew Jaquiss is unavailable, she asked me to forward to you and City

Council a copy of her correspondence which is attached.

In addition, (and in no way admitting the application is incomplete), we offer the

HDC the following as a supplement to the application. **NOTE THE FOLLOWING REQUIREMENT ON PAGE 1 OF THE APPLICATION FORM SUBMITTED BY APPLICANT : "APPLICATION AND MATERIALS MUST BE COMPLETED AND SUBMITTED BY 4:00PM TEN (10) BUSINESS DAYS BEFORE EACH COMMISSION MEETING." THIS SUPPLEMENT WAS MADE LESS THAN THE REQUIRED 10 BUSINESS DAYS BEFORE THE MARCH 21ST MEETING.**

purported deficiencies found in Item C of the City's "General Directions for Work

Within a Historic District":

1. Signature of Owner. On file and see attached correspondence.

2. Name and Address of Owner. On file

3. Name and address of Applicant. On file
4. Specific Grounds upon which demolition is based. As already stated in the January application and previous correspondence: Per Sec. 10-164 and MCL 399.205(6), grounds are found in subsection MCL 399.205(6)(c) and (d), as retaining the resource will cause undue financial hardship to the owner and/or retaining the resource is not in the best interest of the community.
5. Sufficient information to justify grounds. See prior records and the correspondence from licensed engineer Albert Santoni of Dickinson Homes.
6. Evidence of alternatives to demolition. Not applicable per engineer letter unless the current boarding house remains in its current condition.
7. Evidence of advice from a professional. See attached.
8. Description of measures to protect neighbors. See Belonga report.
9. Burden. Yes, overwhelming evidence.

Very truly yours, James J. Murray

Plunkett Cooney Direct Dial: 231-348-6413 JJM/tll Enclosures c: Mackinac HDC

and client

IN A SEPARATE MEMORANDUM, WHICH I WILL SHARE WITH YOU, I WILL POINT OUT WHAT IN MY OPINION IS REQUIRED INFORMATION STILL MISSING FROM THE APPLICATION.

Gary Rentrop