

Note to Commission

315 N. Pinckney Street, Mansion Hill Historic District
Request for Certificate of Appropriateness for prior demolition of chimney

This house was built for the Samuel Thuringer family in 1887. The Thuringers were in the mercantile business and over the years had several shops in Madison, mostly clothing stores. The house was designed by local architect Owen Williams, a mason and architect who trained with well-known local architect D. R. Jones, but who is not remembered in Madison because he spent most of his career in Florida (parenthetically, an article on Art Deco on the site www.pressarchive.net, lists Williams as one of the most noted American designers in that style).

The Thuringer house is an excellent, fairly intact example of the Queen Anne style and is listed in our draft report on architectural styles as one of the best examples. Last Spring the owners reroofed the house and removed two chimneys, a plain brick chimney at the back of the house, and an original decorative brick chimney on the north side of the building, clearly visible from the street. They had received orders from Building Inspection to repair or remove the rear chimney. The orders made no mention of the north chimney. The owners reroofed the house and removed the two chimneys without a building permit or approval from the Landmarks Commission, as required by ordinance.

The Landmarks Commission ordinance states:

No owner or person in charge of a landmark, landmark site or structure within an Historic District shall reconstruct or alter all or any part of the exterior of such property or construct any improvement upon such designated property or properties within an Historic District or cause or permit any such work to be performed upon such property unless a Certificate of Appropriateness has been granted by the Landmarks Commission or its designee(s) (Sec. 33.19(5)(b)2.

If the property owner or the roofing contractor had applied for a building permit as required, the Building Inspection counter personnel would not have issued the permit until a Certificate of Appropriateness had been issued and the unfortunate circumstance of the lose of an original part of the house would have been avoided.

The Landmarks Commission ordinance further states:

In addition to any other penalty provided in this section, should an owner or person in charge of a landmark, landmark site or structure within an Historic District reconstruct or alter all or any part of the exterior of such property or construct any improvement upon such designated property or properties within an Historic District or cause or permit any such work to be performed upon such

Note to Commission

315 N. Pinckney Street, Mansion Hill Historic District – page 2

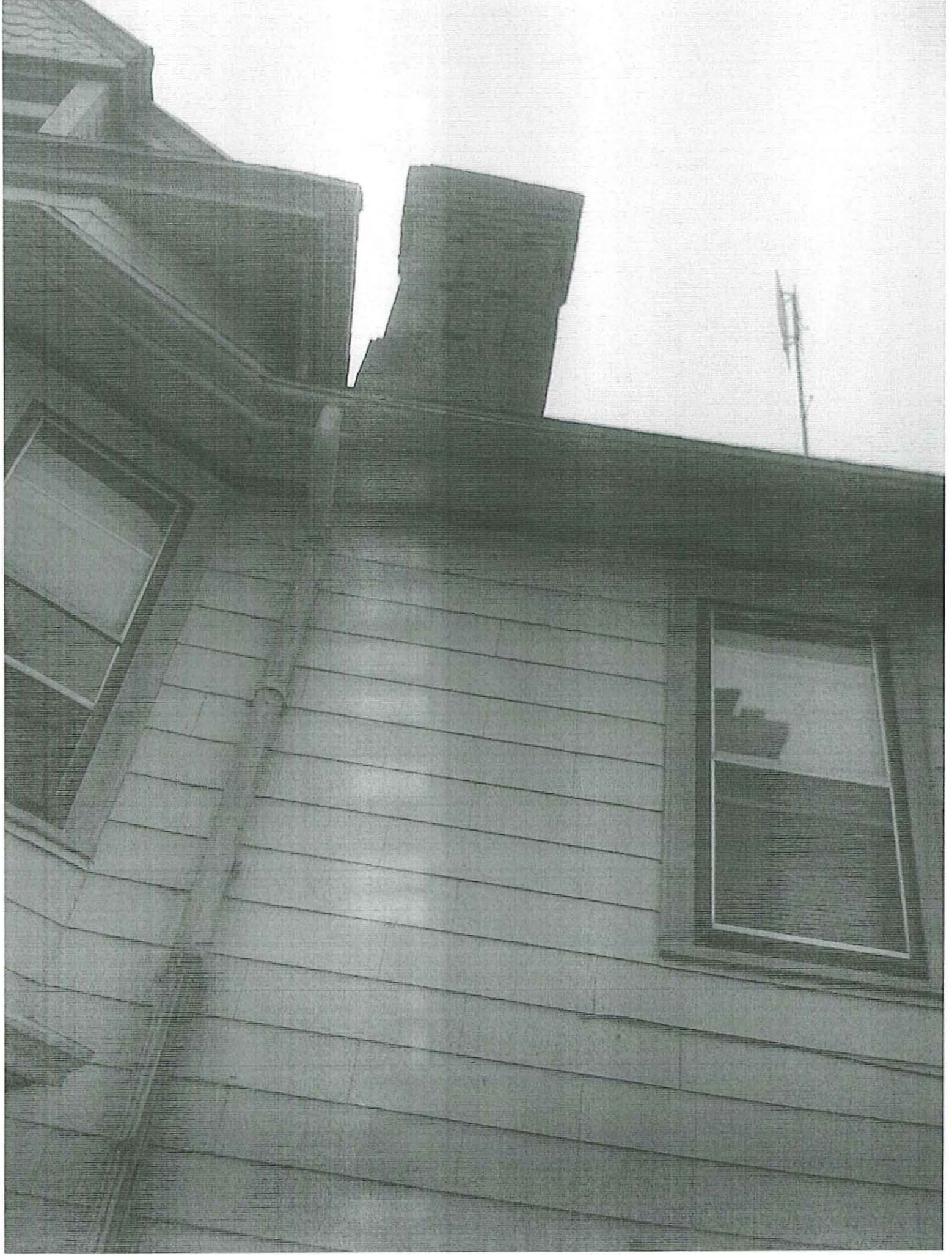
property without first obtaining a Certificate of Appropriateness from the Landmarks Commission or its designee or should such reconstruction, alteration or other work be performed in violation of the conditions of a lawfully granted Certificate of Appropriateness, the Landmarks Commission, after reviewing such reconstruction, alteration or other work, may order it removed if it does not comply with the requirements of Section 33.01(5)(b)4. above or may order such renovation as is necessary to make it comply with Section 33.01(5)(b)4. (Sec. 33.19 (5)(b)6.)

The decorative chimney did contribute to the historic character of the house and to the historic character of the district as a whole. The destruction of original historic parts of a building in an historic district clearly harms the historic appearance and character of the district. The preservation of historic elements of a building or an historic neighborhood is the main mission of the Landmarks Commission. I recommend that the Landmarks Commission order the owner to rebuild the chimney to replicate its original appearance.

K. H. Rankin
Preservation Planner



315 N Pinckney



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JAMES K. RUHLY
THOMAS R. CRONE
PHILIP J. BRADBURY
SUSAN C. SHEERAN
DOUGLAS E. WITTE
DEVON R. BAUMBACH
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August 27, 2008

Madison Landmarks Commission
Attn: Ms. Katherine Rankin
Department of Planning & Development
215 Martin Luther King, Jr. Blvd.
P.O. Box 2985
Madison, WI 53701-2985

Re: 315 N. Pinckney Street

Dear Commission Members:

This firm represents Mansion Hill Properties, LLC ("Mansion Hill"), the owners of 315 N. Pinckney Street. This letter is in support of the application for the Landmarks Commission's approval of the issuance of a building permit for the replacement of the roof and removal of two chimneys at 315 N. Pinckney Street (the "Property"), which is located in the Mansion Hill Historic District.

This matter is on the agenda for the Commission's September 10, 2008 meeting.

Background

On October 22, 2007, the City of Madison Building Inspection Unit issued Official Notice 207296016, alerting the owner of the Property, of violations of Madison General Code Section 27.05(2)(g)2. A copy of the notice is attached as Exhibit A. The notice included a list of required corrections for each violation. The list of required corrections included the following:

Rebuild the top section and tuckpoint the chimney on the rear of the building. If this chimney is no longer used it may be removed.

MELLI LAW, S.C.
Madison Landmarks Commission
Attn: Ms. Katherine Rankin
August 27, 2008
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Per the above instruction and after private inspection of the roof and chimneys, Mansion Hill determined that, in order to best protect the value of the Property, provide for the safety of roofers, residents, and nearby properties, as well as to maintain the outward appearance of the Property, it would be best to make long-term repairs to the Property by replacing the roof and removing the inoperable and deteriorated chimneys. On the basis of the City's instruction and at the direction of Mansion Hill, Hustad Roof Inc. completed the replacement of the roof and removal of the chimneys in April/May 2008. A third, operational chimney remains on the Property.

We have spoken to the City Inspector Linda Elmore. She confirmed that it was reasonable for the owners to understand that it could remove both of the non-operational chimneys.

On July 25, 2008, the City of Madison Building Inspection Unit issued a second notice, Official Notice 208150030, informing Mansion Hill that the contractor had failed to obtain the required building permit for the replacement of the roof and removal of the chimneys, and that the Landmarks Commission's approval was required prior to the issuance of the building permit. A copy of the second notice is attached as Exhibit B.

On the basis of the City's second notice, on August 25, 2008, Hustad Roofing, Inc. applied for the building permit and requested the Landmarks Commission's approval. The City has deferred the deadline for receiving the building permit until after the Landmarks Commission reaches a decision regarding the repairs made to the Property.

We request that the Landmarks Commission approve of the City's issuance of the building permit. Alternatively, we request that the Landmarks Commission grant a variance for the Property to allow removal of both chimneys.

Basis for Support

The removal of the chimneys and replacement of the roof do not alter the character of the neighborhood or conflict with the general purpose of the Commission's regulation of the Mansion Hill Historic District. A visual review of the area surrounding the Property from the street revealed that few properties have more than one visible chimney, and in fact, one property has no visible chimneys. The Property has one remaining visible chimney, and is therefore still in conformity with the majority of the properties in the Mansion Hill Historic District. Attached as Exhibit C are photos of the Property and several surrounding properties, demonstrating the Property's continued conformity with others located within the Mansion Hill Historic District.

In addition, the ordinances relating to the Landmarks Commission's regulation of the Mansion Hill Historic District do not specifically require the Commission's approval

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Madison Landmarks Commission
Attn: Ms. Katherine Rankin
August 27, 2008
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for the removal of chimneys. Section 33.19(10) of Madison General Ordinances provides only general guidelines for the reconstruction or alteration of District properties and the development of new structures within the Mansion Hill Historic District. Unlike the sections addressing the Marquette Bungalows Historic District and the First Settlement Historic District, the ordinances do not specifically address the maintenance of chimneys or the need for the Commission's approval prior to the removal of chimneys or replacement of roofs in the Mansion Hill Historic District. Arguably, this distinction suggests that the removal of chimneys is not as critical a concern in the Mansion Hill Historic District.

Furthermore, Mansion Hill's removal of the chimneys was part of a good faith effort to follow the City's correction instructions. The initial notice issued by the City was quite specific regarding the items in need of repair and went into substantial detail regarding the corrective actions required. For example, in regards to corrections to the wooden surfaces of the building, the notice describes the type of paint to be used in making the correction and the precautions that should be taken due to the possible presence of lead paint. The instructions regarding the chimneys were no different. The notice made no mention of any need to consider the historic nature of the chimneys. In fact, it specifically stated that the chimneys could be removed if they were no longer in use. It was on the basis of the City's notice that Mansion Hill determined that removal of the chimneys was the most prudent course of action. Mansion Hill acted with the best of intentions and only removed the chimneys in order to comply with the City's notice.

If the approval is not granted, the owner will need to incur significant expenses to reinstall one of the non-operational chimneys. This cost will not enhance the architecture or historic value of the Property, but would simply be a penalty for investing in the neighborhood.

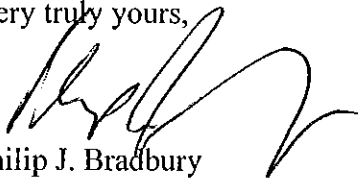
Alternatively, we request that the Landmarks Commission grant a variance for the removal of the two chimneys. Madison General Ordinance section 33.19(15) grants the Landmarks Commission authority to vary the criteria for additions, exterior alterations or repairs for designated landmarks if the proposed variance meets several criteria, including that the requested variance will be in harmony with the general purpose and intent to preserve the historic character of the Historic District and will be visually compatible with the historic character of all buildings within the visually related area, and that the failure to issue the variance will result in substantial hardship upon the owner. As discussed above and shown on the pictures of adjacent properties, the Property still has one operational chimney, which is in keeping with the majority of the surrounding properties and the character of the Mansion Hill Historic District. In addition, failure to allow the variance will result in substantial hardship upon the owner of the property through no fault of its own.

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Madison Landmarks Commission
Attn: Ms. Katherine Rankin
August 27, 2008
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Conclusion

The Landmark Commission should provide the necessary approval for the issuance of a building permit for the replacement of the roof and removal of the chimneys at 315 N. Pinckney Street. The removal of the chimneys and replacement of the roof does not alter the character of the Mansion Hill Historic District, nor does it conflict with the Mansion Hill Historic District's general goal of preserving the historic value of buildings in the Mansion Hill Historic District. Indeed, the removal of the chimneys and replacement of the roof have further added to the aesthetics of the neighborhood and protected both the economic and historic value of the Property. In addition, the ordinances are unclear as to the need for the Commission's approval prior to a property owner making City-required repairs to properties located in the District. Furthermore, the chimneys were removed and the roof was replaced as part of Mansion Hill's good faith efforts to comply with the City's instructions. For these reasons, the Landmarks Commission should approve issuance of the building permit without condition.

Very truly yours,


Philip J. Bradbury

PJB/mjj

Enclosures

cc: Mansion Hill Properties, LLC

ljm

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207296016

From: Inspection Unit
215 Martin Luther King, Jr. Blvd.
P.O. Box 2984
Madison, Wisconsin 53701-2984

City of Madison
OFFICIAL NOTICE

Notice: An inspection discloses that certain sections of the City Ordinances are being violated.

Property Located At:
315 North Pinckney Street

OWNER:
MANSION HILL PROPERTIES
LLC ETAL
101 N MILLS ST
MADISON WI 53715

Item No.	Violating Section No.	CORRECTIONS REQUIRED
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315 NORTH PINCKNEY STREET

COMPLAINT INSPECTION

NOTE: ENCLOSED ARE 2 SEPARATE NOTICES WITH 2 DIFFERENT DUE DATES.

LONGER TERM NOTICE

NOTE: All directions on the following notice (left or right) are as viewed from the public street looking at the building unless otherwise specified.

Exterior

X	27.05(2)(a) 27.05(2)(1)	Replace all deteriorated downspouts and gutters. Install splash blocks or downspout extensions to divert water away from the building.
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2.	27.05(2)(e)	Paint the exterior wood surfaces of the building including the porches where the paint is deteriorated, chipping, cracking or peeling. Paint all unpainted wood that is not inherently resistant to decay. The paint shall be applied to provide adequate resistance to weathering and to maintain an attractive appearance.
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NOTE: Buildings constructed before 1978 are likely to have paints containing lead. Care must be taken when disturbing lead painted surfaces. For more information on the proper procedures for lead-safe home improvement, please call Public Health for Madison and Dane County at 266-4821. You can view or download a lead-safe home improvement guide from the City website at:
http://www.cityofmadison.com/health/envhealth/pdf_files/LeadGuide.pdf

Inspection Unit
 215 Martin Luther King, Jr. Blvd.
 P.O. Box 2984
 Madison, Wisconsin 53701-2984

City of Madison
OFFICIAL NOTICE

Notice: An inspection discloses that certain sections of the City Ordinances are being violated.

Property Located At:
 315 North Pinckney Street

OWNER:
 MANSION HILL PROPERTIES
 LLC ETAL
 101 N MILLS ST
 MADISON WI 53715

Item No.	Violating Section No.	CORRECTIONS REQUIRED
X	27.05(2)(g)2	Replace all missing, deteriorated or damaged siding on the building. Exterior walls shall be returned to a weatherproof condition and shall present an attractive appearance.
X	27.05(2)(g)2	Rebuild the top section and tuckpoint the chimney on the rear of the building. If this chimney is no longer used it may be removed.
X	27.05(2)(g)2	Secure the loose corner siding on the back left corner of the building.
X	27.05(2)(g)2	Tuckpoint the chimney above the roof line wherever the mortar is loose, missing or deteriorated (left chimney).
X	27.05(2)(g)2	Tuckpoint the foundation where the mortar is loose, crumbling or missing.
X	27.05(2)(i)	Tuckpoint the brick support column for the front porch. The bricks on this column are also defacing.

This notice does not start any legal action. However, if the violations are not corrected by the due date listed below, the Inspection Unit may issue citation(s), and/or refer the situation to the City Attorney's Office.

jm

207296016

Inspection Unit
215 Martin Luther King, Jr. Blvd.
P.O. Box 2984
Madison, Wisconsin 53701-2984

City of Madison OFFICIAL NOTICE

Notice: An inspection discloses that certain sections of the City Ordinances are being violated.

Property Located At:
315 North Pinckney Street

OWNER:
MANSION HILL PROPERTIES
LLC ETAL
101 N MILLS ST
MADISON WI 53715

Item No.	Violating Section No.	CORRECTIONS REQUIRED
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The Inspection Unit is willing to answer questions pertaining to this official notice in order to assist you in correcting the violations. If you have questions or problems, it is important to contact me before the due date at the number listed below. You should also contact me on or before the due date if you wish to attend the follow-up inspection.

MGO 27.09(5)(a) REQUIRES THAT A FEE OF \$50.00 BE CHARGED FOR ALL REINSPECTIONS IN EXCESS OF ONE. ATTEMPTED REINSPECTIONS (NO ENTRY) ARE BILLED AT \$35.00 EACH.

Please notify the inspector when work is completed.

Inspected by: Linda Elmore

On: 10-22-07

Telephone: 266-4289

Date Issued: 11-5-07

The violations shall be corrected on or before:

July 15, 2008

Code Enforcement Officer: *Linda Elmore*

Any person violating any provision of the City Ordinances enforced by the Inspection Unit is subject to the penalties provided by the appropriate Ordinance violated. ALL APPLICATIONS FOR APPEAL OF CHAPTERS 17, 18, 19, 27, 28, 29, 30 and 31 SHALL BE SUBMITTED TO THE INSPECTION SUPERINTENDENT IN WRITING WITHIN FIFTEEN (15) DAYS OF POSTMARK ON OFFICIAL NOTICE ENVELOPE. Appeal information may be obtained by calling 266-4551.

ljm

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208150030

From: Inspection Unit
215 Martin Luther King, Jr. Blvd.
P.O. Box 2984
Madison, Wisconsin 53701-2984

City of Madison
OFFICIAL NOTICE

Notice: An inspection discloses that certain sections of the City Ordinances are being violated.

Property Located At:
315 North Pinckney Street

OWNER:
MANSION HILL PROPERTIES
LLC ETAL
101 N MILLS ST
MADISON WI 53716

Item No.	Violating Section No.	CORRECTIONS REQUIRED
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COMPLAINT INSPECTION

1. 29.05

Obtain a building permit of the roof replacement and chimney removal for the building located at 315 North Pinckney Street. Landmarks approval will be required prior to the issuance of the building permit. Please contact Preservation Planner Katherine Rankin at 266-6552 if you have questions regarding the Landmarks approval process.

This notice does not start any legal action. However, if the violations are not corrected by the due date listed below, the Inspection Unit may issue citation(s), and/or refer the situation to the City Attorney's Office.

The Inspection Unit is willing to answer questions pertaining to this official notice in order to assist you in correcting the violations. If you have questions or problems, it is important to contact me before the due date at the number listed below. You should also contact me on or before the due date if you wish to attend the follow-up inspection.

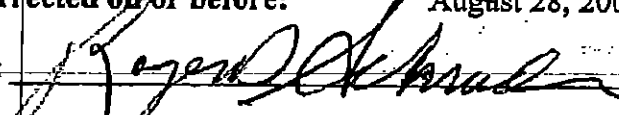
NOTE:

Any items on this notice not corrected by the due date may be subject to rent abatement claims. The items marked by the asterisks (*) are, in this department's judgment, the most likely to actually result in an award. Actual abatement, if applied for, will be determined by a Hearing Examiner.

THE APPLICATION FOR AND GRANTING OF AN EXTENSION OF TIME TO COMPLETE REPAIRS WILL NOT STOP THE RENT ABATEMENT PROCESS. ABATEMENT, IF APPLICABLE, WILL BE BASED ON YOUR ORIGINAL DUE DATE.

Please notify the inspector when work is completed. Telephone: 266-4553
Inspected by: Roger Schrader On: 7-23-08 Date Issued: 7-25-08
The violations shall be corrected on or before: August 28, 2008

Code Enforcement Officer:



Any person violating any provision of the City Ordinances enforced by the Inspection Unit is subject to the penalties provided by the appropriate Ordinance violated. ALL APPLICATIONS FOR APPEAL OF CHAPTERS 17, 18, 19, 27, 28, 29, 30 and 31 SHALL BE SUBMITTED TO THE INSPECTION SUPERINTENDENT IN WRITING WITHIN FIFTEEN (15) DAYS OF POSTMARK ON OFFICIAL NOTICE ENVELOPE. Appeal information may be obtained by calling 266-4551.



315 N. Pinckney



315 N. Pinckney



315 N. Pinckney



315 N. Pinckney



315 N. Pinckney



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305 N. Pinckney



309 N. Pinckney



317 N. Pinckney



319 N. Pinckney