

RESOLUTION NUMBER R-306415

DATE OF FINAL PASSAGE NOVEMBER 30, 2010

A RESOLUTION GRANTING THE APPEAL OF DANIEL CROTTY, EXECUTOR OF THE GLADYS E. MCLOUGHLIN TRUST, FORMER OWNER OF THE 1151 – 1159 TENTH AVENUE PROPERTY, AND REVERSING THE DECISION OF THE HISTORICAL RESOURCES BOARD TO DESIGNATE THE PROPERTY AS A HISTORICAL RESOURCE.

WHEREAS, on April 24, 2004, the San Diego Historical Resources Board (HRB) designated the Harwood Tichenor Building, located at 1151 – 1159 Tenth Avenue, San Diego, California 92101, as a historical resource under Criterion C; and

WHEREAS, on April 28, 2004, Daniel Crotty, executor of the Gladys E. McLoughlin Trust, then owner of the Harwood Tichenor Building, located at 1151 – 1159 Tenth Avenue, appealed the decision of the HRB to the City Council of the City of San Diego (City Council); and

WHEREAS, on November 9, 2004, the City Council continued the appeal of the decision of the HRB designating the Harwood Tichenor Building, located at 1151 – 1159 Tenth Avenue, a historical resource; and

WHEREAS, on September 29, 2010, Scott Moomjian, on behalf of the 11th & B Investment Company, current owner of the Harwood Tichenor Building, located at 1151 – 1159 Tenth Avenue, requested that the appeal be heard by the City Council; and

WHEREAS, on appeal the City Council may by resolution affirm, reverse, or modify the determination of the HRB; and

WHEREAS, on appeal the City Council may reject the HRB's designation of a property as a historical resource on the basis of: factual errors in materials or information

presented to the Board; violations of bylaws or hearing procedures by the Board or individual member; or presentation of new information; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body, requires by law that the Council consider evidence at a hearing and make legal findings based on the evidence presented, and because a public hearing is required by law implicating due process rights of individuals affected by the decision; and

WHEREAS, the matter was set for public hearing on November 30, 2010, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Council adopts the following findings with respect to the HRB designation of the Harwood Tichenor Building, located at 1151 – 1159 Tenth Avenue, as a historic resource :

1. That factual errors related to the concept of using the level of reversibility of alterations to assess integrity were presented at the HRB hearing and were improperly relied on by Boardmembers in their action to designate the subject property.


2. That new information regarding the integrity of the building has been provided to substantiate that 1151-1159 Tenth Avenue does not retain sufficient material integrity to be designated under HRB Criterion C.

BE IT FURTHER RESOLVED, by the City Council of the City of San Diego, that the appeal of Daniel Crotty, executor of the Gladys E. McLoughlin Trust, is granted, the decision of the Historical Resources Board designating the Harwood Tichenor Building,

located at 1151 – 1159 Tenth Avenue, as a historical resource is reversed, and that the Harwood Tichenor Building, located at 1151 – 1159 Tenth Avenue, is not designated as a historical resource.

APPROVED: JAN I. GOLDSMITH, City Attorney

By


Keith Bauerle
Deputy City Attorney

KGB:cw
12/6/10
Or.Dept.CPCI
PL#2010-02152