

RESOLUTION NUMBER R-308040

DATE OF FINAL PASSAGE MAR 12 2013

A RESOLUTION GRANTING THE APPEAL OF 1769 LAS FUENTES, LLC, OWNER OF THE LUSCOMB BUILDING LOCATED AT 1797 SAN DIEGO AVENUE, AND REVERSING THE DECISION OF THE HISTORICAL RESOURCES BOARD TO DESIGNATE THE PROPERTY AS A HISTORICAL RESOURCE.

WHEREAS, on April 26, 2012, the San Diego Historical Resources Board (HRB) designated the Luscomb Building, located at 1797 San Diego Avenue (Luscomb Building), San Diego, California, 92110, as a historical resource under Criterion A; and

WHEREAS, on May 3, 2012, 1769 Las Fuentes, LLC, the owner of the Luscomb Building appealed the decision of the HRB to the City Council of the City of San Diego (City Council); and

WHEREAS, on January 29, 2013, the City Council continued the appeal of the decision of the HRB designating the Luscomb Building a historical resource at the request of the 1769 Las Fuentes, LLC, 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 HRB; violations of bylaws or hearing procedures by the HRB 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 March 12, 2013, 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 Luscomb Building as a historic resource:

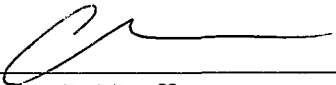
1. That the HRB erred in designating the Luscomb Building a historic resource due to factual errors in the materials and information presented to the HRB as set forth in Exhibit "A" which is by this reference incorporated herein and made a part hereof.
2. That new information concerning the Luscomb Building and its designation was provided as set forth in Exhibit "A" which is by this reference incorporated herein and made a part hereof.

BE IT FURTHER RESOLVED, by the Council of the City of San Diego, that the appeal of 1769 Las Fuentes, LLC, is granted, the decision of the Historical Resources Board designating

the Luscomb Building, located at 1797 San Diego Avenue, as a historical resource is reversed,
and that the Luscomb Building, located at 1797 San Diego Avenue, is not designated as a
historical resource.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Corrine L. Neuffer
Deputy City Attorney

CLN:mm
March 14, 2013
Or.Dept: DSD
Doc. No. 530830

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I. "The resource...is the only known Programmatic building with a castle motif."

The HRB Staff Report indicated that the Property "exhibits a Programmatic architecture aesthetic; and is the only known Programmatic building with a castle motif, employing a flat roof and crenellated parapet; slight towers at the four ends of the building; and stucco walls scored to appear as stacked stone."¹⁷ Further, at the time of the hearing during the oral Staff Report, HRB Staff stated that the Property "is the only known Programmatic building with a castle motif."¹⁸

At the time the Property was considered for designation by the HRB, several Board Members relied upon this information, either in whole, or in part. This is evidenced by Board Member comments related to the Property as an example of Programmatic Architecture and its rarity in San Diego. For example, Board Member Berge stated that the Property with its "indirect symbolism of a castle" and its Programmatic Architecture is "rare."¹⁹

Cursory historic research undertaken as part of this appeal indicates that there are at least two other buildings in San Diego which fit within HRB Staff's characterization of the Property as an example of "Programmatic Architecture." While there are undoubtedly other similar buildings in San Diego, two examples are known to exist at 4282 and 4294 Landis Street (*See Exhibit 6*). According to County of San Diego Property Information sheets, these buildings were both constructed in 1923 (approximately four years before the Property was built). These buildings, designed in "castle motifs," display flat roofs; parapets; towers; and stucco walls. They share many of the exact same characteristics featured in the Property. Based upon the fact that at least two other, similarly-designed, intact buildings exist from the same era, featuring similar characteristics found in the Property, with apparently higher degrees of integrity, the statement made by HRB Staff that the Property is the "only known Programmatic building with a castle motif" is not accurate. The characterization of the Property as the only one of its kind in the City of San Diego, therefore, constitutes a clear factual error in material and/or information which was presented to the Board at the time of the hearing.

2. The Characterization & Classification Of The Property As An Example Of "Programmatic Architecture" Constitutes A Factual Error In Materials & Information At The Time Of Hearing

As cited previously, it is undisputed that the HRB Staff Report (dated February 15, 2012) and oral HRB Staff Report made at the time of the hearing (April 26, 2012), characterized and classified the Property as example of Programmatic Architecture (a building which "exhibits a Programmatic architecture aesthetic" or a "Programmatic building.>"). At the time of the hearing, one speaker in favor of designation indicated that the Property was an example of "Programmatic Architecture."²⁰ HRB Board Member discussion and deliberation mainly

¹⁷ HRB Staff Report, p.1.

¹⁸ HRB Meeting Transcript, Meeting of April 26, 2012, p.1.

¹⁹ HRB Meeting Transcript, Meeting of April 26, 2012, p.12.

²⁰ HRB Meeting Transcript, Meeting of April 26, 2012, p. 2.

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focused on whether the Property was an example of "Programmatic Architecture."²¹ The Property was, in fact, designated on the basis of its "Programmatic Architecture."²²

The underlying basis for which the Property was deemed to be an example of "Programmatic Architecture" came directly from a term "coined by architectural historian David Gebhard in his introduction in the book, *California Crazy & Beyond: Roadside Vernacular Architecture* by Jim Heimann (2001, 1980)."²³ The HRB Staff Report cited sections of this book as the authority and the "available research" for the proposition that the Property was an example of Programmatic Architecture.²⁴

2(a). Expert Opinion—Jim Heimann

After the Property was designed on April 26, 2012, the author of *California Crazy & Beyond: Roadside Vernacular Architecture*, Jim Heimann, was contacted in order to express an opinion as to whether the Property could be categorized as an example of "Programmatic Architecture." Mr. Heimann is a respected graphic designer, writer, historian, and instructor at Art Center College of Design in Pasadena, California. He is the author of over 20 books on architecture, popular culture, and Hollywood history, and serves as a consultant to the entertainment industry. Without a doubt, Mr. Heimann is the foremost historian and expert on Programmatic Architecture.

According to Mr. Heimann, who was presented with a photograph of the Property and a brief Property history, the building is *not* an example of "Programmatic Architecture." In an e-mail communication, Mr. Heimann stated,

"...Strictly speaking this is not programmatic architecture. It would fall closer to a category called Period Revival. Even then it is a pretty soft example. The main thing the building has going for it are the crenellated towers evoking a fortress or a castle. Other than that its pretty much a standard 1920s structure"²⁵ (*See Exhibit 7*).

The term "Period Revival" cited by Mr. Heimann is a "term often used to describe a wide range of past motifs and styles from which architects borrowed during the first four decades of the twentieth century, but particularly during the 1920s. Many of the best designs of the period are not historically "correct" copies of a mannerism but are the architect's creative interpretation of the style."²⁶ The period for this Revival has generally occurred from 1890-1940 and includes the

²¹ HRB Meeting Transcript, Meeting of April 26, 2012, pp.11-18.

²² HRB Meeting Transcript, Meeting of April 26, 2012, p. 18; HRB Minutes, April 26, 2012, p.5; Draft Resolution, n.p.

²³ HRB Staff Report, pp.4-5.

²⁴ HRB Staff Report, p.5.

²⁵ Jim Heimann, Electronic (E-mail) Communication to Jim Bartell, May 1, 2012.

²⁶ <http://www.wisconsinhistory.org/dictionary/index>.

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Spanish Colonial Revival style.²⁷ As substantiated by expert opinion, the failure of HRB Staff to properly classify and categorize the Property as a Period Revival style building, and incorrectly classify and categorize the Property as an example of Programmatic Architecture, are clear factual errors which were presented to the HRB at the time of the hearing.

2(b). Expert Opinion—Bruce D. Judd, FAIA

After the Property was designated on April 26, 2012, Mr. Bruce Judd was contacted in order to express an opinion as to whether the Property could be categorized as an example of "Programmatic Architecture." Mr. Judd is the principal with Bruce Judd Consulting Group. He is a nationally respected historic preservation architect whose education and experience meet *The Secretary of the Interior's Historic Preservation Professional Qualifications Standards* in the disciplines of Architecture, Historic Architecture, Architectural History, and History. He is a Fellow of the American Institute of Architects (AIA). Mr. Judd is without question an expert in the field of architectural history and an expert qualified to render an opinion on the Property and its characterization by HRB Staff as an example of "Programmatic Architecture."

According to Mr. Judd, who was presented with the HRB Staff Report, the Crawford/Lia Study (HRRR), the April 26, 2012 Power Point presentation in opposition to designation, the HRB hearing transcript, photographs of the Property and site, and Mr. Heimann's e-mail, the building is *not* an example of "Programmatic Architecture." In a letter expressing his opinion, Mr. Judd classifies the Property as a Spanish Eclectic Revival style building and debunks the proposition that the Property is an example of Programmatic Architecture. Mr. Judd states,

"I do not see how the Luscomb building could be eligible as a historic resource using any of the recognized historic preservation criteria or standards.

When built, it was a minimal design that doesn't fit the definition of a "programmatic" style, as described in several of the documents I reviewed. The 1927 building was originally designed in a marginally Spanish Eclectic Revival style....

The term "programmatic architecture" is a stylistic description that refers to buildings that generally resemble products sold inside. When automobile travel became popular in the 1930s one way to attract motorists was to have roadside architecture reflect everyday objects such as coffee pots, hot dogs, fruit and other objects to attract drive-by customers. The building itself became a large sign that conveyed quickly what could be purchased inside.

There are several characteristics that are generally found in programmatic buildings.

²⁷ http://history.utah.gov/architecture/building_styles/period_revival/index.

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First and foremost, they look like an object that is not normally associated with a building.

Second, the scale of the object is generally greatly out of scale or exaggerated from the size of the real object.

Third, the object associated with how the building was used (or was originally used).

The object serves as a sign indicating to viewers the nature of the products sold at the location.”

According to Mr. Judd, “the Luscomb Building is clearly not an example of a programmatic building. To state so ignores both the original design of the building, and the design as it is seen today.” He concludes that while the Property has “somewhat of a castle motif” it does not “reflect the original Spanish Eclectic design as originally built or retain enough integrity to be listed as the only known example of a programmatic building with a castle motif.”²⁸ (See *Exhibit 8*). As substantiated by expert opinion, the failure of HRB Staff to properly classify and categorize the Property as a Period Revival style building, and incorrectly classify and categorize the Property as an example of Programmatic Architecture, are clear factual errors which were presented to the HRB at the time of the hearing.

2(c). Expert Opinion—Wendy L. Tinsley Becker, RPH, AICP

After the Property was designated on April 26, 2012, Ms. Wendy Tinsley Becker was contacted in order to express an opinion as to whether the Property could be categorized as an example of “Programmatic Architecture.” Ms. Tinsley Becker is the principal with Urbana Preservation & Planning LLC. She is a respected local historic preservation consultant whose education and experience meet *The Secretary of the Interior’s Historic Preservation Professional Qualifications Standards* in the disciplines of History and Architectural History. She is an expert in American history, architectural history and urban planning, with a particular emphasis on issues related to historic preservation. Ms. Tinsley Becker is without question an expert qualified to render an opinion on the Property and its characterization by HRB Staff as an example of “Programmatic Architecture.”

According to Ms. Tinsley Becker, who was presented with the HRB Staff Report and the Crawford/Lia Study (HRRR), the building is *not* an example of “Programmatic Architecture” nor even an example of Spanish Eclectic or Spanish Revival architecture. In a letter expressing her opinion, Ms. Tinsley Becker debunks the proposition that the Property is an example of Programmatic Architecture. Ms. Tinsley Becker states,

²⁸ Bruce Judd, FAIA, Bruce Judd Consulting Group, Letter to Scott A. Moomjian, July 17, 2012, pp.1-5.

"I would not classify the building at 1769 [sic. 1797] San Diego Avenue as a Spanish Eclectic or Spanish Revival style building nor do I consider the property to be an example of programmatic architecture. Rather, I consider the property to be a motor court complex with an observant Mission Revival and Modernistic influence, in the form of a low crenellated parapet and otherwise flat roof, smooth stucco exterior wall, and strong geometric form. It is an example of roadside architecture, not programmatic architecture.

Roadside architecture often incorporated regional or historical imagery. The appearance of the building form was not necessarily indicative of the property's occupancy or retail focus as is required for programmatic architecture. Designers of Motor Courts employed evocative 'costumes' for the properties they envisioned including tepees, adobe huts, log cabins, and missions.

Based on the limited information that I've reviewed, I do not find the subject building complex at 1769 [sic. 1797] San Diego Avenue to be an example of programmatic architecture for which the City of San Diego Historical Resources Board recently designated it.

Programmatic architecture is defined by a building taking the shape, form, massing, and/or appearance of the use within. Notable examples of programmatic architecture include The Duck of Flanders in Long Island, NY that originally contained a store to sell duck eggs and other fowl...and other known examples like Randy's donut shop in Los Angeles that features a large donut on the building roof. There are numerous examples of programmatic architecture throughout the country such that one should be able to differentiate between roadside motor courts and programmatic architecture. If a roadside motor court was built in the form of a bed (or something similar) it could be considered programmatic. If the subject building complex at 1769 [sic. 1797] San Diego Avenue had been originally constructed to house a business selling miniature or model castles, or some other item that relates to the somewhat castle-like appearance of the property, it would be appropriate to call it programmatic architecture, but I don't think that is the case here." (*See Exhibit 9*).

As substantiated by expert opinion, the classification and categorization of the Property as an example of Programmatic Architecture, is a clear factual error which was presented to the HRB at the time of the hearing.

III. NEW INFORMATION IS HEREBY PRESENTED TO REVERSE THE DESIGNATION

Since designation, new information has been developed and is herein presented. Such new information includes, but is not limited to:

I. Presentation Of New Information Regarding "Programmatic" Buildings With "Castle Motifs."

As stated previously in Section II(1) above, cursory historic research undertaken as part of this appeal indicates that there are at least two other buildings in San Diego which fit within HRB Staff's characterization of the Property as an example of "Programmatic Architecture." While there are undoubtedly other similar buildings in San Diego, two examples are known to exist at 4282 and 4294 Landis Street (*See Exhibit 6*). According to County of San Diego Property Information sheets, these buildings were both constructed in 1923 (approximately four years before the Property was built). These buildings, designed in "castle motifs," display flat roofs; parapets; towers; and stucco walls. They share many of the exact same characteristics featured in the Property. Based upon the fact that at least two other, similarly-designed, intact buildings exist from the same era, featuring similar characteristics found in the Property, with apparently higher degrees of integrity, the statement made by HRB Staff that the Property is the "only known Programmatic building with a castle motif" is not accurate. This constitutes new information which was not presented to the HRB at the time of hearing.

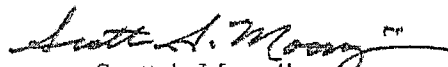
2. Presentation Of Three New Expert Opinions On The Property As An Example Of "Programmatic Architecture"

As stated previously in Section II 2(a) through 2(c) above, three independent historic property experts have provided written opinions that the Property is simply not an example of Programmatic Architecture (*See Exhibits 7-9*). The information contained in the written material prepared by the historic property experts, thereby constitutes new information which was not presented to the HRB at the time of hearing.

IV. CONCLUSION

Based upon the above information, which conclusively establishes that the HRB erred in designating the Property due to factual errors in written documentation and/or oral testimony in materials and/or information which were presented to the HRB at the time of designation; and the presentation of new information, we would urge you to overturn the HRBs' designation of the Property.

Respectfully Submitted,


Scott A. Moomjian
Attorney at Law