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HISTORIC DISTRICT COMMISSION

May 22, 2025

**Via Email: Cockerham\_LA@Hammond.org**

Ms. Lisa Cockerham  
Hammond City Council Clerk  
312 East Charles Street  
Hammond, LA 70401

RE: Hammond Historic District Appeal  
Decision Date: May 15, 2024  
Property Location: 300 North Cate Street, Hammond, LA 70401

Honorable City Council Members:

My name is Heather Diebold, and I represent the Hammond Historic District as its Coordinator. I find myself before you, again, to convey the decision of the Historic District Commission (HDC) and their imposition of fines for violations occurring as a result of a failure to maintain the property located at 300 North Cate Street, on May 15, 2024, which is the subject of this appeal.

In his letter requesting this appeal, Frank Divittorio (Divittorio), representative and legal counsel for the property owner, GUYS I, LLC and Darryl Smith (Smith), purports to have a stay in effect from any action against the subject property, Guys. Divittorio alleges that the stay is in place because of the lawsuit he filed against the HDC and the City Council (City of Hammond). Please be advised that the lawsuit deals with the HDC's denial for a Certificate of Appropriateness (COA) for an addition and renovation of Guys, and the Council's upholding of that denial. The imposition of fines for failure to minimally maintain the premises of Guys is a matter that is completely separate and apart from the issues raised in the lawsuit.

Prior to addressing the fines themselves, I assert that the timeliness of Divittorio's request for an appeal needs to be reviewed and taken under consideration. Based on State law, by which the Council is bound, LA RS 25:741 states:

“§741. Appeals

A. Any person or persons aggrieved by any decision, act, or proceeding of an historic preservation district shall have a right to apply in writing to the governing body of the governmental unit for reversal or modification thereof and the chief executive official, or presiding officer of the governing body, shall have the right to stay all further action until the governing body may affirm a decision of the commission by majority vote of all its members. ***Any such appeal shall be taken in ten days from the date of decision*** and the governing body may consider said appeal at its next general or special meeting, but in any event, not more than forty-five days thereafter.” (Emphasis added).

The decision by the Commission to impose fines was handed down on May 15, 2024. Divittorio did not submit his request for an appeal until Tuesday, May 28, 2024. This is thirteen (13) days after the decision by the Commission. While Monday, May 27, 2024 was a holiday, the State law does not say ten (10) days exclusive of holiday and weekends, or even ten (10) business days – it states **ten (10) days from the date of the decision.**

There are other such deadlines in Louisiana. Due diligence periods in Louisiana are typically a ten (10) day window after a real estate contract is executed. Due diligence periods are measured in calendar days, including weekends, holidays, and all days of the week. If this clause expires in Louisiana without a signature from both parties, or the buyer has not terminated the contract within this ten (10) day period, the buyer has essentially accepted the property in its current condition and is bound to the contract, obligating the buyer to proceed with the purchase.

Yes, I am aware that due diligence clauses are negotiable in the real estate world, and the ten (10) day period is not put in place by State law, however, the ten (10) day period to bring an appeal before City Council after an Historic District Commission decision is, in fact, set by State law and is not negotiable.

For these reasons, I hold that Divittorio's request was done so untimely, as he submitted it thirteen (13) days after the decision, and I respectfully request that this Honorable Council deny Divittorio's request for an appeal for failure to bring said request within the legislatively mandated ten (10) day deadline.

Should this Honorable Council find that Divittorio's request was somehow timely, and decides to move forward with the appeal regarding the fines imposed for failure to maintain the property located at 300 N Cate, I provide the following for your consideration:

Smith acquired Guys in 2016. Since this time, Smith has failed to perform any sort of maintenance on the property to keep it in good repair, in violation of Hammond Unified Development Code (UDC) 8.1.21. The building has very noticeable vegetation growing on its exterior brick façade, in addition to graffiti and boarded up openings (windows and doorways). Pursuant to Hammond UDC 8.1.21B, "The use of boarded openings is prohibited within the Hammond Historical District. The use of boards for windows shall be permitted in cases of emergency for a period of time not to exceed fourteen (14) days consecutively."

On or about February 7, 2024, Smith was sent a certified letter (copied via email) informing him that he was to appear before the HDC on February 21, 2024 with an application to remedy the maintenance violations. A remedial application was submitted on February 19, 2024. At the meeting, Smith's representative, Divittorio, advised the HDC that glass had been ordered, and Smith was given sixty (60) days, until April 21, 2024, to bring the building into compliance or face fines of up to \$100 per day per violation. These fines were to date back to the date of the meeting on February 21, 2024, if not remedied.

On April 22, 2024, sixty-one (61) days after the initial meeting, a formal violation letter was sent via certified mail (copied via email) informing Smith that he was to attend the May 15, 2024 meeting where fines would be assessed for failure to bring the building into compliance within the required sixty (60) days. On May 1, 2024, I received an email from Smith stating that "[a] crew

had been hired to address the vegetation growth...[w]indows and doors will be secured in preparation of the property moving forward with an approval of construction for this location.” Even after the City Council upheld the HDC’s denial of a COA for construction for this location, the property still remains in violation. (See attached photos)

On May 15, 2024, Divittorio, as representative for Smith and Guys, appeared before the HDC and stated that he had been advised by Smith that the graffiti and vegetation were removed from the building. As you can see from the photograph link on the DOCUMENTS and AUDIO attachment to this letter, this was not the case. The HDC imposed a fine of \$100 per day for vegetation growth, \$100 per day for graffiti, and \$100 per day for boarded up windows and doors. Divittorio was advised that these fines were retroactive back to the day of the meeting on February 21, 2024, and that each fine would end upon its remediation.

The HDC has the power to enforce these fines pursuant to Hammond UDC 8.1.8 and La RS 25:740. As of the date of this letter, Smith has been in violation for 456 days, for a total of \$136,800.00 The HDC was well within its authority to impose these fines, and continue to do so until the building is brought into compliance. Smith has been given ample opportunity to take remedial measures to achieve this, but has decided against doing so, and instead continue to provide the HDC with mistruths about the condition of the building. I have no doubt that Smith is using the current lawsuit as justification to allow the building to continue to fall into further disrepair by failing to perform **any** maintenance. For me, the Commission, and any person who has an appreciation for our history and historic structural resources, this failure to act, is egregious and unjustifiable.

I, again, urge you to uphold the decision of the HDC to impose these fines and encourage Guys to take the appropriate action to maintain its property.

Respectfully submitted,

*Heather Diebold*

Heather Diebold  
Hammond Historic District Coordinator

Attachments:

300 N Cate – Documents and Audio Links  
LA RS 25:741 and UDC 8.1.12  
LA RS 25:740 and UDC 8.1.8  
Email from Darryl Smith dated May 1, 2024  
Email and letter from Frank Divittorio showing date of appeal request submission  
Photos of Guys dated May 22, 2025