

ADDRESS: 1106 CHESTNUT ST

Name of Resource: John Davis Co., Furrier

Proposed Action: Rescission

Property Owner: Joseph Nadav

Applicant: Roger F. Perry, Esq.

Staff Contact: Jon Farnham, jon.farnham@phila.gov

BACKGROUND:

This application proposes to rescind the designation of the property at 1106 Chestnut Street. The property was individually designated in 1986 for its unique Art Deco façade that featured glass and metal panels above a commercial storefront (Figure 1). At the time of designation, the design of the façade was wrongly attributed to architect Markham Asberry and wrongly dated to 1933 (Figure 2). The Historical Commission recently confirmed that the façade was constructed by architect George W. Neff for the John Davis Co., Furrier in 1939.



Figure 1. The Art Deco façade at 1106 Chestnut Street, c. 1986 and 2014.

Doctor Scholls Foot Comfort Shoes
Glass Facade 1933

1106 Chestnut Street
Markham Asberry, Architect

The storefront at 1106 Chestnut Street possesses significance as an outstanding example of a glass commercial facade rendered in the Art Deco style. This storefront realizes the Art Deco ideal of the melding of machine-made materials with contemporary design. Of course, storefronts had long reflected technological advances in building materials, but Art Deco architects fully embraced the design potential of machine-made products. Art Deco utilized the smooth sleek qualities of terra-cotta and glass as well as the design possibilities inherent in shiny metals and geometrically stylized objects. Structural glass as it was called, was developed around the turn of the century for sanitary applications such as bathrooms and kitchens. During the second and third decades of the twentieth century, however it also began to replace tile and marble as a material for storefronts. By the 1930s manufacturers were marketing glass shopfront systems in rich colors such as Chinese red, jet black, forest green and milk white. Architects like Markham Ashberry employed glass in combination with gleaming metals and neon to produce the revolutionary new look of shopfront designs exemplified by 1106 Chestnut Street. The Doctor Scholls store serves as a rare surviving example of a full facade glass shopfront and as a fine representation of its materials and style.

Figure 2. Committee on Historic Designation meeting minute on 1106 Chestnut Street, March 14, 1986.

On April 13, 2014, the Department of Licenses and Inspections inspected the building and deemed the Art Deco front facade unsafe because panels were loose, falling, and hazardous. The property owner's contractor, William Proud Masonry, removed all of the panels comprising the facade. The property owner claims that an inspector from the Department of Licenses and Inspections ordered the removal of the Art Deco facade. On April 22, 2014, after the panels had been removed, the Department of Licenses and Inspections issued Violation 426369, stating that only unsafe and loose facade materials were to be removed and that the Historical Commission's approval was required for the replacement of the panels (Figure 3). The violation was later closed.

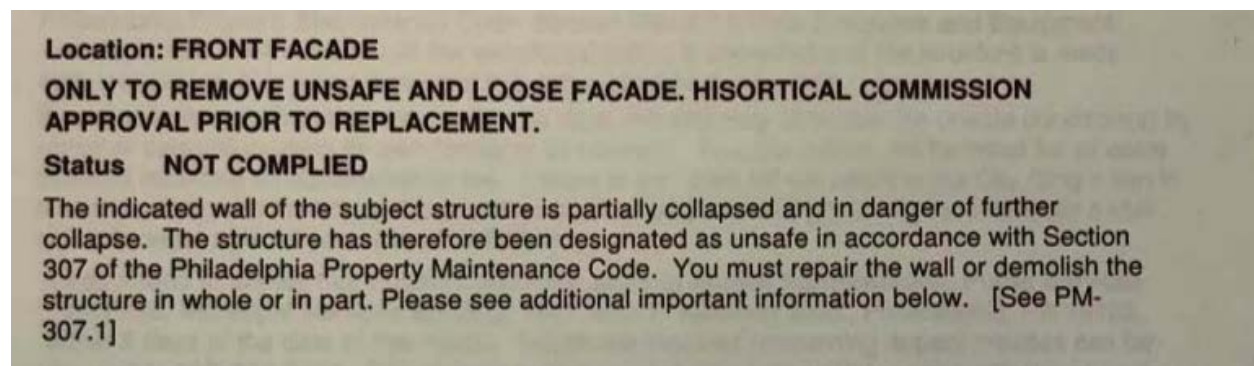


Figure 3. Detail from Violation 426369, issued by the Department of Licenses and Inspections on April 22, 2014.

In 2016 and 2017, the staff of the Historical Commission approved two permit applications to restore the facade. The scope of work on both applications included the repointing and repair of the back-up brick facade and the installation of new and salvaged glass and metal panels to

restore the Art Deco appearance. The staff conditioned the application with a requirement that the work was to have been completed within 12 months. The work was not undertaken.

In 2017, the Department of Licenses and Inspections issued a second violation, Violation 596406, this time for failing to complete the approved work within 12 months (Figure 4). A former Historical Commission staff member requested the violation on June 5, 2017. In January 2020, the City initiated an enforcement case against the property owner, Case ID 200100767, for the newer violation.

VIOLATIONS:

No person shall alter or demolish a historic building, structure, site, or object, or alter, demolish, or construct any building, structure, site, or object within a historic district, nor alter or demolish a historic public interior portion of a building or structure without first obtaining a building permit. Approval of the Historic Commission is required prior to obtaining a building permit.

Location: Front Facade Windows

Failure to obtain Historic Commission approval, and permit never obtained

A building permit is required for altering, modifying, repairing or improving the exterior portion of the structure. (See A-301.1.1 (3))

Location: Historical approval not obtained for front facade

Failure to install approved windows within 12 months per Historic Commission

Figure 4. Detail from Violation 596406, issued by the Department of Licenses and Inspections in 2017.

In July 2021, the Historical Commission reviewed and denied an application proposing to legalize the removal of the panels and repair the brick wall that was exposed with the removal of the panels.

The Court of Common Pleas held a hearing on the enforcement case on July 27, 2022 and found that the property owner had been issued a violation, that the violation had not been appealed, and that the permits had not been obtained or the work undertaken to correct the violation. The court ordered the property owner resolve the matter with the Historical Commission, through the rescission of the designation of the property, the legalization of the removal of the façade materials through the financial hardship process, or the permitting and repair of the Art Deco façade. To comply with the court order, the property owner is seeking to rescind the designation.

The rescission application argues that the Art Deco façade was removed because it was not structurally sound and posed a safety hazard, that the façade was removed pursuant to a directive from the Department of Licenses and Inspections, that any new façade will not be historically significant, and that the extant brick façade is not capable of supporting a new reproduction Art Deco façade.

As the record from the 1986 designation makes clear, the property was designated solely for its Art Deco façade. While the building behind the façade may have historical significance, it cannot be protected under the current designation for reasons other than supporting the Art Deco facade. However, a new nomination could be submitted proposing to designate it for reasons other than the Art Deco facade.

Section 5.14.b.1.a of the Historical Commission's Rules and Regulations indicates that the Commission "may rescind the designation of a building ... and remove its entry or entries from the Philadelphia Register of Historic Places if ... the qualities that caused its original entry have been lost or destroyed." In this case, the quality that caused the designation, the glass and metal Art Deco façade, has been clearly lost and destroyed. However, the question remains whether the property owner has an obligation to replicate the Art Deco façade. If the owner does have an obligation, then the designation should not be rescinded. If the owner does not, because the Department of Licenses and Inspections ordered the removal in an unqualified manner, or for some other reason, then perhaps the designation could be appropriately rescinded.

STAFF RECOMMENDATION: This rescission request does not raise questions about historical or architectural significance and therefore is beyond the Committee on Historic Designation's purview. The property was solely designated for the Art Deco façade and that façade has clearly been removed. The staff recommends that the Committee on Historic Designation decline to offer a recommendation for approval or denial of the request and leave the questions of fact and law to the Historical Commission.

PERRY & PERRY
ATTORNEYS AT LAW
734 SOUTH FOURTH STREET
PHILADELPHIA, PENNSYLVANIA 19147
(215) 922-2094
FAX (215) 922-4132

ROGER F. PERRY
ALEXANDER R. PERRY

OF COUNSEL:
RAMONA JOHNSON

June 30, 2022

Philadelphia Historical Commission
1515 Arch Street, 15th Floor
Philadelphia, PA 19102

Re: 1106 Chestnut Street façade , request to rescind

Dear Sir or Ms.;

Pursuant to 5.14 b, the Commission Rules and Regulations, and related documents, Joseph Nadav as owner, is Petitioning by this letter to rescind the historic designation as to the art deco glass and panel façade formerly attached to 1106 Chestnut Street. The applicable reasons follow:

1. A possible recommended "replacement" will essentially have no historic significance as a new faux façade, and they may as well put a photo in the window.
2. Despite the PHC commentary following the 2014 removal by L & I directive, the glass was not structurally usable and posed a public safety hazard.
3. The original installation decades ago worked with the condition of the building at that time. That glass was designated as historically significant, but that glass is NOT usable. At this time the building can use some TLC to make the bricks and windows as acceptable as possible, but the structure of the building will not sustain either the weight or attachment necessary to provide a warranted safe installation, regardless that such would be a faux replacement.

For these reasons and as supplemented in the court matter related hereto, it is respectfully requested that the Historic designation be rescinded. Thank you.

Yours truly,


Roger F. Perry for Joseph Nadav

RFP: encl Court Memo

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ALEXANDER R. PERRY

(215) 922-2094
FAX (215) 922-4132

FILE COPY

OF COUNSEL:
RAMONA JOHNSON

June 24, 2022

The Honorable Edward C. Wright
229B City Hall
Philadelphia, PA 19107

Via Email

Re: City vs Nadav CP 200100767

You Honor,

This matter is listed for hearing July 26, 2022. Per the pre-trial meeting, we submit this brief letter and suggested Order. The focus of this litigation is the refusal of the City to remove unenforceable violations, arising from Defendant's compliance with an L+I Order from 2014.

The Property at issue is 1106 Chestnut Street, which had an "Art Deco" style colored glass panel façade designated as "historic" in 1986, having been installed decades earlier. The historical designation was limited to said façade, as there is no historic significance to the larger property. While the Property at issue had a historically designated façade, this façade was damaged and risked the public's safety.

On April 13, 2014, the City of Philadelphia, via the L+I department, found the façade to be "Unsafe" as the aged glass began falling in pieces to the pedestrian sidewalk and street. The relevant city Agency issued a violation notice and Order to make safe or demolish the façade. Noting the emergency situation the property manager Brian Nadav consulted with the City and contractors, and immediately demolished the collapsing façade as directed.

It is undisputed that in 2014, the glass panels of the façade failed; on April 13, 2014, the City of Philadelphia, through the controlling agency for public safety related to physical structures, the Office of License and Inspections, Ordered the demolition of the Unsafe façade. It is undisputed that prior to the 2017 Violation at issue, indeed prior to notice of April 22, 2014, the property owner engaged a contractor who noted the actively collapsing condition, obtained a permit on April 16, 2014, erected a sidewalk covering, and demolished the collapsing façade that presented an immediate danger to public safety. It is undisputed that the façade is no longer in place and any new structure would not be historical, but would be a faux replica façade.

The City of Philadelphia, on April 13/14 2014, noted the façade of the structure was failing and a risk to the public. The City ordered the removal of the glass and erection of a sidewalk covering. The property managers took immediate action noting the significant danger to the public from falling glass. After speaking to several contractors, the requested work was undertaken.

Only after the Ordered demolition of the unsafe façade was completed did the City issue a retroactive notice dated April 22, 2014. However, as the work was done on emergency basis by that time, **the entire violation claim was closed and noted completed by L+I**. No owner or L & I inspector, nor contractor would have borne the liability to certify the structural safety of the aged glass and building façade after noting falling glass.

While building permits to do work on the façade would require Philadelphia Historical Commission (PHC) approvals before any building permits issued, the façade is no longer in existence due to the emergency situation and April 13, 2014 Order of Philadelphia's L+I.

Over the next few years, Mr. Nadav sought input via a series of paid contractors and architects but ultimately no contractor would warrant the safety of the façade when adding any weight bearing glass or panels. It is believed that the PHC understood that an "art deco" styled façade was not doable on this old building, but suggested several "reproduction" options. Most ran up against the structural integrity argument by contractors, but more importantly, such would NOT be of any Historical significance, thus putting procedure over substance.

The City L & I building and related divisions will not (or cannot) issue permits where a portion of the property is designated and requires PHC to sign off first. In this case the building is suffering in all aspects by lack of permitted work, ie. underlying brick, parapets, side walls, rear walls and interior. Part of requested Order is to allow permits to issue at this time.

The City brought this matter to Court on an open 2017 violation Case No. 596406, marked closed on February 2018, but reopened June of 2018. The Violation regards alteration of the exterior without permits, related to the "complied" violation from April of 2014 related to the failure to obtain PHC approvals for proposed exterior work. Respondent here understands the Rules and Regulations of the PHC include any and all actions to rescind or amend historic designation and/or to claim financial hardship as to maintaining or preserving the historical aspects of this particular building. However, the agency (PHC) is subjected to the jurisdiction of the Court as to a violation related to the Historic Designation as well as noting the tension between the Defendant's compliance with one department of the City who acts with emergency powers and another department who asserted a right *after* such was moot by compliance in the emergency situation. Having attempted to work with PHC for five years, PHC's demand to create a replica façade has no relation to the purpose of preservation. It is argued that further requirement to exhaust administrative remedies, as demanded by the City, perpetuates the City's delay, places the Defendant in the same position of futility as currently exists, and would ultimately lead directly back to this Court for review of the Agency determination. The Court should dismiss the violation and Order the respective agencies to facilitate a solution to remove the building from the historic index and allow necessary work without PHC approval.

While the City attorney argues that L+I Case known as 596406 is before the Court, the foundation of that case is the Owner's actions in 2014 undertaken due to an Order of the same Agency to remove the same glass façade. To be clear, it is the City of Philadelphia, working on behalf of both L+I and PHC, two agencies within the City, that submits to jurisdiction of this Court, with subject matter related to the *previously removed* glass façade, subject to an ongoing or revisited violation that is solely based on its *prior* removal by defendant's *compliance* with prior violation.

If the Court feels that testimony on disputed issues is necessary, the Nadavs, as property managers, will testify that the "historic façade" was removed pursuant to the City emergency request, and this was done before April 22, 2014 violation. They will testify that many options were explored at great costs with architects, contractors and glass installers, all with no practical resolution, primarily by reason of the potential danger to the building and the public's safety. The PHC's "solution" of a costly reproduction is beyond the scope of historical preservation.

While on one hand the City demands the Defendant obtain work permits for work necessary to maintain the property; it simultaneously refuses to grant permits based on the Defendant's compliance with *prior violations* by the same L+I department, necessitating immediate compliance in the interest of public safety.

Therefor the owner requests the court find that (a) the Property owner removed the façade during an emergency situation and by direction of the City of Philadelphia; (b) the historical designation of the property was based on the glass façade (c) the historical façade is no longer in existence (d) work permits to maintain the property are necessary to prevent further deterioration, waste, and prevent further violations.

The current violations should be dismissed, with Defendant provided the right to obtain work permits while seeking to change the historic designation, noting the finding that the façade that was the sole reason for the property's historic designation, and review of the historic commission, no longer exists. The City's continued refusal to grant work permits, without obtaining permission of the historical commission, which has refused to grant such permits based upon a demand to create a faux "re-creation" façade, will ultimately lead to further emergency situations and additional violations. This cycle is a result of compliance with Orders of the City in 2014.

As the Historic Commissions' oversight on this property is based solely on a façade that no longer exists, the requirement that the Historical Commission approve permits related to the remainder of the structure, is without logic. The City demands Defendant obtain approvals, or remain in violation, however, both the violation and approvals are not being granted by reason that the Defendant-property owner *complied* with the City's Violation and Order in an emergency. The City does not even admit a similar glass façade would currently comply with building codes now required to ensure public safety.

Respectfully submitted:

/s/ [Signature]

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

CITY OF PHILADELPHIA	:	COURT OF COMMON PLEAS
Plaintiff,	:	CIVIL TRIAL DIVISION
	:	
vs.	:	
	:	JANUARY TERM, 2020
JOSEPH NADAU,	:	No. 00767
Defendant.	:	

FINAL ORDER AND PERMANENT INJUNCTION

AND NOW, this 27th day of July, 2022, upon consideration of the Complaint, and by the agreement of the parties, the Court finds and orders that:

1. Defendant, Joseph Nadav (incorrectly identified as Joseph Nadau in the Complaint), is the owner of the property and structure located at 1106 Chestnut Street, Philadelphia, PA (the "Subject Property").
2. On July 31, 2017, the Department of Licenses and Inspections sent Notice of Violation No. 596406 informing Defendant of violations of the Philadelphia Code at the Subject Property.
3. Defendant has not filed and administrative appeal.
4. Defendant has failed to obtain all necessary permits and/or make all necessary repairs to correct the violations at the Subject Property.

WHEREFORE, this Court Orders as to **Count I** of the Complaint:

5. Defendant shall make any and all applications that he wishes to pursue before the Philadelphia Historical Commission ("PHC") for the Subject Property, consistent with the

ORDRF-City Of Philadelphia Vs Nadau




application requirements of The Philadelphia Code and the PHC Rules and Regulations, within ninety (90) days of this Order, including, but not limited to:

- a. Any application to rescind or amend the historical designation of the Subject Property, as set forth in PHC Rule 5.14;
- b. Any application seeking a financial hardship exemption, as set forth in PHC Rule 9;
- c. Any application to remediate/renovate the exterior brick and/or windows as set forth in the PHC Rules and Regulations.

6. The terms of this Order shall be binding on Defendant, his agents, lessees, heirs, assigns, successors in interest, and all persons acting in or for the Defendant's behalf or occupying the subject premises.

7. This is a final order, entered without prejudice.

BY THE COURT:


_____, J.



CITY OF PHILADELPHIA
DEPARTMENT OF LICENSES AND INSPECTIONS

EMERGENCY SERVICES & ABATEMENT
Municipal Services Building
1401 J.F. Kennedy Blvd.
Rm. 1140
Philadelphia, PA 19102

VIOLATION NOTICE

NADAU JOSEPH
2050 BYBERRY RD
PHILADELPHIA PA, 191163016

Subject Premises: 1106 CHESTNUT ST

Case No: 426369
Date of Notice: 04/22/14

This is to inform you that the Department of Licenses and Inspections has inspected the subject premises and designated it as **UNSAFE**, in whole or in part, within the meaning of the Philadelphia Property Maintenance Code, Section PM-307.0 Unfit Structures and Equipment. This designation will remain until the violation(s) below is corrected and the structure is made safe and secure or is taken down and the debris is properly removed.

If you fail to comply with this order within 30 days, the City may eliminate the unsafe condition(s) by repair or demolition using its own forces or by contract. You, the owner, will be billed for all costs incurred including an administrative fee. Failure to pay such bill will result in the City filing a lien in the amount against the title to the premises and/or costs and charges being recovered by a civil action brought against you. (See PM-308.6)

If you intend to appeal this violation, you must apply at Boards Administration, Public Services 11th Floor, Municipal Services Building, 1401 John F. Kennedy Blvd., Philadelphia, PA 19102, within 5 days of the date of this notice. Telephone inquiries concerning appeal process can be directed to 215-686-2419. It is necessary that you submit a copy of this notice with the appeal. (See A-801.2)

Note: If you intend to demolish or rehabilitate the structure, or any part of it, you must obtain all required permits in advance of beginning such work.

If you have any questions regarding this notice, you may call the Contractual Services Unit at 215-686-2583.

INSPECTOR CLARK
Emergency Services & Abatement Unit

VIOLATIONS:

You are hereby ordered to obtain the services of a Pennsylvania Registered Professional Engineer to survey and report on the conditions listed below, send the report to the above listed district office. Repairs are to be made in accordance with the written recommendations of the engineer. [See A-304.1]

Location: FRONT FACADE

**ONLY TO REMOVE UNSAFE AND LOOSE FACADE. HISORTICAL COMMISSION
APPROVAL PRIOR TO REPLACEMENT.**

Status NOT COMPLIED



CITY OF PHILADELPHIA
DEPARTMENT OF LICENSES AND INSPECTIONS

EMERGENCY SERVICES & ABATEMENT
Municipal Services Building
1401 J.F. Kennedy Blvd.
Rm. 1140
Philadelphia, PA 19102

VIOLATION NOTICE

NADAU JOSEPH
2050 BYBERRY RD
PHILADELPHIA PA, 191163016

Within this designated historic district, original window and door openings, sills, lintels, and sashes must be retained and repaired whenever possible. Replacement elements must match the original appearance in proportion, form, and materials as closely as possible. (See PM-704.2.5)

Location: FRONT FACADE

**ONLY TO REMOVE UNSAFE AND LOOSE FACADE. HISORTICAL COMMISSION
APPROVAL PRIOR TO REPLACEMENT.**

Status NOT COMPLIED

The indicated wall of the subject structure is partially collapsed and in danger of further collapse. The structure has therefore been designated as unsafe in accordance with Section 307 of the Philadelphia Property Maintenance Code. You must repair the wall or demolish the structure in whole or in part. Please see additional important information below. [See PM-307.1]

Location: front facade

Status NOT COMPLIED



CITY OF PHILADELPHIA
DEPARTMENT OF
LICENSES AND
INSPECTIONS

Central District
990 Spring Garden St, 7th Floor
Philadelphia, PA 19123
Office: 215-685-3786
Email : Central_Inspections@phila.gov

FINAL WARNING



NADAU JOSEPH
2050 BYBERRY RD
PHILADELPHIA PA 19116-3016

L&I Case Number: 596406

Date of Notice: 09/12/2017

REC-9-15-17
+ Original to Allan!

Property In Violation: 1106 CHESTNUT ST FRONT FACADE

Dear Sir/Madam,

On 09/11/2017 the Department of Licenses and Inspections conducted a re-inspection of the above property and found that it remains in violation of the Philadelphia Code. The results are included in the violation section below. Your failure to correct the violations noted in this, and previous notices, requires the Department to pursue additional enforcement action against you as provided by law.

This is your final notice, if you have any questions regarding this matter please contact Inspector Joseph Spinks or the District Office noted above.

VIOLATIONS:

No person shall alter or demolish a historic building, structure, site, or object, or alter, demolish, or construct any building, structure, site, or object within a historic district, nor alter or demolish a historic public interior portion of a building or structure without first obtaining a building permit. Approval of the Historic Commission is required prior to obtaining a building permit.

Location: Front Facade Windows

Failure to obtain Historic Commission approval, and permit never obtained

A building permit is required for altering, modifying, repairing or improving the exterior portion of the structure. (See A-301.1.1 (3))

Location: Historical approval not obtained for front facade

Failure to install approved windows within 12 months per Historic Commission

PENALTIES AND FEES

Fines shall be imposed from 07/31/2017 and shall be assessed in the amount of \$150 to \$2000 per violation each and every day the violation remains uncorrected.



CITY OF PHILADELPHIA
DEPARTMENT OF
LICENSES AND
INSPECTIONS

Central District
990 Spring Garden St, 7th Floor
Philadelphia, PA 19123
Office: 215-685-3786
Email : Central_Inspections@phila.gov

FINAL WARNING

L&I Case Number: 596406

Your failure to correct the violations may result in the revocation or suspension of certain licenses and permits. Your failure to correct the violations may also result in the City filing a legal action against you to obtain compliance, an injunction, and the imposition of fees and fines.

Failure to comply with the terms of this Notice will result in an automatic assessment of reinspection fees in accordance with Chapter 9 of the Philadelphia Code. \$75 will be imposed on the second failed reinspection doubling with each subsequent failure up to a \$300 fee per reinspection.