

First, I would like to confirm that my prior first hearing submissions and opening statement remain a part of the record for the Commissioners and do not have to be re duplicated?

City of Asylum has collaborated with exiled writers, artists and Historic District community members to create "River of Words,"-- a project of word installations intended to cultivate cultural connections within the neighborhood.

Art and free expression are core values in both the ACCA Community Plan --which was approved by the residents and the numerous nonprofits that are vital to this Community's identity and necessary to fulfill that neighborhood Organization's Mission Statement. Community members have chosen individual words based upon their content and expression --which are then displayed on the outside of private homes. Stated differently, the community has picked the labels that it wants to use to describe itself. The "art" is not any one piece or singular word, but the aggregation of free expressions of the community; not just the physical but the "neural net," the entire "river." Prior to the December 27 ultimatum, roughly 42% of the words comprising the River flowed through the Mexican War Streets Historic District.

Words are secured with 1 inch screws either in mortar joints or in wood – or displayed on an exterior window.

The word installation is fully protected political speech since it is part of a larger project to provide a community sanctuary to exiled literary writers. The word installation encourages political discourse throughout the neighborhood so that the writers and the community members can continue to have their voices heard. The First Amendment affords the broadest protection to such political expression in order to assure the unfettered interchange of ideas for the bringing about of political and social changes desired by people. This protection includes art used in a political context. Given that status, the HRC can only enforce restrictions within a very narrow and limited context.

Under such a strict scrutiny analysis, the government and the HRC may only regulate the content of constitutionally protected speech in order to promote a compelling interest if it uses the least restrictive means to further the articulated interest. Here, the HRC has not met that very heavy burden. The HRC previously asked the Pittsburgh Office of Public Art to require word holders remove their Words by December 27, pay a fine, or pay \$100 to have a hearing. This occurred after visits to our neighborhood by HRC Staff Representative Sarah Quinn. During all times material herein, the HRC continued to permit other forms of speech, such as security signs, house numbers that do not conform to historic district regulations, private no parking signs, for rent signs, realtor signs, commercial banners that have remained in place for over 2 years, and flags. All of the signs entered into the record have existed within the historic district for well over 6 months and similarly do not fall within the "temporary" category. Accordingly, restricting River of Words under these circumstances constitutes prohibited content-based regulation and is not the least restrictive available means at all. Stated differently, the HRC is trying to enforce a content-based restriction on this type of speech since it is only targeting the

word installations – i.e., specific content, and the community members who refuse to take their words down – i.e. the specific speakers.

If the installation is analyzed within the more familiar HRC code for signage, the River of Words installation must be permitted. Section K states that the Historic Review Commission will review favorably proposals that employ signage that does not obscure architectural features. River of words passes that test. Next, the signage must be attached to historic materials in a manner that causes no irreversible damage. That is true in our case. The signs must be under 100 ft., be installed below second-story windows and are allowed to be painted on wood, metal, or opaque plastic backboards or to be composed of individually applied letters. River of Words complies with all of those requirements. The Regulations further allow for one window sign per floor that is a maximum of 20% of the glazed area of the window. River of Words fully complies with subsection K-5 in all these respects.

At the end of my first hearing, the Commission indicated a need for a 60 day hiatus to study First Amendment issues, the publication of transparent guidelines applicable to art within the Historic District, a streamlining of the process, and a special lower fee for art and for artists. Yet, during the last 90 days there has been no occasion provided to allow for community input into applicable guidelines to be applied in our local historic district. Over 100 neighbors who were not able to take a day off of work to speak today have signed a petition in support. Here is but one of the many comments attached to the petition: With illiteracy being a problem in the innercity, having these attractive, discreet words throughout the neighborhood encourages conversation and discovery for residents of all ages. If limited to one tasteful small scale word per property it is not intrusive and adds a human touch to the neighborhood, expanding art outside the walls of the nearby galleries and museums.

At the end of my last hearing, the Commissioners indicated an inability to regulate art, indicated that this was perhaps within the province of the Arts Commission, and indicated that they may not be able to regulate private art at all. In that case, my Application should be approved. However, once the Commission does regulate --as you have when you approved my July Application to install my stone panel entitled "First Historic District" on the side of my home, you each have a burden of fair regulation, of providing due process, an underlying obligation to obey the First Amendment laws, and to assure that protections for speech raised in this case are fully safeguarded. The HRC simply cannot permit commercial speech and signs, and privilege it over noncommercial free-and political speech.

Since we have not yet heard the Commission's decisions, I am reserving time for response and rebuttal-if that is necessary.

Our next speaker is University of Pittsburgh Professor Caitlin Bruce who has compiled a transcription of oral histories from resident word holders demonstrating that words were indeed chosen for their particular meaning and expression. The oral histories also trace the speech that occurred throughout the neighborhood after Words were posted.

Caitlin Bruce has a PhD in Communication Studies and is a professor of Communication at the University of Pittsburgh. Her area of expertise is in public art in urban space. She has conducted research transnationally (France, Mexico, the US) and has interviewed over 100 artists about the relationship between art and community.

Glenn Olcerst
Marcus & Shapira LLP