Burke Compliance Testimony

Madam Chair, my name is Robert Vricella. I live at 2947 Upton Street, 3 doors down from Burke. I am here to speak to the history of Burke's compliance—not only Burke's compliance with the prior Orders of this Body, but also their compliance with what I would call generally accepted norms of behavior that one would expect of a large institution that is located in a densely populated residential area. As I go through my testimony, my hope is that you will hear it against the backdrop of Burke's proposed traffic management plan—a plan that is heavily dependent on management from an institution that has had a poor history of living up to its obligations.

David Shapiro stated in his testimony that the school had *volunteered* to the neighborhood that the school was out of compliance with the 1983 BZA Order that limited student population to 270 and faculty and staff to 35. I can state unequivocally that this is not the case. When Burke approached the neighborhood about its expansion plans they merely stated that its student population was 300, and portrayed their plans as a 20% increase in students, not the 33% increase that it actually is had the school been in compliance. Needless to say, my neighbors and I became alarmed at the prospect of an ever expanding Burke and decided to obtain a copy of the 1983 BZA Order to determine independently what the school could and could not do. What we discovered was very disturbing.

Not only was the school in violation of 3 out of the 5 conditions of approval as set forth in the BZA Order, they were also in violation of the entire spirit of the Order, as contained in the Board's Findings of Fact.

The 1983 Order states that noise emanating from the school shall not exceed 55 decibels, as measured at the property line. As I said earlier, I live 3 doors down from Burke. The school has located its air conditioning compressors in their rear yard, adjacent to 2951 Upton, where my good neighbor Linda Jay lives. My other neighbor adjacent to the school, at 2949 Upton, has on several occasions requested noise readings from Burke, but to no avail. As the warm weather has set in, the air conditioning has been turned on and we have now been able to obtain our own decibel reading. It came in at a staggering 72 decibels- 31% over what is permitted. The noise coming from the compressors is so loud that we cannot enjoy our back yards in the spring, summer, or fall. We have asked Burke to install a timer on the air conditioner, so that it doesn't go on in the evening or weekends—anything to try and get a little relief from the noise, and something, I might add, that would also be in their economic interest—but the school has failed to do so.

The 1983 BZA Order limited non-related school use of the building to no more than 3 events per month. When the neighbors confronted Burke about the number of outside events at the school, which was in excess of the number they were permitted to have, to their credit, they came into compliance on this issue.

But on the all-important issue of student and faculty population levels, Burke has repeatedly thumbed its nose at this Boards' prior Orders. Upon learning the true circumstances of Burke's operations, a representative from the neighborhood, sent a certified letter to Burke on March 10, 2000- I have a copy right here- requesting that they come in to compliance by the coming school year with the population limits as set forth in the 1983 BZA Order. Not only did the school not

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comply with this request, but in fact it actually *increased* its student population. Mr. Shapiro's explanations regarding Burke's over enrollment are unconvincing. We view his testimony as more dissembling and equivocation from the school regarding this critical issue. Couldn't the school have made some effort to come into compliance? We realize that it would not have been practical for them to completely eliminate the next incoming class, and the option of expelling students seemed equally draconian, but couldn't they at least have reduced the population by a couple of students to show a good faith effort to move in the right direction?

We believe that the spirit of the 1983 BZA Order has been systematically violated as well over the past18 years since the Order was approved. Allow me to cite just a few examples, which are taken from the Board's Findings of Fact. Finding No. 14 states that the school's activities are completed by 6:00 pm. This may have been true in 1983, but could not be further from reality today. The school routinely has evening events throughout the week, and the weekends, that last until 9, 10, and in some cases past 11 o'clock. This is a great intrusion on the neighborhood and Burke's late night activities interferes with our right to peacefully enjoy our homes at night. Now that Burke has eliminated outside use of their facility, it seems as though they have increased their evening school events as well. We view this- no limits on evening school activities- as a gaping hole in the 1983 Order. On numerous occasion neighbors have brought this up to the school administration, but again, to no avail. Street parking is routinely taken up, making it difficult for residents and guests to find parking; large numbers of people walk past our houses late into the night, making lots of noise. The 6:00 pm end time for school activities was one of the findings that the Board based its 1983 approval order on, and now that ending time has been completely ignored by the school. We shudder to think what will happen should their plans be approved and they are allowed to build a 150-seat performing arts auditorium.

Finding No. 20 states that 3% of the students will be allowed to drive a car to school. That equals 8 students. I can tell you from personal experience and from Burke's own numbers that there are far more than 8 students that drive to school, and yet this was another assumption this Board made in approving the 1983 expansion request.

There are also issues of the school's compliance that go beyond written orders and legalistic commands- what we would describe as compliance with general standards of simply being a good neighbor. For example, because the school has no indoor lunch facility, the students routinely go to the fast food restaurants on Connecticut Avenue to eat lunch. This is all well and good. But the route the students' take- through the alley connecting Van Ness and Upton- is very dangerous. This is also the route that the students who use public transportation take in the mornings and in the afternoon. This is a heavily trafficked alley; I know, because this alley is the only way I can get in and out of my house, and it is the only way the Brown's service their 32 unit apartment building. Everyday- in the morning, at lunch time, and again in the evening- I, my neighbors and hundreds of other people run the alley obstacle course dodging Burke students. I have twice, in writing, requested that the school require the students to use the sidewalk on Upton and Connecticut to travel to and from the school, but my request did not even warrant a response. I fear that one day a real tragedy may occur.

Burke has asked this Board to approve its application, in part by relying on a traffic management plan that is heavily dependent on Burke's ability to "manage" its traffic through parent pledges and the school's promises of good management. Past behavior is the best predictor of future behavior. Burke has demonstrated time and again that it is either unable or unwilling to effectively deal with the problems its operations have caused to its neighbors. This application has been pending for nearly 18 months. All of these problems with non-compliance have occurred while their application has been pending. One would think that the school would've

been on their best behavior during this time. Many of their suggestions for dealing with traffic and other quality of life issues could have been implemented during this time. If they cannot control their impact while this case is pending, we are all afraid of what's coming down the road when Burke doesn't have to worry about future approvals. Burke's argument is that their plans make the existing situation better. We do not agree. The existing situation has been caused by their willful violation of the student and faculty population caps imposed by the 1983 BZA Order. We believe that this Body has an institutional interest in seeing to it that its Orders are followed. Burke has made a mockery of those Orders. What message does it send to every other entity operating in this City if Burke is allowed to expand after they have knowingly, willfully, and deliberately violated the Orders of this Board?

For these reasons, we respectfully request that the Board deny this special exception application.

if they test after they build, what recourse do we have?