BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of The Tudor Place
Foundation for a Special Exception
under Section 217 to operate a museum
in an R–B-1 District at 1644 31st Street, N.W.

BZA No. 16974
Hearing Date: April, 29, 2003
ANC 2E

OPPOSITION OF THE Q STREET PARTIES TO THE FOUNDATION'S MOTION TO REOPEN THE RECORD

The Tudor Place Foundation has asked the Board to reopen the record for the purpose of considering a "supplemental statement" by its Executive Director. We oppose the motion for the following reasons:

1. The foundation has attached the proposed "supplemental statement" to its motion. This is improper procedure because the Board members would necessarily read the supplemental statement in considering the motion. Therefore, even it the motion is denied, the foundation's submission of further facts and arguments to members of the Board would be a fait accompli.

2. Section 3121.9 of the Board's Procedural Regulations provides that:

> "An material received by the Board after the close of the record that bears upon the substance of the appeal or application shall be returned by the Director and not received into the files of the Board."

Accordingly, and hopefully, the Board's Executive Director has not accepted the supplemental statement for filing and has returned it to the foundation pursuant to § 3121.9.

3. The supplemental statement is based upon the foundation's perceptions of what Board members were thinking during the their public decision meeting. It would not be good policy to allow parties to file supplemental statements after the record is closed based on what various members say in a public decision meeting. The only course authorized by the Regulations, and the only proper course, is for a party to await the Board's decision and, if necessary, then file a motion for rehearing pursuant to § 3126.

BZA
Case No. 16974
Exhibit No. 112

Board of Zoning Adjustment
District of Columbia
CASE NO. 16974
EXHIBIT NO. 112

4. According to the foundation, its supplemental statement is designed to

> "provide the necessary factual background allowing for the Board to make an informed decision on these matters . . . [which] should bear significant weight on the Board's decision as to which conditions to impose to the operation of the Dower House."

If this statement is accurate, the foundation has no one but itself to blame for failing to present the necessary facts and argument in its initial and supplemental presentations at the hearing. If the supplemental statement is accepted for filing, the Board will be required to grant the opposing parties the opportunity to cross examine the foundation's Executive Director on the matters contained in her new statement. *General Railway Signal Co. v. District Unemployment Compensation Bd.*, 354 A.2d 529 (D.C. 1976) Such post hearing submissions cannot be one-sided as the foundation erroneously suggests.

Respectfully submitted,

Don W. Crockett

Don W. Crockett
3070 Q Street, NW
Party In Opposition

July 21, 2003

Certificate of Service

I certify that the foregoing opposition was served upon the parties herein by E-mail, this 21st day of July, 2003.

Don W. Crockett