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September 9, 2003

RECEIVED
D.C. OFFICE OF ZONING
2003 SEP -9 AM 10: 26

BY HAND

Board of Zoning Adjustment
441 4th Street, NW, Suite 210
Washington, DC 20002

Re: Tudor Place Foundation, Inc.
Application No. 16974

Dear Sir or Madam:

Please find for filing the original and the requisite copies of the "2nd Statement of Richard Theis Opposing New and Additional Uses at 1670 31st Street, NW (Dower House).".

CERTIFICATE OF SERVICE

I certify that the attached 2nd Statement was served, by hand, upon the Applicant and on the other parties herein by E-mail, this 9th day of September 2003.

Richard Theis

Enclosures

BZA
Case No. 16974
Exhibit No. 133

Board of Zoning Adjustment
District of Columbia
CASE NO. 16974
EXHIBIT NO. 133

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Tudor Place Foundation, Inc.	)	
Application for Special Exception for	)	
Tudor Place at 1644 31st Street, and	)	Application **No. 16974**
Dower House at 1670 31st Street, NW	)	
Square 1281, Lot 835	)	

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2nd STATEMENT OF RICHARD THEIS

OPPOSING NEW AND ADDITIONAL USES AT
1670 31ST STREET, NW (DOWER HOUSE)

Introduction

The Tudor Place Foundation (The Foundation) recently submitted written statements from Leslie Buhler that state her intentions for Dower House. The BZA should not entertain Ms. Buhler's recently articulated requests and wishes. They differ substantially from the uses The Foundation requested in its Original Application and The Foundation failed to provide due notice of them to the neighbors. In addition, The Foundation failed to articulate meaningful means to mitigating the foreseeable adverse impacts that Ms. Buhler's plans would cause to the neighbors. Also, with regard to parking, The Foundation has offered solutions which it cannot legally undertake.

Ms. Buhler now asks for far more that The Foundation requested in it Original Application, the only formal request pending. In her written submissions of July 14, 2003 and August 26, 2003, Leslie Buhler conceded that she wants to use Dower House as a fund raising site and for still other uses never before acknowledged. The dramatic differences between can be seen by comparing the Original Application that The Foundation filed last November to Ms. Buhler's recent requests.

In its Original Application The Foundation represented that, if authorized, if would limit its use of Dower House to:

> "...(1) a location for meetings (including Board of Trustees' meetings, volunteer meetings, etc.); (2) a location for small Tudor Place functions of no more than 50 people; (3) a location for no more than 4 rental functions per calendar month that do not exceed 50 guests; and (4) a location for offices of no more than 7 members of the Tudor Place staff who do not utilize on-street parking. (numbering supplied).

These are similar to the uses the BZA discussed in its Decision of late 1999, which read:

> The board finds that the use of Dower House will be limited to functions that serve the museum. It will be used for meetings (including Board of Trustees meetings, volunteer meetings, etc.), for small receptions of no more than fifty people, as a studio for the Tudor Place artist-in-residence and for small exhibits or art, history and culture. In addition, matter-of-right uses, such as the use of the building as the residence of the Executive Director, will be permitted.

Decision of the BZA, paragraph 11.

Since it filed its pending Original Application and for about the next six months The Foundation seemed content to limit the scope of the type of events it would host at Dower House. Although the Original Application placed no limitation of the number of those Dower House events, the circumstances suggested that The Foundation had modest plans concerning their character. Neither The Foundation nor Ms, Buhler said anything to suggest it intended to hold events unlike those matter-of-right uses permitted in single family homes. In fact, Ms. Buhler seemed willing to even further limit uses at Dower House. When she testified about Dower House, she unequivocally stated that she, in fact, wanted only to hold a "minimal" {Tr. P. 75, lines 1-15) number of events, and that she expected to keep to a schedule like the one she maintained since she took her Executive Director position. On the final day of the three hearing sessions, Ms. Buhler agreed to further contain the Foundation's activities by reducing the number of purely commercial activities, i.e., rental functions.

Now, we have learned that The Foundation and Ms. Buhler, in fact, have far greater plans and wants. In the statements she submitted in July and on the 26th of August, Ms. Buhler candidly asked for much more and acknowledged that she has willfully breached the January 2000 BZA Order. Her new requests, like her actually uses of Dower House, are not consistent with matter-of-right uses in an R-1 single family home. Nor do her proposed uses simply moderately support the Tudor House museum.

These new requests should not be entertained, much less granted. As I said in my "Statement" of August 26, 2003, The Foundation failed to give anyone due process notice of these new uses, which notice is required by law and regulation. Consequently, the BZA should craft any order based on the terms of the Original Application and nothing more.

New Requests

The Foundation has now admitted that it really wants to use Dower House for many, many more types of functions that were every discussed or requested before. When The Foundation moved to reopen the hearing in July, Ms. Buhler introduced her new agenda. She explained that The Foundation wanted, actually she said "needed," to use Dower House as a year round venue for adult lectures, children's workshops and school group programs. (These uses listed in "The Supplemental Statement of Leslie Buhler Concerning Uses for Dower House, submitted July 14, 2003"). Even more exceptional was Ms. Buhler's statements about food services at Dower House. In this regard, she explained that Dower House has the "only accessible working kitchen on the property" and that Dower House was, therefore, the "only space where a seated indoor lunch or dinner can feasibly take place, which is an important feature of our private tours of the main house."

Such intended uses were never aired before. Well, maybe a quick mind could have seen this coming because of what Ms. Buhler said during the hearings. When she was asked why the Original Application requested virtually unlimited authorities, Ms. Buhler conceded that she, in fact, wanted to keep the door open to do more than operate Tudor Place and Dower House just as she had in the recent past. The exchange went as follows:

> MR. CROCKETT: If your intention is to carry forward with only the minimal events that have occurred in the last two years, why do you seek this [Tr. 75, lines 23-25] broad authority to have an event for 200 people anytime you want?
>
> MS. BUHLER: I guess we live in America. And I don't think that every thing is proscribed. I think that there needs to be some trust of an institution, and I think that we've proven that trust." (Underlining supplied).

TR. 76, Lines 3-6.

Tudor Breaches Old BZA Order

Trust, did Tudor Place and Ms. Buhler earn the trust of the neighbors, or of the BZA? I think not. First, we should look at what Tudor Place has done. Ms. Buhler now acknowledges that she has gone far beyond the authority the BZA granted in January 2000 Order. She states that she hosted at

least two lunches and two dinners at dower House in 2002. Further, she says that the Foundation "used the Dower House as a location for a lunch following the private tour." Although I speculate, it seems reasonable to conclude that Ms. Buhler never mentioned this before because wanted to keep from the neighbors and the BZA that she was operating outside the permission granted in the Order of 2000. That Order, the exception to R-! Zoning that Tudor Place operated under since winter of 2000, did not authorize using the kitchens of Dower House to prepare food or allow the service of such food at any events. I question whether The Foundation obtained approval from the District to use the Dower House kitchen for the preparation of food for tourists or serving meals to prospective financial donors.

Second, let us examine what Ms. Buhler now candidly says she really wants. Despite how she worded the Original Application, and despite her testimony about wanting to maintain the low profile schedule she would have us believe she kept to over the last two years, she now admits that she expects Dower House to serve as a source of fund raising activities to supplement the tour income Tudor Place generates. The Foundation explains that it expects to generate $100,000, $500,000, or more still from activities at Dower House. Clearly, Ms. Buhler wants to convert Dower House into and independent profit center; she has no intention of limiting herself to matter-of-right uses and a few others for Dower House. Indeed, if her wishes are granted by this BZA she could install a commercial kitchen in Dower House and operate that home as a restaurant and convention/meeting destination.

Tudor Place hid its true intentions from the neighbors until just recently. The neighbors never had legal "notice" that such uses were the real subject of the instant Application. Moreover, these uses are simply inappropriate in a community of single family homes.

Dower House - Not Part-and-Parcel of the Tudor Place Museum

Throughout this proceeding, well, at least until August 26th, The Foundation and Ms. Buhler spoke of Tudor Place and Dower House as two very separate entities, and so they should have. Tudor Place has historical significance that draws tourists and scholars. Designed by Dr. William Thornton, who also designed the U.S. Capitol as well as the Octagon House, Tudor Place was the home of Thomas and Martha Custis Peter. Martha Custis Peter was the granddaughter of George Washington, who left her the $8,000 in his will that was used to purchase the property in 1805. The previous owner

from whom the Peter family purchased the property had begun improvements by building what are now the Tudor Place's wings. Thornton then provided the central structure and the joining elements to the wings, combining them with buff-colored stucco over brick. Over the years, both the home and gardens were enriched by 180 years of Peter family ownership.

On the other hand, Dower House is just another older home in historic Georgetown. After the Civil War, the Peter family subdivided the grounds and sold off parcels just north of mansion. A number of families purchased the properties and built homes on them. Among such properties was the single family home known today as 1670 31st Street. Said another way, Dower House was not built by the Peters, only used by the Peter for a short time, and never an integral part of historic Tudor Place. Dower House would not be part of your deliberations today had not Mr. Peter purchased it as a place for his wife to live once he donated Tudor Place and established a trust to benefit the public. Dower House has no more historical significance than hundreds of other Georgetown properties. It certainly lacks merit as a location for historical tours.

There is no basis in fact for Ms. Buhler's protestations that Dower House and Tudor Place are but one in the same.

Parking

Because Ms Buhler wants to use Dower House primarily for fund raising and she really wants permission to hold as many events as she wants so long that the guest list names fewer than 50 people, The Foundation should make some accommodations to park the vehicles driven by its guests. Yet, that has not been done.

The Traffic Study that Tudor Place commissioned fails to adequately address the impact on the community if Tudor place uses Dower House for one event right after the other for 50 or fewer people. The Study suggests only that these guests would not park so many cars as to restrict the neighbors' ability to park their cars. NO proof of this point was offered.

Ms. Buhler made an equally unpersuasive showing. She suggested that most of her guests could park in one of Tudor Place 27 spaces, or in the driveway and back yard of Dower House. Her suggestions fail to remedy the problem. First, Tudor Place does not control the parking spaces along 31st Street. Whether there are 27 such spaces, or the 32 she claimed to control during her oral

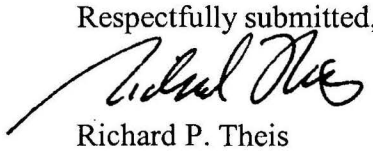
testimony, The Foundation cannot offer the exclusive use of these spaces for its guests. Nor can Tudor Place routinely rely on guests using the Dower House driveway and back yard. As a matter-of-right, residents living in an R-1 zoned home can park in their driveway and they can invite visiting friends to do the same. However, Tudor Place far exceeds its matter-of-right uses when it proposes to always use that driveway as a parking lot for the many functions it wishes to hold at Dower House. Title 11 DCMR Sections 2001.4 and 2001.6 require that parking spaces be provided when the primary purpose of a property changes, such as to include new uses that bring an extraordinary number of people to the property. Approving Dower House as a fund raising destination would change its residential character and, consequently, require providing legal parking space. Tudor Place has not abided by the requirements for parking lots.

Conclusion

This proceeding has taken on an Alice-In-Wonderland quality. Nothing is as it seems. Whenever Ms Buhler speaks in detail about what she really wants, she reveals plans for events of a nature or character that far exceed in scope the facially benign requests she wrote into the Original Application. I now understand why The Foundation incorporated broad terms into its Original Application, terms that would technically allow more than was permitted under the language of the last BZA Order. Clearly, Tudor Place wants authority to do pretty much whatever it pleases. Also, it is clear that Ms Buhler will say and do whatever she thinks is necessary to pursue her plans for Tudor Place and Dower House.

Even though this is America, owners of property are bound by law and regulation. The Foundation failed to provide the neighbors of Tudor Place with notice of what The Foundation actually wants. In addition, The Foundation has failed to abide by the past BZA Order. Under the circumstances, the BZA should keep Dower House as a single family residence and deny the aggressive plans of The Foundation.

Respectfully submitted,



Richard P. Theis

September 8, 2003