BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Tudor Place Foundation, Inc. Application for Special Exception under Section 217 to continue the previously approved operation of a museum by a non-profit organization	))))))	BZA Case No. 16974 Hearing Dates: April 15, 22 and 29, 2003; and August 5, 2003

RESPONSE TO PARTY OPPONENTS' AUGUST 26, 2003 TESTIMONY

I. The Opponents Falsely State that the Applicant is Requesting Modification of its Proposed Findings of Fact Concerning Dower House

Mr. Crockett alleges in his August 26, 2003 testimony that he has belatedly learned that the Applicant's "real intention" was to transform Dower House into some sort of party house or restaurant. Mr. Snider makes similar allegations in suggesting that the Applicant is proposing to the change the conditions approved unanimously by the ANC in a manner that makes them less restrictive.[1] Nothing could be farther from the truth. The Applicant is not proposing any use of Dower House that is not already covered by Paragraph 16 of its proposed findings of fact, which permits usage "for small Tudor Place functions of no more than 50 people and for no more than 4 rental functions per calendar month that do not exceed 50 guests." Food was not prohibited under the existing

1 See Snider's August 26, 2003 Testimony at page 1 and Footnote 9.

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special exception, and the opponents' efforts to specifically prohibit it now are not justified by any showings of adverse impacts resulting therefrom.

II. Financial Need and Purposes of Tudor Place

In testimony submitted on August 26, 2003, Mr. Snider spends considerable time arguing about the financial needs of Tudor Place, including inappropriate allegations concerning "mismanagement" of Tudor Place and a "clear excessive salary structure". The Applicant respectfully requests that the Board ignore such inflammatory testimony, as (1) it is irrelevant to the legal standards applicable to a special exception (as acknowledged in Mr. Crockett's testimony) and (2) it relates to accounting, tax, and museum operation and management matters in respect of which Mr. Snider has not established himself as having any credentials or experience enabling him to provide credible testimony.

Mr. Snider's August 26, 2003 testimony also accuses the Applicant of making expenditures on "undefined 'core educational functions'" and further suggests that the Applicant has abandoned its mission and "transformed itself into a charity dedicated to 'core educational functions'".2 Once again, Mr. Snider's assertions are of questionable relevance and misstate reality. Specifically, Mr.

2 These accusations are similar to other previous misleading accusations made by Mr. Snider when he alleged that Tudor Place is not being operated in accordance with Mr. Peter's will or the scenic easement because the will states that Tudor Place "should be kept as I shall leave it, and that it shall be considered not as a period museum." See Snider Findings of Fact, paragraph 19. Mr. Snider's interpretation of these words out of context is completely at odds with the scenic easement and other portions of the will, each of which clearly state museum uses.

Snider ignores the purposes for which the Applicant was formed. The Applicant was first incorporated as a 501(c)(3) tax-exempt organization, the Carostead Foundation, by Armistead Peter 3rd in 1966. Article III of the Articles of Incorporation states the purpose of the Applicant as follows:

> "This corporation is organized and shall be operated exclusively for charitable and educational purposes, and more specifically for the purpose of participating in charitable and educational activities devoted to the preservation of the heritage of the United States of America..."

The educational functions held at Dower House relate directly to its mission established over 30 years ago, and any suggestions of Mr. Snider to the contrary are incorrect. For further explanation of the Applicant's mission and the relation to its organizational mandate, please see the statement of Leslie L. Buhler attached hereto as Exhibit A.

III. The Parking Data Submitted By Mr. Crockett is Seriously Misleading

Mr. Crockett relies in his August 26, 2003 testimony on data created by him and included in Exhibit A to his testimony. He represents that such Exhibit A data is based on (1) a survey done by the Department of Public Works (DPW) in December 1998 and January 1999[3] (selected pages of which he represents are included in his testimony as Exhibit C), and (2) his "own estimate of the number of

[3] The Applicant is not familiar with the DPW survey referenced in Mr. Crockett's testimony and is accordingly able to respond only to the pages that he provided with his testimony.

vacant spaces on Saturdays and Sundays". In doing so, he leads the Board to believe that his Exhibit A data concerning weekday usage merely restates DPW survey results. To the contrary, however, he has misrepresented the DPW data in a fashion that raises serious credibility issues. Specifically, with respect to the Tudor Place block (31st Street's 1600 block), he represents in his Exhibit A that the DPW survey showed an 11% average vacancy when in fact the pages of the DPW survey excerpted in his Exhibit C show a 45% average vacancy.4

Mr. Crockett's data is seriously misleading, and dramatically under-represents the availability of parking in the Tudor Place vicinity. Such data manipulation seriously undermines the credibility of Mr. Crockett's data, and suggests that it would be inappropriate for the Board to consider his data as representative of actual parking conditions in the Tudor Place vicinity. This is particularly true for numbers that are based simply on his "own estimate" rather than any specific data from specific dates that the Applicant can contest.

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4 These percentages are derived as follows: DPW Survey Exhibit C shows (a) on page 3 of Exhibit C, 5 out of 16 spaces VACANT on a portion of the block during the day, and 13 out of 16 spaces VACANT during the evening, (b) on page 4 of Exhibit C (combining east side and west side data), 26 out of 63 spaces VACANT during the day, and 27 out of 63 spaces VACANT during the evening. While Mr. Crockett uses the DPW survey to conclude on his Exhibit A that only 5 out of 83 spaces are vacant during a typical weekday and 13 out of 83 during a typical weekday evening (**11%** average vacancy), the aggregate DPW data in fact shows 31 out of 79 spaces vacant during a typical weekday and 40 out of 79 spaces vacant during a typical weekday evening (**45%** average vacancy).

IV. The Parking Data Submitted by the Opponents Demonstrates (1) Substantial Neighborhood Parking Benefits Resulting from Tudor Place, and (2) That the Occasional Uses of Street Parking By The Applicant Are Consistent With Uses Made By Other Local Residents and Institutions

Mr. Crocket has finally admitted how fortunate he is to live in close proximity to Tudor Place. As Mr. Crockett acknowledges, **"[t]he one area where a few parking spaces can be found after 7:30 P.M. is upper 31st Street near Tudor Place."** 5 These favorable conditions are precisely *because* of Tudor Place, which contributes at least 27 spaces to the neighborhood on its rarely used street frontage. Given this fact, the occasional events at Tudor Place which may cause parking conditions on 31st street to more closely resemble other areas of Georgetown can hardly be accepted as evidence of an adverse effect on the Georgetown neighborhood.

Mr. Crockett also makes various arguments in his August 26, 2003 testimony demonstrating that parking is generally difficult in Georgetown, and indicates various causes of such problems, including the lack of parking enforcement before 3:00 P.M. on Sundays, church goers visiting Georgetown for Sunday brunch, visitors to Dumbarton Oaks on sunny days, and RPP restrictions that "effectively end" at 7:30 P.M. 6 Mr. Crockett further goes on to state that

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5 Crockett's August 26, 2003 Testimony, p.5.

6 See Crockett's August 26, 2003 Testimony, pp 4-5. It should be noted that the hours of effectiveness for the RPP is 7:00 A.M. to 9:00 P.M.

"[w]hen residents hold large parties, all nearby parking is virtually eliminated. The same thing happens every time events are held at Tudor Place."[7] This testimony is noteworthy, not because of its discussion of problems resulting from events at Tudor Place (for which he cites no specific examples), but rather because it indicates that parking difficulties are a fact of life in Georgetown that is not dependent on whether the Applicant holds the limited number of events that it requests in its application. As is clear from Mr. Crockett's testimony concerning the history of the RPP restrictions, the RPP restrictions have been designed to strike a balance between the tourism and commerce needs of Georgetown on the one hand and the needs of private residents on the other. Consistent with the policy behind the RPP restrictions, the Board should recognize that Tudor Place is an important historic landmark in Georgetown that is entitled to engage in activities that occasionally use street parking in a similar manner to other historic institutions and businesses in (as well as residents of) Georgetown. To the extent Mr. Crockett and others are not satisfied with the scope or substance of the RPP restrictions, this is not the appropriate forum in which such concerns should be addressed.

V. The Parking Survey Data From June Is Relevant

As the Board no doubt recognizes, the timing of the Applicant's parking survey was determined by the requirements of the Board. With that said, the Applicant is of the view that the opponents have provided unbalanced speculation concerning parking usage during summer months. While the Applicant

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[7] See Crockett's August 26, 2003 Testimony, p. 2.

recognizes the potential reduced parking usage attributable to Georgetown University during summer months, the Board should also take note that tourism in Washington increases in summer months and Georgetown is a major tourist destination. Moreover, the fact that Georgetown residents have a propensity to go on vacation during the summer (or away for the entire summer) emphatically does not mean that they all vacation at local destinations to which they drive their cars. Many undoubtedly leave their cars behind in Georgetown.

In response to the assertions of the opponents that parking becomes particularly difficult after 7:30 P.M., the Applicant surveyed parking conditions on the Tudor Place block around 8:00 P.M. on Wednesday and Thursday last week, the results of which are indicated in the testimony of Leslie Buhler attached hereto as Exhibit A. Such survey indicated approximately 35 spaces available on September 3, and approximately 22 spaces available on September 4. These results contradict Mr. Snider's August 26, 2003 testimony (based on his June 2003 parking survey results on the Tudor Place block) that he summarizes as showing availability of between 6 and 14 spaces on the Tudor Place block around 8:00 PM during (notwithstanding that his own data shows more than 20 spaces available on 3 days during his own survey period). Such results also raise questions about Mr. Snider's premise that parking availability in September is more limited than in June.

Mr. Crockett asserts in his August 26, 2003 testimony that due to his concerns about the July 2003 parking survey, the Board should look only to the

October 1999 survey that the opponents submitted as BZA Exhibit 70. In the event the Board elects to do so, we have provided pages 6 and 7 to such survey as Exhibit B hereto in order that the Board can have the benefit of the full 1999 report (Exhibit 70 omits these pages). Among other things, these pages indicate that an event with valet parking for approximately 180 attendees was observed on October 2, 1999, and that the valet parking arrangement appeared to work efficiently.

VI. The Applicant Has Proposed Appropriate Event Size Thresholds for Valet Parking Measures

Mr. Crocket asserts in his August 26, 2003 testimony, without basis, that events of 100 people will generate approximately 50 vehicles parking at Tudor Place. This assertion is contradicted by the statement of Atlantic Parking included in the record, which indicates that approximately 35 vehicles can be expected at events involving 100 people. (See Exhibit 85). This finding does not seem unreasonable given the well recognized parking problems in Georgetown and the corresponding efforts that Georgetown visitors will make to minimize parking difficulties. The Applicant's proposed conditions include valet parking for any rental events involving more than 75 people. When the approximately 27 spaces along the Tudor Place street frontage are considered, together with additional capacity on its premises, it becomes clear that the Applicant's proposed thresholds for valet parking are closely tailored to prevent adverse impacts to the neighborhood.

VII. The Applicant Has Proposed Tour, Rental and Event Limitations That Appropriately Prevent Adverse Effects

Even the opponents in this proceeding have indicated that there have been no problems with the operation of Tudor Place over the last two years.[8] Notwithstanding such positive experience, the Applicant has nevertheless proposed tighter restrictions than those contained in the previous exception, such as the reduced number of large rental events (from 10 to 6), specific limitations on certain evening rental events involving less than 200 people (which were unrestricted in the existing special exception), a new prohibition on wedding rentals involving more than 75 people (which, for the avoidance of doubt, the Applicant understands to prohibit wedding ceremonies, receptions or parties), and restrictions on rentals that apply on a monthly, as well as annual basis. Adverse effects relating to the use of Dower House (as opposed to the Tudor Place main house) have not been raised by the opponents in their August 26 testimony or in previous submissions and testimony to the Board. Accordingly, the opponents have failed to provide a cognizable basis under the Zoning Regulations to impose new restrictions on the use of Dower House.

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[8] See Exhibit 100, submission B (Snider's Findings of Fact), §24, and submission C (Snider's Conclusions of Law and Opinion), pp. 4-5. See also Exhibit 113 (Crockett's July 21, 2003 submission), p. 7 (indicating that evening and weekend events at the property have been suspended for the past three years).

While Mr. Theis makes much in his August 26, 2003 testimony[9] about the proposed conditions allowing unlimited events, the reality is that the proposed conditions strictly limit all large events and all evening rental events involving more than 50 people. For events that are not rentals, the Board should recognize the self-limiting nature and lower impact inherent to non-rental events that results from the Applicant's limited staff and resources, the lack of comparable economic incentives between rental events and non-rental events, and the tendency of non-rental events to draw proportionately more local attendees. (TR 4/15, at 93-94.) Accordingly, non-rental events can be expected to continue on the same limited basis as has been occurring throughout the period in which the opponents have acknowledged no adverse impact.[10]

VIII. Conclusion

Through the strong support of numerous close neighbors, the unanimous support of the ANC, and even the testimony of the opposition in this proceeding, the Board should take comfort that the conditions in the Applicant's existing special exception are working. Against such background, the Applicant

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[9] As Mr. Theis is not a party to this proceeding, the Applicant does not believe that he was authorized to submit additional testimony on August 26, 2003. The same is true with respect to the testimony of Mr. Snider's wife, Frances Snider. We are nevertheless compelled to respond where appropriate.

[10] See Statement of Leslie Buhler attached to Rebuttal of Party Opponents Response to Vehicle Management Plan submitted July 18, 2003. During the period between January 2002 and April 2003, the Applicant held a total of 42 events, 29 of which were held on evenings or weekends.

believes that it would be inappropriate for the Board to impose restrictions on the Applicant's operations that go beyond those proposed in the Applicant's findings of fact. Moreover, as the Board is well aware, the Applicant's proposed special exception will continue to be a temporary special exception. The Applicant will again face the close scrutiny of the ANC, this Board and the community when it seeks the next renewal of its special exception. For this reason, beyond the strict limitations on activities already proposed by the Applicant, the Board can be confident that the Applicant will ensure that its operations as a non-profit house museum continue to be conducted in a manner that meets or exceeds the expectations of the surrounding community.

Respectfully submitted,



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September 9, 2003

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing Response to Party Opponents' August 26, 2003 Testimony to be served, this 9th day of September, 2003, on:

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Gordon C. Wilson

EXHIBIT A

Board of Zoning Adjustment Application No. 16974
(Public Hearing of September 16, 2003)
Rebuttal Statement of Leslie L. Buhler

Parking Survey on September 3, 2003 and September 4, 2003

On the evenings of September 3 and September 4, 2003, I returned to the Tudor Place premises for the purpose of surveying the parking situation on the 1600 block of 31st Street. I made these visits to confirm the parking situation around 8 PM in the evening. I decided to make such visits after reviewing Mr. Snider's August 26, 2003 testimony, in which he provided his own parking survey results for such block during the month of June. Based on my visits, I estimate that 35 spaces were available around 8 P.M. on Wednesday, September 3, and 22 spaces were available around 8 P.M. on Thursday, September 4.

Purposes of Tudor Place Foundation

I would like to respond to Mr. Snider's assertion that Tudor Place has failed in its primary mission as set forth in the Peter Will. In fact, Mr. Peter states very clearly both in his will and the Department of Interior easement that he wants Tudor Place to be a museum. Mr. Peter was certainly aware of what it means to be a museum. He called for a curator and had schematic designs from two different architects for a visitor center. Mr. Peter's will, in fact, calls for the Dower House to be the administration building, with all that that implies – fundraising, education, and offices. It should be noted that we have been conducting education programs - as do all museums - for the last three years. This is not a new purpose and complies with the will and the easement.

As stewards of Tudor Place, we do not and will not violate the intentions of the donor except when there are conservation issues of which he would not have been aware. Mr. Peter's grandchildren are thrilled at what is happening at Tudor Place and would be appalled at the assertion from Mr. Snider that we are in violation or proposing to be in violation with Mr. Peter's intentions.

Tudor Place is a museum and, like other museums, not only conserves its collections, but also spends substantial amounts of money on exhibitions, education programs for the public, and education for schools. Interpreting collections is what makes a museum relevant to the people who come to visit it. This requires a competent professional staff. Our professionalism has been praised by others in the field, and is evidenced by our receipt of grants from Save America's Treasures and the National Endowment for the Humanities.

The recent downturn in the economy, the decrease in tourism after 9/11, investment losses on our assets, and increases in institutional insurance, health insurance and pension costs have all conspired against our bottom line. Notwithstanding such difficulties, Tudor Place remains steadfast in its commitment to its mission.

I hereby certify that the above statement is true to my personal knowledge.

Respectfully submitted,

Leslie L. Buhler
Executive Director
Tudor Place Foundation, Inc.

EXHIBIT B

In addition to the above data, the following can be noted:

(a) A total of 85± parking spaces are available on the block of 31st Street adjacent to the site. Of these, an average of 44 spaces were available during the peak weekday periods surveyed.

(b) A total of approximately 338 parking spaces are available within acceptable walking spaces of Tudor Place. An average of 125 spaces were available during the peak weekday periods surveyed.

(c) A survey was performed before and during the period of a major event held at the museum on Saturday, October 2, 1999 (180± attendees). The results showed a total of fifty-two (52) spaces available within the designated area.

(d) The parking valet service arrangement was observed in operation during the event noted in (d) above. The arrangement appeared to work efficiently, with drivers always available to serve arriving guests.

(e) A count was made of vehicles with and without RPP stickers during the period of the event (Saturday, October 2, 1999). Of the 82 vehicles parked along 31st Street, 22 vehicles were observed to be non-permit vehicles. This included consideration of the typical Georgetown area Saturday activity period.

(f) The City Parking Enforcement units were observed to be on duty during the period 4:00 – 7:30 PM. Information provided by one Parking Enforcement Officer indicated that their experience was that most non-permit vehicles adhered to the 2-hour time restriction.

(g) ORGA reviewed the Special Events Schedule data provided by the Tudor House Management for the period of 10/2/98 to 10/2/99. This data is summarized in Table 3 on Page 5. The table indicates that the activities were reasonably well distributed by day of week. However, approximately two-thirds of the events were held during the late afternoon and evening hours.

(h) The events varied in size from as few as ten (10) persons, to a high of 600 persons. The average attendance was 140± persons.

TABLE 3 (Ref. to Item (g) above)

TUDOR PLACE SCHEDULE OF EVENTS BY DAY (10/2/98 – 10/2//99)					
Day	**Number**	**Percent**	**Time of Day**		
			8:00AM-12:00 NOON	**12:00 NOON – 4:00 PM**	**4:00 – 10:00 PM**
Monday	3	14%	1	1	1
Tuesday	5	24%	2	1	2
Wednesday	4	19%	1	1	2
Thursday	2	10	-	1	1
Friday	1	5%	-	-	1
Saturday	5	24%	-	-	5
Sunday	1	5%	-	-	1
TOTALS	**21**	**100**	**4 (19%)**	**4 (19%)**	**13 (62%)**

CONCLUSION

Based on the foregoing data, discussion and analysis, it is apparent that the parking demand along the roadways within the immediate vicinity of the Tudor Place Museum site is quite adequate to meet the needs of all the sub-area land uses. This is particularly true of weekdays when approxi-mately 50% percent of the on-street spaces along the adjacent section of 31st Street are vacant and available. The proposal to have auxiliary usage of the adjacent Dower House will generate insignificant parking demand since most of the proposed uses are already accommodated in the Tudor House. The most significant issues which the Foundation should address is the parking and operational situation during major events. Operations during such an event were observed during the course of this assessment. The situation appears to work well. The Applicant's proposals calls for traffic control by a designated official, and measures to ensure the gradual arrival of guests for major functions.

It is the conclusion of this assessment that the existing operations of the Tudor Place Museum work quite satisfactorily. The Foundation's proposal to further strengthen operational controls should ensure the continuance of this favorable situation. Therefore, from the perspective of traffic and parking, the proposed use should have no significant adverse impacts.

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