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
Final Order Date: July 29, 2004
ANC 2E

OPPOSITION OF THE Q STREET PARTIES TO THE APPLICANT'S MOTION FOR RECONSIDERATION

The final decision and order in this case was issued on July 29, 2004. The neighboring residents were, to say the least, not pleased with that decision which essentially ignores their uncontested historical evidence of adverse impacts[1] and authorizes Tudor Place to resume the highly disruptive commercial "events" that have disturbed the peace and quite of our residential neighborhood since 1992.

Apparently unsatisfied with its victory before the Board, the Tudor Place Foundation has filed a Motion for Reconsideration asking the Board to eliminate the valet parking requirement for "daytime events" as well as the on-grounds parking requirement for smaller Tudor Place functions.

The Board, however, has no authority to consider the foundation's motion because it was not filed within the 10-day time limit established by 11 DCMR § 3126. Alternatively, as shown below, the foundation's requests are not supported by the evidence in the record and would only exacerbate the adverse impacts of its money raising "events" and "functions" on the surrounding residential neighborhood.

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[1] Despite the BZA's continued acceptance of the foundation's "promises" that properly managed events will not cause adverse impacts, those adverse impacts continue to this day. As shown by the attached declaration of Richard Theiss, the foundation's Annual Garden Party which took place on May 19, 2004, caused severe traffic and parking impacts. Rather than using the shuttle service that the foundation itself proposed for groups of more than 200, Tudor Place used a valet service that created a traffic jam on 31st Street and parked attendees' cars on the street rather than in the parking lots as the foundation had pledged to do.

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1. The Foundation's Motion For Reconsideration Must Be Denied As Untimely.

Section 3126.2 of the Board's regulations provides that:

> Any party may file a motion for reconsideration or rehearing of any decision of the Board, provided that the motion is filed with the Director within ten (10) day from the date of issuance of a final written order by the Board.

The foundation's motion, however, was allegedly filed with Board on Friday, August 13, 2003,[2] which was 14 days after the issuance of the July 29, 2004 final order. Even if we assume that the foundation was entitled to add three days to the 10 day period because the final order was served by mail,[3] its Motion for Reconsideration was still at least one-day out-of-time. Thus, the foundation's motion should be rejected by the Board as untimely.

2. Alternatively, The Motion For Reconsideration Presents Entirely New Proposals That Are Not Supported By The Evidence In The Record.

a. There is no basis in the record for exempting "day-time events" from the requirements of the traffic management plan.

In its Motion, the foundation asserts that the Board's Order "fails to acknowledge" an important distinction between "daytime and evening events" and complains that the Order imposes an "unanticipated" financial burden on the "Applicants ability to hold daytime events" Motion p. 1.

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[2]The opposing parties were served with the Motion for Reconsideration by E-mail transmitted on Friday, August 13, 2004 at 9:24 p.m. Accordingly, the opposing parties do no know whether the Motion for Reconsideration was actually "filed with the Director" before 5:00 p.m. on Friday the 13th or whether it was actually filed on Monday, August 16, 2004. In either case, the filing was untimely.

[3]11 DCMR Section 3310.3, Computation of Time, provides that :

> Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper, and the paper or notice is served upon the party by mail, three (3) days shall be added to the prescribed period.

"Daytime" obviously includes Saturdays and Sundays. As the testimony of Don W. Crockett, filed on August 26, 2003, demonstrates, available "daytime" parking places on Saturday and Sunday are even more scarce than on weekday evenings . Because Tudor Place has hosted large daytime events on the weekends in the past, the residents continually made clear that they objected to all proposed events on "in the evenings and on weekends" *Id.* Accordingly, because the lack of parking availability is equally severe in the evenings and during the day on weekends, no distinction between "evening" and "daytime" events was warranted

If, on the other hand, the foundation's motion indicates its intention to host major events of more than 75 people on weekdays, that is a horse of an entirely different color. No such large weekday events have been held in the past and the foundation proposed none in the future. Accordingly, the sole focus of the hearing on the Tudor Place Application was the historical problem of the disruptive evening and weekend events. Indeed, we understood from the testimony of Leslie Buhler that weekday activities at Tudor Place would be for small groups such as the Georgetown Garden Club and activities at Dower House, which, by definition, would be less than 50 people.

Having determined (erroneously in our view) that it would permit these disruptive events to take place in our neighborhood, the Board strictly limited the number of large events and required valet parking for any event for more than 75 people. Indeed, the uncontroverted evidence in the record demonstrates that severe adverse traffic and parking impacts will inevitably occur in the absence of a an extremely well managed valet system to take the vehicles to off-street parking lots either on or off the Tudor Place premises – regardless of the time of day. Accordingly, the Board's Order properly makes no distinction between "daytime" and "evening" functions.

b. The Board properly made no distinction between the annual garden party and other events for up to 500 people.

The foundation asked the Board to permit it to use valet parking rather than shuttle buses for its annual garden party. In his proposed order, opponent Ronald Snider accepted that proposition. The Board, however, wisely, made no such exception in its final order.

The foundation now asks the Board to amend the Order to grant this exception on the ground that "approximately 50% of the attendees at the evening Annual Garden Party are from the Georgetown area." Motion p. 2. The foundation cites to no credible evidence in the record for this proposition. Moreover, the vague term "Georgetown Area" could include many neighborhoods such as Burlieth, Foxhall, Glover Park, and Foggy Bottom which are not within reasonable walking distance of Tudor Place. Thus, even assuming that some nearby Georgetowners may walk to this event, we don't know whether this will substantially lessen the number of cars that arrive at Tudor Place for this event.

What we do know is that the annual garden party for at least 500 people which took place on May 19, 2004, created severe traffic and parking congestion on 31st Street and ultimately required police intervention and traffic control. We also know that Tudor Place violated its promise to the residents and this Board to prevent its valets from parking attendees' cars on the street (as has been the case past). See Declaration of Richard P. Theis attached hereto. Accordingly, we see no basis for amending the Order to exempt the annual garden party from the shuttle bus requirement.

c. The Board's finding that there are 25 parking spaces on the Tudor Place property is correct and is based on evidence presented by the foundation.

Finally, the foundation asks the Board to eliminate the requirement in paragraph 9 (a)(i) of the Order to "provide advance information to attendees of regularly scheduled tours regarding parking on the subject property." There is no reason why such information could not be a part of the materials provided for "regularly scheduled tours." Tudor Place need not create "formal visitor parking lot with unrestricted access." It merely needs to include a statement in the advance information provided "regularly scheduled tour groups" that on-site parking is available if necessary and/or requested in advance.

For the foregoing reasons, the opposing parties respectfully ask this Board to deny the foundation's untimely Motion for Reconsideration.

Respectfully submitted,

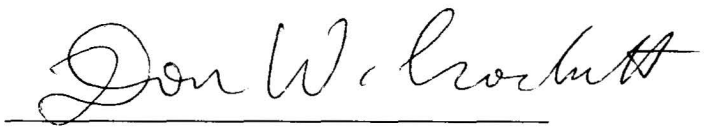


Don W. Crockett
3070 Q Street, NW
Party In Opposition

August 20, 2004

Certificate of Service

I certify that the foregoing opposition was served upon the parties herein either by United States Mail or by E-mail, this 20th day of August, 2004.



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 Dower House at 1670 31st Street, NW under Section 217	x))))) x	BZA Application **No. 16974**

DECLARATION OF RICHARD THEIS

IN OPPOSITION TO APPLICANT'S
MOTION FOR RECONSIDERATION

1. I, Richard P. Theis, hereby say and declare that I live at 3102 Q Street, NW–directly across Q Street from Tudor Place. I make this declaration based on my personal knowledge of the events that transpired in the early evening of May 19, 2004, the evening on which Tudor Place held it annual Spring Garden Party, a fund raising event.
2. At or about 6 pm on that Wednesday, I drove home from my office and found slow, heavy vehicle traffic on Q and 31 Streets where I usually park my car. As I drove around the block looking for a street parking place, I saw a driver wearing a uniform type jacket park a car in open space on 32nd Street. I continued down the street and found a parking place for myself on P Street. While walking toward my home, I saw a man clad in black pants and a valet's type jacket exit a car he had just parked. I asked him if someone was hosting a party. He told me that he was working for an event at Tudor Place.
3. As I reached my home, northbound traffic on 31st Street remained heavy. Out of curiosity I walked up 31st Street in the direction of the Tudor Place entrance. Half way up the block I encountered a uniformed traffic officer placing what looked like pink parking tickets on some of the cars parked on 31st Street. Within a minute, a DC Metropolitan Police Department patrol car arrived. The officer driving the car parked his vehicle across from the entrance of Tudor Place. While I watched, the officer left his car, walked up to some of the drivers heading north on 31st Street, and said something to them. From his gestures, I took it that he asked them to keep the flow of traffic moving.

After a few minutes, ne started directing traffic.

4. I did not see vans or other multi-passenger vehicles bringing visitors to Tudor Place.

I swear, under penalty of perjury, that he foregoing is a true and accurate description of what I saw and heard on May 19th the evening when Tudor Place held its Annual Garden Party.

Richard P. Theis

8/19/04
Date