BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application for Special Exception
from R-1 Zoning, Concerning Properties: Application No. 16974

1670 31st.St. NW, Lot 827; and
1644 31st Street, NW, Lot 830

RECEIVED
D.C. OFFICE OF ZONING
2003 FEB 14 AM 10: 54

SUBMISSION OF LIST OF 75 PERSONS
SIGNING EXHIBIT 37 LETTERS IN OPPOSITION

Attached is a printout of the names the 75 persons signing 56 letters which are Exhibit 37 in this record (attachment 1). The letter and cover letter received by each recipient speak for them selves (attachments 2 and 3). Tudor Place even attempted to stop this effort by characterizing the letter as "alarmist" and raising easement issues which were not relevant (attachment 4).

At the February 4, 2003 meeting, ANC 2E was offered copies of 50 of these letters from residents in the immediate adverse affect area surrounding 1644 and 1670 31st. St. N.W. The ANC refused to accept these copies at the open hearing. The chairman also refused to them immediately after the meeting.

Since the ANC did not consider this opposition, the Board of Zoning Adjustment should give the 75 signers "great weight."

Submitted by

Ronald R. Snider
A Party to the Proceeding

Attachments

BZA
Case No. 16974
Exhibit No. 44

Board of Zoning Adjustment
District of Columbia
CASE NO. 16974
EXHIBIT NO. 44

ATTACHMENT 1

Full Name	File As	Mailing Address	Categories	H...
Categories : Tudor Place (76 items)				
Kathryn Allison	Allison, Kathryn	1657 31st Street, NW, Apt. #303, Washington, DC 2...	Tudor Place	
Julia Bottdson	Bottdson, Julia	1516 32nd SAtreet, NW, Washington, DC 20007	Tudor Place	
J. Wylie Bradley	Bradley, J. Wylie	1657 31st Street, NW, Washington, DC 20007	Tudor Place	
Pamela Bradley	Bradley, Pamela	1657 31st Street, NW, Washington, DC 20007	Tudor Place	
Mr. and Mrs. Michael Broomfield	Broomfield, Michael	1611 31st Street, NW, Washington, DC 20007	Tudor Place	
Maurice Burg	Burg, Maurice	3106 Q Street, NW, Washington, DC 20007	Tudor Place	
Ruth Burg	Burg, Ruth	3106 Q Street, NW, Washington, DC 20007	Tudor Place	
Myrna Bustani	Bustani, Myrna	1669 31st Street, NW, Washington, DC 20007	Tudor Place	
Mary Caldwell	Caldwell, Mary	1697 31st Street, NW, Washington, DC 20007	Tudor Place	
Patrick Caldwell	Caldwell, Patrick	1697 31st Street,NW, Washington,DC 20007	Tudor Place	
Kathleen Chase	Chase, Kathleen	1623 31st Street, NW, Washington, DC 20007	Tudor Place	
T.N. Chase	Chase, T. N.	1623 31st Street, NW , Washington, DC 20007	Tudor Place	
William Conkling	Conkling, William	1657 31st Street, NW, Washington, DC 20007	Tudor Place	
Peter Cox	Cox, Peter	1536 32nd Street, NW, Washington, DC 20007	Tudor Place	
Don Crockett	Crockett, Don	3070 Q Street, NW, Washington, DC 20007	Tudor Place	
Elaine Crockett	Crockett, Elaine	3070 Q Street, NW, Washington, DC 20007	Tudor Place	
Tia Cudahy	Cudahy, Tia	1521 31st Street, NW, Washington, DC 20007	Tudor Place	
Anita D'Anselme	D'Anselme, Anita	3226 Resevoir Road, NW, Washington, DC 20007	Tudor Place	
Marc D'Anselme	D'Anselme, Marc	3226 Resevoir Road, NW, Washington, DC 20007	Tudor Place	
Estelle Del Porto	Del Porto, Estelle	1672 32nd Street, Washington, DC 20007	Tudor Place	
Norma Evenson	Evenson, Norma	1698 31st Street, NW, Washington, DC 20007	Tudor Place	
Shannon Fairbanks	Fairbanks, Shannon	1694 31st Street, NW , Washington, DC 20007	Tudor Place	
Richard Fairibanks	Fairibanks, Richard	1694 31st Street, NW, Washington, DC 20007	Tudor Place	
Duane Ford	Ford, Duane	1657 31st Street, NW, Washington, DC 20007	Tudor Place	
Laura Fricienti	Fricienti, Laura	1661 32nd Street, NW, Washington, DC 20007	Tudor Place	
Renata Giorgetti	Giorgetti, Renata	1669 32nd Street, NW, Washington, DC 20007	Tudor Place	
Rose Gombay	Gombay, Rose	1692 32 Street, NW, Washington, DC 20007	Tudor Place	
T.E. Gray	Gray, T. E.	1678 32 Street, NW, Washington, DC 20007	Tudor Place	
Gunnar Halley	Halley, Gunnar	1520 32nd Street, NW, Washington, DC 20007	Tudor Place	
Jason Jankowiak	Jankowiak, Jason	1607 31st Street, NW, Washington, DC 20007	Tudor Place	
Bassam Al Kahouaji	Kahouaji, Bassam Al	Bacchus Wine Cellar, 1635 Wisconsin Avenue, NW, ...	Tudor Place	
Pedro Kanof	Kanof, Pedro	1669 32nd Street, NW, Washington, DC 20007	Tudor Place	
Laine Katz	Katz, Laine	1671 32nd Street, NW, Washington, DC 20007	Tudor Place	
Norton Katz	Katz, Norton	1671 32nd Street, NW, Washington, DC 20007	Tudor Place	
Ambassador Robert Keating	Keating, Ambassado...	1681 32nd Street, NW , Washington, DC 20007	Tudor Place	
Virginia Keating	Keating, Virginia	1681 32nd Street, WN, Washington, DC 20007	Tudor Place	
Ellen Kellner	Kellner, Ellen	3053 Q Street, NW, Washington, DC 20007	Tudor Place	
Leon Kellner	Kellner, Leon	3053 Q Street, NW, Washington, DC 20007	Tudor Place	
Arlene Klepper	Klepper, Arlene	3202 Scott Place, NW, Washington, Dc 20007	Tudor Place	
Guyon Knight III	Knight, Guyon	3147 P Street, NW, Washington, DC 20007	Tudor Place	
Linda Knight	Knight, Linda	3147 P Street, NW, Washington, DC 20008	Tudor Place	
Thomas Langman	Langman, Thomas	1696 32nd Street, NW, Washington, DC 20007	Tudor Place	
Kathleen Lesko	Lesko, Kathleen	1696 31st Street, NW, Washington, DC 20007	Tudor Place	
Robert Lesko	Lesko, Robert	1696 31st Street, NW, Washington, DC 20007	Tudor Place	
Robert Levine	Levine, Robert	1601 Suters Lane, NW, Washington, DC 20007	Tudor Place	
Ron Liebman	Liebman, Ron	1615 31st Street, NW, Washington, DC 20007	Tudor Place	
Simma Liebman	Liebman, Simma	1615 31st Street, NW, Washington, DC 20007	Tudor Place	
Edward Matto	Matto, Edward	3120 R Street, NW, Apt. #102, Washington, DC 20007	Tudor Place	
Donald Mitchell	Mitchell, Donald	1699 31st Street, NW, Washington, DC 20007	Tudor Place	
Diane Morris	Morris, Diane	1675 31st Street, NW, Washington, DC 20007	Tudor Place	
Lee Morris	Morris, Lee	1675 31st Street, NW, Washington, DC 20007	Tudor Place	
Dapray Muir	Muir, Dapray	3102 Q Street, NW, Washington, DC 20007	Tudor Place	
Julia Pardoe	Pardoe, Julia	3204 Q Street, NW, Washington, DC 20007	Tudor Place	
Hedy Perlman	Perlman, Hedy	3136 Q Street, NW, Washington, DC 20007	Tudor Place	
Ronald Perlman	Perlman, Ronald	3136 Q Street, NW, Washington, DC 20007	Tudor Place	
Sara Reiner	Reiner, Sara	1607 31st Street, NW, Washington, Dc 20007	Tudor Place	

ATTACHMENT 1

Full Name	File As	Mailing Address	Categories	H...
Margaret Scott	Scott, Margaret	1525 31st Street, NW, Washington, DC 20007	Tudor Place	
Don Scroggin	Scroggin, Don	3064 Q Street, NW, Washington, DC 20007	Tudor Place	
Frances B. Snider	Snider, Frances B.	1607 31st Street, NW, Washington, DC 20007	Tudor Place	
Ron Snider	Snider, Ron	1607 31st Street, NW, Washington, DC 20007	Tudor Place	
Christine Steiner	Steiner, Christine	3112 Q Street, NW, Washington, DC 20007	Tudor Place	
Robert Steiner	Steiner, Robert	3112 Q Street, NW, Washington, DC 20007	Tudor Place	
Richard Theis	Theis, Richard	3102 Q Street, NW, Washington, DC 20007	Tudor Place	
Roberta Theis	Theis, Roberta	3102 Q Street, NW, Washington, DC 20007	Tudor Place	
Carol, Troper	Troper Carol	3066 Q Street, NW, Washington, DC 20007	Tudor Place	
Joseph Troper	Troper, Joseph	3066 Q Street, NW, Washington, DC 20007	Tudor Place	
Redmond Walsh	Walsh, Redmond	1521 31st Street, NW, Washington, DC 20007	Tudor Place	
Celia Ward	Ward, Celia	3030 Q Street, NW, Washington, DC 20007	Tudor Place	
Ross Watson	Watson, Ross	1657 31st Street, NW, Washington, DC 20007	Tudor Place	
Edward Weidenfeld	Weidenfeld, Edward	3059 Q Street, NW, Washington, DC 20007	Tudor Place	
Sheila Weidenfeld	Weidenfeld, Sheila	3059 Q Street, NW, Washington, DC 20007	Tudor Place	
Steve Wells	Wells, Steve	1677 31st Street, NW, Washington, DC 20007	Tudor Place	
Frances Wilkenson	Wilkenson, Frances	3210 Scott Place, NW, Washington, DC 20007	Tudor Place	
Julie Williams	Williams, Julie	3064 Q Street, NW, Washington,DC 20007	Tudor Place	
Lawrence Williams	Williams, Lawrence	1618 32nd Street, NW, Washington, DC 20007	Tudor Place	
Joe Zaring	Zaring, Joe	1519 31st Street, NW, Washington, DC 20007	Tudor Place	

ATTACHMENT 2

STATEMENT

CONCERNING THE USE OF THE GROUNDS AND BUILDINGS OF TUDOR PLACE Georgetown, DC

The undersigned neighbors of Tudor Place say that:

▷ We support the hard work of the Tudor Place Foundation in maintaining Tudor Place in its historical condition and making this historic home available to the people of the United States for tours.

▷ We ask the Tudor Place Foundation to respect the wishes of Armistead Peter III, in his Will, that "Tudor Place be kept *as I shall leave it*, and that it be considered not as a period museum but as a house lived in and loved by generations of our family."

▷ We oppose the use of Tudor Place and its grounds as a venue for holding private wedding receptions and corporate parties which, in the past, have negatively impacted our quiet residential neighborhood with: (1) noise from the set-up and tear-down of tents and platforms; (2) noise from the bands which play for these private parties until 10:30 PM; (3) traffic congestion necessitating control by the police during events; and (4) a lack of parking spaces for residents. Wedding receptions, corporate parties, and other commercial activities should be held only in locations zoned for such events.

▷ We oppose expanding the existing hours of tour operations to evenings and Sundays because the additional vehicles would make parking--which is now very scarce at those times–much more difficult, if not virtually impossible.

Dated: January ___, 2003

_____ _____
signature(s)

_____ _____
printed name(s)

_____

_____
address

ATTACHMENT 3

FRIENDS AND NEIGHBORS OF TUDOR PLACE©
GEORGETOWN, DC

Dear Neighbor:

We need your help preserving Tudor Place as a glorious asset in our neighborhood. Tudor Place was built by Martha Custis Peter in 1804, and was the Peter family residence until the late 1980's. Armistead Peter, III, wanted Tudor Place preserved as an historic landmark, open to the public. To prevent this beautiful home and its grounds from ever being changed or developed, he deeded a scenic easement to the United States and established a large endowment to maintain the property. His will provided "I request particularly that Tudor Place be kept *as I shall leave it*, and that it be considered not as a period museum but as a house lived in and loved by generations of our family."

During the late 1990's, the Tudor Place Foundation, which manages the property, decided to increase its revenues by contracting for wedding receptions and corporate events. Noisy dance bands played late into the evening, and the influx of hundreds of cars filled the already scarce parking spaces on our streets. Litigation (which is still pending) ensued and Tudor Place suspended those commercial events.

The Foundation once again wants to be excepted from the R-1 (residential) zoning rules and has applied to the BZA for Special Exception. We heartily support the Foundation's tour program during daylight hours on both week days and Saturdays. The Foundation, however, has asked for more. It wants to operate evenings and Sundays, to hold an unlimited number of events with up to 200 people, and host 10 events with up to 500 people on weekends and during evenings. These changes would place a significant burden on our community and make parking virtually impossible on evenings and weekends.

We, consequently, are challenging the use of Tudor Place for commercial functions and activities. Such uses are inconsistent with Zoning Regulations and are inappropriate in a residential neighborhood. Wedding receptions, corporate parties, and other commercial activities should be held only in locations zoned for such events.

We ask your help to persuade the BZA to deny Tudor Place's request to expand its activities and hours of operation. If you agree that such activities are inappropriate and harmful, **please sign and return the enclosed statement as soon as possible in the enclosed envelope.**

We also invite you to attend the BZA hearing on Tuesday, February 18, at 9:30 AM to make your views known. If you cannot attend, please sign and return the enclosed statement and we will see that it is submitted to the BZA. If you have any questions, please do not hesitate to call any of the undersigned.

Yours sincerely,

Steve Wells
1677 31st St. NW
Patrick and Mary Caldwell
1697 31st St NW
Norton N. Katz
1671 32nd St NW

Roberta and Richard Theis
3102 Q St. NW
Don G. Scroggin
3066 Q St. NW
Dapray Muir
3104 Q St. NW
Don and Elaine Crockett
3070 Q St. NW

Remàta Giorgetti
1669 32nd St NW
Ron and Frances Snider
1607 31st St. NW
Pedro Kanof
1669 32nd St NW

ATTACHMENT 4

January 28, 2003

Dear Neighbor:

I am writing in response to an alarmist letter and petition dropped in your mailbox recently by several neighbors of Tudor Place. Rather than signing the petition, I hope you will contact me directly at 965-1644 or by e-mail at llbuhler@tudorplace.org in the event you have any concerns relating to our application to continue operation as a house museum. Strong neighborly relations have been a top priority of mine since becoming Executive Director of Tudor Place in June 2000. Indeed, our current application already incorporates substantial input that was provided by neighbors prior to filing. I would welcome the opportunity to talk and work with you in a neighborly fashion rather than in the context of a contentious BZA hearing.

Let me set the record straight on some of their more egregious misstatements:

The authors of the letter appealed the 1999 ruling of the Board of Zoning Adjustment. The Court of Appeals ruled against them finding our application consistent with Zoning Regulations. They have filed once again to appeal the ruling of the Court of Appeals.

Contrary to the claim of extended hours, **Tudor Place has been open on Sunday afternoons for the last eight months**. Neighbors who attended the meeting held at Tudor Place to review the zoning conditions of operation did not voice concern about staying open for visitors one evening a week, as long as it was always the same evening of the week.

With respect to large events, our application proposes more restrictive conditions on operation than is included in the special exception under which we currently operate. Specifically, we have proposed **reducing the number of permitted property rentals** for 200 or more people from 10 per year to 2 per year. **We do not seek to rent for large wedding receptions, corporate parties, or other commercial activities.** Rather, Tudor Place wants to be able to host events for groups such as the Garden Clubs of America and the National Trust for Historic Preservation when they have meetings in Washington. Tudor Place's primary foci are preservation and education, not rentals.

Our application **prohibits amplified music outdoors** at all time, and only permits amplified music indoors if all windows and doors are closed.

Tudor Place is not in violation of any aspect of its easement with the Department of the Interior. We hold ourselves to the best historic preservation practice following the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Again, Tudor Place seeks to be a good neighbor and we do not believe that anything in our application merits the type of reaction set forth in this letter.

Sincerely,

Leslie L. Buhler
Executive Director



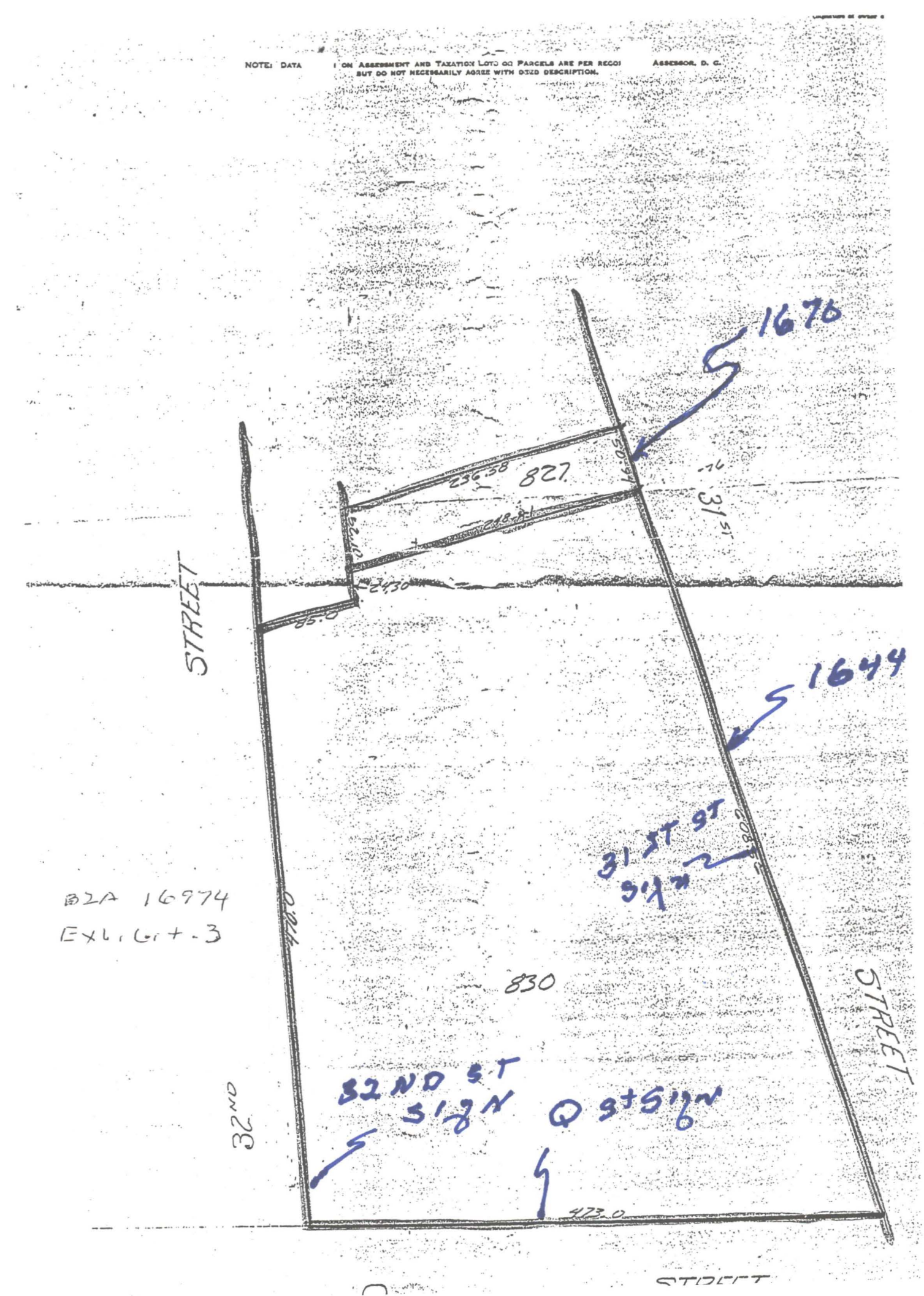
1670 31 St. ST. (LOT 827)
FEB. 7, 2003

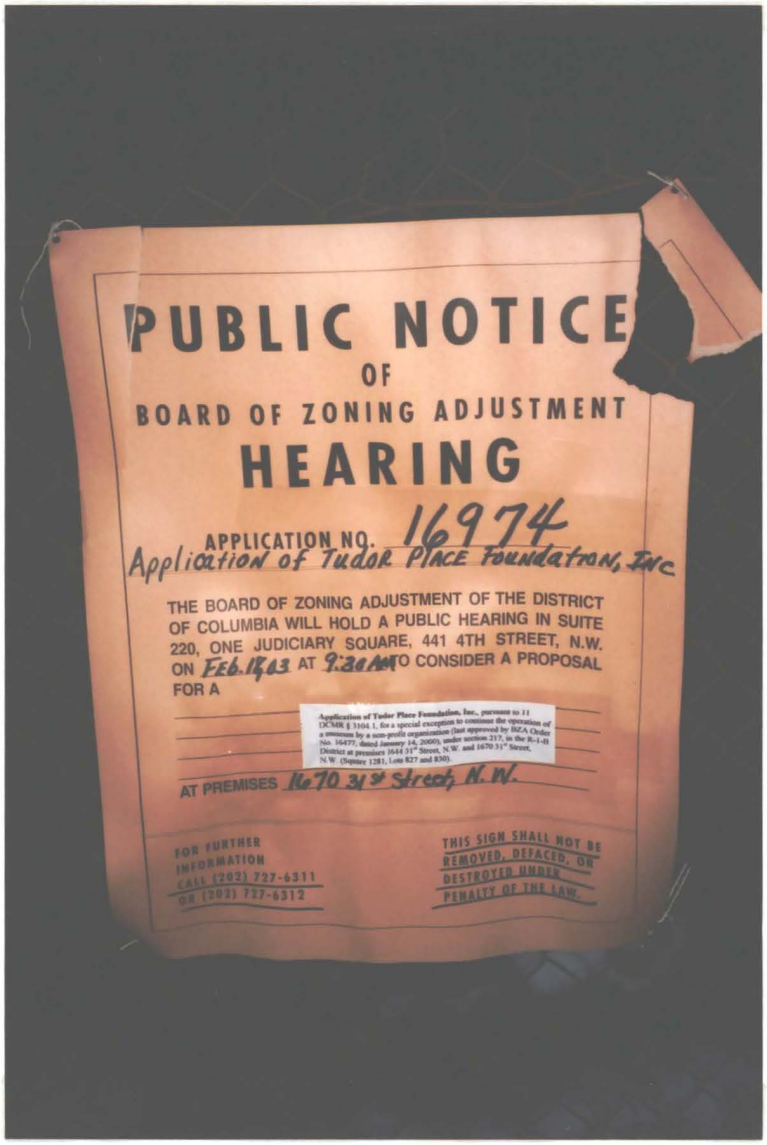




1670 31 St. SA. (LOT 827)

FEB 10, 2003

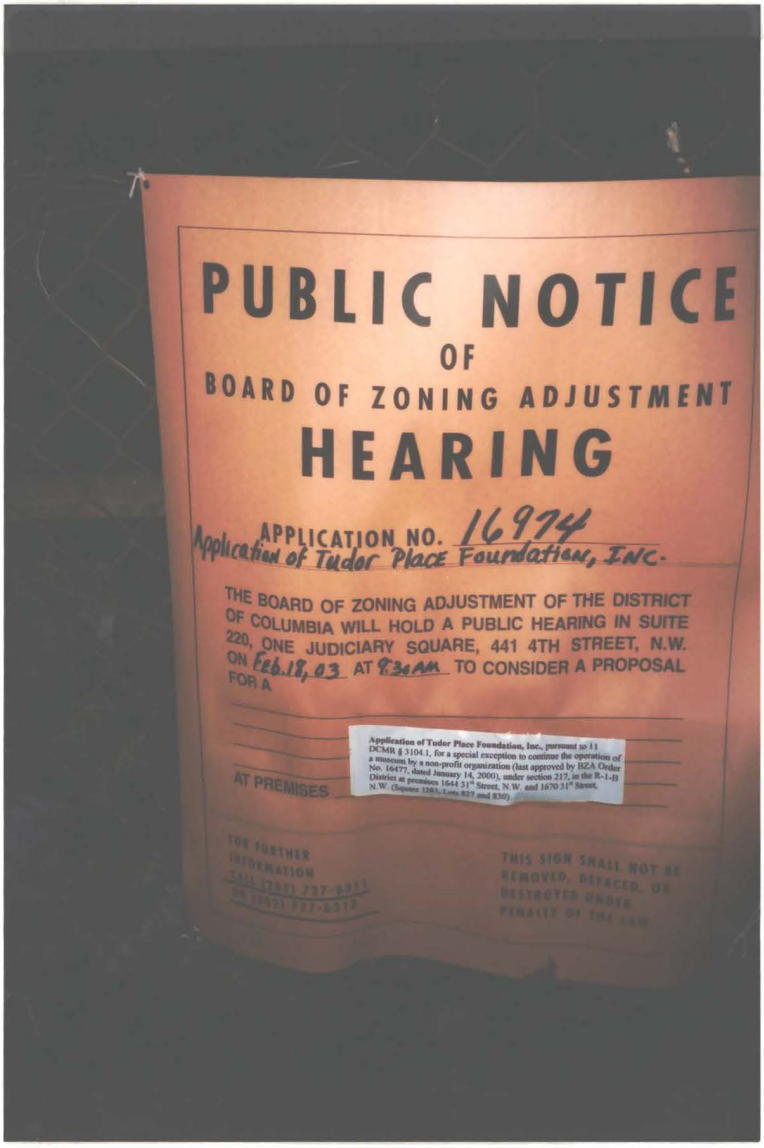

NOTE: DATA ON ASSESSMENT AND TAXATION LOTS OR PARCELS ARE PER RECOR ASSESSOR, D. C.
BUT DO NOT NECESSARILY AGREE WITH DEED DESCRIPTION.
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BZA 16974
Exhibit-3
Q ST.
830
32ND
32 ND S.T
SIGN
Q ST SIGN
423.0
STREET


PUBLIC NOTICE
OF
BOARD OF ZONING ADJUSTMENT
HEARING
APPLICATION NO. 16974
Application of Tudor Place Foundation, Inc
THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA WILL HOLD A PUBLIC HEARING IN SUITE 220, ONE JUDICIARY SQUARE, 441 4TH STREET, N.W. ON Feb. 12 03 AT 9:30 AM TO CONSIDER A PROPOSAL FOR A
Application of Tudor Place Foundation, Inc., pursuant to 11 DCMR § 3104.1, for a special exception to continue the operation of a museum by a non-profit organization (last approved by BZA Order No. 16477, dated January 14, 2000), under section 217, in the R-1-B District at premises 1644 31st Street, N.W. and 1670 31st Street, N.W. (Square 1281, Lots 827 and 830).
AT PREMISES 1670 31st Street, N.W.
FOR FURTHER INFORMATION CALL (202) 727-6311 OR (202) 727-6312
THIS SIGN SHALL NOT BE REMOVED, DEFACED, OR DESTROYED UNDER PENALTY OF THE LAW.

Q St. SIGN


PUBLIC NOTICE
OF
BOARD OF ZONING ADJUSTMENT
HEARING
APPLICATION NO. 16974
Application of Tudor Place Foundations Inc.
THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA WILL HOLD A PUBLIC HEARING IN SUITE 220, ONE JUDICIARY SQUARE, 441 4TH STREET, N.W. ON Feb. 11, 03 AT 9:30 AM TO CONSIDER A PROPOSAL FOR A
AT PREMISES 1644 31st St NW + 1670 31st St NW
FOR FURTHER INFORMATION CALL (202) 727-6311 OR (202) 727-6312
THIS SIGN SHALL NOT BE REMOVED, DEFACED, OR DESTROYED UNDER PENALTY OF THE LAW.

31 St. St. Sign


PUBLIC NOTICE
OF
BOARD OF ZONING ADJUSTMENT
HEARING
APPLICATION NO. 16974
Application of Tudor Place Foundation, INC.
THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA WILL HOLD A PUBLIC HEARING IN SUITE 220, ONE JUDICIARY SQUARE, 441 4TH STREET, N.W. ON Feb. 18, 03 AT 9:30 AM TO CONSIDER A PROPOSAL FOR A
Application of Tudor Place Foundation, Inc., pursuant to 11 DCMR § 3104.1, for a special exception to continue the operation of a museum by a non-profit organization (last approved by BZA Order No. 16477, dated January 14, 2000), under section 217, in the R-1-B District at premises 1644 31st Street, N.W. and 1670 31st Street, N.W. (Square 1283, Lots 827 and 830).
AT PREMISES
FOR FURTHER INFORMATION
CALL (202) 727-6311
OR (202) 727-6312
THIS SIGN SHALL NOT BE REMOVED, DEFACED, OR DESTROYED UNDER PENALTY OF THE LAW

32 nd St. Sign

ATTACHMENT B

District of Columbia Court of Appeals.

Gary KOPFF et al., Petitioners,
v.
DISTRICT OF COLUMBIA ALCOHOLIC BEVERAGE CONTROL BOARD et al., Respondents,
C. J. K., Incorporated, Intervenor.

No. 11374.

Argued Sept. 23, 1977.
Decided Dec. 30, 1977.
Rehearing Denied March 6, 1978.

An advisory neighborhood commission and its members sought review of the action of the District of Columbia Alcoholic Beverage Control Board in issuing a "Class C" liquor license. The Court of Appeals, Ferren, J., held, inter alia, that the Board committed reversible error by failure to notify known remonstrants of the rescheduling of the hearing on the application for a liquor license, in failing to post notice of the rescheduled hearing on the applicant's premises, and in failing to give "great weight" to the issues and concerns of the affected neighborhood commissions.

Reversed and remanded for further proceedings.

West Headnotes

[1] Intoxicating Liquors ⚖75(2)
223k75(2)

Advisory neighborhood commission had no capacity to seek court review of action of District of Columbia Alcoholic Beverage Control Board in issuing liquor license; area residents who were commission members, however, had standing to initiate such review and to assert rights of commission itself. D.C.C.E. §§ 1-171a et seq., 1-171i(g), 1-1502(9), 1-1510, 25-111(g), 25- 114, 25-115(b); D.C.C.E. Court of Appeals Rules, rule 15.

[2] Intoxicating Liquors ⚖75(1)
223k75(1)

Validity of action of District of Columbia Alcoholic Beverage Control Board in issuing liquor license was not mooted as issue by virtue of fact that, after license was initially issued and before court review of Board's action was completed, license was renewed and renewal was not contested. D.C.C.E. §§ 11-101(2)(A), 11-705(b), 25-111(g), 25-115(b); U.S.C.A.Const. art. 1, § 1 et seq.; art. 3, § 1 et seq.

[3] Intoxicating Liquors ⚖65
223k65

Duties and responsibilities of the Advisory Neighborhood Commissions Act of 1975 requires timely written notice to advisory neighborhood commissions in adjudicative situation such as issuance of particular liquor notice, and requirement of such special notice is not limited to legislative actions. D.C.C.E. §§ 1-171, 1-171(d), 1-171i, 1-171i(a, c).

[4] District of Columbia ⚖2
132k2

Every proposed governmental decision affecting neighborhood planning and development, as defined in duties and responsibilities of Advisory Neighborhood Commissions Act of 1975, for which prior hearing is required by law is sufficiently significant to require written notice pursuant to such Act to affected advisory neighborhood commission or commissions. D.C.C.E. § 1- 171i(c).

[5] Intoxicating Liquors ⚖65
223k65

Alcoholic Beverage Control Board erred when it failed to give special notice to affected advisory neighborhood commission before it issued liquor license; such error was cured, however, when actual notice was given to affected ANC's by individual remonstrants. D.C.C.E. § 1-171i(c).

[6] Intoxicating Liquors ⚖75(7)
223k75(7)

In proceedings on application for liquor license, District of Columbia Alcoholic Beverage Control Board committed reversible error in failing to comply with applicable statute by giving notice of rescheduled hearing on license application to known remonstrants and by failing to post such notice on applicant's premises. D.C.C.E. §§ 1-1509(a), 25-115(b).

[7] Intoxicating Liquors ⚖65
223k65

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notice, i. e., thirty-days written *1382 notice pursuant to D.C.Code 1977 Supp., s 1-171i(b), must be sent to all affected ANCs. We hold that the Board's failure in this case to give such notice to ANCs 3-C and 3-F was error.

FN17. D.C.Code 1973, s 25-115(b); 3 DCRR s 20.1 et seq.

The ABC Board and C.J.K. have maintained, nevertheless, that even if special notice had been required, the technical failure to comply with the statute did not prejudice ANCs 3-C and 3-F because they had received actual notice. We agree that the error here was cured by actual notice; it is therefore not reversible.

> The requirements of procedural due process are met if upon review the court is satisfied that a complainant was given an adequate opportunity to prepare and present its position . . . and that no prejudice resulted from the originally deficient notice.

Watergate Improvement Ass'n v. Public Service Commission, D.C.App., 326 A.2d 778 (1974). See Schiffmann v. District of Columbia A.B.C. Board, D.C.App., 302 A.2d 235 (1973). Petitioners concede in their brief that Gary and Judy Kopff themselves notified ANCs 3-C and 3-F of the hearing on C.J.K.'s application, that the ANCs met and adopted resolutions expressing their positions on the matter, and that representatives attended the hearing and were prepared to present the ANCs' views and recommendations. We therefore can perceive no prejudice from the technical defect. While petitioners assert prejudice, they do not specify its manner or impact. We are satisfied that actual notice remedied the error and rendered it non-reversible.

B. The Requirements of Notice to Known Remonstrants and of Posting Notice on the Premises

The basic statutory scheme underlying the creation and operation of the Alcoholic Beverage Control Board specifies that

> (b)efore granting a (Class C retailers) license . . . the Board shall give notice by advertisement published once a week and for at least two weeks in some newspaper of general circulation in the District of Columbia. . . . There shall also be posted by the Board a notice, in a conspicuous place, on the outside of the premises. This notice shall state that remonstrants are entitled to be heard before the granting of such license and shall name the same time and place for such hearing as set out in the public advertisement . . . . (D.C.Code 1973, s 25-115(b); emphasis added.)

In addition, the Board's implementing regulations state that

> (t)he Board shall . . . notify all persons required to be heard in any hearing or proceeding before it . . . (including) remonstrants, if known. The notice shall include information relating to the nature of said hearing or proceeding and the time and place when and where said hearing or proceeding will be conducted. (3 DCRR s 20.1; emphasis added.)

[6][7] Petitioners complain that upon rescheduling the hearing on C.J.K.'s application, the ABC Board failed to comply with this statute and regulation. [FN18] The Board does not deny that it failed to post notice of the rescheduled hearing; nor does the Board deny that it neglected to notify the known remonstrants. Instead, the Board and C.J.K. argue that actual notice to all petitioners present at the rescheduled hearing cured the technical defect, that the notice mailed to Mrs. Kopff sufficed for all other known remonstrants, and that "no person allegedly without notice has appeared in protest." The Board's defenses to its admitted failures to comply with the statutory notice requirements are not sound. [FN19]

FN18. Petitioners also argue that the Board violated the DCAPA. That act, however, is not a solid basis for reliance, for it merely requires "reasonable notice" to "parties." D.C.Code 1977 Supp., s 1-1509(a).

FN19. Although respondents do not contend that the statutes and regulations are inapplicable to "reschedulings," it is important to emphasize that reschedulings of administrative hearings are subject to the same notice requirements as initial schedulings. The literal statutory terms mandate inclusion of the "time" of the hearing in posted, published, and mailed notices. Certainly, this time must be accurately stated and kept current, lest the very purpose of notification provision of an opportunity to be heard would be defeated.

*1383 First, specific notice to Mrs. Kopff cannot fulfill the Board's duty to notify all known remonstrants. Even though the Kopffs collected and presented to the Board the signatures of neighbors who did object to the application, they did not assume the Board's statutory responsibility. We cannot endorse the Board's attempt to shift to private persons its responsibility for the notification of known

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remonstrants. Additionally, actual notice to individuals who did appear cannot remedy the lack of notice either to those who were known but not apprised of the rescheduling, or to those who might have seen an accurate "posting" on the premises but did not. Absent potential witnesses remain prejudiced. Accordingly, the Board violated both its duty to notify "known remonstrants," 3 DCRR s 20.1, and its duty to post notice on the premises. D.C.Code 1973, s 25-115(b). Neither deficiency could be cured by actual notice to those who appeared.

The Board's and C.J.K.'s reliance on this court's opinion in Schiffmann v. District of Columbia A.B.C. Board, supra, is misplaced. There, this court held that actual notice to the petitioners cured, as to them, any failure to give notice by publication. Petitioners here, however, do not assert a lack of notice to themselves. They assert the rights of those who were entitled to notice but did not receive it and, as a consequence, did not appear at the hearing. (Respondents do not challenge petitioners' standing to assert these rights.) The argument that "no person allegedly without notice has appeared in protest" is illogical. We cannot expect unnotified individuals to petition for review of an ABC Board decision of which they still may not be aware. We hold, therefore, that in failing to give the notices required by D.C.Code 1973, s 25-115(b) and 3 DCRR s 20.1, the Board did not afford all potentially concerned individuals an adequate opportunity to be heard. As a result, the Board's capacity for effective assessment of "neighborhood wishes" was impaired.[FN20] We shall not speculate about how many more would have attended the hearing if proper notice had been given, or about whether additional attendance would have contributed to the dialogue. That is irrelevant. Because a statutory right to due notice has been violated and cannot be cured until everyone receives notice, the error cannot be deemed harmless.[FN21]

FN20. See D.C.Code 1973, s 25-115(a)6.

FN21. The reference in the Board's findings of fact to the paucity of witnesses who appeared to oppose the license implies a possibility that a greater number of opponents could have influenced the Board's decision. Rec. at 274, P 40.

IV. Attribution of "Great Weight" to the "Issues and Concerns" of Advisory Neighborhood Commissions

D.C.Code 1977 Supp., s 1-171i(d) provides, in pertinent part:

> Each Commission so notified (i. e., in writing) . . . shall forward its written recommendations . . . to the appropriate agency . ... The issues and concerns raised in the recommendations of the Commission shall be given great weight during the deliberations by the governmental agency and those issues shall be discussed in the written rationale for the governmental decision taken. (Emphasis added.)

This subsection mandates that the ABC Board give "great weight" to all "issues and concerns" raised by ANCs in all cases where written notice to ANCs is required. Our next task, therefore, is to determine the meaning of the statutory words "great weight."

[8] Petitioners assert, first, that the recommendations of citizens' groups are normally given "careful consideration" in administrative proceedings. They maintain that the legislative choice of the term "great weight," rather than "careful consideration," in the ANC context must imply greater deference than that accorded ordinary citizens' groups. Second, petitioners ***1384** stress the canon of statutory construction which declares that legal terminology ordinarily should be given its accepted legal meaning. They then cite cases holding that an expert agency's construction of its own enabling statute should be given "great weight," and that a court should adopt the agency's construction unless it is unreasonable. Petitioners urge us to conclude that ANC recommendations are entitled to similar deference at agency hearings. We are not persuaded.

First, the cases cited by petitioners do not establish a "careful consideration" standard for citizens' group concerns, nor do they define such terms.[FN22] Thus, these cases do not provide a reference point for defining the "great weight" standard. Second, ANC recommendations, whether in a legislative or administrative context, are not analogous to legal interpretations of enabling statutes by expert administrative agencies charged with regulatory or other governmental responsibilities. If the Board were to afford the degree of weight to ANC judgments urged by petitioners, it would tread perilously close to, if not cross into, the realm of improper delegation of its governmental authority to a private party. True the ANCs have governmental responsibilities in the sense that they are created by statute, elected by the general public, and funded by the taxpayers. But neither Congress nor the District Council has even hinted at granting ANCs

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record and the Board's determinations, we have concluded that for each of the five issues posed by petitioners, the Board could point to "more than a mere scintilla" of rationally connected evidentiary support. We must therefore reject petitioners' contention here. [FN27]

FN27. Petitioners allege one additional error in the Board's failure to define the relevant neighborhood, for the purpose of C.J.K.'s application, as coextensive with ANC boundaries. They cite no authority for this proposition. The only pertinent regulation of the Board's power and duty to specify the affected neighborhood is in 3 DCRR s 21.1, which states:

Upon the filing of an application for the issuance of an original or the transfer to a different location of an existing license, except a retailer's license Class E or F, the Board shall promptly delineate or define the boundary lines of the 'neighborhood' under Section 14(a)6 of the ABC Act and shall in all advertisements and public notices published or posted concerning said applications set forth the boundary lines of such 'neighborhood' to the nearest public roadway, natural boundary or thoroughfare.

We find no mandate there, or in the ANC Act or elsewhere, for conforming the neighborhood to ANC boundaries, and we decline to engage in the judicial legislation necessary to create and impose such a requirement upon the Board.

VII. Conclusion

We hold that the Board committed reversible error by its (1) failure to notify ***1388** known remonstrants of the rescheduling of the hearing on C.J.K.'s application from May 20, 1976, to June 9, 1976, (2) failure to post notice of the rescheduled hearing on the C.J.K. premises, and (3) failure to give great weight to the issues and concerns of the affected ANCs. We further hold that it was error (although not a basis for reversal here) not to deliver written notice to ANCs 3-C and 3-F at least thirty days before the initial and rescheduled hearing dates. We therefore remand the proceeding to the ABC Board for prompt conduct of a new hearing upon the appropriateness of issuing a Class C retailer's license to C.J.K.

One final comment. Because the Board's findings and conclusions, based on the evidence before it (which included the issues and concerns of ANCs 3-C and 3- F), were sufficiently detailed and supported by substantial evidence, it would be inequitable to terminate C.J.K.'s 1977-78 license prior to a new determination by the ABC Board itself in conformity with this opinion. Thus, C.J.K.'s Class C retailer's license shall remain in effect until further order of the ABC Board, timely made.

Remanded for further proceedings.

381 A.2d 1372

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