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May 10, 2019

By Email

The Hon. Justin M. Wilson
The Hon. Elizabeth B. Bennett-Parker
The Hon. Canek Aguirre
The Hon. John Taylor Chapman
The Hon. Amy B. Jackson
The Hon. Redella S. "Del" Pepper
The Hon. Mohamed E. "Mo" Seifeldein
Alexandria City Hall
301 King Street
Alexandria, Virginia 22314

**Re: Appeal from BAR Case Number 2108-00410 –619 S. Lee Street
(Vowell-Snowden-Black House)**

Dear Mayor Wilson and Members of the Council:

We write to you in response to the City Staff Report which was published yesterday afternoon to address some serious deficiencies in the report and recommendation which, if left uncorrected, will leave you with improper guidance on the task before you in this appeal.

I. The Staff Report's Refusal to Acknowledge the Landmark Status of the Hugo Black Property is Plain Legal Error

Historic Alexandria Foundation (HAF) has extensively documented the certified landmark status of the Hugo Black property. See HAF Letter to Council (4/2/2019), Section II(C) at 7-11 (Attach. C. to Staff Report-pdf pages 243-47); HAF Letter to BAR (2/1/2019), at 1-5 (Section A)(Attach. A to Staff Report-pdf pages 55-59; Memorandum

from James W. Moody, Jr (Attach. A to Staff Report-pdf 63); Minutes of Historic Landmarks Commission (1/6/1970)(Attach A to Staff Report at pdf-72); Deed Book 705 Page 491, at 494-95 (Attach. B to Staff Report-pdf 197-98).

One of the errors clearly spelled out in this appeal is that: “The BAR failed to give proper weight to the landmark designation of the property under Va. Code Ann . § 10.1-2204; the provisions of Article X; Sections 10-101 (A), (C),(G); 10-105(A)(2)(a)-(c), (g), 10-105(8)(1)-(3), (5)-(6), the overall purpose of Ord. § 1-102(g).” Record of Appeal (Staff Report-pdf-263).

We had thought that, after we brought this matter to the Staff’s attention, they had acknowledged that the property was a landmark. See Staff Report at 19 “Additional research performed by the Historic Alexandria Foundation has determined that this property is listed as a Virginia Landmark.” (Feb. 6, 2019 BAR Staff Report).¹ But the newly issued Staff Report (pdf-5) appears to retract that concession. Staff Report at 5.

Despite extensive briefing on precisely this point, see HAF Letter (12/18/2019), the Staff report fails to recognize the fact that the act of certifying the property as a landmark “of statewide or national importance” was and is a separate and distinct function and duty of the Virginia Historic Landmarks Commission (now VDHR) from its duty to publicize that designation in its register. *Compare* Former Va. Code § 10-138(a) *with* Former Va. Code 10-138(b); *cf.* VA Code § 10.1-10.1-2204(duty to designate historic landmarks and sites)(2018); VA. Code § 10.1-2202(6)-(7)(2018)(Director’s duties to compile and publish lists).

For purposes of the City Council’s deliberations, it is irrelevant – but somewhat telling – that VDHR has never complied with its statutory duty to include the Hugo Black House on the Virginia Landmarks Register. What is important is that the House and Grounds is a landmark certified in accordance with Va. Code 10.1-2204(A)(1).

II. The Staff Report’s Insistence that the Landmark Designation No Has Regulatory Bearing on Council’s Decision is Plain Legal Error.

Despite extensive briefing to the contrary, see HAF Letter (4/2/2019), Section IV.A (Attach C, pdf-252-54), the Staff Report adheres to its unsupported assertion that certification as a landmark has “no regulatory bearing on the criteria and standards listed in the Zoning Ordinance that the BAR must consider in acting on the appropriateness of demolition, new construction or alterations to any property in the historic district.” Given

¹ In point of fact, HAF never suggested that the property was “listed as a Virginia Landmark,” and had assumed that the Staff’s failure to recognize the Landmark was the VDHR’s failure to properly list it. HAF made that point expressly in its letter of December 18, 2019 (copy attached), which has strangely been omitted from the record on this appeal.

the extensive citations of the statutory and regulatory provisions contradicting this statement, you might have expected the staff report to address those legal authorities — but it does not. Not only does this assertion defy the language of the Statute and the Ordinance, Va. Code Ann. § 10.1-2204, See Alex. Zon. Ord. § 10-401(B)(4); § 10-101(A), § 10-101(C); § 10-101 (G), § 10-105(A)(1), § 10-105(A)(2)(a); § 10-105(A)(2)(b); § 10-105(A)(2)(c), § 10-105(A)(2)(g), it defies common sense. But of course the City's Zoning Ordinance provides the Council with a rich tool kit to protect historic landmarks, and the citizens of this town have every right to expect that Landmark properties will receive heightened protection.

While it is true that the Virginia statute encouraging you to take the landmark designation into account in your decision making says that the “designation, itself, shall not regulate the action of local governments,” Va. Code § 10.1-2204, that just means that jurisdictions which have not enacted the type of zoning ordinance Alexandria has are not controlled by the designation.

The Staff's position that the Landmark designation is irrelevant led the BAR to misapply the appropriate standards and criteria in its review and invites the Council to make the same mistake. It is a legal assertion with no basis in law and no attempt to justify it as a legal proposition. HAF respectfully submits that you must reject this portion of the staff report.

III. The Staff Report Confuses Easement Enforcement with What Is Necessary to Comply with the Open Space Land Act.

It is unfortunate that the Staff Report, and apparently the VDHR, have confused the question of who is entitled to sue to enforce the Hugo Black easement and simple compliance with the dictates of Va. Code § 10.1-1704. The VDHR is not the arbiter or judge of whether Section 1704 applies to an easement or not. The Open Space Land Act applies to all public bodies who have taken an interest in open space pursuant to the Act – not just VDHR. And the restrictions set forth in the Act are intended to govern, in part, the conduct of VDHR. That Department does not get to decide whether or not it will comply with the Statute. Nor are they the only ones who are entitled to read the easement. Doing so is necessary for a multitude of reasons, including a determination of what open space is protected by statute from diversion or conversion.

Because the Hugo Black easement subjected the property to the provisions of the Open Space Land Act, Va. Code § 10.1-1704 prohibits the removal of the open space without compliance with its terms.

And the City Zoning Ordinance expressly requires you to apply any restriction of state law that is more restrictive than the City Ordinance. Alex. Zon. Ord. § 1-200 (*“Whenever any provision of any state or federal statute or other city ordinance or regulation imposes a greater requirement or a higher standard than is required by this ordinance, the provision of such state or federal statute or other city ordinance or regulation shall govern.”*)(emphasis added).

IV. The April 30, 2019 Letter from the VDHR Confirms the Impropriety of Granting BAR Approval in Reliance on Approvals from the VDHR

At the December 19, 2019 BAR hearing, several members of the BAR who ultimately voted to approve the plans explained that their positive views were based in part on the fact that VDHR had approved the plans. Both HAF and Preservation Virginia directly challenged the propriety of relying on a VDHR easement approval as the basis for a BAR decision. See HAF Letter (2/1/2019)(Staff Report pdf-59); Preservation Virginia Letter (2/5/2019).²

The letter from VDHR to Mark Jinks confirms the accuracy of the statements made by HAF and Preservation Virginia and expressly advises you that the VDHR’s easement review is based on different considerations. It should not be taken as an opinion or endorsement that the plans they have approved under the easement review meet the City standards. “Any approvals or disapprovals made by DHR ... should have no determinative bearing on decisions made by the BAR...”

Notably, the VDHR letter makes no mention of the Open Space Land Act or the Landmark designation of the property.

V. Staff Reversal of Position on Demolition of Historic Curve

After inspecting the historic “curve” at the Hugo Black House, the BAR Staff twice recommended against the demolition of that distinctive feature. Without explanation as to why Staff has changed its position — other than that the former BAR disagreed with it — the Staff now recommends approval of the demolition.

² The letter from Preservation Virginia is inexplicably missing from the Record on Appeal. It is available here, along with two letters from HARC that are also missing from the staff report.

http://legistar.granicus.com/alexandria/meetings/2019/2/1976_M_Board_of_Architecture_I_Review-Old_and_Historic_19-02-06_Action_Docket.pdf

John Dumsick is a HAF Board Member and licensed structural engineer who specializes in historic preservation. He has submitted a letter to the council which has not been included in the Staff report or addressed in any way. That letter shows that the claims of difficulty in maintenance and repair are overblown.

While Mr. Dumsick is fully confident in his statement, HAF did seek permission for him to perform an in-person site visit prior to the originally scheduled April 13th hearing. The owners did not provide the necessary permission. To alleviate any concern that might be raised questioning Mr. Dumsick's opinion based on a lack of the physical inspection allowed to members of the Council, HAF repeated the request this week. The owners refused permission. (See attached email correspondence). Apparently, the owners prefer to shield their claims of damage being caused by the curve from independent inspection by competent and qualified experts.

VI. Missing Materials

As noted in the body of this letter, the Staff Report has inexplicably omitted important materials that were presented to the BAR that contradict the current Staff Report. Nor does the Staff Report even indicate that substantial amounts of information has been submitted in connection with this appeal. HAF does not yet have a list of all the materials that have been submitted by others, but is aware of at least the following:

- 1) Letter from Historic Alexandria Resources Commission dated March 31, 2019, available at http://www.historicalexandriafoundation.org/downloads/harc_black.pdf.
- 2) Letter from Professor A.E "Dick" Howard dated April 1, 2019, available at http://www.historicalexandriafoundation.org/downloads/aed_howard.pdf.
- 3) Letter from Professor W. Brown Morton III dated April 3, 2019, available at http://www.historicalexandriafoundation.org/downloads/arch_cons_black.pdf.
- 4) Email from Harry Butowsky (NPSNHL Historian Retired) dated April 5, 2011, available at <http://www.historicalexandriafoundation.org/downloads/butowsky.pdf>
- 5) Letter from John Dumsick (Structural Engineer) dated April 8, 2019, available at <http://www.historicalexandriafoundation.org/downloads/dumsick.pdf>.
- 6) Preservation Virginia Letter dated April 8, 2019.

Mayor & City Council
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7) Letter from Josephine Black Pesaresi dated April 15, 2019, available at <http://www.historicalexandriafoundation.org/downloads/Pesaresi.pdf>.

It is inconceivable that the public could properly evaluate the merits of this appeal without access to these critically important materials in advance of the hearing. And it is surprising to say the least, that the Staff Report fails to mention any of these materials or address the issues they raise.

VII. Conclusion

For the reasons set forth extensively in the submissions previously made to you, HAF Letter (4/3/2019), HAF Letter (12/12/2018), HAF Letter 12/18/2019); HAF Letter (2/1/2019), as well as the well-reasoned letters of HARC, and the materials submitted in support of this appeal, we submit that any consideration of the proposed plans under the Alexandria Zoning Ordinance and the Design Guidelines should lead you to deny the two applications before you.

To further assist you in reviewing the issues raised by the appeal, we also attach for your consideration several power point slides.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'John Thorpe Richards, Jr.', with a long horizontal flourish extending to the right.

John Thorpe Richards, Jr.
(Member of the Board)
Historic Alexandria Foundation

cc. Duncan Blair
Joanna Anderson
Mark Jinks



Historic Alexandria Foundation

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December 18, 2017

Board of Architectural Review, Old and Historic District
City of Alexandria

**Re: BAR Case Number 2108-00410 –619 S. Lee Street
(Vowell-Snowden-Black House)**

Dear Chair Kelley and Members of the Board:

In reviewing the Staff Report that was released yesterday afternoon we are concerned that the Staff has failed to appreciate the status of the Hugo Black House as a certified Landmark property and therefore given inadequate weight to the preservation interests at stake in this case.

It is perhaps understandable that in the press of business before the Board at the upcoming meeting that the staff has drafted its report to you looking to the Virginia Department of Historic Resources published register of landmark properties. It is entirely accurate for the Staff to tell you that "The property is not individually listed on the Virginia Landmarks Register or the National Register of Historic Places." Staff Report at 5. Why the Hugo Black House is not listed on the register by the VDHR as required by law is frankly a mystery to us, and perhaps their failure to recognize the landmark status of the property misled that agency in its own evaluation of the project.

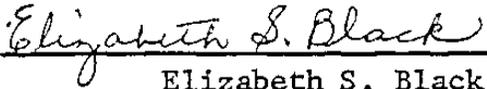
But the certified landmark status of the property is a matter of public record and beyond question. As the Deed we submitted for your consideration clearly states:

Acceptance by the Virginia Historic Landmarks Commission of this conveyance is authorized by Sections 10-138 and 10-142 of the Code of Virginia, and by such acceptance below the Commission designates the property described above as a certified landmark.

WITNESS the following signatures and seals:

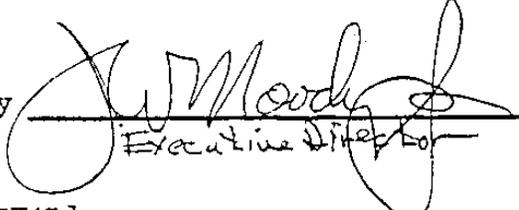
BOOK 705 PAGE 495

 (SEAL)
Hugo L. Black

 (SEAL)
Elizabeth S. Black

Accepted:

VIRGINIA HISTORIC LANDMARKS COMMISSION

By  (SEAL)
Executive Director 12/30/69

To avoid any confusion about what was meant by the two former sections of the Virginia Code referenced by Justice Black and the Virginia Historic Landmarks Commission in the publicly recorded document, we are attaching for your reference a copy of former Virginia Code §§ 10-138 and 10-142. You will see that the act of certifying a property as a Landmark property is a distinct action and duty of the Commission (now VDHR) quite separate from its duty to publicize that designation in its register. Compare Former Va. Code § 10-138(a) with Former Va. Code 10-138(b); cf. VA Code § 10.1-10.1-2204(duty to designate historic landmarks and sites)(2018); VA. Code § 10.1-2202(6)-(7)(2018)(Director's duties of compile and publish lists).

§ 10-138. Powers and duties of Commission. - The Commission shall

- (a) Make a survey of, and designate as an historic landmark, **structures and sites** which constitute the principal historical, architectural and archaeological sites **which are of statewide or national significance**. No structure **or site** shall be deemed to be an historic one unless it has been prominently identified with, or best represents, some major aspect of the cultural, political, economic, military, or social history of the State of nation, or has had a major relationship with the life of an historic personage or event representing some major aspect of, or ideals related to, the history of the State or nation....

Former VA. Code Ann. § 10-138(a)(1973 Repl. Vol.)(emphasis added).

§ 1-142. Restrictions on use of property certified as being registered landmark. — Whenever the Commission, with the consent of the landowner, **certifies property as being a registered landmark**, it may seek and obtain from such landowner such restrictions **upon the use of the property** as the Commission finds are reasonable and **calculated to perpetuate and preserve the features which led it to designate such property as an historical landmark....**

Former Va. Code Ann. § 10-142 (1973 Repl. Vol.)(emphasis added).

In other words, when the Virginia Historic Landmarks Commission (“VHLC”) designated the property described above as a certified landmark,” Deed Book 704 Page 494, it designated both the “structures and sites” as a “principal historical ... site[] ... of statewide or national significance.” And the fact that the open space of the property’s gardens was included in that Landmark certification is confirmed by the fact that the VHLC took an Open Space Land Act easement on the use of the property “to perpetuate and preserve the features which led it to designate [the] property as an historical landmark.”

It is unfortunate that the staff report has failed to recognize the importance of the Landmark certification. Current state law expressly encourages you to take the designated property’s historic significance into account in your decision making. Va. Code § 10.1-2204(B)(ii)(2018). The Alexandria Zoning Ordinance requires the same. Zoning Ordinance § 10-105(a)(2).

Because the Hugo Black House and grounds is a certified historic landmark property it should properly be considered with heightened scrutiny and afforded greater protection than non-landmark property. For that reason, the staff report’s observation that, “In the past six years alone, the two BARs have approved over 100 additions, finding them appropriate and compatible” serves as no support for the recommended approval

of the current application. How many of those approvals were given on certified landmark properties of the prominence of the Hugo Black House, where the house **and gardens** were included in the landmark certification?

With all due respect to the dedicated work of the Staff, we submit that by overlooking the landmark designation of the property, it has applied an incomplete analysis of the project. The Hugo Black House and grounds deserve the highest degree of protection this Board can provide.

Respectfully,

Historic Alexandria Foundation

By: /s/

Elaine Johnston
Co-Chair, Advocacy Committee

cc. Duncan Blair

CODE OF VIRGINIA

1950

With Provision for Subsequent Pocket Parts

ANNOTATED

Prepared under the Supervision of
The Virginia Code Commission

BY

The Editorial Staff of the Publishers

Under the Direction of
W. M. WILLSON, SYLVIA FAULKNER AND PATRICIA H. QUILLEN

VOLUME 3

1973 REPLACEMENT VOLUME

*(Including Acts of the 1972 Session and annotations taken from
Virginia Reports through Volume 212, p. 652)*



THE MICHIE COMPANY, LAW PUBLISHERS
CHARLOTTESVILLE, VA.

their executive officers: Agriculture and Immigration, Conservation and Development, Education, Health, Highways, Labor and Industry, Unemployment Compensation, and the Virginia State Ports Authority. The Governor shall designate a chairman and a vice-chairman for the Council to serve during his term of office. (R. P. 1948, § 10-127; 1956, c. 491.)

§ 10-128. Rules for organization; Secretariat for Council. — The members of the Council may make rules for their own organization. The Division of Industrial Development and Planning shall serve as Secretariat to the Council. (R. P. 1948, § 10-128; 1958, c. 427; 1962, c. 355.)

§ 10-129. Expenses and compensation. — The members of the Council shall receive no salaries, but shall be paid for the necessary expenses incurred in the performance of their duties. (R. P. 1948, § 10-129.)

§ 10-130. Clerical and secretarial facilities; stationery and supplies; printing. — The Division of Industrial Development and Planning shall serve the Council as its Secretariat or central administrative office and shall furnish the Council with the necessary stationery and supplies and shall have done for the Council such printing as may be necessary. (R. P. 1948, § 10-130; 1958, c. 427; 1960, c. 164; 1962, c. 355.)

§ 10-131. Powers and duties of the Council. — The Council shall act in a capacity advisory to the Governor upon matters relating to the Virginia economy. When requested by the Governor the Council shall investigate and consider such questions and problems, so relating as may be submitted, and shall report its findings and conclusions. The Council may also make recommendations to the Governor upon its own initiative. The Council shall also endeavor to encourage research designed to further new and more extensive use of the resources of the Commonwealth, to review and initiate specific proposals, to place such proposals effectively in the hands of groups and organizations, State and local, to encourage and stimulate local governing bodies and private business initiative, and generally to arouse public interest in the economic resources of the Commonwealth. (R. P. 1948, § 10-131; 1962, c. 355.)

§ 10-132. Reports and recommendations. — All reports and recommendations made by the Council shall be made to the Governor. (R. P. 1948, § 10-132; 1962, c. 355.)

CHAPTER 10.

HISTORIC MONUMENTS AND MARKERS.

§§ 10-133, 10-134: Repealed by Acts 1950, p. 48.

CHAPTER 11.

VIRGINIA HISTORIC LANDMARKS COMMISSION; HISTORICAL MONUMENTS GENERALLY.

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10-135. Commission created.
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10-137. Executive director.
10-138. Powers and duties of Commission.</p> | <p>Sec.
10-138.1. Supervision of expenditure of appropriations made to nonstate agencies.
10-139. Notice to local tax-assessing official that structure or site has been designated a certified landmark.</p> |
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10-140. Notice to local tax-assessing official of establishment of historic district.</p> <p>10-141. Authority of Commission in counties and cities having power to establish historic districts.</p> <p>10-142. Restrictions on use of property certified as being registered landmark.</p> <p>10-143. Assistance of State agencies.</p> <p>10-144. Transfer of powers, etc., of State Librarian and State Library Board relating to historical markers.</p> <p>10-145. Construction of chapter.</p> <p>10-145.1. Power of eminent domain vested in Attorney General to preserve historical monuments and memorials.</p> | <p>Sec.
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§ 10-135. Commission created. — There is hereby created in the Executive Department of the State government the Virginia Historic Landmarks Commission, hereinafter referred to as Commission. (1966, c. 632.)

Cross reference. — As to power of eminent domain of Attorney General with respect to historical monuments and memorials, see § 10-145.1.

The numbers of §§ 10-135 to 10-145 were assigned by the Virginia Code Commission, the 1966 act having assigned no numbers.

§ 10-136. Membership; appointment; terms; vacancies; compensation and expenses. — (a) The Commission shall consist of nine members. Seven shall be appointed by the Governor and the remaining two shall be the Director of the Department of Conservation and Economic Development and the State Librarian both as ex officio members, but with full voting rights.

(b) Of the seven members appointed by the Governor, one may be chosen from a list of three names submitted to him by the Association for the Preservation of Virginia Antiquities, one may be chosen from a list of three names submitted to him by the Virginia Historical Society, one may be taken from a list of three names submitted to him by Colonial Williamsburg, Incorporated, one may be chosen from a list of three names submitted to him by the Dean of the School of Architecture, University of Virginia, one may be chosen from a list of three names submitted to him by the Virginia Chapter of the American Institute of Architects and the remainder shall be appointed from the State at large.

(c) Of the appointive members, initially two shall be appointed for terms of four years, two shall be appointed for terms of three years, two shall be appointed for terms of two years and one shall be appointed for a term of one year. Thereafter, appointments shall be made for terms of four years, except appointments to fill vacancies occurring other than by expiration of term, which shall be filled for the unexpired term.

(d) No member of the Commission shall receive compensation for his services but they shall be reimbursed their necessary expenses incurred in the performance of their duties. (1966, c. 632; 1968, c. 612.)

Cross reference. — For provision that also be in charge of the Virginia Research Commissioner of Historic Archaeology shall Center for Historic Archaeology, see § 10-146.

§ 10-137. Executive director. — The Commission may employ an executive director and such other employees, assistants and technical personnel as may be required for the performance of its duties. (1966, c. 632.)

§ 10-138. Powers and duties of Commission. —

The Commission shall

(a) Make a survey of, and designate as an historic landmark, the buildings, structures and sites which constitute the principal historical, architectural and archaeological sites which are of statewide or national significance. No structure or site shall be deemed to be an historic one unless it has been prominently identified with, or best represents, some major aspect of the cultural, political, economic, military, or social history of the State or the or has had a major relationship with the life of an historic personage or nation, representing some major aspect of, or ideals related to, the history of the State or nation. In the case of structures which are to be so designated, they shall embody the principal or unique features of an architectural type or demonstrate the style of a period of our history or method of construction, or serve as an illustration of the work of a master builder, designer or architect whose genius influenced the period in which he worked or has significance in current times. In order for a site to qualify as an archaeological site, it shall be an area from which it is reasonable to expect that artifacts, materials and other specimens may be found which give insight to an understanding of aboriginal man or the Colonial and early history and architecture of the State or nation.

(b) Prepare a register of buildings and sites which meet the requirements of the preceding paragraph, publish lists of such properties and inspect such properties from time to time; publish a register thereof from time to time setting forth appropriate information concerning the registered buildings and sites.

(c) With the consent of the landowners, certify and mark, with appropriately designed markers, buildings and sites which it has registered.

(d) Establish standards for the care and management of certified landmarks and withdraw such certification for failure to maintain the standards so prescribed.

(e) Acquire by purchase, gift, or lease and administer registered landmarks, sites and easements and interests therein; such acquisition may be made from funds provided by law or otherwise.

(f) Lease or sell property so acquired under terms and conditions designed to ensure the proper preservation of the landmark or site in question.

(g) Establish historic districts for registered landmarks and designate the area thereof by appropriate markers provided the county or city in which the district or registered landmark is located fails or refuses to take such action as is necessary to establish and maintain such districts.

(h) Identify historical districts for registered landmarks and aid and encourage the county or city in which the district or landmark is located to adopt such rules and regulations as the Commission may develop and recommend for the preservation of historical, architectural, or archaeological values.

(i) Prepare and place, from funds provided by law, State historical markers on or along the highway or street closest to the location which is intended to be identified upon such marker.

(j) Seek the advice and assistance of individuals, groups and governments who or which are conducting historical preservation programs and coordinate the same insofar as possible.

(k) Seek and accept gifts, bequests, endowments and funds from any and all sources for the accomplishment of the function of the Commission. (1966, c. 632.)

§ 10-138.1. Supervision of expenditure of appropriations made to nonstate agencies. — In addition to the duties set out in § 10-138, it shall also be the responsibility of the Commission to oversee the expenditure of State appropriations made available to nonstate agencies, whether private or

municipal, for purposes related to the historical collections, historic landmarks, and sites of Virginia, and to assure itself that such purposes are consistent with the statewide plan for historic preservation as established by the Commission. The Commission shall establish and require adherence to sound professional standards of historical, architectural and archaeological research in the planning, preservation, restoration, interpretation and display of such collections, landmarks, and sites, in order that public funds are used in the most appropriate, effective, and correct manner. (1972, c. 119.)

§ 10-139. Notice to local tax-assessing official that structure or site has been designated a certified landmark. — In any case in which the Commission designates a structure or site as a certified landmark, it shall notify the official having the power to make assessments of properties for purposes of taxation within the county or city in which the structure or site is located and such designation and notification shall be, prima facie, evidence that the value of such property for commercial, residential or other purposes is reduced by reason of its designation. (1966, c. 632.)

§ 10-140. Notice to local tax-assessing official of establishment of historic district. — When the Commission establishes an historic district, it shall notify the official of the county or city whose duty it is to assess property for the purpose of taxation by the county or city in which such area is located of the fact of such establishment and the boundaries of the district, together with the restrictions which are applicable to properties located in such district and of the fact that commercial, industrial and certain other uses within such district are restricted. The tax-assessing official shall take such factors into consideration in assessing the properties therein and, based on the restrictions upon the uses of such property, place a lower valuation upon the same. (1966, c. 632.)

§ 10-141. Authority of Commission in counties and cities having power to establish historic districts. — In the establishment of historic districts, the Commission shall not act in any county or city in which local officials have established such districts. In any county or city having power to establish such districts and which has not done so, the Commission shall, in appropriate case, designate such districts and notify the proper officials of the county or city in which the same is located and request them to take such action as will enable the establishment and perpetuation through local action, of historic districts. (1966, c. 632.)

§ 10-142. Restrictions on use of property certified as being registered landmark. — Whenever the Commission, with the consent of the landowner, certifies property as being a registered landmark, it may seek and obtain from such landowner such restrictions upon the use of the property as the Commission finds are reasonable and calculated to perpetuate and preserve the features which led it to designate such property as an historical landmark. All such agreements between the Commission and the landowner shall be in writing, and, when duly signed, shall be recorded in the clerk's office of the county or city wherein deeds are admitted to record and when so recorded shall be notification to tax-assessing officials of the restrictions therein set forth. Such restrictions shall be observed by the tax-assessing officials of such county or city in placing a lower valuation upon such property in future assessments or reassessments of real estate. (1966, c. 632.)

§ 10-143. Assistance of State agencies. — All agencies of the State shall assist the Commission in the disposition of its duties and functions upon the request of the Commission or the executive director thereof. (1966, c. 632.)

From: [John Thorpe Richards](#)
To: [Duncan Blair](#)
Subject: Site visit request.
Date: Wednesday, May 8, 2019 11:48:00 AM

I guess I shouldn't try to answer from my phone. It was supposed to say: "To alleviate any concern that a physical inspection is necessary to validate his opinion."

Given that we are asking John to give his time on a volunteer basis, and the shortness of time remaining, I would appreciate your client's decision in time for John to arrange his schedule if an inspection will be allowed. Thank you. jtr

-----Original Message-----

From: Duncan Blair <dblair@landcarroll.com>
Sent: Wednesday, May 8, 2019 11:27 AM
To: John Thorpe Richards <jtr@bogoradrichards.com>
Subject: RE: Would you be available to do a site visit at Black House between now and the hearing?

How is that germane to the appeal?

-----Original Message-----

From: John Thorpe Richards <jtr@bogoradrichards.com>
Sent: Wednesday, May 08, 2019 11:22 AM
To: Duncan Blair <dblair@landcarroll.com>
Cc: dumsick@gmail.com
Subject: Re: Would you be available to do a site visit at Black House between now and the hearing?

To alleviate any Cicero that a physical inspection is necessary to validate his opinion.

John Thorpe Richards, Jr.
(703) 457-7823
(703) 346-6455
Sent from my iPhone

> On May 8, 2019, at 10:47 AM, Duncan Blair <dblair@landcarroll.com> wrote:

>

> John: I will ask my client. Mr. Dumsick has an extensive conversation with Al Cox and has already submitted a letter to the City with his observations. What is the purpose for a site visit?

>

>

>

> -----Original Message-----

> From: John Thorpe Richards <jtr@bogoradrichards.com>
> Sent: Wednesday, May 08, 2019 9:25 AM
> To: Duncan Blair <dblair@landcarroll.com>
> Cc: John Dumsick <dumsick@gmail.com>
> Subject: FW: Would you be available to do a site visit at Black House between now and the hearing?

>

> Dear Duncan.

>

> I know you conveyed my letter requesting the opportunity for John Dumsick to visit the Hugo Black House and inspect the "curve" that is under consideration for demolition, but they did not give him permission to perform an

on-site inspection of the "Curve" prior to the Scheduled April 13th hearing. As I mentioned in my original letter, John works full time for the State Department on structural engineering for its Historic Buildings around the world. Notwithstanding the demands of his work schedule, he has provided me with the following times when would still be able to perform that inspection if the owners will allow it:

>

> -This afternoon after 4 pm

> - Friday morning or afternoon is an opportunity but not preferred -Saturday late afternoon

> - Tuesday after 4 (albeit an inspection a few hours before the hearing begins is hardly optimal for anyone)

>

> I do hope your clients will reconsider this request to allow Mr. Dumsick to personally inspect the "curve" and associated structural issues.

>

> Thank you. Jtr

>

>

> John Thorpe Richards, Jr.

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> Bogorad & Richards PLLC

> 209 Madison Street

> Suite 501

> Alexandria, Virginia 22314-1764

> (703) 457-7820 (Main)

> (703) 457-7823 (Direct)

> (703) 457-7824 (Fax)

> jtr@bogoradrichards.com

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From: [Duncan Blair](#)
To: [John Thorpe Richards](#)
Cc: [Duncan Blair](#)
Subject: RE: Would you be available to do a site visit at Black House between now and the hearing?
Date: Thursday, May 9, 2019 3:56:15 PM

John: Good afternoon. I am a bit confused by the request. In his April 8, 2019 letter to the Mayor and Council members Mr Dumsick states: "Neither the photographs, nor the report, reference any condition where an on-site investigation would be necessary in order for me to express the opinion I am sharing with you in this letter." He then opines as to a means and method to making repairs to the damage to the west elevation of the original core building. It seems his letter stands on own and an inspection is not required. Additionally, the Mr. and Mrs. Morris have left on their long planned trip and are not comfortable with people coming to the property without being present. For these reasons, they respectfully decline your request. Best, Duncan

-----Original Message-----

From: John Thorpe Richards <jtr@bogoradrichards.com>
Sent: Wednesday, May 08, 2019 11:22 AM
To: Duncan Blair <dblair@landcarroll.com>
Cc: dumsick@gmail.com
Subject: Re: Would you be available to do a site visit at Black House between now and the hearing?

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> Cc: John Dumsick <dumsick@gmail.com>
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