

TESTIMONY OF COMMISSIONER BOB MEEHAN, DUPONT CIRCLE ANC, BEFORE THE HISTORIC PRESERVATION BOARD ON THE APPLICATION FOR HISTORIC LANDMARK STATUS FOR THE THIRD CHURCH OF CHRIST SCIENTIST AT 16TH AND I STREETS NW. CASE NO 91-05

Good morning. My name is Bob Meehan. I am an ANC Commissioner from Dupont Circle. The Third Church of Christ Scientist is within the Dupont Circle ANC.

I am testifying today in my personal capacity as an individual commissioner. The ANC did not have adequate time to place this historic landmark application on our October agenda for a meaningful community discussion. In fact, the last time this matter came before the ANC was in the fall of 1991. At that time, the ANC also was unable to officially review the application because it was withdrawn before the ANC could discuss it at an official meeting. Nevertheless, each of the current eight sitting members of the Dupont Circle Commission has individually signed a letter to this Board, which outlines our personal views of why this application should be denied. I am here to expand on those views.

Our issues are with the unpredictability and increasingly arbitrary nature of the DC historic preservation movement in the last few years. Those of you who lived in the District during the early 1970s will remember my wife's name. Susan Meehan led the historic down zoning for Dupont Circle. That achievement is the cornerstone of today's highly regarded historic downtown, livable neighborhood. So I speak with some perspective.

1. What is an historic landmark? According to the staff report supporting this application, there is no sense of time associated with the term "historic." The report specifically states that the 50-year rule that has been the norm since historic preservation started in the District is not legally binding. The argument of the report would support a historic designation on the day after a building was completed if it could be shown to be truly

worthy. So the word “historic” has ironically become an oxymoron in an otherwise very important preservation movement. The historic landmark application was submitted when the church was scarcely 19 years old.

2. Would one not think that an historic landmark is considered a contributing building in its historic district? The advocates for creating the lower 16th St historic district specifically stated that the Third Church of Christ Scientist is not a contributing structure to the historic district. Why? Because it wasn't 50 years old! So 50 years can be used on the one hand but not used on the other hand.
3. Why was 1991 the year of the application? Why not 1973, a year after completion? The staff report gives us two reasons. The first is that the architectural community needed time to develop an understanding of building's contribution to “modernism.” The second is that the Committee of 100 thought the building might be sold in 1991 so it wanted to block any effort to tear down the building. The Committee so hurried its application that it invented theories for the building's importance. As an ex-Christian Scientist, I can tell you that the arguments regarding the role of this building in the Christian Science movement were sheer bunk! In addition, I understand that testimony earlier this year from the architect Araldo Cosutta disputed the argument in the application on this being a Pei-inspired building. While there are obviously differences of opinions on the architectural importance of a building, we are dumbfounded that an application for historic landmark status in the nation's capital is pock marked with factual errors.
4. Why was the application for the church's historic landmark status tabled 16 years ago? The staff report gives us the reason. The church opposed this application then as it does now. The report says that the Committee of 100 was prepared to postpone indefinitely its application in the hopes that a mutually acceptable resolution of the matter could be worked

out. This was not classic historic land marking. This, in our opinion, was outright blackmail under the circumstances. The church refrained from going forward with a plan to tear down the building and the Committee of 100 did not pursue the application.

5. So why are we here today discussing this 16-year old application? We're here because the church has indicated that it intends to replace this building with a smaller one on the same lot. In other words, what we see as 16 years of blackmail finally failed this year. The Committee of 100 intends to muscle the church into submission with this application. Why wasn't a new application drafted so that all the issues that have come up over the 16 intervening years could be addressed? An application based on 35 years perspective, instead of 19 years, would have a lot more to say about "modernism" as the staff report showed. That is the idea behind the concept of "historic" in the preservation movement, that there is a sufficient lapse of time for the community to come together in understanding the importance of a building. On the other hand, the regulatory landscape affecting this property has also changed during this interval.
6. For example, the staff report makes no mention of *The Religious Land Use and Institutionalized Persons Act* signed into law in 2000 by President Clinton. A few sections of this law were cited in our letter to you. Mr. Chairman, I'm not a lawyer so I don't know how precisely this law would apply in this case. Have you asked the DC District Attorney for a legal opinion? And if not, on what grounds would you refuse? What do you make of this statement in the law:
 - a. "No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that the imposition of the burden on that

person, assembly or institution... is in furtherance of a compelling governmental interest...." (Sec 2(a))

- b. The Third Church of Christ Scientist has stated that this application would impose such a burden.
- c. A dated, flawed application held as blackmail for 16 years is hardly evidence of a "compelling governmental interest"
- d. Moreover, long before President Clinton signed this law, the Committee of 100 signed a letter on October 4, 1991 (attached) that pledged the following to the Church:

"We have also stated explicitly that it is not our intention to save physical things if so doing means the loss of the activities that give them life."

- e. So how does the Committee of 100 address this point given that historic landmark status might destroy this religious community and force it to disperse to other Christian Science churches?
7. Mr. Chairman, how do you see the constitutional issue of the separation of church and state in this case? President Clinton did not sign his law in a vacuum. Every one knows that the state cannot tax church property used for worship because the power to tax is the power to destroy. But churches come under all sorts of other pressures that also have the power to destroy. It is incumbent on the state, in this case, the DC Government to make the argument of compelling government interest for an historic landmark designation. The government did not see fit to do that in 1991. It would not even be considering the matter today if the church had not taken the initiative to challenge the application. In the context of churches, I don't think the test of a "compelling interest" is the need to cocoon a controversial "brutalist" building under an historic landmark designation. The way this application has been handled is an abuse of state power.

8. I have not addressed the architectural merits of the building. What I have addressed, and what each of my fellow commissioners is concerned about, is our fear that the DC historic preservation movement is following a path that will lead to diminished community support. This is becoming more evident in Dupont Circle as new approaches are added to get preordained desired results that seem arbitrary to us veterans of the preservation wars.

9. When I was a public policy grad student at the Woodrow Wilson School, I learned that the ends do not justify the means in the public arena. We all know that in a court of law technicalities may be all that stand between justice and a false outcome. As ANC commissioners, we believe that a process that blackmails a church, that ignores accuracy in presentation, that fails to examine the special laws that apply to churches must be challenged and stopped dead in its tracks. Mr. Chairman and members of the Historic Review Board, this 1991 application has been so incompetently handled from the point of the public interest and public expectations that this specific application should be denied. You can deny it with prejudice once for all or simply vote against this specific document. However, to approve it as is will seriously diminish our respect for the DC historic preservation movement.