



Statement of John Thorpe Richards, Jr.
On Behalf of Historic Alexandria Foundation
Before the Board of Historic Resources
June 17, 2021

Good Morning. My name is John Richards and I speak on behalf of the Historic Alexandria Foundation.

I had expected to focus my comments on the Hugo Black House in Alexandria, and the legislation just enacted by the General Assembly that requires you to interpret easements in favor of donor intent and their conservation purposes. I planned to suggest that you ask your Staff two pointed questions:

- 1) When considering easement approvals for the Hugo Black House was the easement construed in favor of achieving the conservation purposes for which it was created? Or
- 2) Was the easement construed under the *Wetlands America Trust* standard of strict construction in favor of the landowner?

We believe the public has the right to know the answer to these questions.

But overshadowing such important matters of public concern is the response we received from DHR Staff to our letter to you of June 1st.

In response to our urgent request that you place the Hugo Black Easement on your Agenda for today, in a June 7th email DHR Staff has taken the written position that:

“The easement is an agreement solely between the property owners and the Board. Consequently, the Board and DHR do not discuss the easement provisions, interpretation of the easement, or any proposal or review determination with outside parties.”

We believe the public would be shocked at this position. It is without basis in law and is contrary public policy. We have submitted for the record of this meeting Formal Opinion 11-140 issued in 2012 where the Virginia Attorney General advised that:

“The Code establishes the special and public nature of conservation easements.”

“conservation easements are held and administered by the easement holders not for themselves, but on behalf of the public and in furtherance of state policy.”

and

“the holder of a conservation easement is "not the sole party receiving the benefit of th[e] easement.”

The position taken by DHR’s Staff is therefore contrary to the public policy and we urge you to ***formally*** and ***publicly*** repudiate the Staff’s the position.

Naturally, we also believe that you can and should require a review of the Hugo Black easement under the new statutory standard as requested in our June 1st letter. We understand you reversed the improvident easement approval for the Weblin House, so you can obviously do so again to save the Landmark Hugo Black property.

Thank you.