

Communication

Letter from Timothy M Burke; attorney BGC GC

Communication from Tim Burke – Jan 26, 2022

A handwritten signature in black ink, appearing to be 'T. M. Burke', written in a cursive style.

MANLEY BURKE

A LEGAL PROFESSIONAL ASSOCIATION

ROBERT E. MANLEY (1935-2006)

TIMOTHY M. BURKE
SEAN P. CALLAN*
JOHN E. CHRISTOPHER*

JACKLYN D. OLINGER
PATRICK K. HOGAN*
MICAH E. KAMRASS
JACOB W. PURCELL
AMY M. HEBBELER
ILANA L. LINDER
EMILY J. COUCH*

225 WEST COURT STREET
CINCINNATI 45202-1098
TELEPHONE: (513) 721-5525
TOLL FREE: (800) 708-0798
FACSIMILE: (513) 721-4268

Timothy M. Burke
tburke@manleyburke.com
513-763-6447

COUNSEL

WILLIAM A. McCLAIN (1913-2014)

GARY MOORE EBY*
GEORGE F. MOELLER

*Also admitted in Kentucky

January 26, 2022

Mayor Aftab Pureval
Vice Mayor Jan-Michele Lemon Kearney
President Pro Tem Victoria Parks
Councilmember Jeff Cramerding
Councilmember Reginald Harris
Councilmember Mark Jeffreys
Councilmember Scotty Johnson
Councilmember Liz Keating
Councilmember Greg Landsman
Councilmember Meeka Owens

City of Cincinnati
801 Plum Street
City Hall
Cincinnati, OH 45202

Via Hand Delivery

Dear Mayor, Vice Mayor, President Pro Tem and Members of Council

I write on behalf of the Boys and Girls Clubs of Greater Cincinnati and Northern Kentucky (BGC) to urge the denial of the Ordinance that would declare the Schulte House (more accurately, the Radel property) at 4122 Glenway Avenue a Cincinnati Historic Landmark.

Legally, the building does not meet the required qualifications for such a designation, as was found by the Historic Conservation Board, the staff of the Planning and Engagement Department and the Cincinnati Planning Commission. Such designation would deprive the property owner of substantial legal rights. The mere nomination has already prevented the BGC from closing on the property and proceeding with the construction of a teen workforce development center on the site.

MANLEY BURKE

A LEGAL PROFESSIONAL ASSOCIATION

The BGC has already invested some \$4,000,000 in the establishment of the Larry and Rhonda Sheakley Boys and Girls Club just across Dewey Street from the Radel property. That center responds to the needs of some 350 children between the age of 5 and 18 annually, providing academic assistance, social and emotional competency, safe recreation opportunities and meals. The teen center would concentrate its programming efforts on preparing the teenagers of West Price Hill and surrounding neighborhoods for adulthood as contributing members of our community. The teen center will marshal the resources of businesses, local universities and trade schools to offer programming preparing an estimated 150 10th and 12th graders annually for higher education, job opportunities and raising families of their own. Transportation is a significant barrier for the population BGC serves, especially for our many families who have both an older teen and grade school student attending the Club. Many times, our older students are caregivers for their younger siblings, escorting them home nightly. Having the teen center directly across the Dewey from the Sheakley Club addresses that need and allows the gym in the Sheakley Center to provide recreational opportunities to the teen center attendees.

The BGC has had the Radel property under contracting since early June of last year but has been unable to proceed with its plans simply because under Cincinnati Municipal Code (CMC) Sec. 1435-072-A, the existence of the mere application proposing to designate the property as a historic landmark prohibits it. The denial of the ordinance will once and for all eliminate that roadblock.

The application to name the property as a historic landmark came as a surprise to both the Radel property owner and the BGC. The property had been on the market for more than a decade. It had been vacant for 2 years. The city had conducted two historic inventories in the past. Those studies, conducted objectively without intent to stop any particular development, identified dozens of buildings in West Price Hill, some in two potential historic districts, deserving of consideration as historic properties. 4122 Glenway was not identified in either of those studies as deserving of consideration. Indeed, not until after the BGC had the property under contract and had informed the leadership of the West Price Hill Community Council of its plans did the community council set on the path of seeking historic designation for the property.

Unfortunately, some purporting to speak on behalf of the community council, are claiming the BGC has not communicated with them or considered other sites. That is simply not true. Attached is a chronology of interactions between the BGC and various community representatives. It documents extensive communication between the parties. After careful consideration of alternative sites, the BGC has determined that there is simply no other site as suitable as 4122 Glenway for the location of its teen center.

MANLEY BURKE
A LEGAL PROFESSIONAL ASSOCIATION

There are numerous reasons why the building does not qualify as a historic landmark under city Ordinances. Here are a few:

- 1) Of the 4 justifications for the designation of a historic landmark spelled out in CMC Sec 1435-07-1 even the applicant has proposed only one, it's alleged architectural significance.
- 2) In the initial attempt to meet that qualification, the original application claimed the building was a "rare example of Chateausque architecture". That claim did not even survive the Joint Staff Conference of the staffs of the City Planning and Engagement Department and the Historic Conservation Office.
- 3) The Boys and Girls Club asked Mr. Jeff Raser, who has had a distinguished 30-year career as a Cincinnati architect to evaluate the building. Mr. Raser is a board member of the Cincinnati Chapter of the American Institute of Architects, a board member of the Midwest Chapter of the New Urbanists, a board member of the Cincinnati Brewery District and served for 7 years on Cincinnati's Historic Preservation Board. His detailed reports are contained in the agenda packet that was forwarded to council. His initial reports detailed why the building was not a "rare Chateausque architecture." Following those reports no one tried to continue to make that claim.
- 4) Instead, following the Staff Conference and Mr. Raser's reports, the claim the building was of Chateausque style was quietly withdrawn and replaced with a new application without notice to either the property owner or the Boys and Girls Club until the receipt of the Historic Conservation Board Agenda. Only then was it learned that the building was suddenly claimed to be Queen Anne style. Mr. Raser subsequently documented why it was not Queen Anne style either.
- 5) Perhaps most critically, whatever architectural style it may have been intended to be when it was originally built, the architectural integrity of the building has not been preserved. That is a fatal flaw to any nomination. CMC Sec. 1435-01-H3 requires that for a building to qualify as a historic landmark based on its architecture, a building's "attributes or characteristics" must "possess integrity of location, design, setting, materials, workmanship, feeling and association". Massive changes have been made to the exterior of building. Subtractions including the loss of a prominent front and smaller rear porch. Additions, inconsistent with whatever the original style of the building, was cover the south and east elevations of building- the elevations facing the two public streets Glenway and Dewey.

MANLEY BURKE
A LEGAL PROFESSIONAL ASSOCIATION

- 6) Mr. Raser's 8-page report complete with diagrams and photos prepared for the Planning Commission sets for in detail the loss of the building's architectural integrity and rightly concludes that unlike Union Terminal, City Hall or the recently designated St. Marks' Church, "4122 Glenway Avenue is NOT an architecturally significant historic landmark and should NOT be given the city's highest architectural compliment and most restrictive covenant."
- 7) The Historic Conservation Board "voted to recommend against designation of the building as a local historic landmark finding that the Building DOES NOT SATISFY THE STANDARDS FOR HISTORIC SIGNIFICANCE SET FORTH IN CMC SECTION 1435-07-1(a)." (emphasis added)
- 8) The City Planning and Engagement Department Director and staff recommended the Planning Commission "DISAPPROVE the proposed local historic landmark designation".
- 9) Following a long hearing, the City Planning Commission voted to recommend "Denial of this Ordinance."
- 10) The City Manager, on behalf of the City Administration, has recommended "Denial of the Ordinance."

The issue for the Equitable Development and Housing Committee and all of City Council comes down to this. Defeating the Ordinance will allow a program of unique value to the older children of west side communities to go forward. Approval of the Ordinance would result in the continued vacancy of the property likely resulting in it being boarded up as required by CMC Chapter 1101 – a result accomplishing little for the community.

The designation of a building of dubious architectural significance over the recommendation of both the Historic Conservation Board and the Planning Commission, as well as the City Administration, would call into question whether or not the requirements of the historic conservation ordinance; the hours spent in hearings by citizen members of the reviewing bodies, or the rights of the property owner are taken seriously by City Council.

Sincerely,


Tim Burke

cc: Interim City Manager John P. Curp

Enc.

Liz Keating

EGH - on 2/15

submitted - 2/2/22 - MM