

TESTIMONY OF DAVID WHITTER, VP OF THE ST. THOMAS REFORMED CHURCH CONSISTORY BOARD
Before the Committee on Rules and Judiciary
36th Legislature of the Virgin Islands
Regarding Proposed Lease of Parcel Nos. 2C & 3 Crystal Gade
Charlotte Amalie, St. Thomas

Good morning, Madam Chair, Mr. Vice Chair, and members of the Committee on Rules and Judiciary, senators, legislative staff, ladies and gentlemen. I am David Whitter the VP of the St. Thomas Reformed Church Consistory Board and a member of the St. Thomas Reformed Church, (STRC) one of the oldest religious institutions in the Virgin Islands, founded in 1660. I appreciate this opportunity to testify to you in opposition to the proposed lease between the Department of Property and Procurement and DM Hospitality for Parcel Nos. 2 & 3 Crystal Gade in Charlotte Amalie.

The St. Thomas Reformed Church is the owner of Parcel #3 Crystal Gade. The last conveyance of record is to the Dutch Reformed Church is 1845.

After a great deal of Archival research including the Danish Archives in Copenhagen, we can state unequivocally that STRC is the owner of record of Parcel #3 Crystal Gade. The St Thomas' Recorder of Deeds original title page for Parcel #3 Crystal Gade shows the last conveyance from Jacob DaCosta to the Dutch Reformed Church, (DRC) in January of 1845. STRC has the signed original payment receipts from Jacob M DaCosta dated the same year. We have determined, as did many other USVI Officials including Attorney General Daniel Learned and Attorney Ive A. Swan that there was never any conveyance of Parcel #3 Crystal Gade from the Dutch Reformed Church to the Danish Government.

Parcel #2 C Crystal Gade was conveyed by the Elders and Deacons of the DRC to the Danish Government pursuant to a resolution of the church council on February 23, 1878. The conveyance was effected by a Bill of Sale dated in June 1878 and recorded in Book W.W. page 233, No. 3. Parcel #3 was not part of this conveyance. Conditions of the sale restricted the use of the building for a school and/or educational purposes and precluded building anything on the playground area of the school. These conditions transfer with Title and bind all subsequent owners. Nothing further is recorded against Parcel #3 other than litigation matters discussed below.

When entering into the Settlement Agreement of 1983 both the church and the Government operated under mistaken belief regarding the title to Crystal Gade #3.

In 1979, the Church filed an Action to Quiet Title Crystal Gade #2C and #3. The school building, here at issue, was built by the Dutch Reformed Church. At the present time the building that DM Hospitality seeks to lease from the Department of Property and Procurement rests on both Parcel #3 and 2C. As

detailed above the St. Thomas Reformed Church and not the VI Government owns Parcel #3 and arguably the portion of the building built upon Parcel #3. These ownership issues must be determined before the Virgin Islands Government can issue a valid lease for Parcel #3 Crystal Gade.

The Proposed Commercial Use is Extensive and Incompatible with Legal and Historic Restrictions

Based upon testimony provided by the proposed tenant, the intended use of the Property includes:

- A commercial kitchen to support the tenant's restaurant operations at Magens Bay and Cyril E. King Airport;
- Operation of on-site delicatessen;
- Administrative and business offices; and
- Construction or installation of a refrigerated storage trailer on the Property.

This level of intensive commercial activity represents a substantial commercial enterprise. It is incompatible with the legal restrictions established by the conveyance of Parcel #2 C which contemplate vacant land and continued church and community use - not commercial restaurant operations, commercial trucking, a food production facility or a permanent refrigerated commercial storage installation.

The Proposed Commercial Operation is Incompatible with the Residential and Historic Character of the Property

The Property is located immediately adjacent to the St. Thomas Reformed Church and within a residential area in the historic Queen's Quarter district of Charlotte Amalie. The proposed commercial enterprise would introduce significant noise and traffic congestion into an area that has historically been used for religious, educational and community purposes.

There is little to no available parking to support such commercial operations and introducing a commercial enterprise would inevitably generate a severe increase in vehicular traffic, service deliveries, employee parking demands, and operational disruption incompatible with the surrounding residential neighborhood and the historic character of the Church.

The Church has Longstanding Rights as to the Use of this Building

The Dutch Reformed Church, which originally constructed the building on this site conveyed the Property to the Danish West Indian Government for educational and community purposes. This Property has been traditionally utilized for Sunday School activities, recovery programs, youth meetings, and acts as an after-

school refuge for children and teens. These uses are fully consistent with the historic intent and conditions of the 1878 conveyance and the longstanding religious and community purposes of the Property.

Over the past 150 years the church has been a steward of this property. The church and government have been working partners and over the last 70 years until recently, the church has had access to the building for different programs. The church has petitioned and written letters to Governors De Castro, Gordon, Paiewonsky, King, Luis and most recently Bryan, asking for the building to be sold or leased back to the church. We share with the Government the goal to improve the building to recreate a space for important community programs such as educational and recovery programs, after school programs, GED training, Sunday School classes and more. The church lacks space to grow and would implore you to share our vision in creating a safe space and community hub for the betterment of all in this area. We want the building back for its historically intended use. There is a critical need for these and other educational programs in the immediate and surrounding community.

Legislative Oversight is Essential

The Legislature serves as the final safeguard to ensure that Government actions comply with deed restrictions, legal agreements, historic obligations and community interests. Approval of this proposed lease, without addressing the ownership of Parcel #3 Crystal Gade should not proceed. The binding legal restrictions established by the original 1878 conveyance of Parcel #2C and the longstanding historic use of the Property constrain the Governments' use of it.

Conclusion

For these reasons, I respectfully urge this Committee and the Legislature to disapprove the proposed lease with DM Hospitality of Parcel Nos. 2C and 3 Crystal Gade. First and foremost, the Virgin Islands Government does not own Parcel #3 Crystal Gade. Moreover, the building and Parcel 2C are subject to binding legal restrictions, which the church intends to protect. The proposed intensive commercial use is incompatible with those legal obligations and historic purposes. I respectfully request this Legislature to protect these rights of and preserve the historic and lawful use of this important Property.

Thank you for the opportunity to testify. We are now available to answer questions.