

**In Major Victory for DECAA Court Issues Injunction against City  
Agrees with DECAA on Boundaries of Masons Temple Historic  
Landmark**

**Rules City Violated DECAA's Constitutional Right to Equal  
Protection of the Laws**

THE COURT'S ORDER:

**“ORDERED that the Historical Preservation Review Board’s May 23, 2019, Decision in 16<sup>th</sup> Historic Landmark Case No. 19-06 pertaining to the Scottish-Rite Temple ... is VACATED;**

**ORDERED that the District of Columbia, its officers, employees, and agents are ENJOINED from taking any action pursuant to the Historical Preservation Review Board’s May 23, 2019, Decision in Historic Landmark Case No. 19-06;**

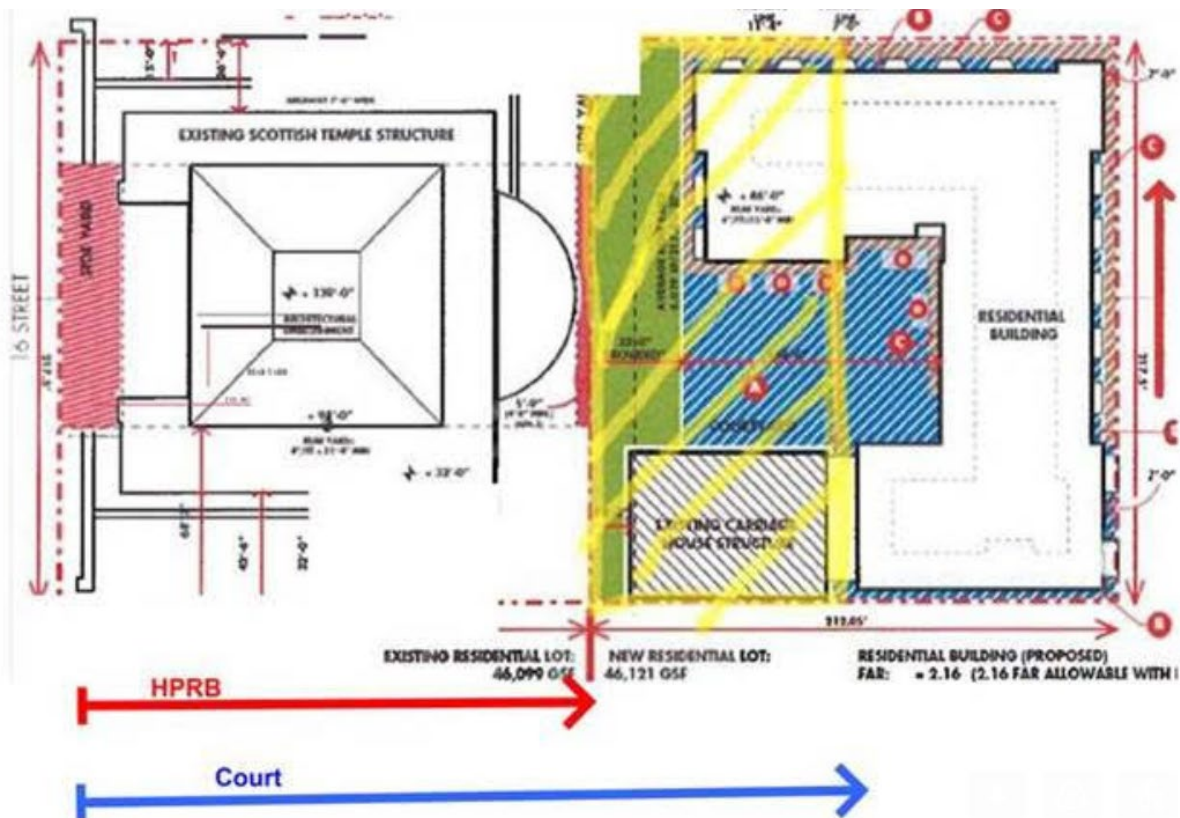
**ORDERED that Declaratory Relief is entered clarifying that the boundary of the Scottish Rite Temple historic landmark as entered in the D.C. Inventory of Historic Sites, located at 1733 16<sup>th</sup> Street, Square 192, Lot 108, is equivalent to the boundary of Lot 820 as it existed in 1979”**

**BACKGROUND:** Two years ago **DECAA, Rachel Dubin and Nick DelleDonne** filed suit challenging the decision of the Historic Preservation Review Board (“HPRB”) to reduce the boundary of the Masonic Temple historic landmark site from more than 100 feet behind the Temple to less than 6 feet behind the Temple. HPRB did this so Perseus could construct a huge luxury apartment building on the site of this national historic landmark.

***This week DECAA won a stunning victory in Court.***

The Court invalidated HPRB's decision and declared the boundary of the Temple landmark site runs from 16<sup>th</sup> St to more than 100 feet behind the Temple.

Shown at the bottom of the below diagram with a red arrow is the crimped area HPRB tried to say was the site of this historic landmark. The blue arrow at the bottom of the below diagram shows the Court's determination of the correct boundary of this national historic landmark (referred to by the Court as Lot 820). Marked in yellow on the below diagram is what the Court determined is thus included in the footprint of this national historic landmark – ***more than 20,000 additional square feet of land.***



*Based on the Court's determination the correct boundary lies right thru the middle of the luxury apartments and rooftop swimming pool and bar Perseus is presently constructing.*

***The Court’s injunction forbids DC and any of its officers and employees from relying in any way on HPRB’s vacated 2019 decision.***

The Court in its decision castigated the DC government’s actions in this law suit as

“Defendants’ **unrepentant, bad-faith** conduct...

“an attempt to **unfairly prejudice** the Plaintiff or else remedy its own negligence.

“The Court is likewise **disturbed** by the District’s contention ...

“Setting aside the District’s **insinuation** that it failed its duty to respond to discovery in good faith

“District’s **contumacious conduct...**”

With respect to HPRB the Court held:

“The challenge, however, is that the HPRB **commandeered** Plaintiffs’ application to expand the boundary and **warped it** into a decision about reducing the boundaries.”

“[T]he District has not identified any instance where it decided to ... reduce an historical landmark’s boundary in response to an application to expand the boundary.”

“Therefore, **as a matter of law**, the Court must hold that the *District treated Plaintiffs’ application differently from any other application without a rational basis for doing so.*”

The Court then held that the ***District government denied Plaintiffs their Constitutional right to Equal Protection under law.***

On remand to HPRB

**“Now that there is clarity that the boundary of the Temple landmark lies along the boundary line of the former Lot 820,** the HPRB can consider the actual question presented: should the Temple landmark boundary be expanded to include all of Lot 108? On remand,

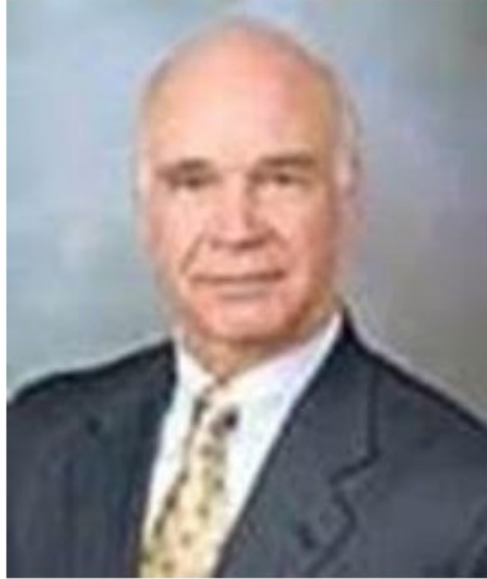
the **HPRB shall *not* be free** take any action except to grant Plaintiffs' application, deny it, or expand the boundary in part."

The Court then ordered that Plaintiffs "shall be entitled to **reasonable attorney fees and costs** incurred in this matter" from the DC government.

DECAA wants to give a heartfelt thanks to attorneys Barry Coburn <https://www.coburnandgreenbaum.com/barry-coburn> and Marc Eisenstein <https://www.coburnandgreenbaum.com/marc-e> of the law firm of **Coburn and Greenbaum, PLLC** who unselfishly dedicated so many hours *pro bono* to represent our small civic organization. Marc took some amazing depositions of DC government officials like HPO Chief Dave Maloney. DECAA is so very grateful to Barry and Marc.



DECAA also wants to give a heartfelt and special thanks to **DECAA Board member Michael Hays**, former Assistant US Attorney, who spent *many hours*



assisting Marc and Barry.

DECAA president **Nick DelleDonne** said. *“This unambiguous decision should be a signal to city leadership that the law must be followed in historic preservation and city planning, not for the benefit of narrow commercial interests, but for the good of the community,”*