



**Mary R. O'Grady**

mogrady@omlaw.com

2929 North Central Avenue  
21st Floor  
Phoenix, Arizona 85012

Direct Line 602.640.9352

Telephone 602.640.9000  
Facsimile 602.640.9050  
omlaw.com

September 16, 2015

***Via E-mail and U.S. Mail***

Ms. Michelle Dodds, AICP  
Historic Preservation Officer  
Planning and Development Department  
200 West Washington Street, 3<sup>rd</sup> Floor  
Phoenix, AZ 85003

Re: HP-L Case No. Z-24-12-6 – David and Gladys Wright house.

Dear Ms. Dodds:

We represent Zach Rawling, Manager of David Wright House LLC – the entity that owns the David Wright House property. As you know, the City initiated this case in June of 2012 to protect the David Wright House from imminent demolition at the hands of its former owner-developer, 8081 Meridian LLC. By initiating this case, the City triggered the temporary restraint on demolition governed by Section 806 of the City of Phoenix Zoning Ordinance, forestalling the destruction of the David Wright House and giving interested members of the historic preservation community additional time to find an owner committed to preserving the property.

Fortunately, the new owner of the David Wright House is firmly committed to preserving this beautiful and historically significant property. He has submitted a new Historic Preservation-Landmark (“HP-L”) application for the City’s consideration that would protect 6.1 acres of this historic property and urges withdrawal of the more limited City-initiated application (Case No. Z-24-12-6) so the City can focus on the owner-supported application that is now pending. The reasons for this request are described in detail below.

**The Property Subject to Preservation.**

The property boundaries to which the City’s HP-L designation would apply made ample sense when the City initiated this case three years ago. Indeed, it covered the entire 2.45 acre parcel then-owned by 8081 Meridian LLC – a portion of Lot 8, Block H in the Arcadia Subdivision. But a dense 2.45 acre lot does not do justice to Frank Lloyd Wright’s artistic design of the house, which was intended to sit on a sprawling 10 acre rural estate. As history tells it, Frank Lloyd Wright designed and oriented his son’s home to demonstrate through visual connections the relationship of the house to its surroundings. As Frank Lloyd Wright himself said about the property, “[i]t is a good type of house for that [southwest] region and affords many advantages not possible to a house on the ground. It is a citrus orchard district and the orange trees make the lawn for the house. The slowly rising ramp reveals the surrounding mountains and gives security to the occupants.” See Exhibit A to the David Wright House Foundation HP-

L Application. A 1955 edition of *House Beautiful* similarly commented on the relationship between architecture and environment that Frank Lloyd Wright's design achieved, describing the house as "a castle in the air, curving above the hot, dusty floor of the desert, looking out in all directions above the tree tops of orange groves, 'the lawn of the house,' toward the surrounding mountains among which it stands as securely, as naturally, and fully as nobly as they."

To that end, the home was elevated in height to highlight views of both the head of Camelback Mountain and the Papago Buttes over a "lawn" of citrus orchards – a "lawn" covering not just the property that David Wright owned when he commissioned the house, but on each of the surrounding parcels. In fact, the David Wright House was originally intended to sit on Lot 7, Block H – the parcel immediately adjacent to Lot 8 on the east. *See* A Building Condition and Needs Assessment for the David and Gladys Wright House at page 9, attached as Exhibit B to the David Wright House Foundation HP-L Application. Like most of the surrounding landscape, Lot 7 was covered with hundreds of citrus trees, beloved to David Wright. David asked his father, renowned architect Frank Lloyd Wright, to preserve as many of the trees on Lot 7 as possible when designing the house and configuring its placement, which proved difficult for the architect to do. *See id.* Rather than build the house over the trees, David instead purchased Lot 8, the sparsely vegetated parcel on which the David Wright House was finally built. *See id.* at 11. And, as Frank Lloyd Wright's pencil drawings from 1950 demonstrate, the "lawn" of groves surrounding the house included those then-existing on Lot 4, a portion of which is now a part of the 6.1 acre parcel on which the David Wright House sits today. *See* Attachment A to this letter (1950 Frank Lloyd Wright pencil drawing of the house in relation to the surrounding property, showing that the citrus orchards on both Lots 4 and 7 were contemplated in his original design for the house).

Mr. Rawling has a profound appreciation for this history and has taken significant steps to preserve the home and restore the surrounding landscape to regenerate Frank Lloyd Wright's original vision for the property. Since purchasing the 2.45 acre lot in December of 2012, he has acquired three adjacent properties (parts of Lot 4 and Lot 8) and consolidated the four parcels into a single 6.1 acre parcel, thereby restoring both the historically correct address and the sense of space and openness that Frank Lloyd Wright designed the property to enjoy. Indeed, by expanding the property boundaries and replanting a grove of citrus trees where they had historically grown, the Foundation is re-establishing the visual connections between home and environment that Frank Lloyd Wright intended his masterpiece to demonstrate.

Consistent with its mission to preserve the integrity of the famous architect's last residential masterpiece, David Wright House LLC has filed a new application to establish an HP-L designation for the 6.1 acre parcel on which the David Wright House now sits. That filing, of course, triggers the Section 806 temporary restraint on demolition, protecting the David Wright House to an arguably greater extent than the City-initiated application underlying this case.

The City's valiant act of initiating the current case without the property owner's consent achieved its intended outcome: it protected the David Wright House structure until a preservation-minded buyer successfully purchased the property. But the scope of the underlying application, as described above and in the owner-initiated HP-L application, does not go far

enough. We therefore formally request that the City-initiated case be withdrawn and taken off of the City's October 21, 2015 Council Meeting Agenda so that the owner-initiated HP-L case can proceed without confusion caused by a competing application.

#### **Additional Reasons the 2012 Application Should Be Withdrawn.**

Withdrawal of the 2012 application is also appropriate for the following legal insufficiencies:

1. **The Application is Deficient.** The City's zoning regulations require that the Historic Preservation-Landmark overlay application "shall be signed by a real property owner in the area included in the application." See Ord. 807(A); 506(A)(6). The 2012 application lacks the signature of any property owner, either past or present. Given that deficiency, the application should not have been accepted for processing by Commission Staff and it should therefore not be entertained by the City Council. The only signed application, supported by the property owner, is the recent application that would protect the 6.1 acre parcel on which the David Wright House currently sits. The property owner expressly objects to the limited HP-L designation in the 2012 application and favors its withdrawal so the City can focus on the recent owner-filed application that is more comprehensive and historically accurate.
2. **Lack of Owner Consent.** Approval of the 2012 application absent the owner's consent constitutes a regulatory taking, requiring compensation under the Private Property Right Protection Act - a landowner friendly statutory scheme added in December 2006 by Proposition 207. See A.R.S. § 12-1131 *et. seq.* There is little question that the property restrictions attending an HP-L designation will reduce Mr. Rawling's existing property rights, and that he would be entitled to payment equal to the resulting diminution in fair market value if the City approves an HP-L designation without his agreement. See A.R.S. § 12-1134(A); see also Secretary of State 2006 Ballot Proposition Guide for Proposition 207 (noting in the argument "against" proposition 207 that "approval or disapproval of historic overlay zoning" is an example of an "action[] that could trigger lawsuits and payments"); *Heath v. Kiger*, 217 Ariz. 492, 496, 176 P.3d 690, 694 (2008) ("To determine the intent of the electorate, courts . . . look to the publicity pamphlet."). In fact, most cities – including Phoenix – have developed a general practice of securing "Proposition 207 Waivers" in order to avoid litigation in these types of scenarios. See, e.g., <http://azpreservation.blogspot.com/2007/05/law-hinders-historic-preservation-in.html>. While the risk of pursuing the 2012 application without a Proposition 207 waiver was worth taking when dealing with the former owner who had every intention of destroying the historic home and further subdividing the already reduced Wright acreage, it makes no sense today with an owner who seeks to protect the integrity of the David Wright House and surrounding property.

Having restored much of the environment underpinning the David Wright House placement and design, Mr. Rawling plans to use the 6.1 acre property consistent with the limitations that will be outlined in a special permit – a permit authorized by an amendment to the Phoenix Zoning Ordinance to allow HP-L designated properties to undertake various public uses, passed unanimously by City Council specifically for the

David Wright House. The value of the Foundation's 6.1 acre parcel will be materially diminished if the HP-L designation and permitted use applies to less than half of the property. The limited HP-L boundary proposed in the City's application under present land conditions would create an HP-L island on a much larger estate, foreclosing access to Camelback Road accessible parking and the home's current and historic Exeter address – an untenable result.

3. **Inaccurate Property Description.** The parcel underlying the 2012 application no longer exists, rendering that application moot. As mentioned above, the City of Phoenix has approved an application joining four parcels to restore the sense of openness and space intended for the David Wright House property, and the owner has filed an application seeking a HP-L overlay for the full 6.1 acre consolidated parcel. As discussed above, the acreage surrounding the David Wright House was subdivided at various times from 1968 to 1970, and the "lawn" of citrus groves was removed. By joining four parcels that surround the home and replanting the trees that grew on Lots 4 and 8 in 1950, Mr. Rawling is doing exactly what the Historic Preservation Office advises its historic property homeowners to do: "reversing earlier adverse alterations" and "recapturing the original appearance" of the property, as it was designed to be viewed. *See* City of Phoenix Planning and Development Department, Historic Preservation Office Preservation Philosophy at 2. It defies law and logic to establish an HP-L overlay on only a small portion of the overall historic estate, contrary to the property owner's wishes, the City's own preservation philosophy, and past Commission practice.

### **Conclusion.**

For the foregoing reasons, we respectfully request that the 2012 application be withdrawn and taken off of the agenda for consideration and vote at the October 21, 2015 City Council meeting. Doing so will allow the owner to pursue and the City to consider a more comprehensive HP-L overlay application that more accurately portrays the property as it exists today – not as it did in 2012, when the underlying application was filed.

Because Mr. Rawling has filed an application for an HP-L overlay on the David Wright House property, the temporary stay of demolition now in place will continue upon withdrawal of the 2012 application. The City-initiated case is no longer necessary to protect the historic structure and property from destruction and it should be withdrawn.

September 16, 2015

Page 5

Please do not hesitate to call with any questions or concerns. We look forward to working with you to protect and preserve Frank Lloyd Wright's masterpiece as it was intended to be experienced.

Sincerely,



Mary R. O'Grady  
Meghan Grabel

cc: Mayor Greg Stanton  
Vice Mayor Daniel Valenzuela  
Councilwoman Thelda Williams  
Councilman Jim Waring  
Councilman Bill Gates  
Councilwoman Laura Pastor  
Councilman Sal Diciccio  
Councilman Michael Nowakowski  
Councilwoman Kate Gallego  
Alan Stephenson, Planning Director

# ATTACHMENT A



This Attachment A can also be found on page 19 of the HP-L Application submitted by the property owner, case number Z-53-15.



*Schematic Site Plan of Lot 8 drawn by Frank Lloyd Wright in 1950; arrow indicates location of the David Wright House. Note the ripples drawn in pencil by Frank Lloyd Wright on Lot 4 to the north, indicating that citrus orchard was part of design concept. Color coded drawing at right was made by David of Lot 7, identifying all the trees and their condition; when he concluded that too many trees would be lost if he built there, he bought Lot 8 to the west (a parcel with far fewer trees). (Sketch: FLLW FDN # 5030.011)*

