

Letter from Dennis Reidenbach, Director, Northeast Region, National Park Service (former Superintendent, Independence National Historical Park), to Congressman Robert Brady, June 5, 2009.



IN REPLY REFER TO
A36 (NER)

United States Department of the Interior

NATIONAL PARK SERVICE
Northeast Region
United States Custom House
200 Chestnut Street
Philadelphia, PA 19106

JUN 05 2009

The Honorable Robert Brady
Attn: Ashley Shillingsburg
U.S House of Representatives
Washington, D.C. 20515

Dear Mr. Brady:

Thank you for your letter dated April 27, 2009, to Secretary of the Interior Ken Salazar, regarding the concerns of the Constitutional Walking Tour (CWT) who operate at Independence National Historical Park (INDE). Your letter has been referred to my office for a response. I spoke with Park Superintendent Cynthia MacLeod about the issues you raised in your letter.

As you know, Independence National Historical Park has an excellent record of cooperation with tour operators and tourism organizations, from Once Upon a Nation to the Greater Philadelphia Tourism Marketing Corporation to the National Constitution Center. Whether working with horse carriage operators or "Ride the Ducks," INDE has worked very hard to accommodate tourism operations.

Your letter requests three specific actions. First, you request that a long-term agreement be established between the Independence Visitor Center Corporation (IVCC) and the CWT without requiring the CWT to sign a confidentiality agreement. Second, you request that the NPS issue a Commercial Use Authorization to the CWT. Third, you request that an Operating Agreement be executed between the NPS and the IVCC.

Regarding your first action item, we do not wish to harm our reputation for cooperation and partnership by coercing the Independence Visitor Center into making an agreement against their will. Likewise, we cannot compel the IVCC to waive their requirement of a confidentiality agreement when it is not discriminatory but is a requirement for all vendors in the building. Doing so could jeopardize our outstanding relationships with similar organizations, for example the National Constitution Center, who could see this as the "heavy hand of the federal government" exercising undue (and possibly illegal) influence in their internal affairs.

Your second action item is an area the INDE has explored in depth in an effort to cooperate with the CWT. Unfortunately, it is not a viable resolution to the dilemma facing Mr. Bari, due to the specific parameters of the commercial use authorization (CUA) statute (16 USC 5966). "In-

park" CUA's are limited to gross annual receipts of \$25,000 from operations in the park. "Out-of-park" CUAs do not have an income limit, but they must originate and terminate outside the park. The other businesses that you cite operate on City of Philadelphia streets, although contact is made with customers while standing on federal property. Mr. Bari's business would utilize the park differently from the ways that these other business do and therefore he would be restricted by the earnings limit. By following the rules, we are able to be fair to all operators.

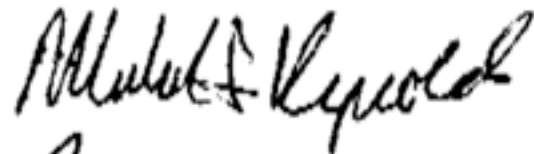
We certainly agree that your third item, execution of an Operating Agreement by and between the IVCC and the National Park Service, is an action that should happen expeditiously. While the legislation authorizing the Visitor Center allows for, but does not require, an Operating Agreement, the NPS is actively pursuing this agreement with the IVCC. We believe this agreement will best serve the purposes of the NPS, the IVCC and all members of the public who work with or use the IVCC.

As background, I am including copies of recent correspondence between Jonathan Bari of the Constitutional Walking Tour and the National Park Service (NPS). These letters show the history of the relationship and demonstrate that the National Park Service is following protocol, policy, regulations and law in responding to Mr. Bari's requests.

If you would like to further information, please contact Superintendent Cynthia MacLeod of Independence National Historical Park at (215) 597-7120.

Thank you for your continued support of the National Park Service and Independence National Historical Park.

Sincerely,



Dennis R. Reidenbach
Regional Director
Northeast Region

Enclosures