

From: '5.1.2,e'
Sent: Fri, 22 Sep 2023 16:20:50 +0200
To: "5.1.2,e @forca.com" <5.1.2,e @forca.com>
Subject: RE: Museum garden – 5.1.2,e response

Dear sir 5.1.2,e

Thank you for your mail and the machtiging.

We will keep you informed.

Met vriendelijke groet,

5.1.2,e
Senior Juridisch Medewerker

✘ Afdeling Vergunningen, Toezicht & Handhaving
✘ Stadsdeel Centrum
✘ Gemeente Amsterdam
☎ tel. 020-256 4861, mobiel; 5.1.2,e

5.1.2,e @amsterdam.nl
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Amstel 1, 1011 PN, Amsterdam
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Van: 5.1.2,e @forca.com <5.1.2,e @forca.com>
Verzonden: vrijdag 22 september 2023 15:42
Aan: 5.1.2,e <5.1.2,e @amsterdam.nl>
Onderwerp: Re: Museum garden – 5.1.2,e response

Dear Ms. 5.1.2,e

As per your request, I am sending you the signed machtiging of the director of the 5.1.2,e VvE 5.1.2,e

I would also like to take this opportunity to clearly state my complaint against 5.1.5. **My complaint is that 5.1.5 is violating the city's zoning plan by using its garden for commercial purposes** (prohibited by artikel 17.4.1 van het bestemmingsplan Westelijke Binnenstad); the noise and privacy nuisance from the Museum's allowing its visitors access to its garden is how that violation is manifested. My complaint is especially timely because the Museum plans on having **60,000 visitors** next year, all of whom can end up in its garden.

In its 8 August 2023 letter to the Museum, Handhaving stated that it would allow visitor access to the Museum's garden by calling it a verkeersruimte. I have raised the question about this interpretation of the use of the garden by the Museum in my previous correspondence. Museum visitors who enter the garden are not moving through it in order to get to another destination, which is the definition of a verkeersruimte (for example, a hall, or staircase in a building, or a path between buildings). There is no other destination – there are no other structures in the garden, with or without galleries, that visitors can walk to. **The garden itself is the destination**, another gallery of the museum which happens to be outdoors.

Museum visitors enter the garden, they walk around it, they take photos and selfies, they sit on the benches, they sip their drinks and coffees, they converse with each other – just like they would if they were inside the museum's walls, except they are now invading the peace and privacy of the neighborhood by speaking loudly (regardless of ineffective signs), and peering into and photographing the surrounding houses – then they reenter the museum again.

Making the garden another gallery of the museum is a commercial use of the garden. As I have noted in earlier communications, the museum itself markets the garden as part of the ticketholder's experience. The garden is [promoted on the Museum's website](#), and it's promoted on the advertising board in the street at the entrance of the Museum.

And I am not alone in wanting the Museum to stop its commercial use of its garden. A city commission – Ruimte en Duurzaamheid – has also sought to enforce artikel 17.4.1 van het bestemmingsplan Westelijke Binnenstad, and stated no visitors are to be allowed in the garden.

In January 2023, I filed a separate complaint with the Bezwaarschiffencommissie over the original construction of the fountain in the garden. That complaint was finally resolved on 8 September in favor of the Museum being able to build a fountain even though its statues violated zoning. However, since the noise and privacy nuisance of the museum's violation of the zoning code by using the garden for commercial purposes was not part of the complaint, the judgment justifiably and deliberately excluded comment on this from its ruling.

Nevertheless, the Bezwaarschiffencommissie ruling quoted from the report of the Ruimte en Duurzaamheid commission that was brought in to comment on the fountain and the garden. Ruimte en Duurzaamheid heard the complaint in a Zoom hearing, deliberated, then offered its report. They were so taken by what they learned of the use of the garden by the Museum, that the very first finding of its report to the Bezwaarschiffencommissie was (and the Bezwaarschiffencommissie quoted):

1. "De tuin zal een kijktuin moeten zijn, een tuin die je vanuit het museum kan bekijken.
2. "De tuin is alleen incidenteel te bezoeken, bijvoorbeeld tijdens de zgn. Open Tuinen Dagen."

The findings of Ruimte en Duurzaamheid on the commercial use of the garden are especially important since the beleidsplan van het museum 2023-2026 (5.1.5) states that it expects **60,000 visitors** next year – a staggering number to a garden space behind the houses on the Heren-, Keizers-, and Prinsengrachten which had remained quiet and private for centuries. And should remain so.

5.1.2,e

Machtiging

De ondergetekende

5.1.2,e

Geboren te Herten 5.1.2,e wonende te Fort Lauderdale , Florida
Eigenaar sedert 1juli 1986 van twee appartementen in het gebouw Amsterdam 5.1.2,e ,
en aldaar van tot tijd verblijvend .

ten deze handelende als voorzitter van de vereniging van Eigenaars 5.1.2,e te Amsterdam

verklaart volmacht te verlenen aan de 5.1.2,e , medebestuurder van gemelde vereniging ,
tot het maken van bezwaar bij de Gemeente Amsterdam tegen de wijze waarop de tuin van het pand
5.1.2,e gebruikt wordt door het in het pand gevestigde museum .

5.1.2,e

Mussidan , Frankrijk , 19 september 2023

5.1.2,e

On Sep 15, 2023, at 14:25, 5.1.2,e <5.1.2,e@amsterdam.nl> wrote:

Dear sir 5.1.2,e

Thank you for your letter dd 23 august 2023 and your email.
I was on holiday till the 4th of september .

In your letter you mentioned that the VVE of [redacted] is supporting your handhavingsverzoek. If that is the case, we will need a machtiging from the voorzitter van de VvE that you are gemachtigd to speak on there behalf as well.

We also received a letter from [redacted].

When we receive the machtiging from the VVE we will discuss this case at the Integrale adviestafel West. That will probably be on the 5th of oktober. (The integrale advies tafel only comes togheter one in two weeks, and the deadline for the meeting on the 15 of september already expanded). After this meeting, we will present this case to our dagelijks bestuur.

Het dagelijks bestuur will decide, with the advice from the integrale adviestafel West, what the final decision will be.

We prosponed our deadline to decide on your handhavingsverzoek on 4-8-2023. So we have to decide on tour handhavingsverzoek before 4 oktober.

Unfortunately, with this shedule we are not going to make it.

We apolizes for that but we have tot follow the schedule.

If you want you can hold us in contempt (ons in gebreke stellen) after the 4th of oktober. We then have tot decide within 14 days otherwise we have to pay ypu a dwangsom.

We are keeping you in the loop about our actions.

Met vriendelijke groet,

[redacted]

Senior Juridisch Medewerker

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✘ Gemeente Amsterdam

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Van: [redacted] [@forca.com](mailto:[redacted]@forca.com) <[redacted]@forca.com>

Verzonden: woensdag 13 september 2023 14:54

Aan: [redacted] <[redacted]@amsterdam.nl>

Onderwerp: Re: Museum garden – [redacted] response

Dear Mz. [redacted],

I am following up my email to you with the letter to Handhaving you encouraged me to write in August in reaction to the one Handhaving had sent to the Museum regarding my complaint.

Would you please inform me about the status of my complaint and the final decision of Handhaving with regard to the commercial use of the private garden space behind the houses on the Heren-, Keizers-, and Leidsegrachten by 5.1,5 .

Is there a deadline or schedule?

As the interested party, now representing the entire 5.1,2,e VvE, I would appreciate being kept in the loop about Handhaving's discussions and actions with the Museum with regard to this issue.

All best,

5.1,2,e

On Aug 7, 2023, at 14:37, 5.1,2,e <5.1,2,e @amsterdam.nl> wrote:

Dear sir 5.1,2,e ,

The report you sent us earlier is not the advies of the commission (bezwarencommissie). It is the opinion of the section Planning and Sustainability (Ruimte en Duurzaamheid). During the hearing the commission didn't talk about the issue if the use of the garden is conform the exististing zoning (bestemmingsplan).

The question if the use of the garden is conform the existing zoning will be discussed in your handhavingsverzoek. Our District Executive Board (Dagelijks Bestuur) believes that a museum can use its garden to let visitors take a walk in it.

As I mentioned on the phone; after my holiday we will make a respond on your handhavingsverzoek. In the meantime we are waiting for the reaction of the museum on our voornemen that we sent you on the 4 th of august.

You can also send us a reaction or photos if you want.

Regards

Met vriendelijke groet,

5.1,2,e

Senior Juridisch Medewerker

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Van: 5.1.2,e @forca.com <5.1.2,e @forca.com>
Verzonden: zaterdag 5 augustus 2023 17:44
Aan: 5.1.2,e <5.1.2,e @amsterdam.nl>
Onderwerp: Re: Museum garden

Hi 5.1.2,e

Thank for your reply, and a copy of the letter.

I understand that the commission's recommendations weren't finalized. However, the Museum had never applied for a permit to have public visits to the garden. The Museum applied for a permit to install a fountain in the garden. The commission was replying to my objection to that request. It agreed with the Museum that the fountain could go forward.

However, it did make note of my objection that the fountain was installed for commercial purposes to encourage patronage of the museum by including visits to its garden, and it stated that the Museum did not have permission to conduct visits to the garden because it violated existing zoning. It wasn't offering a decision on an exemption to that zoning so that the Museum could conduct tours, because that wasn't the issue being discussed, because the Museum didn't apply for an exemption. The commission was stating that current zoning doesn't allow visitors in the garden, and that the garden can only be for viewing from the museum itself.

Again, the commission wasn't making a recommendation about whether or not to allow the Museum to conduct visits in the garden, because that wasn't what was being asked of it. It was simply stating that the Museum never had permission to conduct in person visits to its garden in the first place, because existing zoning already prohibited visits – except on Open Garden Days.

Is the commission wrong?

Best,

5.1.2,e

On 04 August 2023, at 12:41, 5.1.2,e
<5.1.2,e @amsterdam.nl> wrote:

Geachte 5.1.2,e dear sir 5.1.2,e,

Thank you for your email.

This report you sent me is not a final decision on your objection against the permit for the fountain. It is not a beslissing op bezwaar. So it is not the decision of our dagelijks bestuur.

I mailed the secretary of the bezwarencommissie if there is a beslissing op bezwaar already.

Hereby the letter we sent to the museum. The museum has two weeks to react on this matter.

Met vriendelijke groet,

5.1.2.e

Senior Juridisch Medewerker

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Van: 5.1.2.e @forca.com <5.1.2.e@forca.com>

Verzonden: vrijdag 4 augustus 2023 11:34

Aan: 5.1.2.e <5.1.2.e@amsterdam.nl>

Onderwerp: Museum garden

5.1.2.e

Good talking with you this morning. Thank you for your kindness in speaking English.

Here's a copy of the Commission report. The very first point addresses our issue.

"De tuin zal een kijktuin moeten zijn, een tuin die je vanuit het museum kan bekijken. De tuin is alleen incidenteel te bezoeken, bijvoorbeeld tijdens de zgn. Open Tuinen Dagen."

I will send you photos of the garden over the next few days.

Thanx again.

Have a great summer.

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