

Chancellor Block's February 8, 2012 op-ed in the Daily Bruin. The family's response is in bold italics.

Block: UCLA's planned sale of the Hannah Carter Japanese Garden has generated an unusual volume of commentary from our neighbors in Bel Air and conservation- and preservation-minded individuals and groups. I am dismayed by mischaracterizations of our motives and concerned about the misunderstanding of facts. I feel compelled to clarify key issues.

Regent Carter did not own the garden. The university purchased the garden from a third party using resources Carter made available in a 1964 gift agreement. He also made a commitment to donate the adjoining residence following his death.

We agree. Ed Carter gave UCLA appreciated stock with the specific request they use it to buy the garden from the original creator and owner of the garden, the Guibersons. UCLA accepted the gift of stock and agreed to buy the Garden.

Block: The 1964 agreement made clear that the university could sell both the residence and the garden if it did not wish to use the home as a chancellor's residence or guest house for campus visitors. When donors make gifts of property, formal agreements routinely envision a day when the university would no longer find it practical to retain the property.

This first agreement does not apply as the later agreements completely superceded the first.

Block: A 1982 agreement with Carter said the university would sell the residence and use proceeds from the sale to establish a \$500,000 endowment to maintain the garden. The agreement also said the university would use the proceeds to fund professorships and endowments specified by Carter. The remaining proceeds would be unrestricted and available for campus priorities such as scholarships and fellowships. The agreement also named the garden for his wife, Hannah, though she was not a party to the agreement.

This 1982 agreement also importantly stated the following:

- 1. That the funds were to be used in priority order.***
- 2. That the first priority was to be establishment of an endowment for the Garden.***
- 3. That the Garden be maintained IN PERPETUITY from this endowment.***
- 4. And that the Chancellor use any remaining funds from the eventual sale of the house to adjust all the endowments to an appropriate level, including both the garden and the professorships. Clearly \$500,000 is not an adequate endowment for the garden in today's***

deflated dollars. And clearly there will be sufficient funds from the sale of the house alone to fund an entirely adequate garden endowment, in addition to funding all the academic professorships plus provide a remainder for the University's general fund.

Block: Since 1982, it has become clear that Carter's vision for the garden could not be achieved.

While Ed and Hannah Carter would have wished for UCLA to fully utilize the garden for any number of activities to benefit UCLA, the students and the community, UCLA has failed to develop a dynamic and robust plan to use the Garden to its potential. As Chancellor Block points out, UCLA has owned the Garden for almost 50 years. It was and still is their responsibility to make productive use of this special asset.

Block: In 1993, UCLA determined that the garden did not serve a teaching or research purpose.

In 1993, the Dean of the Life Sciences Division, Fred Eiserling, wrote that, because of "successive budgetary reductions", the responsibility for the garden should be transferred elsewhere. Because of a lack of a long term plan for the use and future of the Garden, it has been shuttled from one Department to the next like an unwanted orphan child, a victim of internecine budget battles.

Block: The campus and Carter also learned in 1989 that the area used for parking was not owned by the university but in fact by an adjacent property owner.

The parking has been restricted since day one. It is in a residential neighborhood. UCLA has missed opportunities to secure the parking there. UCLA provides shuttle service to off campus locations such as the Clark Library, 13 miles distant. It could easily do the same for the Garden, one mile away.

Despite the known challenges, UCLA renewed the agreement one more time in 1999, and Hannah Carter was a party to that agreement, as Ed Carter had passed away.

And despite the parking challenges, the opportunity to visit the Garden has been highly sought out by students and thousands of visitors from around the world.

Block: In addition, it became clear that payout from the garden-maintenance endowment would not generate enough revenue to cover maintenance costs, leaving an annual shortfall of approximately \$100,000.

We agree. The \$500,000 endowment stipulated in 1982 is not sufficient. And the house, the source of funding for that endowment, is several times more valuable now than it was in 1982.

Block: For all these reasons, we concluded we could no longer continue to own the garden while achieving Carter's vision.

The "vision" was that the Garden be maintained IN PERPETUITY, similar to the art residing in the Fowler museum.

Publicly available documents indicate UCLA has been having internal discussions regarding the possible sale of the garden since at least 2009. UCLA could have sold the house at the top of the real estate market, as early as 2006 when Hannah Carter left the home.

Coincidentally, just three days after Hannah Carter passed away in 2009, an internal budget committee issued a report lumping the Garden into a category called "surplus real estate", along with a piece of cliffside falling into the sea and a toxic industrial property.

This "Report of the Revenue Task Force", while acknowledging the "in perpetuity" requirement, stated that research indicated it could be sold. "There would likely be some political ramifications from various groups about the sale of the Garden as a potential building site." It goes on to say the estimated sale price with restrictions to keep it as a garden would be \$3.4mm, but would fetch \$5.7mm if there were no restrictions.

Block: Accordingly, we sought and received permission from a Superior Court judge to sell the garden.

In July, 2010, UCLA petitioned the court with no dissenting opinions because of the "political ramifications" above. In the very first sentence of the petition to the court, UCLA stated, "Petitioner respectfully requests this Court to authorize the sale of real property, in deviation from an agreement with the donor who funded its purchase."

Block: Before publicly announcing our decision to sell the garden, we reached out to interested parties, including the executor of Carter's estate, preservation-minded groups and individuals, leadership of the Bel-Air Association and UCLA faculty representatives.

None of the family or any of the nine major conservation groups who have formed the Coalition to Save the Hannah Carter Japanese Garden was contacted. We were all easily available. UCLA has refused to disclose who they contacted or consulted. The trail revealed above shows that UCLA

knew full well they needed to keep this potential transaction under the radar of students, alums and citizens who treasured this piece of art.

Block: Could UCLA have done a better job evaluating the garden's utility as an academic resource before agreeing to maintain it in perpetuity? Yes. Could we have done a better job communicating with interested parties? Yes.

Now is the time to correct those errors in judgment. UCLA has refused to engage in constructive, collaborative dialog with the Coalition, despite the demonstrated track record of this group in constructing public/private partnerships to save endangered gardens.

Block: But to allege that we have been underhanded and disrespectful is false. This overheated rhetoric is unfortunate and non-constructive. These are complex issues involving decades-old real estate transactions and gift agreements, and reasonable people can disagree.

Chancellor Block and the Regents have received more than 2,500 calls, letters and petition signatures respectfully requesting that UCLA consider a different course for the Garden. Unfortunately the rhetoric has become overheated because UCLA has refused to discuss appropriate alternative solutions. And because UCLA has been able to use their position to spin their current plan with the larger Los Angeles community, as this rebuttal makes clear. Chancellor Block's op-ed here is a clear example.

The original intent and the language of the agreements are plain for all to see. Dozens of internal UCLA memos acknowledge the "in perpetuity" requirement, and the priority of funding the endowments. Yes, we agree, in the context of UCLA's current budget shortfall, the Garden can be perceived as an inconvenient expense because it has not been appropriately utilized and managed.

Block: Carter's son Bill Carter said in a recent unsolicited letter that his father would have understood the reasons for the sale, contrary to the position taken by one of Mrs. Carter's children.

This is a twisted distortion of a letter in which Bill Carter stated, "One of Dad's greatest gifts was his ability to work out win-win solutions fulfilling all parties' long term interests. Perhaps he would have found a third way in this case. "

Block: Both the Los Angeles Times and the Daily Bruin published editorials supporting our decision to sell, agreeing that our limited resources are best directed toward our academic mission and not maintaining a public garden in a residential neighborhood with no parking. Simply put, we are selling the garden because it is in the best interests of the university.

In our opinion, this is an extraordinarily narrow view of “best interests.” In terms of cold hard cash, yes certainly.

However, UCLA is not solely a business. This is an institution which purportedly does have a much broader vision of its mission. Among many lofty goals, UCLA’s mission statement reads:

“Civic engagement is fundamental to our mission as a public university. Located on the Pacific Rim in one of the world’s most diverse and vibrant cities, UCLA reaches beyond campus boundaries to establish partnerships locally and globally. We seek to serve society through both teaching and scholarship, to educate successive generations of leaders, and to pass on to students a renewable set of skills and commitment to social engagement.”

The one time income from the sale of the Garden appears to be one tenth of one percent of UCLA’s annual budget. What piece of art will they sell next year to close the budget?

Block: Recently, we have been asked to work with interested parties to preserve the garden. We are hopeful that the garden will be purchased by a group or an individual committed to its preservation. We delayed the planned sale by several months to allow preservation groups the opportunity to catalog and photograph the garden and to consult those with means to bid on the property. The university has structured a fair and equitable bidding process, consistent with the laws governing the sale of university property. However, we will not place restrictions on the garden’s future use, because that would significantly diminish its value at sale. I also must emphasize that the lack of any parking makes it extremely difficult to operate the garden as a public resource.

We expect to release the bid packages for the Carter estate and garden later this month and to open the bids in May. As much as I wish we were in a position to partner with others to preserve the garden, the unfortunate reality is that UCLA has been severely impacted by dramatic reductions in state support and must sell the property. Above all else, our priority must be to ensure our ability to provide affordable, high-quality education and conduct research in service to the state, the nation and the world. It’s clear the community values the Japanese garden; now is the time to marshal resources and submit a bid.

UCLA is making a clear choice and a Las Vegas bet.

They could choose to partner with the Coalition to find a collaborative solution. They could choose to place the property on the market to preserve it as a garden. They have chosen neither of these preferable options.

UCLA is betting that the income from selling the Garden to the highest bidder as a property that could be destroyed for development will be worth more than

a) the loss of future donations from alums and other donors, angry with this betrayal of donor intent and

b) the loss of moral leadership and respect from a clearly manipulated decision for short term gain.