

MEMORANDUM

April 27, 2017

TO: Review Board

FROM: T. Jeremy Gunn

SUBJECT: Pros and Cons of a Taking Versus a Negotiated Settlement of the Zapruder Film

In response to Kermit's request at the last Board meeting, I am forwarding this list of some of the pros and cons of the available options for the Zapruder film.

I. The "Takings" Option

A. Pros:

1. The Review Board will have attempted to ensure that:

the US government would have control over the most famous piece of evidence related to the assassination;

the US government would be able to conduct forensic examination of the camera original film now and in the future (with as yet undiscovered methods); and

the Zapruder Film would be kept intact and would be preserved under the highest archival standards.

2. The Review Board would be applauded by those who believe that the film should be owned by the US government (regardless of price and regardless of Congressional intent).

B. Cons:

1. The Review Board risks the decision by the Department of Justice or the Court of Federal Claims that it has exceeded its legal authority and that it does not have a takings power. The consequences of such a determination would include:

the US government would be required to return the original film to the Zapruder family upon demand;

the US government could conduct no forensics tests on the camera original film;

the US government would lose the opportunity to make a high quality digitized copy of the film; and

the US government would be unable to distribute copies of the film at cost.

2. The Review Board risks incurring the opprobrium of Congress and the taxpayers who may be required to pay for the film (potentially between 13.9 and 30 million dollars).
3. The Review Board risks the possibility of protracted litigation where the rights of the parties to the Zapruder film may not be decided for a lengthy period of time.
4. The US government would not be able to obtain the early high-quality copies of the film that may have more evidentiary value than the original.

II. The Negotiated Arrangement Option

A. Pros:

1. The Review Board would ensure that the US Congress, the institution that has the clear authority to take the film, would have the opportunity to make an informed decision of whether the US Government should acquire the film for a price established by the marketplace and not by the courts or by "experts."
2. A negotiated settlement along the lines currently outlined would:
 - allow for immediate forensic tests to be conducted on the film;

Memorandum to the Review Board

February 26, 1997

Page 3

allow a cost-free high quality copy of the film to be made immediately and would permit copies to be distributed at cost to the public; and

receive the cooperation of the Zapruder family for obtaining the early high-quality copies of the film that may have more evidentiary value (albeit less "trophy" value) than the original.

B. Cons:

1. Although the Review Board could attempt to ensure that the film would be preserved (by means of a "flow-down clause" in the agreement), it would not necessarily be able to guarantee that the film would be preserved.
2. The Review Board would risk the opprobrium of the public for having not acted directly to ensure that the original film be kept by the US Government.