

**Re:** Berkeley Law's Proposal to Remove the Name from Boalt Hall

**From:** The Building Name Review Committee

**To:** Chancellor Carol Christ

Dear Chancellor Christ:

The Building Name Review Committee has evaluated the proposal from Berkeley Law Dean Erwin Chemerinsky to remove the Boalt name from the law school's main building. After studying Dean Chemerinsky's proposal, collecting comments from more than six hundred members of the UC Berkeley and Berkeley Law communities, and carefully evaluating the evidence, our committee voted unanimously to recommend that the name be removed. We also voted unanimously to recommend that Berkeley Law present the relevant history as part of a commitment to restorative justice, as discussed in more detail below.

In this letter, we discuss the committee's history, our principles, our procedures, Berkeley Law's proposal, our committee's outreach and deliberations, and whether the original contribution - which resulted in the naming of Boalt - was honorary or philanthropic.

### **The Committee's History**

In the spring of 2017, the Building Naming Project Task Force - convened by former Chancellor Nicholas Dirks - submitted a series of recommendations in response to concerns from the community about potentially problematic building names on the Berkeley campus. One of the recommendations was to set up a formal Building Name Review Committee, whose charge would be to:

1. Create and maintain a process and mechanism for members of the UC Berkeley community to submit proposals to un-name a building;
2. As needed, convene to review and assess proposals; and
3. Submit a recommendation on each proposal to the Chancellor.

The Building Name Review Committee was then formed by Chancellor Christ, composed of faculty, staff, graduate students, and undergraduate students. The committee initially met January 25, 2018. In this meeting, we discussed the committee's charge to establish a set of principles and a process by which community members could propose names to be removed from campus buildings.

At our second meeting on February 22, 2018, we agreed on the principles by which we would consider removing a name from a building, and began the task to draft a set of procedures. These procedures were approved by the committee on March 8, 2018, and submitted to the Chancellor for approval. On May 17, 2018, the Chancellor informed the University community that the committee's procedures were posted on the Chancellor's office website, and that proposals for removing a building name could be submitted.

## **Building Name Review Committee Principles**

Our principles are summarized as follows:

The legacy of a building's namesake should be in alignment with the values and mission of the university. The values of UC Berkeley are expressed in our [Principles of Community](#).

In deciding whether to remove a building name, we believe that the committee should be guided by two principles:

1. As stated in the [Regents of the University of California Policy 4400: University of California Diversity Statement](#):

*[T]he University of California renews its commitment to the full realization of its historic promise to recognize and nurture merit, talent, and achievement by supporting diversity and equal opportunity in its education, services, and administration, as well as research and creative activity. The University particularly acknowledges the acute need to remove barriers to the recruitment, retention, and advancement of talented students, faculty, and staff from historically excluded populations who are currently underrepresented.*

We view it our intellectual and ethical responsibility to promote an inclusive, global perspective of the peoples and cultures of the world, particularly in view of past and current scholarship in the United States that may omit, ignore, or silence the perspectives of many groups, such as ethnic minorities; people from non-European nations; women; lesbian, gay and transgender people; and disabled people; among others.

2. Whether or not a building's name is removed, we believe it is historically and socially valuable to retain a public record, perhaps in the form of a plaque in the building, that notes the building's history of naming and the reasons for removing the name.

## **Building Name Review Process**

Per the process established by the Building Name Review Committee, once the committee receives a proposal it initiates a review. The proposal must make a strong, stand-alone case for why a building name should be removed. That is, the case must be adequately documented and reasoned such that, in the absence of any evidence or reasoning to the contrary, a majority of the committee is willing to remove the name. If a proposal fails to establish a stand-alone case or is otherwise incomplete, the committee will inform the proposer what additional information or reasoning is necessary to meet the necessary criteria for the case to go forward.

Once a case does go forward, the review process includes wide-spread dissemination of the proposal via emails and posts on Berkeley websites, a comment period, the posting of

comments, time for additional research or public meetings (if needed), and finally a report with recommendations for the Chancellor about the proposal.

## **Boalt Proposal**

John Boalt - a judge and attorney in the late 19th century - is connected to Berkeley Law because in 1906 his wife Elizabeth Josselyn Boalt offered to pay for a building memorializing him to house the campus's growing Department of Jurisprudence.

The day after Erwin Chemerinsky was appointed to be the next Berkeley Law dean in May of 2017, [an article appeared in the \*San Francisco Chronicle\*](#) by attorney and Berkeley Law lecturer Charles Reichmann. According to the article:

In 1877, [John] Boalt delivered an influential address, "The Chinese Question," at the Berkeley Club. He argued that never before in history have two non-assimilating races lived in harmony unless one enslaved the other. That the Chinese could never assimilate was self-evident to Boalt: Americans look at the Chinese with "an unconquerable repulsion which it seems to me must ever prevent any intimate association or miscegenation of the races." Boalt invoked the alleged criminality, intellectual differences, cruelty and inhumanity of the Chinese, and mused it would be better to "exterminate" a strongly dissimilar race than assimilate it.

John Boalt also made racist comments about black and Native American people. (See Attachments A, B, C and Charles P. Reichmann's longer article, "Anti-Chinese Racism at Berkeley: The Case for Renaming Boalt Hall," *Asian American Law Journal at Berkeley Law*, Vol 25, 2018, <https://doi.org/10.15779/Z38FX73Z11>.)

Prior to the publication of Reichmann's pieces, it appears that John Boalt's views were not well known to members of the campus or law school.

In the fall of 2017, before our committee had finalized official campus procedures for how to request that a building's name be removed, Berkeley Law initiated its own review of the Boalt name. Dean Chemerinsky formed a five-person committee, which included a faculty member, a senior administrator, a staff member, an alumna, and a law student, to consider whether to remove the name. The committee solicited and received over 2,000 comments, engaged in historical research, and held a public forum. At the forum on February 1, 2018, a video prepared by law school students was shown discussing how they were adversely affected by the Boalt name. The discussion started with three alumni who presented differing views. Then members of the audience were given the opportunity to speak. The participants demonstrated the best of university discourse. The discussion was civil and informative, and every speaker was applauded, regardless of viewpoint.

After the Berkeley Law Committee on the Use of the Boalt Name report (*see Attachment D*) was circulated, the dean received several hundred additional messages. Berkeley Law then

collected thousands of additional comments from alumni. In short, the law school conducted the type of informed debate that our committee's procedures require.

On November 30, 2018, Dean Chemerinsky submitted a proposal to our committee on the "Proposed De-naming of Boalt Hall" (*see Attachment E*). He reported that of the comments he received, about 60% favored eliminating the use of the Boalt name and about 40% wanted to keep it. In addition, some of the respondents suggested changing the name of the building to honor Elizabeth Josselyn Boalt, John Boalt's wife and the person who - in John's honor - gave UC Berkeley the money that led to the law school's expansion.

### **Our Committee's Outreach and Deliberations**

On March 21, 2019, a campus-wide announcement informed the UC Berkeley community that the proposal from Berkeley Law was posted on our website and that comments on the proposal were encouraged.<sup>1</sup> Because it was impossible for the committee to meet during the summer recess, we decided to allow the comment period to extend until the fall semester.

In total, about 620 responses were collected through our website's feedback form. 59% of the collected responses were in favor of Dean Chemerinsky's proposal to remove the name, and 40% of the collected responses opposed the dean's proposal - almost perfectly mirroring the percentages seen in the feedback gathered by the law school.

When the Fall 2019 semester began, our Building Name Review Committee replaced several members: a faculty member who had retired, a staff member who had left the university, and student representatives who had graduated. Once the committee had a full complement of members, we met on Monday, October 7, 2019. Present were Ari Chivukula, Mike Dirda, Paul Fine, James Ford, Alex Mabanta, Jeff Perloff, Melvin Tangonan, Victoria Vera, Frank C. Worrell and *ex officio* committee members, Therese Leone and Nancy McKinney,.

Our committee discussed the Berkeley Law proposal, and all of the arguments in favor of and opposed to removing the Boalt name from the building. We reviewed additional arguments that were not in Dean Chemerinsky's proposal but were put forward by the commenters.

We considered how our principles and processes were aligned with the Boalt proposal. Our committee did not feel that additional research was necessary because the law school did an excellent job of collecting the relevant information on all sides of the debate, and this case does not involve any disputes about the basic facts about John Boalt.

The key facts as they relate to the information required by our procedures are that

1. John Boalt made racist statements and was a California leader of a move to end Chinese immigration. As Dean Chemerinsky stated, "Those views are obviously abhorrent and antithetical to who we are as a law school." Boalt's statements and actions are similarly inconsistent with the University's principles.

---

<sup>1</sup> The delay was due to staff turnover in the Vice Provost for Academic Planning office and problems setting up our campus website to accept comments.

2. No evidence exists that John Boalt made any contributions to society sufficient to counterbalance these positions.
3. John Boalt had no connection to the University.
4. Our process asks us to review previous efforts to remove a building name in question. No evidence exists that there was any concerted effort on the Berkeley campus to contest the Boalt name prior to 2017.

The only dispute concerns whether members of the University community would be adversely affected if the name of Boalt Hall is retained or removed. Many law students, alumni, and others have stated that they are upset or offended by the use of the Boalt name. Many other alumni strongly associate the name with their Berkeley Law experience and would be upset if the name were removed.

During our deliberations, every member of the committee expressed an opinion. (Fabrizio Mejia and Laura Perez, who could not attend in person, submitted written comments, which were read at the meeting.) The committee voted unanimously on two key decisions.

1. We recommend that the name be removed from Boalt Hall.
2. Our recommendation to de-name Boalt Hall is not a suggestion that the legacy of John Henry Boalt or the donation of Elizabeth Josselyn Boalt be forgotten. The de-naming is an acknowledgement that their history cannot and should not be summated in the space of a building name. It is incumbent upon the University of California, Berkeley, School of Law to engage publicly with Mr. Boalt's racism, Mrs. Boalt's philanthropy, and why our community removed the name from the building. While we are not prescriptive in the exact form this engagement takes, we know it must be done as part of a commitment to restorative justice. This is an opportunity to transform the building into a place of communal, cultural healing and to assert the centrality of Berkeley values in every aspect of the campus community.

### **Honorary Versus Philanthropic**

The naming of physical spaces, including buildings, at Berkeley is subject to the University of California's [Policy on Naming University Properties, Academic and Non-Academic Programs](#). This policy includes two provisions that are pertinent to the committee's consideration of the proposal to remove the building name from Boalt Hall.

The first is that the naming of buildings on University of California properties is the purview of the President. As such, a recommendation by our committee to the Chancellor to remove a building name cannot be acted upon by the Chancellor; the Chancellor will need to make a further recommendation to the President in order for action to be taken.

Second, the policy makes a distinction between namings that are *honorific* and those that recognize individuals' *philanthropic* gifts, either with their own names or others that they wish to honor. The President has complete jurisdiction over the matter of honorific naming, but any action regarding philanthropic namings must be taken in consultation with the California State

Attorney General because philanthropic gifts are administered in accordance with the trust laws of the State.

The Committee on the Use of the Boalt Name convened by Dean Chemerinsky did extensive research into historical documents and concluded that the Boalt case is an honorific naming. The conclusion was based, in part, on the fact that the 1951 building is not the original Boalt Hall; the building now known as Durant Hall is the original Boalt Hall.

University Development and Alumni Relations (UDAR) and the UC Office of the President - Office of Institutional Advancement (UCOP-IA) have for their part reviewed historical documents pertaining to Boalt identified by the Office of the Secretary of the Regents and located in the University Archive. Unfortunately, an executed copy of Elizabeth Josselyn Boalt's gift agreement has not been located, perhaps due to disruption and loss experienced as a result of the 1906 San Francisco earthquake. UDAR and UCOP-IA have decided, therefore, that it is impossible to determine with absolute certainty the nature of this naming, and UCOP-IA will coordinate the involvement of the California State Attorney General if the Chancellor agrees to recommend to the President that the Boalt name be removed.

Chancellor Christ, thank you for your support for our committee and its important work. We look forward to your response to our recommendations, which we believe will help UC Berkeley acknowledge its past while becoming more inclusive and supportive of today's community.

Sincerely,

Paul Fine, Professor, Integrative Biology (Co-Chair)

Jeffrey Perloff, Professor, Agricultural and Resource Economics (Co-Chair)

Fabrizio Mejia, Assistant Vice Chancellor for Student Equity and Success, Equity and Inclusion

James Ford, Chief of Staff, Academic Planning

Frank C. Worrell, Professor, Graduate School of Education

Laura Perez, Professor, Ethnic Studies

Melvin Tangonan, ASUC Senator

Victoria Vera, ASUC Diversity Affairs Commission Chair

Ari Chivukula, Berkeley Law, & GA Project Director - Queer and Transgender Advocacy

Alex Mabanta, Berkeley Law & GA Legislative Affairs Director

Therese Leone, Deputy Campus Counsel (ex-officio)

Nancy McKinney, University Development and Alumni Relations (ex-officio)

Michael Emerson Dirda, Office of Communications and Public Affairs (ex-officio)

Attachments:

- Attachment A: THE CHINESE QUESTION: A PAPER READ BY JOHN BOALT BEFORE THE BERKELEY CLUB, John Boalt; August, 1877
- Attachment B: CHINESE CRIMINALS: JUDICIAL AND LEGAL OPINIONS ON THE SUBJECT. John Boalt; San Francisco Chronicle; May 3, 1882
- Attachment C: THE FEDERAL JUDGES: THEIR ATTITUDE AS TO THE CHINESE. John Boalt; San Francisco Chronicle; Sep 3, 1888
- Attachment D: Berkeley Law Committee on the Use of the Boalt Name, June 25, 2018
- Attachment E: Proposed De-naming of Boalt Hall, November 30, 2018