

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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In the Matter of the Application of

Index No.:

THE OLD MERCHANTS HOUSE OF NEW  
YORK, INC. and MARGARET HALSEY  
GARDINER,

Petitioners,

- and -

For a Judgment Pursuant to Articles 63 and 78 of  
the Civil Practice Law and Rules,

- against -

NEW YORK CITY LANDMARKS  
PRESERVATION COMMISSION and  
KALODOP II PARK CORP.,

Respondents,

- and -

The Historic House Trust of New York City,  
City of New York and New York City  
Department of Parks and Recreation,

Nominal Respondents.

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Petitioners The Old Merchants House of New York, Inc. and Margaret Halsey Gardiner (collectively, "Petitioners"), as and for their Verified Petition herein ("Petition"), by and through undersigned counsel, allege as follows:

**NATURE OF THE PROCEEDING**

1. By this Proceeding, Petitioners challenge the grant of a certificate of appropriateness

(“CofA”), issued by Respondent New York City Landmarks Preservation Commission (“LPC”), by which Respondent Kalodop II Park Corp. (the “Developer”) was granted permission to construct an eight-story hotel (“Proposed Hotel”) at 27 East 4th Street, New York, New York (“Adjacent Property”), directly adjacent to the Merchants House Museum, located at 29 East 4th Street in New York, New York (“Merchants House” or the “Museum”). The Museum comprises a fully-intact 19th Century residence that has been recognized as a precious, one-of-a-kind landmark property at the Federal, State and City levels of government.

2. As demonstrated below, the LPC issued the CofA based upon clear errors of fact and law. If the CofA were to remain uncorrected and the Proposed Hotel constructed, the Museum would sustain catastrophic, irreparable harm, including the possible collapse of the Museum building itself (“Museum Building”), destroying a last-of-its-kind landmark and the Museum’s entire historic collection preserved therein for nearly 200 years. For these and the reasons set forth below, Petitioners are entitled to prompt reversal and annulment of the CofA, and a permanent injunction, restraining and enjoining any excavation and/or construction with respect thereto.

## **PARTIES**

### ***Petitioners***

3. Petitioner The Old Merchants House of New York, Inc. is, and at all relevant times has been, a non-profit corporation, organized and existing under the laws of the State of New York, County of New York (“Trust”), with a principal location at 29 East 4th Street in Manhattan.

4. The Trust owns all of the Museum Building’s contents, which consist of the fully-intact furnishings, fixtures, and personal effects (“Historic Contents”) of the Tredwell Family. The

Tredwell Family acquired the Merchants House in 1835, and lived there until the early 20th Century, when it was preserved as the Museum.

5. Petitioner Margaret Halsey Gardiner is, and at all relevant times has been, a resident of the City and State of New York, and the Executive Director of the Museum.

### ***Respondents***

6. Respondent LPC is, and at all relevant times since 1965 has been, an agency of the City of New York (the “City”) and the largest municipal preservation commission in the nation. It is charged with the responsibility of protecting the City’s architecturally, historically, and culturally significant buildings and sites by granting them landmark or historic district status, and by regulating, preserving and protecting them in accordance with the Landmarks Law once they have been so designated.

7. Respondent Developer is, and at all relevant times has been, a corporation organized and existing under the laws of the State of New York, with places of business at the Adjacent Property and at 250 West 26th Street, New York, New York (the “Developer”).

8. As discussed in greater detail below, the Developer has filed paperwork with assorted City agencies and departments to obtain permission to construct the Proposed Hotel.

9. Nominal Respondent City is, and at all relevant times has been, a municipal corporation under General Construction Law §66(2). It is the governmental body charged with oversight responsibility for public affairs and public lands within the City’s five boroughs.

10. Upon information and belief, the City owns the Museum Building and the property upon which it was built (“Museum Property”).

11. Nominal Respondent New York City Department of Parks and Recreation (“Parks”) is, and at all relevant times has been, a department of the City, and is the steward of more than 30,000 acres of land — 14 percent of New York City — including more than 5,000 individual properties ranging from Coney Island Beach and Central Park to community gardens and Greenstreets (“Parks”). In addition, Parks “care[s] for 1,200 monuments and 23 historic house museums.”<sup>1</sup>

12. Upon information and belief, among the historic house museums Parks “care[s] for” is the Merchants House.

13. Upon information and belief, Parks is charged by the City with the responsibility of maintaining and preserving the Museum Building and its rear yard (“Rear Garden”).

14. Upon information and belief, the Museum’s Rear Garden and the land upon which the Museum is situated is, and at all relevant times has been, designated New York City parkland.

15. Upon information and belief, Nominal Respondent The Historic House Trust of New York City (“Historic House Trust”) was formed in 1989 as a public-private partnership with Parks to “advocate[] for, promote[], and provide[] expertise to preserve 23 publicly owned historic sites located throughout the city’s five boroughs,” with a primary location at 830 Fifth Avenue, New York, New York.

16. Upon information and belief, the Museum is among the historic sites with which the Historic House Trust has been charged with preserving.

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<sup>1</sup><https://www.nycgovparks.org/about>.

## CLAIM FACTS

### *Museum Building, its Construction and the Tredwells*

17. The Merchants House was constructed in 1832.
18. Consistent with then-contemporary engineering principles, the Museum Building was constructed on a rubble foundation (“Rubble Foundation”).
19. Upon information and belief, the subterranean material beneath and surrounding the Rubble Foundation, and underneath the Adjacent Property, consists of, *inter alia*, soft soil composition, silt, clay and other “sandy-soil” conditions (“Unstable Subgrade Conditions”).
20. The Unstable Subgrade Conditions and Rubble Foundation render the Merchants House especially vulnerable to disturbance and damage caused by neighboring construction activities, particularly due to foundation settlement, soil migration, and vibration (“Dangers to the Museum”).
21. Although considered a sturdy edifice in its day, the Museum Building, as one of the few remaining early 19th Century residential row houses left in New York City, is extremely fragile, and is thus susceptible to catastrophic damage (“Museum Building Fragility”).
22. The Merchants House was purchased by Mr. Seabury Tredwell in 1835.
23. The Merchants House was the residence of members of the Tredwell Family and their servants until 1933, when its last resident, Gertrude Tredwell (Seabury’s daughter), died.
24. Before she died, Gertrude, an instinctive museum curator, changed nothing on the interior of the Merchants House and kept everything. Thus, the Merchants House's American Federal and Empire period furniture, almost all of it purchased before 1860, still graces the interior. Likewise, 19th Century dresses on display at the Merchants House also illustrate the Tredwells' taste

and style (National Register of Historic Places - Inventory Form., Exh. 1). The Merchants House, with its Historic Contents, having been carefully preserved since the 19th Century (first by Gertrude and thereafter by curators and others dedicated to preservation), is a veritable time-capsule -- an extraordinary lens through which visitors can see and experience with unparalleled authenticity what life was like in mid-19th Century New York City.

25. A critical feature of the Museum and a component of the Historic Contents is the 19th Century historic plaster which still adorns the walls of the Museum Building's interior ("Historic Plaster"). As with the other Historic Contents, the rare Historic Plaster is irreplaceable and represents an architectural fossil of 19th Century New York City.

26. After Gertrude died, the Merchants House was transferred to George Chapman, Gertrude's cousin, who saved it from foreclosure. In 1936, Mr. Chapman converted the Merchants House into the Museum it is today.

27. The Museum Property and the Museum Building are, as set forth *supra*, owned by the City.

28. As also referenced *supra*, the Rear Garden is owned by the City and administered by Parks.

29. The Historic House Trust serves as liaison between the Merchants House and the City, and advocates for the continued preservation of the Museum, including its Historic Contents.

#### ***Designations of the Merchants House***

30. In 1965, the Merchants House was the first building in Manhattan to be designated a New York City Landmark under the New York City Landmarks Law ("Landmarks Law").

31. In connection with its designation of the Merchants House, the LPC issued a

Designation Report, which described the Merchants House in pertinent detail:

The building has existed for 130 years in its original state, inside and out. The house is a unique document of its period; it shows with unrivaled authenticity how a prosperous merchant of the 1830's lived. In addition, the building is a fine example of New York architecture of the Greek Revival period.

See Designation Report, Exh. 2.

32. The Designation Report further recites, *inter alia*, that:

the Old Merchants House is one of the expressive buildings in its area showing the character of urban New York in the 19th century .... The curator of the American Wing of the Metropolitan Museum of Art evaluated the building as “a unique, and I stress the word unique, survival in the City of New York .... It remains today inside and out a perfect example of Greek Revival domestic architecture and style .... The preservation of the house with its contents is of the utmost importance for both historical and aesthetic reasons.

*Id.*

33. The Designation Report also contains the following Findings and Recommendations, which were later accepted by the LPC's Commissioners:

#### **FINDINGS AND DESIGNATIONS**

On the basis of a careful consideration of the history, the architecture and other features of this building, the Landmarks Preservation Commission finds that the Old Merchants House has a special character, special historical and aesthetic interest and value as part of the development, heritage and cultural characteristics of New York City.

The Commission further finds that, among its important qualities, the Old Merchants House stands as one of New York City's outstanding landmarks because of its remarkable state of preservation, its excellent representation of Greek Revival architecture and its notable presentation of the life of a prosperous merchant family of the 1830's.

*Id.*

34. In or about 1973, the Landmarks Law was amended to permit designation of historic and architecturally-significant *interiors*. Previously, only spaces visible from the *exterior* were eligible for designation.

35. In 1981, the City designated the interior of the Merchants House an interior landmark.

36. Upon information and belief, the Merchants House is one of only approximately 120 interior landmarks in New York City and one of only six residences to be designated.

37. In connection with the designation of the Merchants House interior, the LPC prepared another Designation Report -- this one, identifying the interior areas (including the Museum's "wall surfaces" and "ceiling surfaces" (*i.e.*, its Historic Plaster) to be protected as follows:

basement interior consisting of the dining room, kitchen, hall, and staircase leading to the first floor, first floor interior consisting of the entrance vestibule, front parlor, rear parlor, hall, and the staircase leading to the second floor; second floor interior consisting of the two bedrooms, the hall bedroom, hall, and the staircase leading to the third floor; and the fixtures and interior components of these spaces, including but not limited to, wall surfaces, ceiling surfaces, floor surfaces, lighting fixtures, columns, pilasters, moldings, rosettes, doorway and window enframements, doors, chimneypieces, and staircase railings.

*See* Interior Designation Report at 1, Exh. 3.

38. The Interior Designation Report describes the Merchants House as follows:

The Old Merchants House, built in 1831-32, is an exceptionally fine example of late Federal/Greek Revival architecture, the interiors vividly illustrate the life style of the well-to-do Tredwell family, who lived here until 1933.

*Id.*

39. The Interior Designation Report concludes its analysis of the Merchants House with

the following summary that speaks volumes as to its historic and architectural significance:

The Old Merchants House has existed for nearly 150 years in its original state both inside and out. Complete with all of the Tredwell furnishings, it is a unique document of its period and shows with unrivaled authenticity how a prosperous New York City merchant and his family lived in the mid-19th century.

*Id.* at 7.

40. Important enough to be considered a national treasure, the Merchants House was designated a National Historic Landmark in 1966, through designation by the National Park Service of the Department of the Interior. Complete measured drawings of the entire building made by the Historic American Buildings Survey in the 1930s are on file in the Library of Congress.

41. Upon information and belief, the Merchants House is just one of 2,400 National Historic Landmarks.

42. In or about 1966, the Merchants House was added to the National Register of Historic Places, with a Declaration by the United States Congress of its “national historic significance.”<sup>2</sup>

43. Upon information and belief, the Merchants House has been recognized for its significance by the New York State Historic Preservation Office.

44. In addition to its numerous landmark designations, the Museum is situated within the NoHo Historic District Extension, and thus enjoys yet *further* protection afforded by the Landmarks Law.

### ***The Developer***

45. Upon information and belief, the Developer is a corporation owned by an assortment

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<sup>2</sup>54 U.S.C.A. §302102(c).

of individuals in the parking garage business.

46. The Adjacent Property where the Proposed Hotel would be constructed is currently improved by a one-story garage building (the "Garage").

47. Upon information and belief, principals of the Developer also own garages at, among other places, 250 West 26th Street and 403 Lafayette Street ("Lafayette Property"). The Lafayette Property is located around the corner from the Adjacent Property and is contiguous thereto.

***The Proposed Hotel and the Developer's Efforts to Obtain Approval Therefor from the City***

48. In or about 2012, the Developer began plans to convert the Garage and the Adjacent Property on which it is situated into the Proposed Hotel.

49. The Proposed Hotel would rise to a height in excess of 94 feet, towering over the Museum Building.

50. The Proposed Hotel would be situated in the middle of the block, completely out-of-scale with the neighborhood generally.

51. The proposed use is also inconsistent with current zoning. For example, current zoning does not permit any hotel in the zoning district to include a hotel lobby or restaurant on the ground floor; thus, visitors to the Proposed Hotel would be resigned to entering an empty space and walking into an unattended elevator or stairwell to gain access to the rooms above.

***The Requirements for Construction of the Proposed Hotel***

52. Because of its size, the Proposed Hotel would require a substantial excavation of the soft-soil subterranean composition and other Unstable Subgrade Conditions directly adjacent to the Merchants House and its Rubble Foundation.

53. Professional engineers who specialize in older, preserved buildings have prepared

analyses and studies (“Engineering Studies”), confirming that, even assuming that the Developer were to take all reasonable precautions in connection with its proposed excavation and construction:

- the excavation necessary to erect the Proposed Hotel would generate vibration activity of approximately a half inch per second, which the Museum Building simply could not withstand;
- the weight of the Proposed Hotel and its proposed foundation would depress the soil beneath by as much as 1¼”, which, in turn, would create a void in the soil adjacent to the Museum’s Rubble Foundation, precipitating soil migration from beneath the Merchants House, depriving it of the direct and lateral support necessary to maintain its structural integrity;
- the Unstable Subgrade Conditions and Rubble Foundation on which the Museum Building is erected render it susceptible to de-stabilization from nearby excavation and construction activities, which would cause it to list toward the Adjacent Property or worse, collapse; and
- construction of the Proposed Hotel would otherwise pose Danger to the Museum due to its Fragility.

54. The LPC was in possession of the Engineering Studies at the time it was considering whether to grant or deny the CofA.

55. The Engineering Studies also confirm that the excavation and other construction activities necessary to build the Proposed Hotel would cause full compromise of the Historic Plaster, including cracks and falling Plaster throughout the interior of the Museum (“Architectural Studies”).

56. The Developer prepared plans to erect a four to six story scaffold as a construction staging area, to be suspended and thus cantilevered directly over the Merchants House roof, as well as the Rear Garden, like a diving board (“Cantilevered Platform”). Any construction equipment, materials or debris that were to fall from the Cantilevered Platform could destroy the Merchants House Museum.

57. The only way to prevent equipment or debris from falling through the roof of the

Museum Building into the Merchants House's interior would be to tie down each item of material every time it is moved – a proposition that simply does not square with construction realities in New York City. Even the most disciplined of construction workers will inevitably err in failing to tie down every single item of material properly or at all.

58. The Unstable Subgrade Conditions, Rubble Foundation, and planned Cantilevered Platform would render the likelihood of catastrophic damage to the Merchants House a virtual certainty were the Proposed Hotel to be constructed.

59. As referenced *supra*, the Museum and Adjacent Property are both located within the NoHo Historic District Extension; as such, the Developer was required to file an application (“Application”) to obtain a permission from the LPC – a permission known as a certificate of appropriateness (CofA, previously defined) -- before the work could proceed. As reflected below, the LPC granted the CofA, allowing the Proposed Hotel to be constructed, despite the extraordinary risks to the rare jewel that is the Merchants House.

### ***Landmarks Law***

60. The Landmarks Law was enacted in 1965.

61. In enacting the Landmarks Law, the City Council recited its findings relative to the importance of historic preservation in the City:

a. The council finds that many improvements, as herein defined, and landscape features, as herein defined, having a special character or a special historical or aesthetic interest or value and many improvements representing the finest architectural products of distinct periods in the history of the city, have been uprooted, notwithstanding the feasibility of preserving and continuing the use of such improvements and landscape features, and without adequate consideration of the irreplaceable loss to the people of the city of the aesthetic, cultural and historic values represented by such improvements and landscape features. In addition, distinct areas

may be similarly uprooted or may have their distinctiveness destroyed, although the preservation thereof may be both feasible and desirable. It is the sense of the council that the standing of this city as a world wide tourist center and world capital of business, culture and government cannot be maintained or enhanced by disregarding the historical and architectural heritage of the city and by countenancing the destruction of such cultural assets. b. It is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of improvements and landscape features of special character or special historical or aesthetic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people.

N.Y.C. Admin. C. §25-301.

62. The Landmarks Law sets forth standards by which applications for certificates of appropriateness are to be considered by the LPC. In particular, in order to issue a certificate of appropriateness to approve work on designated buildings and within historic districts, the Landmarks Law states that the LPC “shall determine whether the proposed work would be appropriate for and consistent with the effectuation of the purposes of [the Landmarks Law].” N.Y.C. Admin. C. §25-307(a) (emphasis added). Section 25-307 proceeds to state that “if the [LPC’s] determination is in the affirmative on such question [*i.e.*, whether the proposed work would be appropriate and consistent with the effectuation of the [Landmarks Law]], it [the LPC] shall grant a certificate of appropriateness, and if the [LPC’s] determination is in the negative, it shall deny the applicant’s request.” *Id.*

63. The purposes of the Landmarks Law are set forth in the body of the statute. In this regard, the Landmarks Law states:

The purpose of this chapter is to:

(a) effect and accomplish the protection, enhancement and perpetuation of such improvements and landscape features and of districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history;

- (b) safeguard the city's historic, aesthetic and cultural heritage, as embodied and reflected in such improvements, landscape features and districts;
- (c) stabilize and improve property values in such districts;
- (d) foster civic pride in the beauty and noble accomplishments of the past;
- (e) protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;
- (f) strengthen the economy of the city; and
- (g) promote the use of historic districts, landmarks, interior landmarks and scenic landmarks for the education, pleasure and welfare of the people of the city.

N.Y.C. Admin. C. §25-301.

64. Construction of the Proposed Hotel would not advance any of the purposes of the Landmarks Law.

65. Granting the CofA subverted the principal objectives of the Landmarks Law, including “the protection, enhancement and perpetuation of” historic properties; to “safeguard the city's historic, aesthetic and cultural heritage, as embodied and reflected” in historic properties; to “foster civic pride in the beauty and noble accomplishments of the past;” to “protect and enhance the city's attractions;” and to “promote the use of historic districts, landmarks, interior landmarks and scenic landmarks for the education, pleasure and welfare of the people of the city.” N.Y.C. Admin. C. §25-301.

66. Simply put – the grant of the CofA has imperiled one of the City’s most precious and irreplaceable designated properties; denial of the CofA would have protected it. The Developer’s application for a CofA should have been an easy one to deny (“Application”).

67. On April 6, 2018, the LPC granted the CofA to permit the Developer to construct the

Proposed Hotel on the Adjacent Property (CofA, Exh. 4).

68. In the CofA, the LPC required the Developer to “provide all appropriate safeguards to ensure that the structural integrity of the adjacent buildings are protected” and “ensure that the work will not diminish the special architectural or historic character [of] adjacent buildings” (“Useless Provisos”) (*Id.* at 2). The Useless Provisos serve no purpose other than to create the misleading impression that the Museum could still survive construction of the Proposed Hotel.

69. The LPC recognized at the time it was considering the Developer’s Application that the Unstable Subgrade Conditions, Rubble Foundation and Cantilevered Platform would, even under circumstances in which all reasonable precautions were taken, *necessarily* result in irreparable harm and damage to the Merchants House.

70. Upon information and belief, the Commissioners of the LPC were wrongly advised that consideration of potential adverse impacts on the Museum’s Building was limited to including the Useless Provisos in the CofA that the Developer was required to make efforts to protect the Merchants House, and that the Application could not be lawfully denied on the ground that the Museum could be damaged or destroyed (“Erroneous Advice”).

71. On the basis of the Erroneous Advice, the LPC mistakenly approved the Application for the CofA, provided that the Developer were to obtain an amendment to the Zoning Resolution and adjust the design of the Proposed Hotel (“Proposed Adjustments”).

72. The Proposed Adjustments were imposed upon the Developer by the LPC for reasons unrelated to the protection of the Museum.

73. Since the LPC issued its CofA, the Land-Use Subcommittee of Community Board

No. 2 and the Full Community Board unanimously rejected the Developer's bid to obtain further approval for the Proposed Hotel (Exh. 5).

74. The Manhattan Borough President issued a formal recommendation to the City Planning Commission to reject the Proposed Hotel (Exh. 6).

75. Every public official to publicly address the Proposed Hotel, including Manhattan Borough President Gale Brewer, State Senator Brad Hoylman, City Council Members Carlina Rivera and Speaker of the New York City Council Corey Johnson, State Assembly Member Deborah Glick, and U.S. House of Representative Member Carolyn Maloney has called for its rejection.

#### FIRST CLAIM

76. Petitioners repeat and reallege each of the allegations set forth in the preceding ¶¶1 through 75, inclusive, as if set forth in full herein.

77. Under §25-307 of the Landmarks Law, the LPC, in considering whether to grant the CofA, was required to evaluate whether granting the Application would be consistent with or subvert the purposes of the Landmarks Law, set forth in §25-301 thereof.

78. It was completely irrational for the LPC to "conclude" that granting the Developer permission to construct the Proposed Hotel adjacent to the Merchants House is consistent with any of the purposes of the Landmarks Law.

79. Granting the Developer permission to construct the Proposed Hotel adjacent to the Merchants House virtually assures that, even assuming every reasonable precaution were taken, the Museum would sustain irreparable damage to its irreplaceable Museum Building, Historic Contents and Historic Plaster, thereby: (i) not providing for "protection, enhancement and perpetuation of"

historic properties; (ii) *not* “safeguard[ing] the city's historic, aesthetic and cultural heritage, as embodied and reflected” in historic properties; (iii) *not* “foster[ing] civic pride in the beauty and noble accomplishments of the past;” (iv) *not* “protect[ing] and enhanc[ing] the city's attractions;” and (v) not “promot[ing] the use of historic districts, landmarks, interior landmarks and scenic landmarks for the education, pleasure and welfare of the people of the city.” N.Y.C. Admin. C. §25-301. In virtually every conceivable way, granting the CofA, not only was *not* consistent with the purposes of the Landmarks Law; it directly *subverted* those purposes.

80. The LPC is currently operating under the false notion that its principal responsibility is, not to achieve the purposes of the Landmarks Law, but rather to mediate compromises between property owners and the preservation community (“Misapprehension of the LPC’s Purpose”) (Excerpts from Court of Appeals Brief by LPC, Exh. 7).

81. The Misapprehension of the LPC’s Purpose precipitates arbitrary and capricious decisions which cannot be justified under the Landmarks Law, including the determination herein to grant the CofA to the Developer.

82. Upon information and belief, developers are well aware of the Misapprehension of the LPC’s Purpose, and, as a consequence, file applications that contain unreasonable demands on which they can “trade” in order to obtain approvals for projects which cannot be squared with the purposes of the Landmarks Law.

83. The LPC’s grant of the CofA was thus the product of irrational decision-making, precipitated by the Misapprehension of the LPC’s Purpose, resulting in an arbitrary, capricious and irrational determination that was the product of clear errors of law.

84. By reason of the foregoing, Petitioners are entitled to an order annulling, vacating, and reversing the CofA *ab initio*, and a permanent injunction, restraining and enjoining the performance of any work to construct the Proposed Hotel.

85. Petitioners have no remedy at law.

### SECOND CLAIM

86. Petitioners repeat and reallege each of the allegations set forth in the preceding ¶¶1 through 85, inclusive, as if set forth in full herein.

87. Upon information and belief, before granting the CofA, the Commissioners of the LPC received the Erroneous Advice that they could not deny the Application on the ground that the proposed project (in this instance, construction of the Proposed Hotel) could result in irreparable harm to a designated historic property.

88. The Erroneous Advice directly conflicts with the provisions of §25-307 of the Landmarks Law.

89. The CofA was affected by clear error of law.

90. By reason of the foregoing, Petitioners are entitled to an order, annulling, vacating, and remanding the CofA *ab initio*, and an injunction, restraining and enjoining the performance of any work to construct the Proposed Hotel, pending the aforesaid remand.

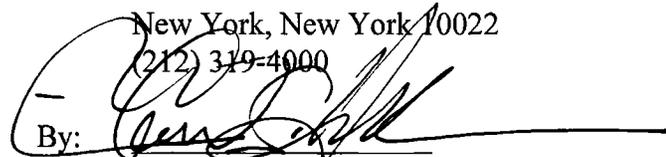
91. Petitioners have no remedy at law.

**WHEREFORE**, Petitioners demand judgment over and against Respondents annulling, vacating, reversing and/or remanding the CofA, granting Petitioners preliminary and permanent injunctive relief as appropriate and required, and awarding Petitioners such other and further relief

as the Court deems just and proper, including the costs, disbursements, and reasonable attorneys' fees incurred in connection with this Proceeding.

Dated: New York, New York  
August 5, 2018

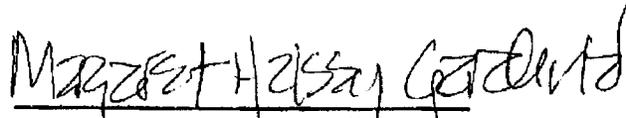
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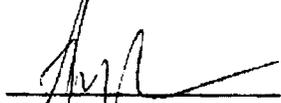
**VERIFICATION**

State of New York )  
  :ss.:  
County of New York )

**MARGARET HALSEY GARDINER**, having been duly sworn, deposes and says: I am a petitioner in the within proceeding, and united in interest with the other petitioner. I have read the attached Petition, and the same is true to my knowledge, except as to those matters alleged on information and belief, and as to those matters I believe the Petition to be true.

  
Margaret Halsey Gardiner

Sworn before me this  
6th day of August, 2018.

  
Notary Public

