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

In the Matter of the Application of CARNEGIE HILL NEIGHBORS, INC.; MUNICIPAL ART SOCIETY OF NEW YORK; FRIENDS OF THE UPPER EAST SIDE HISTORIC DISTRICTS, INC., and MARK LAGUARDIA, Petitioners, A Judgment Pursuant to Article 78 of the Civil Practice Law and Rules, -against- CITY OF NEW YORK; NEW YORK CITY COUNCIL; NEW YORK CITY PLANNING COMMISSION; NEW YORK CITY EDUCATIONAL CONSTRUCTION FUND; AVALONBAY COMMUNITIES, INC., Respondents.	Index No.

VERIFIED PETITION

Petitioners, by their undersigned attorneys, for their verified petition, allege as follows:

PRELIMARY STATEMENT

1. This is a special proceeding pursuant to Article 78 of the Civil Practice Law and Rules ("C.P.L.R.") to review the determination by the Respondent New York City Planning Commission, which was approved by the Respondent New York City Council on August 24, 2017, approving the Uniform Land Use Review Procedure ("ULURP") and other land use applications (the "Applications"), and the Final Environmental Impact Statement issued pursuant to the City and State Environmental Quality Review Acts, relating to a proposed development (collectively, the "Determination")[1] on the property owned by Respondent City of New York, which is bounded

[1] True and correct copies of the Determination are annexed hereto as Exhibits A through E.

by East 97th Street, First Avenue, East 96th Street and Second Avenue (Block 1668, Lot 1), in the Borough of Manhattan (the "Site," and the proposed development is the "East 96th Street Project").

2. The Site currently consists of the School of Cooperative Technical Education, or "Coop Tech," on the east side, and the Marx Brothers Playground (the "Park") on the west side.

3. The Park is owned by the City, and is in the "jointly operated playground" or "JOP" program. However, unlike the typical case where a JOP is used by the students in the adjacent schools during the school day, and the general public outside of school hours, and is maintained by the New York City Department of Parks and Recreation ("DPR"), in this case, neither Coop Tech nor Life Sciences Secondary School (MS 655) use the playing field in connection with their curriculum, and the playground is presently occupied by the Metropolitan Transportation Authority ("MTA"), which has used the land as a staging area for the Second Avenue Subway development. The entirety of the block is owned by the City.

4. Petitioners are a group of nonprofit organizations and individuals who allege damages and injuries-in-fact. Respondents New York City Educational Construction Fund ("ECF") and AvalonBay Communities, Inc. ("AvalonBay") were co-applicants for the Applications. The ECF is a public benefit corporation that is a financing and development vehicle of the New York City Department of Education ("DOE"). ECF finances the development of schools on City-owned land by issuing tax exempt bonds. It partners with private developers (such as AvalonBay), and those partners lease the land from ECF through long-term ground leases. These rent payments are used to finance the construction of the development, and to service the debt.

5. The original request for proposal ("RFP") issued by ECF for the project called for the redevelopment of only one school, Coop Tech. AvalonBay won that RFP.

6. Later, however, the Speaker of the City Council, who is the Council Member for the district where the Site is located, sought (and ECF agreed) to include two additional schools—the Park East High School and The Heritage School—in the redevelopment. This allowed her to benefit a cultural center that currently shares the building in which The Heritage School is located, and which would, after the redevelopment, have use of the entire building for its operations.

7. ECF and AvalonBay entered into an agreement to redevelop the Site. The plan for the East 96th Street Project calls for the construction of an enormous 760 foot, 63-story "super skyscraper," which will dwarf the much smaller buildings that comprise the neighborhood.

8. The proposed development will include a 1,140,000 square foot private mixed-use building, including 990,000 square feet of residential floor area (approximately 1200 "dwelling units"), approximately 20,000 square feet of commercial space, and, for Coop Tech, a separate 130,000 square foot building. In addition, the two other public high schools (the Park East High School and The Heritage School) will share approximately 130,000 square feet. The total proposed development will have approximately 1,270,000 square feet.

9. The residential building will be almost unfathomably massive, and have approximately 1,200 residential units—indeed, more apartments than any other single-building apartment building in New York City! It will also be the tallest building between 61st Street and Boston.

10. As part of the project, AvalonBay will be providing the minimum required of legally-required "affordable" units which, in this case, is 25% of the residential units. These "affordable" units will hardly be "affordable" as is understood in common parlance; rather, they will be available to those whose income is 60% of the area median income ("AMI").

11. As will be described in detail below, both the process and the substance of the

Determination were fatally flawed, and were in excess of jurisdiction, in violation of lawful procedure, affected by error(s) of law, and were arbitrary and capricious and an abuse of discretion.

THE PARTIES

12. The Petitioners, jointly and severally, have and will suffer, among other damages, the following injuries-in-fact:

- They have not been able to use the playground portion of the Park since 2004—nearly fourteen years—because of the MTA's using of that area for staging for the Second Avenue Subway, and, if the 96th Street Project moves forward, will not be able to use the Park in its entirety for the next five to seven years, resulting in the Park being taken from the community for twenty to twenty-five years.

- The new park (if it ever reopens) will not be a sun-filled respite for City families, but it will rather be cast in shadows nearly the entire day.

- Residences in the neighborhood will also be cloaked in darkness, as the giant new building casts its long shadow into their homes.

- The more densely populated neighborhood will have inadequate open space.

- The character of the neighborhood will be irrevocably changed, as the proposed new building will be nearly thirty stories higher than the highest building currently in the neighborhood, setting the stage for further and additional out-of-context development.

- The East 96th Street Project will result in 1,200 new families moving into the area, imposing massive stresses and strains upon the already heavily-burdened infrastructure and resources, including, but not limited to, the Park (if it ever, in fact, reopens), the three high schools that will be relocated to the site, the neighborhood's elementary and middle schools, and the sewers, water lines, and sanitation services, and other unmitigated impacts.

- There will be a massive increase in vehicular and pedestrian traffic, especially the bus lines on First and Second Avenue and the 96th Street entrance to the FDR, which will cause massive commuting delays.

- The proposed new building will drive up prices in the neighborhood, forcing out longstanding residents by making it impossible for them to afford to remain in the neighborhood, and resulting in the closure of local businesses.

- Incredibly, the East 96th Street Project will not provide for parking, resulting in hundreds of new cars flooding the local streets looking for street parking.

- Construction noise, dust, and pollution will significantly impede residents' quality of life.

- As part of its use of the Park as staging for the Second Avenue Subway, the MTA pledged to pay the DPR $8 million to compensate it for the loss of the playground. This amount has not been paid and will not be paid pursuant to the East 96th Street Project, with a significant loss to the community which uses the Park.

13. Petitioner Carnegie Hill Neighbors Inc. ("Carnegie Hill Neighbors") is a domestic not-for-profit corporation that, since 1970, has endeavored to preserve the residential character and architectural heritage of Carnegie Hill.

14. Petitioner the Municipal Art Society of New York ("MAS") is a domestic not-for-profit advocacy organization that has, for nearly 125 years, worked to educate and inspire New Yorkers to engage in the betterment of New York City. As a non-profit advocacy organization, MAS mobilizes diverse allies to focus on issues that affect our city from sidewalk to skyline. Through three core campaign areas, MAS protects New York's legacy spaces, encourages thoughtful planning and urban design, and fosters complete neighborhoods across the five boroughs. Comprising a team of preservationists, urban planners, architects, attorneys and other dedicated staff members, MAS and its Board Members participate in a host of activities which vigilantly promote public policies favorable to New York City's built environment and the people who enjoy it. MAS has a long history advocating for preservation of NYC's historical and architectural resources and neighborhood character. MAS was a critical player in the passage of the 1916 Zoning Resolution, the first comprehensive zoning program of its kind, and the foundation for innumerable zoning laws throughout the nation. Since that time, MAS has been a guardian, steward, and sometimes critic, of zoning and land use planning in New York City.

15. Petitioner Friends of the Upper East Side Historic Districts, Inc. ("FRIENDS") is a domestic not-for-profit membership organization dedicated to preserving the architectural legacy,

livability, and sense of place of the Upper East Side of Manhattan. FRIENDS is a source of information and encouragement for property owners, an active participant in public decisions affecting the many historic and cultural resources in the neighborhood, and a leading voice for common sense development. FRIENDS regularly monitors development activity throughout the Upper East Side and testifies before relevant city agencies in an effort to strike a balance between neighborhood preservation and development. Throughout its 35-year history, FRIENDS has been a leader in successful efforts to improve the zoning laws governing the area's avenues and its residential side streets, and the organization has often participated in proceedings involving major changes in bulk to the neighborhood.

16. Petitioner Marc LaGuardia is an individual who resides with his family at The Knickerbocker, at 1763 Second Avenue. He is a master carpenter. His wife, Kiernan, is a native of the neighborhood in which the subject premises is located, and she is a schoolteacher. The family are parishioners of De Sales Catholic church on 96th and Lexington Avenue. They have two children, ages 6 and 10, who utilize the Marx Brothers Playground frequently. They regularly volunteer in the parks in the area. Unfortunately, despite their long-standing and close ties to the community, they are being priced out of the neighborhood by "affordable" high rises.

17. Respondent the City of New York ("City") is a domestic municipal corporation located within the State of New York.

18. Respondent New York City Council (the "City Council") is the lawmaking body of the City of New York. The City Council acted arbitrarily, capriciously, and contrary to law in making the Determination.

19. Respondent New York City Planning Commission ("CPC") is a public agency of the City of New York established pursuant to the New York City Charter. The CPC acted

arbitrarily, capriciously, and contrary to law in approving the ULURP applications.

20. Respondent New York City Educational Construction Fund ("ECF") is a public benefit corporation established in 1967 by the New York State Legislature to provide funds (tax-exempt bonds) for combined occupancy structures.

21. Third Party Necessary Respondent AvalonBay Communities, Inc. ("AvalonBay") is a Maryland corporation that has elected to be treated as a real estate investment trust ("REIT") for federal income tax purposes. AvalonBay develops, redevelops, acquires, owns, and operates multifamily properties primarily in New England, the New York/New Jersey metro area, the Mid-Atlantic, the Pacific Northwest and Northern and Southern California. The causes of action in this matter all arise from the official actions of public bodies and officers in connection with the East 96th Street Project. As the developer of this project and a co-applicant along with ECF in obtaining the necessary approvals and the effort and expense undertaken to obtain them, it is a necessary party under C.P.L.R. § 1001(a).

JURISDICTION AND VENUE

22. This Court has subject matter jurisdiction pursuant to CPLR Article 78.

23. Venue is proper because Petitioners, Respondents New York City, the City Council, the CPC, and the affected property are located in New York County, New York. See C.P.L.R. §§ 7804(b) and 506(b). The central events of this proceeding took place within New York County, including the arbitrary and capricious determinations at issue herein.

STATEMENT OF FACTS

24. In order to get the approvals needed to proceed with the East 96th Street Project, ECF and AvalonBay filed (1) land use applications through the Uniform Land Use Review

Procedure ("ULURP") to rezone the Site to an R10 district, as well as other zoning actions[2]; (2) a request for Home Rule legislation from the City Council to petition the State Legislature to approve the discontinuance of the use of the Park as "parkland" (i.e. "alienation") and the transfer of its ownership from the City of New York to ECF (the "Home Rule Legislation"); and (3) a petition to the State Legislature to approve the discontinuance of the use of the Park as "parkland" and the transfer of its ownership from the City to ECF. The Home Rule was approved by the City Council on June 15, 2017, and the ULURP application was approved by the City Council on August 24, 2017. The Speaker advocated for the project.

25. In response to the City Council's request for Home Rule Legislation, the State Assembly and Senate approved A. 8419 (S. 6721) on June 20 and 21, 2017, respectively, which is "[a]n Act in relation to authorizing discontinuance of the use as parkland of the land in the City of New York commonly known as the Marx Brothers Playground" (the "Alienation Legislation"). This legislation approved the alienation of the Park.

26. Parkland alienation occurs when a municipality wishes to convey, sell, or lease municipal parkland or discontinue its use of a park. In order to alienate parkland, a municipality, such as the City Respondents herein, must receive prior authorization from the State in the form of legislation enacted by the New York State Legislature and approved by the Governor.

27. On October 23, 2017, Governor Andrew Cuomo approved the Alienation Legislation (Assembly Bill 8419 (Approval #10, chapter #402)).

28. Here, however, the process by which the City Respondents obtained this alienation legislation was so flawed, and the appearance of impropriety so blatant, that the Governor was concerned that the Determination and the Alienation Legislation could be circumventing the

[2] Prior to these decisions, the eastern half of the block was zoned R7-2 and R10A, and the Park did not have development rights.

zoning that protects parks from development.

29. In a Memorandum filed with the Governor's approval, the Governor expressed concern that:

> Classification as a park or parkland should not provide zoning bonuses to private industry. Playgrounds are a different classification and may be eligible for zoning incentives, and no State approval of alienation is necessary. Confirming the status and nature of the land has significant legal implications for New York City and residents who want assurance that they will have access to outdoor recreation.

30. To clarify the issue and set a mechanism to resolve it, the Governor proposed a Chapter Amendment, to be agreed to by the Legislature before NYC can take any steps to discontinue the use of the Park as a parkland. The amendment requires the Commissioner of the NYS Department of Parks, Recreation and Historic Preservation (the "Commissioner") to investigate all of the property's historical records, uses, and any other factor relevant to the land's qualification as "parkland." If the Commissioner determines the Park is parkland or a park, and not merely a playground, presumably the alienation would not proceed.

31. Governor Cuomo directed the Commissioner of the State Department of Parks, Recreation, and Historic Preservation to complete an "investigat[ion] [of] all of the property's historical records, uses, and any other factors relevant the land's designation."

32. Moreover, after alienation, the Playground will be owned by ECF – which, unlike the City, is under no legal obligation to maintain the area as a playground in perpetuity.

33. The actions taken by Respondents to alienate the playground to give the ECF ownership and convey to AvalonBay extraordinarily lucrative land and development rights, not disclosed during the ULURP process, are unlawful, a violation of lawful procedure, and arbitrary and capricious.

FIRST CAUSE OF ACTION (*Failure to Comply With ULURP)*

34. The Uniform Land Use Review Procedure ("ULURP") application and other land use applications (the "Applications") that were submitted to the Department of City Planning by ECF and AvalonBay, should not have been certified, and therefore, should not have been approved and granted by the CPC and the City Council. There were inaccuracies and ambiguities in the application that prevented a full and transparent public review, and prevented the Community Board, Borough President, and the CPC—and the public—from fully and adequately understanding the project, and giving it the required "hard look." Had the process not been so flawed, they would have acknowledged initially that the legal status of the Park was unknown and/or in contention, that the application was certified prematurely, and they would have recognized the dangerous precedent that the East 96th Street Project sets for the loss of open space and recreation areas in New York City.

35. For example, the application failed to accurately describe the zoning issues related to the Park. Initially, the ULURP and other land use applications claimed that the Park did not have any development rights, specifically stating that approval of the Home Rule Legislation and Alienation Legislation was "necessary to allow for the relocation and reconstruction" of the Park.

36. This makes sense—under New York City Zoning Resolution Section 11-13, "[d]istrict designations indicated on zoning maps do not apply to public parks."

37. Acknowledging that the Park did not have any development rights, the City Respondents sought and obtained the Home Rule Legislation and, ultimately, the Alienation Legislation.

38. This position is consistent with the historical position taken by other New York City agencies.

39. For example, the Department of Buildings considers the Park a "Public Park of a

half an acre or more" for enforcement of the Zoning Resolution's regulations (ZR 32-661 and ZR 42-55) that limit the size and illumination of signs proximate to a Public Park.

40. Similarly, the City Council (Respondent herein) applied its no smoking law to public parks, including the Park.

41. In addition, prior Mayoral administrations have recognized that playgrounds are Parkland.

42. PlaNYC, a forward-looking planning and policy document published by the Bloomberg Administration in 2007, discusses measures needed to be taken to support New York City's growth. It states that "since 1938, JOPs have been considered designated parkland, which restricts how the land can be used."

43. Similarly, in 1999, the Giuliani administration, in conjunction with the DPR, issued a joint press release, which included playgrounds when calculating the amount of parkland in New York City.

44. And in 1988, the Koch administration included playgrounds in its "Neighborhood Park Restoration Program."

45. In addition, in order to use the playground area of the Park as a staging area for the Second Avenue Subway, the MTA recognized the Park's status as parkland and sought the alienation of the area for its temporary use.

46. Later in the ULURP process, however, the City Respondents took an entirely inconsistent position!

47. Jennifer Maldonado, the Executive Director of the ECF, in a letter to the CPC that was submitted on June 1, 2017 in response to comments that were made to the CPC during and after the public hearing on the East 96th Street Project (the "Maldonado Letter"), now claimed that

when the MTA sought alienation of the Park for its temporary use during the staging of the Second Avenue subway, it had done so only "out of an abundance of caution" and "perhaps under the mistaken belief that the Playground was parkland." The Maldonado Letter does not contain any basis as to why ECF would be able to make such a statement on behalf of the MTA, an entirely separate entity.

48. The Maldonado Letter states that "the playground is not a public park as defined in the Zoning Resolution." Stunningly, it claims that the Park "is not and has never been parkland," in clear and blatant contravention of the City's historic and publicly-expressed consideration of playgrounds as parks, including the Park, the previous conduct of the MTA, and its previous statement in the ULURP Application that alienation of the Park was "necessary to allow for the relocation and reconstruction" of the Park.

49. The Maldonado Letter tries to explain away the fact that the effective Zoning Map (as would be expected) shows that the Park does not have development rights. To do so, it asserts an utterly absurd and implausible explanation; i.e., that Zoning Map does not show a zoning designation for the Park "due to a staff person's mistaken "clean" up on a 1983 map update."

50. The Determination was fatally flawed because the ULURP application and other land use applications upon which it was based misstated and misled, either negligently or intentionally, the public, the CPC, the Borough President, and the City Council as to the Park's status. The City Respondents should have been estopped from contradicting their historic and publicly-stated position that the Park was a parkland as to which no development rights attached, and therefore all subsequent actions and determinations were tainted.

51. The Determination also exceeded the authority of the CPC and the City Council, and was an error of law and was arbitrary and capricious and an abuse of discretion because it did

not take into account the context of the neighborhood nor was it part of an appropriate, comprehensive plan. The Applications did not disclose that the existing R10A district designation limits heights of buildings and, in fact, the proposed maximum heights in the nearby East Harlem Rezoning are much lower than the proposed East 96th Street Project. The behemoth 700-foot residential tower, consisting of 1,200 units, and rising 63 stories, is nearly 30 stories higher than the highest building in the neighborhood.

52. The City Respondents' inconsistent positions with regard to the status of the Park, the City's erroneous position that the Park is not a parkland, and the resulting ambiguity surrounding the status of the Park, also fundamentally tainted the analysis and conclusions set forth in the Environmental Impact Statement and in the Determination.

53. In addition, the CPC and the City Council were not able to review the EIS with the required "hard look" because the EIS did not disclose that City Respondents were taking the position that there was floor area appurtenant to the Park, and, in fact, stated that there was no development potential without the "necessary" Home Rule Legislation and Alienation Legislation.

54. The EIS was also fatally flawed because it did not consider an alternative to the proposed development, that assumes the Park has development rights appurtenant to it, in which case the Site would have had approximately 760,000 square feet—more than enough for a more appropriate and reasonably-sized development.

55. The EIS was fatally flawed for other further and additional reasons.

56. For example, once rezoned and the East 96th Street Project built, unused development rights would still be appurtenant to the Site; the EIS did not consider what could or should be done with the approximately 300,000 square feet in development rights that would be attributable to the Site after the rezoning, but which were not included in the East 96th Street

Project.

57. The EIS also did not correctly analyze the "no action" alternative.

58. The EIS also did not consider the burden of the increased population on the Park in the future.

59. Moreover, the negative impacts caused by the East 96th Street Project were not properly considered or mitigated. The height of the residential tower—nearly 700 feet—is wildly out of context, and will cast shadows on the Park and into the other homes in the neighborhood. And the vast impact that the project will have on traffic (subway, bus, driving, and foot) is also not addressed. Nor is the impact of the project's lack of parking on the neighborhood.

60. The Determination exceeded the authority of the CPC and the City Council, and was an error of law and was arbitrary and capricious and an abuse of discretion.

SECOND CAUSE OF ACTION

61. Petitioners re-state and re-allege each of the allegations set forth above as if set forth herein in their entirety.

62. Based upon the facts set forth above, the City Respondents' position that the Park is not a parkland, was an error of law, and was arbitrary and capricious and an abuse of discretion.

THIRD CAUSE OF ACTION

63. Petitioners re-state and re-allege each of the allegations set forth above as if set forth herein in their entirety.

64. The ULURP and other land use applications misled the public, the CPC, the Borough President, and the City Council by failing and refusing to disclose that the ownership of the Park would be transferred to ECF in perpetuity—not just for the construction of the East 96th Street Project.

65. Unlike the City, ECF is under no legal obligation to maintain the area as a playground in perpetuity.

66. The ULURP application failed to disclose that ownership of the Park would be transferred to the ECF.

67. The Maldonado Letter stated that the Alienation Legislation would include provisions that would provide for the transfer of the Park from the City to ECF, that, after the completion of the East 96th Street Project, the ECF would transfer ownership of the relocated Park back the City, under the joint control of the DOE and DPR, and that the deed back to the City would contain restrictions requiring that the Park be permanently run as a JOP, and that it not contain any structures other than a restroom/storage shed of limited size.

68. In fact, however, the Alienation Legislation did not contain any language calling for ECF to convey the Park back to the City. Rather, it called only for "control" of the Park to be transferred to the City. As the Court well knows, however, "control" is not the same as "ownership."

69. Early submissions by ECF and AvalonBay stated that the Playground would be relocated, but they never stated that the ownership of the Playground would change from the City to ECF.

70. Later submissions stated, however, that the Playground would change ownership from the City to ECF.

FOURTH CAUSE OF ACTION

71. Petitioners re-state and re-allege each of the allegations set forth above as if set forth herein in their entirety.

72. The Determination was made on August 24, 2017. As part of the Determination,

the City Council approved ECF and Avalon Bay's request for approval of all the Applications.

73. As set forth in greater detail above, prior to the Determination, the eastern half of the block was zoned R7-2 and R10A, and the Playground did not have development rights.

74. Following the Determination, the land upon which the East 96th Street Project is to be built—including the Park—is now purportedly located in the R10 and C2-8 Zoning Districts.

75. Governor Cuomo signed the Alienation Legislation two months later, on October 23, 2017 (although its effectiveness and implementation was delayed by the Chapter Amendment).

76. In other words, the City Respondents changed the zoning of the Park before the Park was alienated, and before development rights could properly be attached.

77. Zoning Resolution 11-13 specifically provides that "[d]istrict designations indicated on zoning maps do not apply to public parks."

78. It further provides that "[i]n the event that a public park or portion thereof is sold, transferred, exchanged, or in any other manner relinquished from the control of the Commissioner of Parks and Recreation, no building permit shall be issued, nor shall any use be permitted on such former public park or portion thereof, until a zoning amendment designating a zoning district therefore has been adopted by the C[PC] and has become effective after submission to the City Council… ."

79. The Zoning Resolution clearly contemplates that changes in zoning cannot occur until after land is alienated.

80. The City Respondents' failure and refusal to comply with the Zoning Resolution, which was at best a mistake in process, and at worst an intentional attempt to circumvent the zoning, exceeded the authority of the CPC and the City Council, was an error of law, and was arbitrary and capricious and an abuse of discretion.

Date: New York, New York
December 22, 2017

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Counsel to Petitioners

VERIFICATION

STATE OF NEW YORK)

ss:

COUNTY OF NEW YORK)

Willem L.
~~Lo~~ van der Valk, being duly sworn, deposes and says:

I am the President of Petitioner Carnegie Hill Neighbors. I have read the foregoing Verified Petition, and believe it is true and accurate based upon my personal knowledge, and public books and records, and my investigation of the facts of this matter, except as to matters stated to have been made based upon information and belief, and as to those matters I believe them to be true.

December 22, 2017
New York, NY

Willem L. van der Valk

Willem L. ~~Lo~~ van der Valk

Sworn to before me this 22nd day
of December, 2017

Notary Public

ROBERT E. YOUNG
Notary Public, State of New York
No. 01YO6338160
Qualified in New York County
Commission Expires March 07, 2020

12/22/17

VERIFICATION

STATE OF NEW YORK)

ss:

COUNTY OF NEW YORK)

Elizabeth Goldstein, being duly sworn, deposes and says:

I am the President of the Municipal Arts Society of New York, a Petitioner in this proceeding. I have read the foregoing Verified Petition, and believe it is true and accurate based upon my personal knowledge, and public books and records, and my investigation of the facts of this matter, except as to matters stated to have been made based upon information and belief, and as to those matters I believe them to be true.

December 22, 2017
New York, NY

Elizabeth Goldstein

Sworn to before me this 22nd day
of December, 2017

Notary Public

ERIN E. BUTLER
Notary Public, State of New York
No. 01BU6028853
Qualified in Richmond County
Commission Expires August 9, 2021

VERIFICATION

STATE OF NEW YORK)

ss.:

COUNTY OF NEW YORK)

Mary LaGrassa, being duly sworn, deposes and says:

I am a Petitioner in the foregoing proceeding. I have read the foregoing Verified Petition, and believe it is true and accurate based upon my personal knowledge, and public books and records, and my investigation of the facts of this matter, except as to matters stated to have been made based upon information and belief, and as to those matters I believe them to be true.

December 22, 2017
New York, NY

Mary LaGrassa

Sworn to before me this 22nd day of December, 2017

Notary Public