

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

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IN THE MATTER OF NEIGHBORS UNITED
BELOW CANAL, JAN LEE, DCTV, EDWARD J.
CUCCIA, BETTY LEE, and AMERICAN INDIAN
COMMUNITY HOUSE,

Petitioners,

For a Judgment pursuant to Article 78 of the CPLR

-against-

MAYOR BILL DE BLASIO, et al.,

Respondents.
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Index No.

**AFFIDAVIT OF
KERRI CULHANE
IN SUPPORT OF THE
VERIFIED PETITION**

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

KERRI CULHANE, being duly sworn, deposes and says:

1. I am an independent architectural historian with over twenty years of professional experience focused on the documentation, conservation, and restoration of architecturally and culturally significant buildings, structures, and sites. My particular specialty is the urban history of the immigrant neighborhoods of New York City’s Lower East Side, Chinatown, Little Italy, and the Bowery.

2. I hold an MA in architectural history with a focus on historic preservation and planning from Virginia Commonwealth University and I am currently a PhD candidate in architecture at the Bartlett, University College London. My PhD thesis examines the spatial history of New York’s Chinatown, and the roles immigration law and the economy have played in shaping Chinatown’s built environment from 1882 to the present.

3. In 2010, my nomination of Chinatown and Little Italy to the National Register of Historic Places was recognized by the New York State Office of Parks, Recreation, and Historic Preservation with the New York State Historic Preservation Award. To support this nomination, I undertook a building-by-building documentation of Chinatown and Little Italy's built environment as well as an analysis of their socio-cultural history.

4. As an independent consultant, I am qualified as a historic preservation professional and architectural historian consistent with the United States Secretary of the Interior's Professional Qualification Standards (36 CFR 61).

5. As an expert with particular knowledge of the history and significance of Chinatown, and of professional practice in cultural resources more generally, I am providing this affidavit *pro bono* in support of the Verified Petition and the relief sought therein.

The Chinatown and Little Italy National Register Historic District

6. The Chinatown and Little Italy National Register Historic District is located in a 38-block area of lower Manhattan roughly bounded by East Houston, Elizabeth, Worth, Baxter, Centre, and Lafayette streets. A majority of mid-nineteenth through early twentieth century buildings remains intact in the district, contributing to the neighborhood's historic context, feeling, and readily identifiable sense of place.

7. The National Park Service uses four Criteria for Evaluation (36 CFR 60) to determine the significance of an historic resource. Criterion A concerns resources that are "associated with events that have made a significant contribution to the broad patterns of our history." Criterion C concerns resources that "embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high

12. The tenements of Chinatown also provide the majority of affordable housing in the area, as they are regulated by the New York State rent control and stabilization laws due to their age, configuration, and function. On the Lower East Side and in Chinatown, displacement of residents from rent stabilized housing, either due to harassment, poor building maintenance and management, or other environmental impacts (fire, floods, construction noise or pollution) typically results in the units being deregulated, thus reducing the amount of much-needed affordable housing. Many regulated units are inhabited by seniors of limited mobility whose lives are inextricably entwined in hyperlocal community life (doctors, senior centers, grocery stores, houses of worship, social support networks), for whom displacement would create a significant hardship.

Chinatown's Distinct Character Has Been Impacted by Various City Actions

13. Throughout its history, from establishment in the 1870s to present, Chinatown has been a cultural home for the Chinese diasporic community of New York City and beyond, all the while facing repeated threats of demolition, dispossession, and inappropriate development.

14. In the first decade of the twentieth century, the City, at the behest of then Borough President George McAneny, devised a plan to destroy Chinatown by expanding the boundaries of the New York State Supreme Court site and running a boulevard through the heart of the neighborhood, with the stated goals of increasing the value of local real estate and displacing the Chinese community.

15. While this plan was never realized, Chinatown has been subjected to other government actions that have had lasting negative impacts.

16. The South Tower of the existing jail bordered by Centre and Baxter Streets just south of White Street was unwanted due to its scale and the feeling in Chinatown of an

artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.”

8. The Chinatown and Little Italy Historic District is nationally significant under Criterion A and Criterion C.

9. With respect to Criterion A, the area is significant for its Chinese American and Italian American ethnic heritage and social history, particularly in association with the history of immigration in America. The historic district’s long period of significance, c. 1800 to 1965, incorporates the historical and architectural evolution of the neighborhood and its development into a vibrant immigrant community.

10. With respect to Criterion C, the neighborhood is also nationally significant for its architecture, particularly for its numerous tenements which reflect the evolution of housing reform laws of the late nineteenth- and early twentieth centuries. The tenement is a distinct housing type associated with a way of life that is significant in American urban history. The tenements of Chinatown and Little Italy, similar to those elsewhere in the Lower East Side, housed immigrants to New York during the greatest wave of immigration in American history (1880 to 1921) and were modified to suit the tastes and use of those two immigrant populations. These tenement buildings and the tenement lifestyle are still common in Chinatown and these buildings remain in use by new immigrants and long-term residents alike.

11. In this way, Chinatown’s distinctive past remains its present. Chinatown is not an artifact, and its roots as an organic immigrant neighborhood persist and connect its present to the past for both residents and visitors.

incompatible use encroaching on the community. Over the objections of the community, it was nevertheless completed in 1983. Even before the South Tower was completed, the City proposed two additional jail buildings just north of White Street, between Centre, Baxter and Walker Streets. After a major public outcry, during which Chinatown expressed its critical need for housing and commercial space, the City partially relented. It constructed one jail building (the North Tower) on a portion of this site north of White Street and leased the remainder of the site to the Chung Pak Local Development Corporation (“Chung Pak”) for senior housing and retail, and also leased retail space in the North Tower to Chung Pak.

17. In addition, the City promised that White Street between Centre and Baxter Streets would be a pedestrian only public plaza space. The City commissioned artwork for the plaza space, including decorative paving elements and sculptures, as well as friezes and sculpture on the aerial walkway connecting the North and South towers.

18. Through research conducted in the archives of the Public Design Commission, I discovered the original Percent for Art White Street Plaza plans and scope of work which demonstrate the artist Kit-Yin Snyder’s intent to incorporate symbols of Chinese culture and folklore into the plaza as a gesture to the community. Materials from the Public Art Commission archives showing the design of the public plaza, a narrative description, and the approval of the Art Commission of the City of New York for the plaza are annexed hereto as Exhibit A.

19. The jail battles of the 1980s further frustrated a community that has seen taller and taller buildings encroaching on its low-rise streetscapes, while its concerns about damage to its cultural character, economic viability, and sense of place are consistently dismissed or disregarded.

20. Chinatown's cultural character is linked with its architectural setting and context; its "sense of place" serves to preserve its unique and authentic culture, heritage and living memory, and is also an economic driver that goes hand in hand with tourism, which has been critical to the Chinatown economy for 150 years.

21. The City's decision to close Park Row and limit access to Chinatown post-September 11th struck a damaging blow, and the adverse impacts on the local economy have been well documented in planning studies by the Asian American Federation of New York (2002-2008), Asian Americans for Equality & the Rebuild Chinatown Initiative (2008), and the Fiscal Policy Institute (2001-2002), among others. The documented impacts included reduced pedestrian traffic, including lower rates of tourist visits (resulting in the closure of Chinatown's oldest business, Quong Yuen Shing, established in 1891), and adverse health impacts from construction debris and particulates.

22. The new jail project represents yet another threat of erasure of Chinatown's unique character because it is completely out-of-scale, either as initially proposed or as modified, and would have significant impacts on the neighborhood's character and sense of place. It also would take back the promises and commitments that were made to the Chinatown community when the other jails were built, including the open air pedestrian only public plaza on White Street and retail space in the existing jail, as well as the open space on the rooftop of Everlasting Pines, which allows its elderly population to go outside for fresh air without having to navigate the surrounding busy streets.

The City's Inadequate Analysis of Potential Significant Adverse Impacts

23. In July 2019, I offered public comments on the lack of adequate and genuine analysis in the DEIS. A copy of those comments is annexed hereto as Exhibit B.

24. My finding after reading the DEIS chapters relating to the proposed Manhattan jail was that the City and its consultants failed to recognize Chinatown's national significance and to comprehend the project's threat to community character.

25. My comments also called attention to the taking of the White Street pedestrian only plaza, and artwork, that had been a symbolic gesture to the community intended to mitigate the impacts of the construction of the current detention center during the 1980s.

26. The pedestrian only plaza has been turned into a parking lot by the Department of Correction ("DOC"), with no notification to or input from the community or the Public Design Commission, which should have maintained an oversight role. There is no evidence of consultation between DOC and the Commission in the files regarding DOC's commandeering of the pedestrian only plaza as a parking lot and its defacement of the decorative paving with parking lines. Remnants of the decorative pavement on White Street are visible in Figure 4.6-3(2) of the FEIS and in Google Earth images annexed hereto as Exhibit C.

27. In the FEIS, the response to my comments merely corrected a typographical error I made in the address of the site but failed to address my comments on the taking of the public plaza, or on the neighborhood's national significance. See FEIS response to comments at p. 10-76, annexed hereto as Exhibit D.

28. It is unsurprising, then, that the Chinatown community is wary of the expansion of a disrespectful neighbor that has already proven to overstep its bounds and claim community space.

29. Responses to comments by others on the DEIS that dealt specifically with the historic preservation or cultural resources issues were similarly dismissive or failed to address the substance of the comments. See Exhibit D (FEIS at 10-78,10-79, 10-80).

30. The City's FEIS has failed to adequately characterize its well-defined, nationally significant neighbor, the Chinatown and Little Italy Historic District, and the consequent impacts that an out-of-scale project, either as initially proposed or as modified, would have on the neighborhood character and sense of place.

31. The FEIS states the "East of the project site, Columbus Park separates the Civic Center neighborhood from the Chinatown neighborhood to the east. Mulberry Street and the streets to the north and east are included within the boundaries of the Little Italy and Chinatown Historic District, a neighborhood typically characterized by older four- and five-story brick residential buildings with ground-floor commercial spaces. Many of the buildings within this area are situated on narrow lots." This characterization gives a false impression that Columbus Park, which is a contributing resource to the historic district in itself, forms a buffer between the Civic Center and Chinatown. Baxter Street is in fact the western boundary of the Chinatown and Little Italy Historic District, and the proposed jail sits directly across Baxter Street from a row of contributing historic tenements on Baxter between Bayard and Walker. *See* Exhibit E (FEIS 4.13-4)

32. Calling Columbus Park a "buffer" serves to minimize its importance as an integral part of the historic district and the greater Chinatown neighborhood. In February 2019, the City recognized the significance of this park to Chinatown and its residents when it decided to permanently locate a statute of Dr. Sun Yat-sen, the early 20th-century revolutionary figure and founder of the Republic of China, in Columbus Park and rename the park's northern plaza in his honor. In announcing this decision, Mayor DeBlasio stated, "It is long past time for us to recognize the heroes that represent the true diversity and vibrancy of our City. By moving to honor Dr. Sun Yat-sen with a permanent monument, we are also honoring the many Chinese-

Americans who call Chinatown, and New York City, home.” *See*

<https://www.nycgovparks.org/parks/columbus-park-m015/pressrelease/21636>.

33. The FEIS further mischaracterizes the neighborhood, claiming that “the neighborhood in the immediate surrounding area is characterized primarily by institutional buildings along with public spaces within the Civic Center neighborhood. Parks and plazas and buildings with large footprints that are generally nine stories and taller and that contain office and court uses, dominate the neighborhood in the study area, with this area typically developed with stone-clad buildings that occupy entire blocks.” The immediate neighborhood is actually characterized by the 4-5 story buildings of Chinatown and Little Italy, in addition to those of the Civic Center. See Exhibit E (FEIS 4.13-4)

34. Scale is critical to maintaining the sense of place in the low-rise core of historic Chinatown. The FEIS downplayed the scale of the originally-Proposed Project by likening the proposed 45+-story (<500’) building to extant buildings in the area, citing the significantly shorter and slimmer Moynihan Courthouse (27 stories) Chatham Towers (25 stories), and the current Detention Center (12 stories) as comparables. Even with the modification to the height per the Technical Memorandum (295’ plus unstated additional mechanical height), the height and large footprint of the modified project would still result in unprecedented bulk looming over low-rise Chinatown.

35. The FEIS dismisses the potential contextual or visual impact on Chinatown by simply noting that the extant 12-story Detention Center replaced previous jails on site. These jails were opposed by the Chinatown community and have now become an excuse to more easily site a new jail. This conclusory oversimplification does not actually account for the design nor scale of the previous and extant jails, or the true impact to neighborhood sense of place and scale

of the project, even as modified. Moreover, as a result of the project, the Chinatown community would lose the 50-foot wide open pedestrian plaza (which the City has already partially confiscated for parking) used daily to travel from Chinatown's east to west side. In its place would be an enclosed, narrow, tunnel - hardly a replacement for the open pedestrian plaza that Chinatown residents were promised when the existing jails were imposed on them in the 1980s.

36. Absurdly, as a result of DOC's improper takeover of the sides of the White Street plaza for parking, the FEIS did not consider the impact of the proposed jail on the public plaza. Rather, the FEIS states that "White Street between Centre Street and Baxter Street does not function as an open space and therefore has not been included in the DEIS analysis." Exhibit D (FEIS at 10-65, response 3-8).

37. The FEIS also failed to define a large enough Study Area. The FEIS established an insufficient 400-foot study area based on an average area suggested in CEQR. See FEIS at 4.5-6 and Figure 4.5-1. However, CEQR's more specific guidance for establishing a Study Area states that: "Larger study areas may be appropriate in certain circumstances, such as when projects are large in scale, located just outside a well-defined neighborhood that they may affect, or may result in truck routes or other project related traffic some distance from the proposed site" (CEQR Technical Manual, Section 310).

38. The bulk of the proposed jail constitutes a large-scale development on the edge of a well-defined neighborhood, mandating a wider study area with greater attention paid to the defining character of the neighborhood and its sense of place.

39. Due to the unprecedented height, bulk and length of shadows, a significantly larger Study Area commensurate with a more accurate area of potential effect should have been defined. Taking into account the broad 2107-foot shadow estimated in the FEIS to be cast on

SoHo, Tribeca East, and the Chinatown and Little Italy historic districts (and on numerous individual landmarks, including the nearby New York City Landmark Engine Company 31 Firehouse, 87 Lafayette Street), the Study Area should have been drawn to encompass these impacts. Accordingly, a 2107-foot Study Area instead of an insufficient 400' radius should have been used to evaluate the shadow impacts from the project. *See* Exhibit F (FEIS 4.4-3).

40. The methodology of the FEIS shows a consistent effort to downplay the effect of the project on the surrounding historic neighborhoods. The unprecedented bulk and height of the project as analyzed in the FEIS would cast significant shadows across much of two New York City Landmark Historic Districts: SoHo and Tribeca East. Yet, SoHo does not even merit a mention in the FEIS. In addition, according to the FEIS, only the Manhattan Bridge Arch and Colonnade would bear any potential shadow impacts but reducing the amount of light reaching this New York City Landmark was deemed insignificant. Exhibit F (FEIS at 4.4-9). One of the most immediately and deeply impacted buildings would be the former Engine Company 31 Firehouse at 87 Lafayette Street, an ornate, low-rise individual New York City Landmark.

41. "SUNLIGHT-SENSITIVE RESOURCES OF CONCERN" as defined in the CEQR Technical Manual Section 100, include:

- Buildings containing design elements that are part of a recognized architectural style that depends on the contrast between light and dark design elements (e.g., deep recesses or voids such as open galleries, arcades, recessed balconies, deep window reveals, and prominent rustication).
- Buildings distinguished by elaborate, highly carved ornamentation.
- Buildings with stained glass windows.

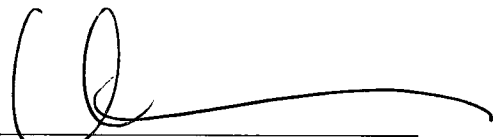
- Exterior materials and color that depend on direct sunlight for visual character (e.g., the polychromy (multicolored) features found on Victorian Gothic Revival or Art Deco facades). (CEQR Technical Manual Section 100: Definitions)

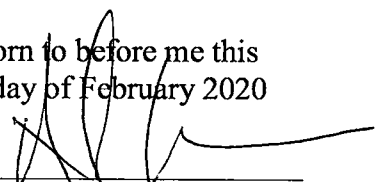
42. The Shadows analysis completely fails to identify the highly ornamental facades and other architectural features of the Tribeca East, SoHo, or Chinatown and Little Italy historic districts as Sunlight-Sensitive Resources of Concern, even though numerous individual resources in these districts would be adversely impacted by the limitation of light. For example, Most Precious Blood Church on Baxter Street between Canal and Hester streets, a contributing resource to the Chinatown and Little Italy Historic District, features stained glass windows, and would be overshadowed for much of the day. Additionally, the highly ornamental Chateausque individual New York City Landmark at 87 Lafayette Street (Engine Company 31, Napoleon LeBrun, 1895) would sit in deep shade. Even with the modified (lower) height per the Technical Memorandum, the bulky proposed jail would cast shadows on Sunlight Sensitive Resources in the Chinatown and Little Italy Historic District.

43. Redesign and adaptive reuse are the preferred approaches to avoid significant impacts to historic resources (CEQR Technical Manual Section 520-521.3). 125 White Street is eligible for listing in the S/NR and as a NYC Landmark, and its demolition will create a significant impact.

44. While the FEIS states that the redesign option was considered and dismissed, there is nothing to suggest that this option was seriously considered for the jail site, particularly in light of the modification to project height and square footage. The reduced gross square footage proposed for the Modified Project (~806,000 gsf) brings the square footage closer to the extant square footage of the current buildings at 124 and 125 White Street (estimated to be over

650,000 sf), making a redesign option more feasible. The October 11, 2019 CEQR Technical Memorandum, annexed hereto as Exhibit G, does not revisit the redesign/adaptive use potential of the modified jail project, and just restates that the approach outlined in the FEIS still stands (i.e., demolition after Historic American Building Survey documentation). Exhibit G at 17. Given the potential for significant adverse effect to 125 White Street by the proposed jail, redesign and adaptive reuse should have been explored to avoid significant impacts.


Kerri Culhane

Sworn to before me this
3RD day of February 2020

Notary Public

ALICE POON
NOTARY PUBLIC-STATE OF NEW YORK
No. 01PO6397384
Qualified in New York County
My Commission Expires 09-03-2023