

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.

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

Index No.

**AFFIDAVIT OF KEIKO
TSUNO IN
SUPPORT OF THE
VERIFIED PETITION**

Keiko Tsuno, being duly sworn deposes and says:

1. I am the Co-Founder and Co-Director of Petitioner, DCTV: Downtown Community Television Center (“DCTV”), a not-for-profit media arts center located at 87 Lafayette Street, New York, New York (the “Property”). I submit this affidavit in support of the Verified Petition.
2. At the outset, I wish to note that DCTV does not oppose the construction of a new jail facility in lower Manhattan. However, the proposed location of the Manhattan Jail facility has now changed materially, to 124-125 White Street. Our understanding is that the City now plans to demolish the existing Manhattan Detention Center located at 124-125 White Street and to construct a new approximately 300-foot tower in its place. We are asking the court to annul the approvals of a new jail in this location because the City violated the State Environmental Quality Review Act (“SEQRA”) and the City Environmental Quality Review

(“CEQR”) both procedurally and substantively by, among other things, conducting scoping on a different location.

3. Although the originally proposed location of 80 Centre Street and 124-125 White Street are three blocks apart, as we all know in New York City, a single block away can be a world apart. The impact of this Manhattan jail project can, and indeed will, differ dramatically based on the change in location of several blocks and the community must be given the opportunity to adequately review and weigh in on the impacts of the jail at 124-125 White Street.

4. To be clear- this is not a theoretical argument about how a “small” change in location “might” trigger different some environmental impacts - the 124-125 White Street location for the Jail *will* dramatically adversely impact DCTV’s historical landmark building, and the numerous public services that DCTV provides our community, many of which we collaborate closely with the City of New York to offer to the public. 124-125 White Street is a mere 100~ feet away from DCTV. I will outline below the *very real impact* this location may have on DCTV – all of which must be assessed before the project moves forward. This is the exact reason SEQRA and CEQR are in place- to make sure all environmental impacts are assessed and addressed before projects move forward – we only ask that the City comply with this legal requirement and properly vet the new location for its impact on DCTV and the surrounding Chinatown community.

5. In this Affidavit I will begin by describing DCTV so that the court may become familiar with DCTV, who we are, and why we are so important to New York City and the downtown Manhattan community. I will then explain our concerns about the harms that will be caused by jail construction project.

DCTV Is An Important Community Resource

6. In 1972 my husband, Jon Alpert, and I founded Downtown Community TV Center (“DCTV”). DCTV is a 501(c)(3) not-for-profit organization which receives a lot of support from the City of New York, and has worked closely with members of the City Council and City government on many projects over the past half century serving the Chinatown and Downtown Manhattan communities. The mission of DCTV is to foster diverse viewpoints by providing youth and aspiring, emerging, and established filmmakers with professional media arts training, equipment, and resources, and to create exceptional documentary productions. At DCTV, we believe that diversity of expression strengthens our democracy and enhances society.

7. For nearly fifty years, DCTV has cultivated a diverse and inclusive media arts community, and has served individuals who could not otherwise afford a media arts education. Every year, DCTV produces new and innovative nonfiction work that reflects diverse viewpoints.

8. DCTV is an important community resource and has had a transformative impact on thousands of individuals. Every year, DCTV offers an award-winning youth program serving over 1,000 teenagers and young adults; 150 low-cost, continuing education, media arts workshops for professionals, career changers, and the general public; inexpensive event space rentals for nonprofits, arts groups, and individual artists; and a nonfiction screening and events series, which brings independent documentary films and filmmakers to the Chinatown community. Annually, more than 15,000 New Yorkers come to DCTV to access media training and resources.

9. DCTV's Youth Media training program is hailed as one of the most successful of its kind in the county.

10. Among the many ways it serves the local community, DCTV offers underserved youth, including many youth with incarcerated parents, a place to express themselves in a safe and healthy environment, a free arts education, mentorship, college support, and pathways to employment. Previous workshops run by DCTV have allowed youth that have come into conflict with the judicial system an opportunity to use film as an alternative means of expression. As a result, DCTV has inspired similar media training and empowerment programs all over the city, including a program started at DCTV for youth with incarcerated parents.

11. DCTV provides a variety of worthy community benefits and programs. For example, "DCTV Presents" is a screening and event series that champions groundbreaking nonfiction film. Film screenings, master classes, and panel discussions led by renowned innovators in the industry offer the public a unique and inclusive opportunity to share and embrace independent art.

12. DCTV has established a community-based foothold in a field dominated by large corporations. From humble beginnings in the early 1970's, DCTV has earned the most honors among independent non-profit media centers in the nation. DCTV's landmark documentaries have earned 16 National Emmy Awards, 4 duPont Columbia Awards, and every other major award in the television industry. DCTV productions are seen by millions each year on media outlets that include HBO, Netflix, PBS, NHK, and more. No other New York City institution matches these accomplishments and contributions.

13. In addition, DCTV's Youth Media students have won a Robert F. Kennedy Award for Excellence in Journalism, an Emmy Award, and countless other accolades for their films. No youth program in the City has been so honored.

14. DCTV employs sixty (60) full time employees, plus an additional 100 plus teachers.

15. DCTV is currently producing a number of programs, including, Life of Crime 3 for HBO, a documentary series for Disney, an independent film on climate change, Axios, an HBO news series, and dozens of youth films screened on municipal channels.

16. TV programs cannot be made in the middle of a construction site. Even if the equipment and 125-year old building could somehow sustain the dust, noise and vibration from an adjoining construction project for sustained periods of time, the work we do is collaborative, and requires thoughtful writing and constant communication. DCTV employees will not be able to work in an environment of constant dust, noise and vibration.

17. The valuable and important services that DCTV provides to the community will be threatened and possibly lost if the City moves ahead with building the Manhattan Jail in the 124-125 White Street location without performing the legally mandated impact assessments to insure that DCTV will not be harmed by dust, noise, vibrations, and lack of access to our facilities.

The Landmark DCTV Building

18. DCTV's concerns about the City's failure to comply with SEQRA and CEQR stem in large part from our concern over the negative physical impact a major construction project will have on the Historical Landmark building that houses DCTV.

19. The DCTV Building (the “Firehouse,” “Engine Company 31” or “DCTV Building”), which is located at 87 Lafayette Street, is situated on a plot that extends from the corner of Lafayette Street half way down White Street in the direction of the 124-125 White Street location for the jail project. It is a mere 100~ feet from the proposed construction site.

20. DCTV has been located in the Firehouse since 1978, and DCTV has owned the Landmark building since 1983.

21. The DCTV Building was built in 1895. The French Renaissance style firehouse was designed by Napoleon Le Brun & Sons. It is an outstanding example of civic architecture and New York City’s commitment at the time to achieve architectural excellence.

22. On January 18, 1966, the building was designated as a New York City Landmark by the Landmarks Preservation Commission. The building is sensitive and valuable because of its age and delicacy. Photographs of the DCTV Building are annexed as Exhibit A.

23. The DCTV Building is four-stories high. The first story is clad in limestone, the second story is mostly clad in a buff-colored brick, and the third and fourth story are housed within a steep hip roof and expressed through limestone and copper dormers. The main bulk of the building is topped with a steep two-story slate roof. The roof of the turret as well as the roofs and sides of the dormers are also roofed with slate. A limestone and terra cotta balustrade with an S-curve motif runs along and above the second floor on the west and south elevations.

24. The topography beneath and around the DCTV Building is unique. Upon information and belief, there are natural springs that run underneath the DCTV Building. This is not surprising since the area beneath and/or around the Property was formerly a body of water, known as Collect Pond, which occupied 48 acres.

Negative Impact on the Landmark DCTV Building

25. Due to the unique topography at the site of the DCTV building, as well as the specific materials used to construct the Landmark DCTV building, environmental impact assessments must be performed by City engineers to insure the integrity of the building isn't compromised by nearby construction of the new jail. There is scientific proof that construction may harm DCTV's building, in the form of past studies DCTV has privately conducted, as well as the negative impact past City construction projects have had on the DCTV building.

26. Approximately ten years ago, in 2009, DCTV hired Mueser Rutledge Consulting Engineers ("MRCE") to perform test pits in the first-floor slab of the DCTV Building. MRCE identified groundwater at approximately 15 feet below grade and noted the risk of settlement if construction dewatering is performed nearby.

27. In 2016, another firm, Surface Design, evaluated the DCTV Building. Surface Design noted severe settlement of the DCTV Building, including, but not limited to, cracked and widened joints, spalled and displaced limestone, damage to the limestone and terra cotta balustrade, cracked and displaced roof tiles, and cracked brick.

28. During the course of its ownership of the Firehouse building, DCTV has invested over one million dollars to evaluate and address settlement issues, including installation of new structural piles and piers.

29. The DCTV Building is less than one block -- approximately 100-feet east of the Manhattan Jail Project Site at the 124-125 White Street location.

30. In the FEIS at p. 4.1-21, the City has acknowledged that dewatering will be necessary in order to construct the jail, but the FEIS does not provide any analysis of how

dewatering would impact the structural integrity of the DCTV Building or how the City would mitigate those impacts.

31. This is a case of history repeating itself. When the city built the Courthouses and Federal buildings near the Firehouse in the mid 20th century, the water table was reduced in the entire neighborhood, and due to this nearby construction the DCTV Firehouse was very severely structurally damaged. In fact, the city had previously owned the Firehouse building and abandoned it because it was in such bad shape due to this damage caused by nearby construction. The foundation was compromised, and the building was at risk of collapse. DCTV has spent the past 50 years investing millions of dollars and resources into shoring up and repairing the damage caused by that hasty City construction. The very type of construction the City is now contemplating (especially dewatering), will likely cause great harm to the Firehouse and the potential impact must be assessed and addressed. To insure places like the DCTV Firehouse aren't harmed by hasty planning, we ask that the City conduct a meaningful analysis of the impacts to the DCTV Firehouse from construction.

Negative Impact on DCTV's Community Programs and Services

32. When assessing our petition, it might be helpful to have a more detailed explanation of DCTV's use of the Firehouse building, and the way in which the construction project, if it were to take place at 124-125 White Street, may harm the community programs we offer.

33. The first and third floors of the DCTV Building include two separate areas that are used as community facilities. In total, there are approximately 6,300 square feet of

available community facility space. There is no other similar space available in the community. The space is highly utilized by various groups, including schools, nonprofits, arts organizations, individual artists and municipal agencies. The noise and dust from major construction taking place over a multi-year period, within a half a block of our location would hinder the use of these community spaces.

34. The second floor of the DCTV Building houses DCTV's Youth Media program. These approximately 100 aspiring teen filmmakers are selected via an application and interview process and receive mentorship after school for up to three years. Each student will learn aspects of media production, including storyboarding, camera operation, sound design, lighting design, animation techniques, art direction and more. At the end of one year, each student will have made their own, original short film for public exhibition, and put their new technical skills to use as crew members on each other's projects. DCTV Youth Media's classrooms are approximately 100 feet from the construction area.

35. While I am very proud that DCTV's Youth Media training program is one of the most successful in the county, I am even more inspired by its students, including Sade Falebita, who now serves as DCTV's Associate Director of Youth Programs. Sade's story is typical of thousands who have found community, life skills, and encouragement at DCTV. DCTV helped her and thousands of others to learn skills like writing, film editing, media literacy, etc. Our programs taught her how to think amidst the constant din of today's commercial and often exploitive media world, and to become an engaged empowered participant in the world. A major construction project half a block from the DCTV classrooms would prevent us from providing the services we offer to young filmmakers in our Youth Media program.

36. The third floor of DCTV includes a flexible studio space, which is frequently used for productions and screening. The studio space provides a source of revenue for DCTV and a valuable resource for the community. A concern DCTV has about widescale construction taking place at 124-125 White Street is that the DCTV studio will not be able to be used for recording during construction due to noise, vibrations and dust from demolition and construction of the jail project. Additionally, use of this space for other revenue producing activities, such as educational programming, will be impossible.

37. DCTV has also trained thousands of New York City residents in its continuing education workshops, offering the most affordable filmmaking classes in New York City. There are eight editing rooms along the periphery of the DCTV Building. Millions of dollars of production and post-production equipment live in these rooms. The constant dust, noise and vibration during the construction period will cause irreversible damage to this equipment and the ability for DCTV to fulfill its mission. Again, this is something that should have been vetted by the City under the mandates of SEQRA and CEQR.

38. The basement of the Firehouse is home to a fifty-year old archive of films and videos documenting Chinatown's cultural and political activities. This archive of old films and video cannot tolerate dust and will suffer specific and adverse effects from demolition and construction of the Proposed Project. Protection of this archive is even more imperative in the aftermath of the recent fire at 70 Mulberry Street, which destroyed much of the Museum of Chinese in America's collection of 85,000 items, most of which will likely be unsalvageable. We fear that the construction project occurring in such close proximity to the archives may damage them, and such risk must be assessed by the City before moving forward.

39. DCTV is also in the process of completing a 74-seat cinema that will be focused on showcasing and elevating the documentary art form. The theatre will be an “Academy Qualifying” cinema. Films that want to compete for Academy Awards must show their films in “Academy Qualifying” cinemas. The new theatre addition will also include a concession area and additional community space.

40. The DCTV Academy Qualifying cinema is unique in the city and in the country. It will be completely interactive, allowing millions to participate and benefit.

41. It is DCTV’s intention to utilize this cinema space for families, senior citizens, community organizations, and general audiences and to eventually pay for the cost of construction.

42. All requisite approvals have been obtained for the cinema addition, which is approximately 50% complete. The theater is of special importance in this petition because the main entrance for the theatre is located on White Street, approximately *50-feet* from the corner of Centre Street – right by the proposed jail.

43. As such, DCTV is deeply concerned that the jail project at the 124-125 White Street location will cause the cinema to be unusable because people will not be able to easily access the theatre from White Street. Further, the noise, dust, and vibrations will render the new cinema unusable. This cinema is part of a long-term capital plan for DCTV and without it, DCTV may be forced to shut its doors. We will be stuck with millions of dollars in loans and no ability to offer the community services to pay the lender.

Clear Violations of SEQRA and CEQR

44. In failing to assess the impacts of demolishing the existing jail at 124-125 White Street and building a new jail at that location, the City has failed to comply with SEQRA and CEQR. No one from the City has come to assess the DCTV Building as part of the environmental review process. Nor did anyone from the City request any information from DCTV about the Firehouse Building or concerns pertaining to DCTV's operations that would be adversely and significantly affected by the Proposed Project. No one studied the unique architectural sensitivity and susceptibility of the Building.

45. There is nothing in the DEIS or FEIS that indicates that the City examined the impacts of the Manhattan jail to the DCTV Building, which is a historical and cultural resource, or DCTV operations.

46. By way of illustration, although the City recognizes the DCTV Building as one of ten known architectural resources within 400 feet of the Proposed Project, the FEIS inexplicably excludes it from the study area for consideration of construction mitigation and protection measures. See FEIS Figure 4.5-1 and Table 4.5-1, and p. 4.5-18. As noted above, DCTV is *less than one block* from the Proposed Project.

47. Additionally, the majority of the roof lines on the DCTV Building are very steep and constructed of fragile slate tiles. Vibrations from the demolition and construction will cause these tiles to become loose and they will act as a guillotine to passers-by when they fall. Similarly, there are ornamental panes of glass throughout the DCTV Building, as well as terra cotta motifs that can easily shift, break and fall to the sidewalk below. None of these construction impacts or public safety issues were considered in the DEIS or FEIS.

The City's Flawed Environmental Review Process

48. When the City first announced that the BBS would include a jail in Manhattan, it was to be located at 80 Centre Street, three blocks south and approximately one block east of DCTV. DCTV was not particularly concerned about a jail at 80 Centre Street, given its distance from DCTV.

49. Thus, when the City held a scoping hearing for the 80 Centre Street site, I, as a representative of DCTV, did not attend. Nor did I submit written comments on the draft scope. I later learned that the City decided to move the location of the Manhattan jail to 124-125 White Street, but the City did not hold another scoping hearing for the new location.

50. The City's failure to hold a scoping hearing for the actual Manhattan site is significant. First, I or DCTV co-director Jon Alpert would have attended a scoping hearing for 124-125 White Street, but none was ever held.

Second, if the City held a scoping hearing for 124-125 White Street, a plethora of additional issues for its consideration in the environmental impact statement would have been identified. For example, DCTV would have asked that the environmental impact statement include basic information about the subsurface conditions of 124-125 White Street and surrounding properties, and evaluation of how those conditions and construction of the proposed building will impact the structural integrity of the DCTV Building, as well as ways that those impacts would be mitigated.

51. DCTV would have also raised for consideration in the EIS the impact of the Manhattan jail on DCTV's theatre addition, which is accessed from White Street. Although the environmental impact statement for the Manhattan jail does not disclose any details on construction logistics, including where the staging areas will be located, a natural potential staging area would be White Street, between Lafayette and Centre Streets. If this stretch of

White Street becomes a staging area for the jail project, access to the documentary theatre will be blocked. This would significantly harm DCTV, which has worked tirelessly for over ten years to obtain funding for and to construct the all-documentary Academy Qualifying theatre.

52. Another issue DCTV would have suggested be included in the scope had the City held a scoping hearing for 124-125 White Street, and that is not addressed in the environmental impact statement, relates to the impact on students, audience members, and employees of DCTV who come from east of Centre Street. If White Street is closed for construction, it will take twice as long to travel to and from DCTV every day, and students, audience members and employees will be forced to walk further north to use Walker Street, or further south to use Hogan Place. The demolition and construction at the site will make it more difficult for me, my employees and audience members to safely access the building. Installation of scaffolding, sidewalk sheds, and canopies, as well as the noise, dust and street closures associated with demolition and construction, will likely impede access to DCTV, particularly for those that require the assistance of mobility aids, walkers, or wheelchairs.

53. Even if the pedestrian plaza at White Street is eventually replaced, after years of construction, with a long tunnel between Baxter and Centre Streets, it will still significantly impact the daily life of DCTV's students, employees, and community members who use our facilities. Students especially will not feel safe walking through a dark tunnel, particularly at night when any stores that may be located in the tunnel will be closed.

54. The demolition and construction of the Manhattan Jail will result in detrimental daily exposure to dust, air pollution, noise, vibration, and various other negative environmental repercussions emanating from the Manhattan Jail site that undoubtedly will affect the employees' and students' health and well-being. This will ultimately deter employees,

students and audience members from working, learning, creating, and collaborating at DCTV and jeopardize DCTV's ability to fulfil its mission and serve the community.

Conclusion

55. Due to its proximity to 124-125 White Street and the unique nature of its operations, DCTV will be uniquely and adversely impacted by the Proposed Project. Yet, the scope of the City's environmental impact review excluded any consideration of potential significant adverse impacts to DCTV. The Landmark Firehouse Building has been honored for its beauty and for its contribution to New York City life. It has been recognized for its vulnerability and sensitivity – geographically and structurally. All these factors must be included in the City's impact assessments. Failing to assess impacts to the DCTV Building violates the law and jeopardizes DCTV's Landmark building and the organization's contributions to the community.

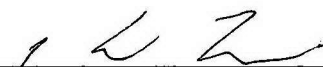
56. I conclude by confessing that I am deeply concerned that DCTV's participation in this Article 78 proceeding, and DCTV's speaking out requesting that the City properly review the impact of the jail project may result in negative consequences for the organization. DCTV has long maintained a positive and collaborative relationship with the City and City government officials. In fact, my husband and I have many personal friendships with City Council members, which we hope will not be jeopardized by this proceeding. DCTV as an organization is very grateful for the City's longstanding support of our programs and we hope to continue to work closely and positively with the City for years to come. We are not trying to pick a fight, and we don't want to poison the well. We merely would like the City to follow proper legal procedure and fully vet what impacts this new location may have on DCTV and the

Chinatown community, and address and mitigate any negative impact that is uncovered.

DCTV's future hangs in the balance and it would be a failure of my fiduciary duty as director of DCTV if I didn't ask for the city to pause its construction process and review the potential impact on DCTV.

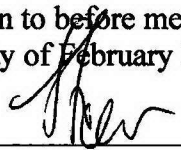
57. I respectfully urge the Court to grant the Petition.

STATE OF NY
COUNTY OF NY



Keiko Tsuno

Sworn to before me this
12th day of February 2020



Notary Public

JACKSON LEE
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01LE6121031
QUALIFIED IN QUEENS COUNTY
CERTIFICATE FILED IN NEW YORK COUNTY
COMMISSION EXPIRES JANUARY 3, 20 21