To be Argued by:
CHERYL F. KORMAN
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New York Supreme Court
Appellate Division – First Department

WEST 58TH STREET COALITION, INC., 152 W. 58 ST. OWNERS CORP., SUZANNE SILVERSTEIN, CARROLL THOMPSON, XIANGHONG DI STELLA LEE, DORU ILIESIU and ELIZABETH EVANS-ILIESIU,

Petitioners-Appellants,

– against –

CITY OF NEW YORK, BILL DE BLASIO, SCOTT STRINGER, NEW YORK CITY DEPARTMENT OF HOMELESS SERVICES, NEW YORK CITY HUMAN RESOURCES ADMINISTRATION, NEW YORK CITY DEPARTMENT OF BUILDINGS, STEVEN BANKS, JACQUELINE BRAY, WESTHAB, INC., NEW HAMPTON, LLC, JOHN PAPPAS, PAUL PAPPAS, B. GENCO CONTRACTING CORP., TMS PLUMBING & HEATING CORPORATION and BASS ELECTRICAL CORPORATION,

Respondents-Respondents.

BRIEF FOR PETITIONERS-APPELLANTS

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PRELIMINARY STATEMENT

Petitioners-Appellants, West 58th Street Coalition, Inc., 152 W. 58 St. Owners Corp., Suzanne Silverstein, Carroll Thompson, Xianghong Di Stella Lee, Doru Iliesui and Elizabeth Evans-Iliesiu (collectively referred to herein as the "Appellants") submit this brief in support of an appeal from an order of the Supreme Court, New York County (Tisch, J.), dated April 25, 2019, which denied and dismissed Appellants' Article 78 Petition challenging the shockingly irresponsible, arbitrary and capricious determination by Respondents, New York City Department of Homeless Services ("DHS") and New York City Human Resources Administration ("HRA") (together with the remaining governmental Respondents, the "City" or "City Respondents") to open a homeless shelter for 150 adult males in an unsafe building that experts unanimously describe as a "fire trap, and a disaster waiting to happen".

It is unchallenged here that this shelter (the "Proposed Shelter" or "Proposed Facility")—to be located at the former Park Savoy Hotel site at 158 West 58th Street in Manhattan (the "Building")—will pose serious fire and building safety risks for prospective residents, shelter staff, neighbors (including Appellants), and the firefighters who ultimately will have to confront any fires there. Indeed, the City Respondents readily admit that the Building does not meet current day New

York City Building Code (the "Building Code" or the "Code") standards in numerous respects.

Most egregiously, this 9-story high rise Building, which had been operated as an illegal hotel and illegal restaurant (without fire sprinklers) by the Owner for years, has only one staircase for 150 residents even though the current Building Code requires at least two (2) independent means of egress for the residents. This staircase, which is illegally narrow, winding and lacks requisite landings, impermissibly leads to the rear of the Building's lobby even though by Code it is required to lead directly to the street. Moreover, the entrance to the staircase is located in the middle of each floor's hallway, meaning that the residents who occupy the rooms on either end of the hallway would be trapped should a fire break out between their room and the staircase entrance. Further compounding this obvious danger is the fact that the individual units are not equipped with fire sprinklers and there are no fire escapes.

Given these egregious Code violations, it is not difficult to imagine how a tragedy could unfold. In the event of a fire, as many as 150 people would all be rushing to the same narrow, winding staircase in an attempt to exit the Building. As the residents were rushing down the treacherous staircase to escape the fire, the responding firefighters, with all of their equipment, would be forced to move all the way to one side of the already illegally narrow staircase as they climbed the

stairs to access the fire floor. Those residents in the rooms that were located on the wrong side of the fire would be trapped and would almost certainly perish as there would be no means of escape. A traffic jam in the illegal staircase would be a substantial impediment to the firefighters who are trying to quickly access and fight the fire and the residents who are trying to safely and quickly exit the Building. In this particular Building, this issue would be further complicated by the narrow, winding staircase as there would be no room for both firefighters and residents to occupy the staircase at the same time. Additionally, until the residents safely exited the staircase, it would be difficult for the firefighters to attach a hose to the water supply contained in the standpipe since the standpipe is also located in the illegal staircase. This would further delay the firefighters from safely accessing and fighting the fire, and rescuing the residents who were trapped in the floors above.

This is why John Bongiorno, a former FDNY firefighter who bravely rushed into the burning World Trade Center buildings during 9/11, stated in his sworn affidavit that "As a firefighter for 25 years, I would never want to fight a fire in a 9-story building that has only one means of egress. It is simply too dangerous."

In fact, there is no need to imagine how a tragedy would unfold; this City has already seen first-hand what can happen when there is only one narrow staircase in a building. The 1990 Happy land Social Club fire took the lives of 87

people when the floor of the only exit to the building ignited. The two-story building had only one narrow staircase and an incomplete sprinkler system, much like the Building here, which, according to Appellants' fire safety expert Robert G. Kruper, "was one of the primary causes of over 80 deaths." If 87 people perished in a two-story building because there was only one narrow staircase, imagine how many people would lose their lives if there was a fire in a nine-story building with only one narrow staircase.

Respondents' justifications for why it should be permitted to operate a shelter from this dangerous, non-compliant Building are rooted in the misapplication of pure questions of law---specifically, interpretations of the grandfathering provisions of the Building Code (the "Grandfathering Provision"). In other words, the City claims that it can operate a homeless shelter in this dangerous Building constructed over 100 years ago, and need not comply with the requirements of the current Code without regard to whether the Building is actually safe, simply because it is old. Besides the City's callous disregard for the prospective residents' safety, this argument represents a complete misapplication of the Grandfathering Provision since, by statute, a Building is only excused from compliance with the current Building Code requirements if, and only if, such non-compliance does not "endanger the general safety and public welfare."

The Supreme Court, New York County issued a decision and order (the "Order") denying and dismissing Appellants' Article 78 petition and finding, in relevant part, that the 100-year-old Building was excused from having to comply with the current Code because of the Grandfathering Provision. The Supreme Court made such a determination without performing any analysis or engaging in any fact-finding as to whether the Building's failure to comply with the current day Building Code actually endangers the general safety and public welfare which, as previously stated, is a statutory condition precedent to the applicability of the Grandfathering Provision.

Instead, the Supreme Court mistakenly determined that the Building was presumably safe to open solely because the New York City Department of Buildings (the "DOB") issued a partial temporary certificate of occupancy ("TCO") for the first four floors of the Building, and that such presumption is un-rebuttable, sacrosanct and may not be challenged.

The Supreme Court's reasoning is severely flawed since the controlling case law makes clear that the issuance of a TCO creates nothing more than a rebuttable presumption that a building complies with New York City law. In a challenge to DOB's application of the Code, it cannot, therefore, be "presumed" that DOB's issuance of a TCO is dispositive on the issue of safety, or else no party would ever be able to challenge the issuance of a TCO. Indeed, the Supreme Court's complete

abdication of its authority to DOB ignores well-established law that the City is entitled to no deference regarding these types of questions of statutory interpretation; it is the Court's responsibility to decide the issues.

Therefore, it was error for the Supreme Court to refuse to even consider whether Appellants successfully rebutted the presumption created by the issuance of the TCO by, among other things, the submission of multiple, unrefuted sworn affidavits from fire-safety experts including: (i) a former FDNY captain and company commander, (ii) the former Manhattan Borough Commissioner for DOB; (iii) the former Deputy Commissioner of Facilities Management and Development at DHS; and (iv) a former FDNY firefighter who battled fires in the World Trade Center during 9/11, all of whom unanimously concluded that the Building was an "unsafe fire trap" and a "disaster waiting to happen" because, *inter alia*: (a) the Building has only a single means of egress; (b) the sole means of egress is too far from the residential rooms; (c) the stairs are too narrow and contain stair winders; (d) the Building contains "dead-end" and "too-narrow" corridors; (e) the Building does not have a means of egress that exits directly to the street; and (f) the Building is only partially sprinklered.

Tellingly, the Supreme Court found that the Building was presumptively "safe" even though the City did not submit a single affidavit from a fire safety expert countering or rebutting the unanimous conclusion of the Appellants' experts

that the Building's non-compliance with the current Building Code renders this Building a dangerous "fire trap". Further, the lone affidavit the City did submit to attempt to address these issues is from the Manhattan Borough Commissioner who readily admits that the Building does not comply with current Code in numerous respects and fails to substantively address Appellants' detailed explanation as to why a single means of egress and other non-compliant conditions, such as narrow, dead-end hallways and a narrow and winding stairway, are unsafe and render the Building a "fire trap".

Appellants were, at the very least, entitled to a trial to determine the factual issue of whether the Building endangered the general safety and public welfare by virtue of the Building's failure to meet the current day Code. Without such a trial, it was error for the Supreme Court to conclusively establish that the Building was actually safe, especially absent any evidence to contradict the findings of Appellants' experts. Since an express requirement for the application of such Grandfathering Provision is that the Building's failure to comply with the current day Building Code standards may not endanger the general safety and public welfare, the Supreme Court was required to undertake that analysis, which it failed to do.

Additionally, the Supreme Court erroneously found that the Grandfathering Provision was applicable even though: (a) there was an actual change in occupancy

and use of the Building which requires compliance with the current Building Code; and (b) in its filings with the DOB, Respondent, New Hampton, LLC ("Owner"), the owner of the Building, specifically elected for the Building to be governed by the current day Building Code standards. Independent of the safety issues, these facts render the Grandfathering Provision inapplicable based upon the clear language of the controlling statutory legal authority.

Specifically, the Supreme Court incorrectly found that the Grandfathering Provision applies even though: (a) the Alt-1 Application correctly indicates a "Change in Occupancy/Use", and in the "Job Description" specifically notes that the work will result in a "change of use"; (b) a homeless shelter, by statute, is properly classified in occupancy group R-1, a classification for residential buildings being occupied on a transient basis, which would require a change in use from the current R-2 occupancy classification of the Building, which is reserved for residential buildings occupied on a permanent basis; and (c) the Building has undergone a change in Use Group under the Zoning Resolution. The admitted change in use and occupancy independently renders the Grandfathering Provision inapplicable to the Building.

Further, although Petitioners demonstrated that the Alt-1 Application and the proposed Certificate of Occupancy Schedule "A" filed by the Owner with the DOB both indicate an election to be governed by the "2014/2018 Code", the Supreme

Court rejected this argument because, according to the Supreme Court, "...the application concerned the work being done on the first floor and not the entire building." This was clear error, however, since the Alt-1 Application specifically provides that it was for work in the cellar and on floors "001 thru 009". Therefore, the Owner's express election to be governed by the 2014/2018 Code is binding and precludes the application of the Grandfathering Provision.

It must also be noted that the City refused to approve the Owner's application to operate a transient hotel from the Building just a couple of years before it approved the operation of a homeless shelter from the very same Building. The question must, therefore, be asked: If the Building was not safe enough to operate as a hotel, how can it be safe enough to operate as a homeless shelter?

Finally, the City's unsupported argument that Appellants' are simply against having a homeless shelter in the neighborhood is demonstrably false. In fact, it is undisputed that the Appellants took the initiative to identify and propose an alternative site for a homeless shelter within the neighborhood one street over from the Building, on 57th Street. The Appellants had discussions with the owner of this building who expressed a willingness to lease the building to the City for use as a homeless shelter. This 8-story building, currently being used a drug rehabilitation center, has 2 staircases, is move-in ready for 150 homeless residents and, upon

information and belief, would cost the City considerably less money to rent than the Building. Incredibly, while the Appellants proposed this alternative site to the City's representatives, the City inexplicably refused to even discuss same with the Appellants. Therefore, the City's argument holds no water and is nothing more than a red herring.

Accordingly, the order of the Supreme Court, New York County (Tisch, J.), dated April 25, 2019, should be reversed in its entirety.

QUESTIONS PRESENTED

Whether the Supreme Court erred in finding that the Grandfathering Provision excused the Building's compliance with the current Building Code where: (a) it is unrefuted that the Building's failure to comply with the current Code requirements endangers the general safety and public welfare; (b) there was a change in the use and occupancy of the Building; and (c) the Owner elected to be governed by the current Building Code requirements.

This question should be answered in the affirmative.

FACTUAL AND PROCEDURAL BACKGROUND

A. The Building

The Building is a mixed-use, nine-story high rise building located at 158 West 58th Street in Manhattan (A-169-170).

B. The Owner's Prior Illegal Use Of The Building

Upon information and belief, the Owner had long been illegally operating a commercial hotel from the Building in violation of the then-current certificate of occupancy (A-189-192). In fact, the Owner has received multiple violations over more than twenty years relating to its use of the Building for commercial restaurants and hotel rooms in contrast to the certificate of occupancy (A-628-634).

In January, 2014, the Owner filed an Alt-1 plan to renovate and convert the existing single-room occupancy Building into a "transient hotel with [a] commercial first floor/cellar" in an attempt to legalize the use of the Building (A-953-958). The Alt-1, which would have changed the occupancy classification of the Building to Residential 1 ("R-1"), a designation reserved for residential buildings being occupied transiently, acknowledged that the "alteration is a major change to exits", and a "change in occupancy/use." (A-955). However, the Alt-1 was rejected by the DOB in November, 2016, and subsequently withdrawn by the Owner on June 20, 2018 (A-954).

Upon information and belief, the Owner continued to operate the Building illegally as a hotel without permits, along with unpermitted restaurants on the first

floor, until the City inexplicably gave it a pass to operate a shelter from the Building. The City has never offered any explanation as to why it refused to permit the Owner to operate a hotel from the Building, yet permitted the Owner to operate the very same Building as a homeless shelter.

C. The Shelter Contract

The DHS has an outstanding "Open-Ended Request for Proposals" (the "OERFP") through which it seeks proposals for homeless shelter operators to open new sites which, upon information and belief, was last amended on December 19, 2016 (A-193-246).

On or about January, 2018, the City awarded a contract (the "Contract") to Westhab to operate a shelter for 150 adult males at the Building (A-669-820). The Contract provides, in part, that the shelter is to be "operated as a temporary shelter and not as a long-term shelter." (A-783).

D. The Owner's Alt-1 Application

In order to accommodate the Proposed Shelter, the Owner filed the Alt-1 Application summary seeking, *inter alia*, to amend the number of dwelling units in the Building and change the use of the Building from a hotel to a homeless shelter (A-562-566). The Alt-1 Application specifically notes that the work will result in a "change of use" that is "inconsistent with the current certificate of occupancy." (A-564). On the "DOB Inspections Now" website, a summary of the Alt-1

Application reads as follows under the heading "Job Description": "Herewith filing an Alteration Type I Application Amend the Number of Dwelling Units and Change of Use." (A-646-648).

E. The Construction Code Determination Form

On April 6, 2018, the Owner filed a Construction Code Determination Form ("CCD1") requesting approval from the DOB to maintain the existing single means of egress in the Building (A-587-597). Notwithstanding that a building's failure to have at least two means of egress violated the current Building Code requirements, the DOB granted Owner's approval to maintain a single means of egress in the Building, erroneously citing to the inapplicable Multiple Dwelling Law §248 (A-588).

F. The Petition

On July 2, 2018, Appellants commenced the instant Article 78 proceeding by filing a Verified Petition (the "Petition") in the Supreme Court, wherein it challenged the City's determination to open a homeless shelter in the Building. Within the Petition, Appellants demanded, *inter alia*, a permanent injunction barring Respondents from opening the Proposed Facility, along with a proposed Order to Show Cause (the "OSC") requesting preliminary injunctive relief barring Respondents from opening the Proposed Facility during the pendency of the action (A-11-92). Appellants asserted in the Petition, among other things, that the

decision to open the Proposed Facility was arbitrary and capricious because the Building is unsafe and does not comply with the Building Code (A-61-64).

Appellants submitted numerous sworn expert affidavits in support of the Petition, including several by former high-ranking officials from the New York City Fire Department ("FDNY"), DOB and DHS attesting to the fact that the Proposed Facility is a "fire trap" and a "disaster waiting to happen". (A-148-174).

(1) Affidavit of Robert G. Kruper

Robert G. Kruper ("Kruper") is the president of Kruper Consultants Inc., a consulting firm that specializes in preparing and reviewing fire safety plans and emergency action plans for buildings and hotels in New York City (A-149). Prior to his career as a fire safety consultant, he was a member of the FDNY from 1981-2002, including serving as a lieutenant in the FDNY from 1990-1998 (A-149). During his time as an FDNY lieutenant, Kruper supervised building inspection activities and enforcement of the New York City fire prevention laws (A-149). Kruper later served as a captain in the FDNY, and company commander of a ladder company where he was responsible for the fire company's overall readiness, staffing, training, policy and procedures (A-149). Based upon his extensive experience with the FDNY and as a fire consultant, Kruper "is knowledgeable about use and occupancy classifications, as they have an impact on fire safety requirements under the Fire Code." (A-151).

Based upon his review and analysis of the DOB documents and filings for the Building, Kruper concluded that the Building "...is extremely dangerous from a fire safety standpoint..." since, among other things, "...there is only one (1) means of egress from the Building." (A-150). According to Kruper, the Building is a "disaster waiting to happen" and "there is a significant risk that people will lose their lives if this Building is permitted to open and operate as a homeless shelter." (A-150).

Kruper unequivocally states that a single means of egress would be "extremely unsafe" in this Building because "as many as 150 people would all be rushing to the same exit in the event of an emergency, like a fire. Moreover, in the event of a fire, the occupants would have to use as their means of egress the same stairway as any firefighters coming up the stairs." (A-154). In Kruper's expert opinion, "every occupant and neighbor will be in significant danger due to the significant fire safety risks posed by this Building." (A-157).

Kruper also concludes that the "Owner has improperly classified the Building as being in the Residential 2 use and occupancy group R-2 when the Building should be in the Residential use and occupancy group R-1." (A-151). Kruper explains that the Building should be in the R-1 use group in accordance with Section 310.1.1 of the Code because: (a) it is a residential building that will be occupied transiently, (b) the Building is a Class B multiple dwelling as defined by

Section 27-2004 of the New York City Housing Maintenance Code and Section 4 of the Multiple Dwelling Law; and (c) the Building is going to be operated as a homeless shelter by a not-for profit organization (A-151-152).

Additionally, Kruper notes that Section 405 of the Fire Code, which specifically addresses emergency preparedness for homeless shelters, "makes it clear that homeless shelters are properly classified as being in the R-1 use and occupancy group." (A-152). Specifically, Kruper explains that "Sections 405.4.1, 405.4.2, 405.4.3 and 405.5 of the Fire Code all specify that homeless shelters fall under the R-1 use and occupancy classification" and that there is not a single provision in the Fire Code "which applies to a group R-2 homeless shelter, because a homeless shelter is not part of the R-2 use and occupancy group." (A-152).

(2) <u>Affidavit of Robert Skallerup</u>

Robert Skallerup ("Skallerup") has been a professional licensed architect for thirty (30) years and served as both Manhattan Borough Commissioner for the DOB from June, 2001 until June, 2002 and the Deputy Commissioner of Facilities and Management for DHS from 2002 until his retirement in April of 2011 (A-168-169).

As Facilities Commissioner for DHS, Skallerup was responsible for scouting and approving potential new locations for shelter facilities (A-168-169). In that capacity, he supervised a staff of 250 people for the purpose of "analyzing and

inspecting prospective buildings for safety purposes and to assure that they were generally suitable to serve as homeless shelters". (A-168). Skallerup alone had the authority to make the final determination with respect to all proposed facilities (A-168-169). On at least two occasions, Skallerup made the decision not to approve a proposed facility because the building was unsafe since "the policy during my time with the DHS was that we would not risk the safety and welfare of future occupants of a building, or the public, in order to open a new facility" even if "there was a shortage of homeless housing capacity at the time (A-169).

Based on Skallerup's review of the documents filed with the DOB including, but not limited to, the CCD1 and the floor plans of the Building, Skallerup concluded that "this Building is unsafe and unsuitable to open as a homeless shelter" because, among other things: (a) the corridors are too narrow; (b) the Building contains dead-end corridors; (c) the travel distance to the sole means of egress is too far; (d) the sole means of egress improperly and illegally exists to the lobby of the Building; and (e) the Building is not fully sprinklered." (A-170).

(i) Narrow Corridors

Skallerup advised that section 1018.2 of the Code required corridors to be 44 inches wide but, according to the floor plans, the corridors in this Building are only 36 inches wide (A-171). Narrow hallways are "a significant safety concern as it will prevent occupants from being able to quickly exit the Building in the event of

an emergency as 150 people will be forced to travel through narrow corridors in order to access a single means of egress (A-171).

(ii) Dead-End Corridors

Skallerup also states that "each floor of the Building has a single stair tower exit located in the middle of the exit corridor, creating a condition called a "dead-end corridor". (A-171). Skallerup explains that a dead-end corridor is particularly dangerous because "in the event of a fire, residents on either ends of the corridor will be forced to travel a great distance to reach the stair tower exit" and "if the fire breaks out between the rooms on the end of the corridor and the only stair tower exit located in the middle, the residents in the rooms at the end of the corridor will be trapped, as they will be unable to reach the stair tower exit." (A-171).

(iii) The Travel Distance To The Sole Means Of Egress Is Too Far

While Section 1014.3 of the Building Code provides that the travel distance to a means of egress may not exceed 50 feet, based upon Skallerup's review of the floor plans, it appears that "the travel distance from the farthest point of the most remote occupied rooms on each floor to the sole means of egress exceeds 50 feet." (A-172).

(iv) The Sole Means of Egress Does Not Exit Directly to the Street

According to section 1027.1 of the Code, every building must have at least one means of egress that exits directly to the street (A-172). In this Building, there

is only one means of egress, and that means of egress exits directly to the rear of the Building's lobby, requiring residents to travel through the lobby and out the front door in the event of a fire (A-172). According to Skallerup, "the lack of an exit directly to the street constitutes a significant safety hazard as there are emergency situations where the residents may not be able to safely exit through the lobby, for example, if the lobby is filled with smoke (A-172). Without a means of egress which exists directly to the street, the residents will be forced to walk through the dangerous condition in the lobby instead of directly to the safety of the street." (A-172).

(v) The Building Is Not Fully Sprinklered

Per the requirements of Title 27, Section 17, Table 17.2 of the Code, a partially sprinklered building is not permitted (A-172-173). Additionally, per sections 903.2.8, 901.9.2.1 and 901.9.4.1 of the Code, an automatic sprinkler system shall be installed throughout the building (A-172-173). By the Owner's own admission, the Building is only partially sprinklered because there are no sprinklers in the occupants' rooms (A-172-173; A-1100). Skallerup concludes that the lack of sprinklers in the individual rooms "is a critical omission because that is where fires are most likely to start." (A-172-173).

Ultimately, Skallerup concluded that as former Borough Commissioner and Facilities Manager for DHS, he "never would have accepted this Building as the

site of a homeless shelter, nor would I have permitted this Building to operate as a homeless shelter in its current condition (A-173). Skallerup made it a point to note that, since his retirement in 2011, "I have not consulted in any litigation", but that "I felt compelled to offer my services to the Petitioners in this matter, as I have significant concerns about the safety and welfare of the future occupants of this Building, as well as the public at large, should this Building open as a homeless shelter. I felt that it was my duty to share my knowledge and experience with the Court to prevent this homeless shelter from opening until the Building is confirmed to be safe." (A-170).

(3) Affidavit of Robert Mascali

Robert Mascali ("Mascali") is the former Deputy Commissioner for Operations, Chief of Staff, Assistant Commissioner for Government and Community Affairs and Director of Field Operations for DHS from 1999 to 2007 (A-160). Since leaving DHS, Mascali served as a homelessness expert and consultant for years, including consulting for CBS news from 2015-2017 (A-160). Mascali also served as Director of Operations for Supportive Housing for Turning Point from 2014 to 2015; Vice-President for Family Supportive Housing for Women in Need from 2010 to 2012; Downstate Regional Director for EPIC (Every Person Influences Children) from 2009 to 2010; and Director of Operations for shelter provider Homes for Homeless from 2008 to 2009 (A-160).

With respect to the unsafe conditions in the Building, Mascali unequivocally states that "In my time at DHS, I would never have allowed a shelter to open with any of the continuing building code and safety issues present at the Shelter. I would have ensured that basic safety issues were remedied...and that the building was up to code, before authorizing the opening of a homeless shelter. Based on my experience, the Building is currently dangerously unsafe for occupation, and is a disaster waiting to happen." (A-166).

G. The Amended Petition

Appellants filed the operative Amended Verified Petition (the "Amended Petition"), dated August 6, 2018 along with the supplemental expert affidavit of Paul G. Babakitis ("Babakitis") and additional exhibits (A-829-A-917; A-922-962).

H. Supplemental Babakitis Affidavit

Babakitis is the founder and Chief Executive Officer of PGB Executive Investigations, Inc. (A-960). On July 29, 2018, Babakitis was able to take measurements inside the Building, including measurements of the hallways, stairway and elevator through the use of a laser measuring device (A-960-961). According to the measurements taken by Babakitis, both the stairway and hallways are too narrow according to the current day Building Code requirements (A-171; A-2140; A-2143-2144).

I. The DOB Issues a Partial TCO

On September 4, 2018, (just 2 days before the City Respondents' opposition to the Appellants' Petition was due to be filed), the DOB issued a partial TCO for the first four floors of the nine-story Building, thereby allowing the Building to house individuals on those floors, even while construction continues on the upper floors (A-118-119).

J. City Respondents' Answer

In their answer to the Amended Petition, dated September 6, 2014, the City Respondents expressly admit and concede the truth of the allegations set forth in paragraph 57 of the Amended Petition, to wit, that the Alt-1 Application filed by the Owner specifically represented to the DOB that the work will result in a "change of use" of the Building that is "inconsistent with the current certificate of occupancy." (A-857; A-1072).

K. City Respondents' Opposition Papers

In response to the Amended Petition and the OSC, the City Respondents argued, among other things, that the Building was allowed to open notwithstanding the City's admission that the Building did not meet current Building Code standards because: (a) the Building was grandfathered into its non-compliance with the Code through the Grandfathering Provision; and (b) the Building is safe to occupy solely because the DOB issued a partial TCO for the first 4 floors. (A-2042-2046).

Notably, the City Respondents did not submit a single sworn statement by any fire safety expert, City official, or FDNY employee to refute the Appellants' expert affidavits that the Building was a "fire trap" or stating that the Building was actually safe for residents and neighbors alike. The only affidavit submitted by the City Respondents that even attempts to address the myriad fire safety issues raised by the Appellants' experts is that of Rodney F. Gittens ("Gittens"), the Manhattan Borough Commissioner for the DOB who is not a fire safety expert. (A-2040-2047).

(1) Affidavit of Rodney F. Gittens

Gittens, who is not a fire safety expert, expressly concedes in his affidavit that: (a) the Building has only one means of egress in violation of the current Building Code; (b) the Building's stairs are too narrow in violation of the current Building Code; (c) the Building has impermissible stair winders in violation of the current Building Code; and (d) the elevator is too small in violation of the current Building Code (A2043-2046).

However, Gittens states in his affidavit that the Building is excused from compliance with these current Building Code requirements because "the building was built in 1910 and has a final certificate of occupancy from 1942". (A-2043). Notably, Gittens offers no opinion as to whether a single, narrow, winding staircase for 150 adult men is actually safe, instead relying solely on the argument

that the Building's non-compliance with the Code is permissible due to the Grandfathering Provision (A2040-2047).

L. Westhab's Answer

In its answer to the Amended Petition, dated September 7, 2018, Westhab also admits (by failing to deny) that it previously filed documents with the DOB representing that the proposed construction work under the Alt-1Application would result in a "change in use" of the Building that is "inconsistent with the current certificate of occupancy." (A-857; A-962-990).

M. Appellants' Reply Papers

In further support of the Amended Petition and OSC, Appellants submitted, among other things, the affidavits of John Bongiorno and Suzanne Silverstein and the supplemental expert affidavit of Kruper (A-2077-2088).

(1) Affidavit of John Bongiorno

John Bongiorno ("Bongiorno") was a firefighter with the FDNY from 1977 to 2002, serving as a Lieutenant from 1991until his retirement (A-2083). During his years with the FDNY, Bongiorno participated in fighting approximately 100 fires in high-rise buildings in the City of New York, including the fires inside the World Trade Center on September 11, 2001 (A-2083).

Drawing upon his significant experience fighting high-rise fires in New York City, Bongiorno details the significant challenges that come with fighting a fire in a high-rise building with only a single means of egress as follows:

(a) "it is significantly more difficult and dangerous to fight a fire in a high-rise building that has only one means of egress than it would be to fight a fire in a building with more than one means of egress" because of the firefighters' "inability to quickly access the fire floor since both the firefighters and the residents will have to share the lone staircase." (A-2083).

(b) "the firefighters, carrying all of their equipment, would be forced to move all the way to one side of the stairway as they climbed the stairs to access the fire floor, while the residents would have to move all the way to the other side as they attempted to exit. A traffic jam in the stairway would be a substantial impediment to the firefighters who are trying to quickly access and fight the fire and the residents who are trying to safely and quickly exit the building. In this particular Building, this issue would be further complicated by the narrow, winding staircase as there would be no room for both firefighters and residents to occupy the staircase at the same time." (A-2083-2084).

(c) "until the residents safely exited the stairwell, it would be difficult for the firefighters to attach a hose to the water supply contained in the standpipe since the standpipe is located in the crowded stairwell. This would further delay the firefighters from safely accessing and fighting the fire." (A-2084).

(d) "rescuing residents trapped on or above the fire floor would be delayed significantly since the firefighters would be sharing the stairwell with all of the other residents in the building who were trying to escape. Every minute matters when fighting a fire. Any delay at all could cause a firefighter, a resident or both to lose his or her life. Having one means of egress all but ensures such a delay." (A-2084).

Bongiorno's ultimate conclusion is that he would "never want to fight a fire in a 9-story building that has only one means of egress. It is simply too dangerous." (A-2084).

(2) Supplemental Kruper Affidavit

Kruper stated in his supplemental affidavit that there is substantial evidence that the City Respondents' opposition papers are "shocking", especially their claim that a single means of egress in a nine-story Building is sufficient (A-2079). Kruper notes that a single means of egress, along with narrow stairs, "was one of the primary causes of over 80 deaths from the catastrophic Happy land Social Club fire in the Bronx." (A-2079).

Moreover, Kruper specifically refutes Gittens' unsupported assertion that "where a building's lobby has no uses that would obstruct egress, egress through the lobby may properly be considered a direct street access." (A-2080). Kruper accurately states that Building Code §1027.1 requires that a means of egress exit directly to the street and notes the Respondents do not cite to any code provision that permits egress through a lobby to substitute for direct street access because "there is no basis in the Building Code for such claim". (A-2080).

Kruper concludes that "there is nothing in Respondents' opposition papers that alters my conclusions about this Building. This Building is a fire trap, and there is a significant risk that residents, firefighters, and neighbors will lose their lives if this Building is permitted to open and operate as a homeless shelter at this time." (A-2081).

(3) Silverstein Affidavit

Suzanne Silverstein ("Silverstein"), the President of the West 58th Coalition, Inc. (the "Coalition"), the lead Appellant in this matter, and an individual Appellant, states in her affidavit that she worked with other Coalition members and representatives to identify an alternate site for a homeless shelter in our neighborhood that would be in a safer building on a less busy block (A-2087). The Coalition took the initiative and identified the building located at 500 West 57th Street (the "Alternate Site"), which is just four blocks from the Proposed Facility (A-2087).

The Coalition had discussions with the owner of the Alternate Site, who expressed a willingness to lease the building for use as a homeless shelter for, what Silverstein understood to be, approximately 15% less per year that the Proposed Facility (A-2087). The Alternate Site is an 8-floor building (walk-out basement plus seven residential floors) currently used for transient drug rehabilitation housing and related services (A-2087). It is properly configured for use as a homeless shelter and, Silverstein understands, was move-in ready for more than 150 residents (A-2087). The basement level contains a kitchen, laundry facilities, and dining room, and the residential floors are a mix of joint and private rooms (A-2087). The building has an elevator and two stairways (A-2087).

After identifying the Alternate Site as a promising location and having preliminary discussions with the owner, the Coalition proposed the site to City representatives in 2018 (A-2087). However, the City refused to even meet with Appellants to discuss the Alternative Site (A-2087).

N. City Respondents' Supplemental Affirmation

On October 11, 2018, the City filed the supplemental affirmation of counsel, Kathleen C. Schmid ("Schmid"), in further opposition to the Amended Petition wherein she, *inter alia*, again presses the claim that the Building is not required to comply with the current Building Code requirements because of the applicability of the Grandfathering Provision (A-2090-2098). Yet again, nowhere in this affirmation does the City affirmatively state that the Building is safe, nor does the City submit any expert affidavits to specifically refute the findings of the Appellants' experts that the Building is a "fire trap" and a "disaster waiting to happen" (A-2086-2099).

O. The Supreme Court Order

On April 25, 2019, the Supreme Court issued the Order denying and dismissing the Amended Petition, finding that the Building is not required to comply with the current Code because of the Grandfathering Provision (A-4-10).

While the Supreme Court acknowledged that: (a) the Building does not comply with the current codes; (b) Appellants' experts established that the

Building may be unsafe; and (c) the City failed to present any evidence to refute the Appellants' expert affidavits, it nonetheless conclusively found that the Building does not endanger the general safety and public welfare solely because the DOB issued a partial TCO for the Building (A-6-7).

Specifically, the Supreme Court found that the issuance of the partial TCO "demonstrates to the Court that the building is presumably safe and in compliance with applicable laws." (A-6). Moreover, the Supreme Court concluded that it was not even permitted to analyze whether the Building was actually unsafe because such analysis "necessarily calls for a substitution of judgment with respect to the safety conditions of the building." (A-7). The Supreme Court is wrong in both respects.

Appellants duly filed a Notice of Appeal on May 1, 2019 (A-2-3).

ARGUMENT

THE SUPREME COURT ERRED IN FINDING THAT THE BUILDING'S NON-COMPLIANCE WITH THE CURRENT BUILDING CODE HAS BEEN GRANDFATHERED

It is well settled that a building will *not* be eligible for the protections of the Grandfathering Provision if: (a) its failure to comply with the current building codes endangers the general safety and public welfare (Admin Code § 27-120); (b) if the alteration of a building results in a change in the occupancy group classification of the building. (Admin Code. § 27-118); See Pavon v. 19th Street Assocs. LLC, 17 Misc.3d 1125(A), 851 N.Y.S.2d 72 (Sup. Ct. N.Y. Cnty. 2007); or (c) the owner elects to be governed by current building codes. (Admin Code § 27-120).

The Supreme Court erroneously found that the Grandfathering Provision of the Building Code excused the Building's failure to comply with the current day Building Code requirements even though: (a) the Appellants' unrefuted expert affidavits established that the Building endangers the general safety and public welfare; (b) the alteration of the Building resulted in a change in the occupancy and use group classification of the Building, which the City Respondents and Owner expressly concede; and (c) Respondents elected for the Building to be governed by the current day Building Code.

A. The Building's Non-Compliance With The Current Building Code Requirements Endangers The General Safety and Public Welfare

Appellants submitted numerous unrefuted affidavits from fire-safety experts and former high-ranking officials from the DOB, DHS and FDNY who unanimously agreed that the Building is rife with significant life safety concerns which rendered the Building a "fire trap" and a "disaster waiting to happen."

As Kruper explains in his affidavit:

> New York City's Building Code has been updated and amended over the last century to address inadequacies in previous codes. These updates account for advances in fire safety standards, often based on new technology and our experience with catastrophic events. Put bluntly, the plain and incontrovertible fact is that outdated codes allow for what we now understand are structurally unsafe buildings from a fire safety perspective. This Building has many such features that any responsible fire safety expert would conclude make it dangerous to the safety of its future residents and neighbors, including a single means of egress, lack of direct egress to the street, too-narrow hallway and stairwell exit routes, a winding exit stairway and inadequate sprinkler systems. (A-2078).

Even though the City did not submit an affidavit from a fire safety expert to counter or rebut any of the findings in Appellants' expert affidavits that the Building was a "fire trap" and a "disaster waiting to happen", the Supreme Court ignored the Appellants' unrefuted expert affidavits and, most egregiously, found that, the Building was presumptively safe solely based upon the DOB's issuance of

a partial TCO for the first four floors of the Building. According to the Supreme Court, the issuance of the partial TCO, in and of itself, created an un-rebuttable presumption that the Building was safe (A-6-7).

However, it is well settled that the issuance of a TCO "merely creates a rebuttable presumption that a building complies with New York City law." Bd. of Managers of Loft Space Condo v. SDS Leonard, LLC, 142 A.D.3d 881, 882, 38 N.Y.S.3d 23, 25 (1st Dep't 2016). Such presumption may be rebutted by the submission of expert affidavits establishing that the building does not comply with the building code or is otherwise unsafe. See Cirino by Gkanios v. Greek Orthodox Cmty. of Yonkers, Inc., 193 A.D.2d 576, 598 N.Y.S.2d 959 (2d Dep't 1993)(the issuance of a certificate of occupancy does not preclude a finding of negligence based on the existence of building code violations); Bd. of Managers of Olive Park Condo. v. Maspeth Props. LLC, 2014 WL 6669702 (Sup. Ct. Kings Cnty. Nov. 25, 2014); Slomin v. Skaarland Constr. Corp., 207 A.D.2d 639, 615 N.Y.S.2d 941 (3d Dep't 1994) (the issuance of a certificate of occupancy would not preclude a finding that there was a dangerous condition in the building).

Based upon the controlling case law, the Supreme Court erred in finding that the DOB's issuance of TCO for the Building conclusively established that the Building was safe. Instead, the issuance of the TCO (albeit under suspicious

circumstances)[1] created only a rebuttable presumption that the Building complies with New York City law and, as such, the Supreme Court should have analyzed whether the Appellants effectively rebutted such presumption in order to determine whether the Building's non-compliance with the current Code endangered the general safety and public welfare, which it failed to do. If the Supreme Court's holding is permitted to stand, it would negate any ability to challenge future DOB decisions to issue a certificate of occupancy to any building in the City of New York, no matter how egregious an error by the DOB or how unsafe a building may actually be. This, of course, is an absurd result.

There can be no doubt that the Supreme Court should have determined that the Appellants effectively rebutted the presumption that the Building was safe and code compliant had it properly reviewed the multiple, unrefuted expert affidavits wherein it was established that the Building was a "fire trap, and a disaster waiting to happen" since such determinations were entirely undisputed in the record (A-150, A-157, A-166, A-170-174, A-2081, A-2083-2084). In response, the City Respondents failed to proffer a single fire safety expert or City employee to swear that the Building is actually safe, notwithstanding its failure to comply with the current day Building Code. Not a single person was willing to swear that it is safe to have a single means of egress for 150 adult men in a 9-story high-rise building.

[1] The DOB issued the TCO *two days before* Respondents' papers in opposition to Appellants' application for a preliminary injunction were due to be filed. The timing was no coincidence.

Article 78 actions exist to provide judicial review of agency determinations—such as the decision to site the Proposed Facility at the Building—which are "arbitrary and capricious," "an abuse of discretion," "made in violation of lawful procedure," and/or "affected by error[s] of law." CPLR 7803(3). An action is "arbitrary" if, *inter alia*, it is taken "without a sound basis in reason and generally without regard to the facts." Nestle Waters N. Am., Inc. v. City of New York, 121 A.D.3d 124, 127, 990 N.Y.S.2d 512, 514 (1st Dep't 2014). A court's review of the determination must be "more than a perfunctory review of the factual record in order to determine whether that record could conceivably support the decision." Rizk v. Long Term Disability Plan of Dun & Bradstreet Corp., 862 F. Supp. 783, 789 (E.D.N.Y. 1994).

Appellants commenced this Article 78 proceeding based on their challenge to the Respondents' arbitrary and erroneous decision to site the Proposed Facility at the Building, in part because of the glaring safety violations present at the Site. Despite the Supreme Court's obligation to analyze the Appellants' evidence and arguments, the Order below demonstrates a striking (and admitted) lack of analysis as to the important safety issues raised in the parties' lengthy submissions. Instead, the Supreme Court improperly bestowed upon DOB and the City an absolute blind deference with respect to safety issues in New York City buildings.

In its Order denying and dismissing the Amended Petition, the Supreme Court provided virtually no analysis of Appellants' merits arguments concerning the safety of the Building—despite the fact that the Grandfathering Provision first requires a determination as to whether the Building endangers the "general safety and public welfare" as a pre-condition to its very application. Admin. Code §27-120.

The Supreme Court also neglected to address Appellants' detailed Building Code and non-grandfathering legal arguments and failed to analyze Appellants' veritable mountain of evidence showing that Respondents ignored the glaring safety issues at the Building, including expert affidavits from former high-ranking officials in relevant City departments. Despite acknowledging that it "may be concerned" with some of the safety issues raised by Appellants, the Supreme Court nonetheless adopted Respondents' flawed argument that the Building must be safe solely because the DOB issued a partial TCO for the first 4 floors only (A-6-7).

In doing so, the court abdicated the judicial role, as the decision to site the Shelter at the Building and issue a partial TCO without a proper analysis as to whether the Building was actually safe is precisely what Appellants were challenging as arbitrary. The Supreme Court therefore abused its discretion when it denied and dismissed Appellants' Amended Petition on the basis of an admitted mere presumption—without independent analysis and in the face of substantial

evidence to the contrary—that DOB was correct in determining the Building was safe.

As a matter of law, the City is entitled to no deference regarding dispositive questions of statutory interpretation; that is up to the courts to decide. See Kurcsics v. Merchants Mutual Ins. Co., 49 N.Y.2d 451, 426 N.Y.S.2d 454 (1980). And even where it is entitled to deference, the court must conduct "more than a perfunctory review of the factual record." Rizk, 862 F. Supp. at 789. Unfortunately, here the Supreme Court did not even perform a perfunctory review of the factual record, refusing to even consider whether the multiple, unrefuted expert affidavits rebutted the presumption created by the issuance of a partial TCO under suspicious, and convenient, circumstances.

B. The Building Underwent A Change In Occupancy And Use

Chapter 3 of the Building Code, under the heading "Use and Occupancy Classification," controls the classification of all buildings and structures with respect to use and occupancy.

It is undisputed that a building loses grandfathering protections when there is a "change in occupancy or use" of the building (Admin. Code § 27-112). See e.g., Pavon, *supra* ("[W]here a change in occupancy or use is made, the re-establishment of a prior occupancy or use that existed before 1968 is prohibited unless there is compliance with the [current] Code.").

The Owner filed an Alt-1 Application summary seeking, *inter alia*, to amend the number of dwelling units in the Building and change the use of the Building from a hotel to a homeless shelter (A-953-958). The Alt-1Application specifically notes that the work will result in a "change of use" that is "inconsistent with the current certificate of occupancy." (A-955). Moreover, the City Respondents and the Owner admit in their respective answers that the Building underwent a change in use (A-857; A- 962-990; A-1072), and are bound by those admissions as a matter of law. DeSouza v. Khan, 128 A.D.3d 756, 758, 11 N.Y.S.3d 168 (2d Dep't 2015) ("Facts admitted in a party's pleadings constitute formal judicial admissions, and are conclusive of the facts admitted in the action in which they are made").

(1) Change in Occupancy

Even assuming the prior representations by the Owner in their DOB filings and the Owner's and City's express admissions in their respective pleadings were not binding, there was still an actual change in use and occupancy of the Building. It is undisputed that Building was previously approved for R-2 non-transient use, and that it is now going to be used as a homeless shelter. This constitutes a change in occupancy from R-2 to R-1, including because the Building is going to be used as a "congregate living" space operated by a "not-for-profit" (Westhab), and is going to be a "homeless shelter." Building Code § 310.1.1. The Supreme Court

failed to even address the fact that a "homeless shelter" is expressly placed in the R-1 occupancy category by the Building Code (A-4-9).

A homeless shelter is properly classified in occupancy group R-1, a classification reserved for residential buildings occupied transiently (A-151-152). In particular, based on Section 310.1.1 of the Building Code, the Building is included in the definition of an R-1 occupancy group because: (1) it is a residential building that will be occupied transiently—specifically, as a temporary housing shelter (see, e.g., 18 N.Y.C.R.R. § 352.35); (2) the Building is a Class B multiple dwelling as defined by Section 27-2004 of the New York City Housing and Maintenance Code and Section 4 of the Multiple Dwelling Law; and (3) the Building is going to be operated as a homeless shelter by a not-for-profit organization (A-151-152). Indeed, the Building Code explicitly places "homeless shelters" in the R-1 occupancy classification (A-151-152).

Additionally, "Section 405 of the Fire Code, which specifically addresses emergency preparedness for homeless shelters, makes it clear that homeless shelters are properly classified as being in the R-1 use and occupancy group." In fact, there is "not a single provision in . . . the Fire Code . . . which applies to a group R-2 homeless shelter, because a homeless shelter is not part of the R-2 use and occupancy group." (A-152).

Appellants' experts have reviewed available public documents and have not found a single traditional transient homeless shelter with an R-2 (or J-2) occupancy group classification in all of Manhattan (A-152). To the contrary, transient homeless shelters are regularly classified as R-1 under the current Code, or else are subject to predecessor code designations for commercial, institutional, residential, assembly, or mercantile classifications (A-152; A-572-586). In referencing a plan to convert the Building to R-2, the Alt-1 Application and Schedule A are, therefore, incorrect (A-151; A-170).

Since the Building, as a homeless shelter, is properly classified in the R-1 occupancy group, this would constitute a change in use of the Building from the current R-2 classification, thereby nullifying the application of the Grandfathering Provision. Without the benefit of the Grandfathering Provision, the Building must comply with the current Building Code requirements which, as City Respondents readily concede, this Building does not.

(2) Change in Use

Additionally, the Supreme Court also failed to address the unequivocal proof that the Building has undergone a change in Use Group under the Zoning Resolution. Separate from occupancy group classification under the Building Code, the Zoning Resolution establishes various "Use Groups." The Building was previously correctly classified as Use Group 2, which is reserved for "residences"

that that are not single-family residences, transient hotels, or sleeping accommodations in community facility buildings. See Z.R. 12-12 (Use Group 2) and 12-10 (definition of "residences"). Although the TCO states that the building will remain in Use Group 2, this is incorrect. Homeless shelters are properly classified either as Use Group 5 ("transient hotel," as set out in Z.R. 32-14 and defined in Z.R. 12-10) or Use Group 3 ("community facilities," including "[p]hilanthropic or non-profit institutions with sleeping accommodations," as set out in Z.R. 22-13 and defined in Z.R. 12-10). See, e.g., Chelsea Bus. & Prop. Owners' Ass'n, LLC v. City of New York, 2011 WL 5024496 (Sup. Ct. N.Y. Cnty. June 8, 2011) (affirming DOB's and BSA's conclusion that a shelter was a Use Group 5 "transient hotel," but noting that "precedent supports both classifications," namely Use Group 5 or Use Group 3), aff'd, 107 A.D.3d 414, 414-15, 966 N.Y.S.2d 85 (1st Dep't 2013) ("[T]he proposed use of the building [as a homeless shelter] meets the three criteria of the definition [of a "transient hotel" under the Zoning Resolution], i.e., it (1) provides sleeping accommodations used primarily for transient occupancy; (2) has a common entrance to serve the sleeping accommodations [i.e., a lobby]; and (3) provides 24-hour desk service, housekeeping, telephone and linen laundering."). While the Proposed Shelter here fits into the definition of both a Use Group 5 "transient hotel" and a Use Group 3 "community facility," it is expressly excluded from the current Use Group

2. See Z.R. 12-10 (defining Use Group 2 "residences" to "not include: (a) such transient accommodations as #transient hotels# ... or (c) ... sleeping accommodations in community facility buildings").

Therefore, the Building is also undergoing a change in "use," separate and apart from any change in "occupancy" group and, as such, the Grandfathering Provision is inapplicable to this Building for that independent basis.

C. The Owner Expressly Elected To Have The Building Governed By The Current Code

Administrative Code section 27-120, which applies whenever there are alterations to a multiple dwelling, states that it is the "option of the owner" to comply with "all requirements of this [current] code" or "all applicable laws in existence prior to December sixth, nineteen hundred sixty-eight, provided the general safety and public welfare are not thereby endangered." In other words, when alterations are being made to a multiple dwelling, the owner is permitted to elect to comply with the current Code or with the pre-1968 Code, but only if an election to comply with the pre-1968 Code would not render the building unsafe.

Although the Supreme Court acknowledges the fact that the Alt-1 Application and proposed Certificate of Occupancy Schedule A both indicate that the Owner elected to be governed by the "2014/2008 Code", the Supreme Court erroneously found that such elections are inapplicable because "...the application

concerned the work being done on the first floor and not the entire building[2]." (A-6). A review of the Alt-1 Application, however, demonstrates that the Supreme Court is simply mistaken. The Alt-1 Application specifically provides that it was for work in the cellar and on floors "001 thru 009." (A-563). Therefore, since the Alt-1 Application, which specifically indicates that the Owner elected to comply with the "2014/2018 Code", applies to the work being performed in the entire Building, the Building is required to comply with the current day Building Code.

[2] It should be noted that the trial court cites no authority for the proposition that the election of the current code's application for work in a portion of a building is not binding for the rest of the work in the building.

CONCLUSION

For the reasons set forth above, the order of the Supreme Court, New York County (Tisch, J.), dated April 25, 2019, should be reversed and the relief set forth in the Appellants' Amended Petition granted in its entirety, with costs, or, in the alternative, the action should be remanded back to the Supreme Court for a hearing.

Dated: New York, New York
July 8, 2019

Yours, etc.

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