

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

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In the Matter of the Application of JONATHAN  
GREENBERG and LUTHER HARRIS,

**VERIFIED ANSWER**

Petitioners, Index No. 2007/100760

For a Judgment Pursuant to CPLR Article 78

-against-

The CITY OF NEW YORK, MICHAEL BLOOMBERG,  
in his capacity as Mayor of the City of New York,  
ADRIAN BENEPE, in his capacity as Commissioner of the  
New York City Department of Parks and Recreation and  
THE NEW YORK CITY DEPARTMENT OF PARKS  
AND RECREATION,

Assigned Judge:  
Madden, J.

IAS Part 11

Respondents.

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

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In the Matter of the Application of  
EMERGENCY COALITION TO SAVE  
WASHINGTON SQUARE PARK, ET AL.,

Petitioners, Index No. 2007/102194

For a Judgment Pursuant to CPLR Article 78

- against -

CITY OF NEW YORK, ET AL.,

Respondents.

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Respondents, by their attorney, MICHAEL A. CARDOZO, Corporation Counsel of the City of New York, as and for their answer to the Amended Verified Petition commenced by Petitioners in *Emergency Coalition to Save Washington Square Park v. City of New York*, et. al., dated February 21, 2007, respectfully allege as follows:

1. Deny the allegations set forth in paragraph "1" of the petition, except admit that petitioners purport to proceed as set forth therein.

2. Deny the allegations set forth in paragraph "2" of the petition, except admit that petitioners purport to proceed as set forth therein.

3. Deny the allegations set forth in paragraph "3" of the petition, except admit that petitioners purport to proceed as set forth therein.

4. The allegations set forth in paragraph "4" of the petition set forth a legal conclusion to which no response is required, except that Respondents' admit that the Negative Declaration for the Washington Square Park renovation project was issued on November 8, 2006.

5. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "5" of the petition, except respectfully refer the Court to the legal proceedings set forth therein for their complete text and import.

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "6" of the petition.

7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "7" of the petition.

8. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "8" of the petition.

9. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "9" of the petition.

10. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "10" of the amended petition.

11. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "11" of the petition.

12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "12" of the petition.

13. Admit the allegation set forth in paragraph "13" of the petition.

14. Admit the allegation set forth in paragraph "14" of the petition.

15. Deny the allegations set forth in paragraph "15" of the petition, except admit that the New York City Department of Parks and Recreation is a mayoral agency of the City of New York, and respectfully refer the Court to the New York City Charter for a complete description of its statutory mandate.

16. Deny the allegations set forth in paragraph "16" of the petition, except admit that Adrian Benepe is the Commissioner of the New York City Department of Parks and Recreation, and respectfully refer the Court to the Charter provision referenced therein for its complete text and import.

17. Deny the allegations set forth in paragraph "17" of the petition, except admit that William Castro is the Manhattan Borough Commissioner of the New York City Department of Parks and Recreation, and that his responsibilities are set forth by the Commissioner of the Parks Department pursuant to his authority under the Charter.

18. Deny the allegations set forth in paragraph "18" of the petition, except admit that Petitioners purport to proceed as set forth therein.

19. Admit the allegations set forth in paragraph "19" of the petition.

20. Deny the allegations set forth in paragraph "20" of the petition.

21. Deny the allegations set forth in paragraph "21" of the petition, and respectfully refer the Court to the decision of Supreme Court Justice Emily Jane Goodman, dated July 25, 2006, and the opinion of the Appellate Division, First Department, dated March 8, 2007, in *Greenberg v. Bloomberg* (2007 N.Y. Slip Op. 1843), for their complete text and import.

22. Deny the allegations set forth in paragraph "22" of the petition, and respectfully refer the Court to the decision of Supreme Court Justice Emily Jane Goodman, dated July 25, 2006, and the opinion of the Appellate Division, First Department, dated March 8, 2007, in *Greenberg v. Bloomberg* (2007 N.Y. Slip Op. 1943), for their complete text and import.

23. Deny the allegations set forth in paragraph "23" of the petition, and respectfully refer the Court to the decision of Supreme Court Justice Emily Jane Goodman, dated July 25, 2006, for its complete text and import. Respondents admit that Petitioners' claim under the State Environmental Quality Review Act (SEQRA) and City Environmental Quality Review Procedure (CEQR )was dismissed, and that the Environmental Assessment Statement and Negative Declaration for the Washington Square Park renovation project were issued on November 8, 2006

24. Admit the allegations set forth in paragraph "24" of the petition.

25. Deny the allegations set forth in paragraph "25" of the petition, except admit that Petitioners purport to proceed as set forth therein. Respondents' also refer to the "So

Ordered” stipulation, dated March 9, 2007, consolidated both matters before Manhattan Supreme Court Justice Joan A. Madden.

26. Admit the allegations set forth in paragraph “26” of the petition.

27. Deny the allegations set forth in paragraph “27” of the petition, except admit that the Park is located within the Greenwich Village Historic District, a New York City Historic District.

28. Deny the allegations set forth in paragraph “28” of the petition, and respectfully refer the Court to the Environmental Assessment Statement for its complete text and import.

29. Deny the allegations set forth in paragraph “29” of the petition, and respectfully refer the Court to the Environmental Assessment Statement for its complete text and import.

30. Deny the allegations set forth in paragraph "30" of the petition, and respectfully refer the Court to the Environmental Assessment Statement for its complete text and import. Respondents deny that a red-tailed hawk nests in Washington Square Park.

31. Deny the allegations set forth in paragraph "31" of the petition, and respectfully refer the Court to the New York City Charter, § 533, for its complete text and import.

32. Deny the allegations set forth in paragraph "32" of the petition.

33. Deny the allegations set forth in paragraph "33" of the petition.

34. Deny the allegations set forth in paragraph “34” of the petition, and respectfully refer the Court to the letter referenced therein for its complete text and import.

35. Deny the allegations set forth in paragraph "35" of the petition, except admit that on or about March 21, 2006, a request for proposals for Phase I of the renovation of Washington Square Park was issued. Respondents respectfully refer the Court to the documents referenced therein for their complete text and import and note that the request for proposal was withdrawn.

36. Deny the allegations set forth in paragraph "36" of the petition, except respectfully refer the Court to the stipulation identified in the matter referenced therein, and admit that the Parks Department, as lead agency issued an Environmental Assessment Statement and Negative Declaration on November 8, 2006.

37. Deny knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "37" of the petition.

38. Deny knowledge or information sufficient to form a belief as to the allegations set forth in paragraph "38" of the petition.

39. Deny the allegations set forth in paragraph "39" of the petition.

40. Deny the allegations set forth in paragraph "40" of the petition.

41. Deny the allegations set forth in paragraph "41" of the petition.

42. Deny the allegations set forth in paragraph "42" of the petition.

43. Deny the allegations set forth in paragraph "43" of the petition.

44. Deny the allegations set forth in paragraph "44" of the petition.

45. Deny the allegations set forth in paragraph "45" of the petition, and respectfully refer the Court to the regulations cited therein for their full text and import.

46. Deny the allegations set forth in paragraph "46" of the petition, and respectfully refer the Court to the decision referenced therein for its full text and import.

47. Deny the allegations set forth in paragraph “47” of the petition.
48. Deny the allegations set forth in paragraph “48” of the petition.
49. Deny the allegations set forth in paragraph “49” of the petition.
50. Deny the allegations set forth in paragraph “50” of the petition.
51. Deny the allegations set forth in paragraph “51” of the petition.
52. Deny the allegations set forth in paragraph “52” of the petition.
53. Deny the allegations set forth in paragraph “53” of the petition.

54. In response to the allegations set forth in paragraph “54” of the petition, the Respondents repeat and reallege the responses set forth in paragraphs “1” through “53,” inclusive of this answer, as if fully set forth herein.

55. Deny the allegations set forth in paragraph “55” of the petition.

56. Deny the allegations set forth in paragraph “56” of the petition, except admit that the Project was classified as a Type I action pursuant to 6 N.Y.C.R.R. § 617.4(b)(6)(i) and §617.4(b)(6)(9).

57. Deny the allegations set forth in paragraph “57” of the petition, and respectfully refer the Court to the *CEQR Technical Manual* section referenced therein for its complete text and import.

58. Deny the allegations set forth in paragraph “58” of the petition, and respectfully refer the Court to the legal decision cited therein for its complete text and import.

59. Deny the allegations set forth in paragraph “59” of the petition, and respectfully refer the Court to the legal decision and regulations cited therein for their complete text and import.

60. Deny the allegations set forth in paragraph "60" of the petition, and respectfully refer the Court to the decision of Supreme Court Justice Emily Jane Goodman, dated July 25, 2006, and the opinion of the Appellate Division, First Department, dated March 8, 2007, in *Greenberg v. Bloomberg* (2007 N.Y. Slip Op. 1943), for their complete text and import.

61. Deny the allegations set forth in paragraph "61" of the petition.

62. Deny the allegations set forth in paragraph "62" of the petition, and respectfully refer the Court to the regulations cited therein for their complete text and import.

63. Deny the allegations set forth in paragraph "63" of the petition, and respectfully refer the Court to the Environmental Assessment Statement and the Bid Contract Drawings (which has since been withdrawn) for their complete text and import.

64. Deny the allegations set forth in paragraph "64" of the petition.

65. Deny the allegations set forth in paragraph "65" of the petition.

66. Deny the allegations set forth in paragraph "66" of the petition.

67. Deny the allegations set forth in paragraph "67" of the petition.

68. Deny the allegations set forth in paragraph "68" of the petition, and respectfully refer the Court to the document referenced therein for its complete text and import.

69. Deny the allegations set forth in paragraph "69" of the petition.

70. Deny the allegations set forth in paragraph "70" of the petition.

71. Deny the allegations set forth in paragraph "71" of the petition.

72. Deny the allegations set forth in paragraph "72" of the petition.

73. Deny the allegations set forth in paragraph "73" of the petition.

74. Deny the allegations set forth in paragraph "74" of the petition.

75. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “75” of the petition.

76. Deny the allegations set forth in paragraph “76” of the petition.

77. Deny the allegations set forth in paragraph “77” of the petition.

78. Deny the allegations set forth in paragraph “78” of the petition.

79. Deny the allegations set forth in paragraph “79” of the petition.

80. Deny the allegations set forth in paragraph “80” of the petition.

81. Deny the allegations set forth in paragraph “81” of the petition.

82. Deny the allegations set forth in paragraph “82” of the petition.

83. Deny the allegations set forth in paragraph “83” of the petition.

84. Deny the allegations set forth in paragraph “84” of the petition.

85. Deny the allegations set forth in paragraph “85” of the petition.

86. Deny the allegations set forth in paragraph “86” of the petition.

87. Deny the allegations set forth in paragraph “87” of the petition.

88. Deny the allegations set forth in paragraph “88” of the petition.

89. Deny the allegations set forth in paragraph “89” of the petition, and respectfully refer the Court to the legal decision and regulations cited therein for their complete text and import.

90. Deny the allegations set forth in paragraph “90” of the petition, except refer to the Environmental Assessment Statement for its complete text and import.

91. Deny the allegations set forth in paragraph “91” of the petition.

92. Deny the allegations set forth in paragraph “92” of the petition.

93. Deny the allegations set forth in paragraph “93” of the petition.

94. Deny the allegations set forth in paragraph “94” of the petition.
95. Deny the allegations set forth in paragraph “95” of the petition.
96. Deny the allegations set forth in paragraph “96” of the petition.
97. Deny the allegations set forth in paragraph “97” of the petition.
98. Deny the allegations set forth in paragraph “98” of the petition.
99. Deny the allegations set forth in paragraph “99” of the petition.
100. Deny the allegations set forth in paragraph “100” of the petition.
101. Deny the allegations set forth in paragraph “101” of the petition.
102. Deny the allegations set forth in paragraph “102” of the petition.
103. Deny the allegations set forth in paragraph “103” of the petition, and

respectfully refer the Court to the legal decision cited therein for its complete text and import.

104. Deny the allegations set forth in paragraph “104” of the petition.
105. Deny the allegations set forth in paragraph “105” of the petition.
106. Deny the allegations set forth in paragraph “106” of the petition.
107. Deny the allegations set forth in paragraph “107” of the petition, and

respectfully refer the Court to the statutes and regulations cited therein for their complete text and import.

108. Deny the allegations set forth in paragraph “108” of the petition, and

respectfully refer the Court to the regulations cited therein for their complete text and import.

109. Deny the allegations set forth in paragraph “109” of the petition, respectfully refer the Court to the document reference therein for its complete text and import.

110. Deny the allegations set forth in paragraph “110” of the petition.

111. Deny the allegations set forth in paragraph “111” of the petition.

112. Deny the allegations set forth in paragraph “112” of the petition.

113. Deny the allegations set forth in paragraph “113” of the petition.

114. Deny the allegations set forth in paragraph “114” of the petition, and respectfully refer the Court to the regulations cited therein for their complete text and import.

115. Deny the allegations set forth in paragraph “115” of the petition.

116. Deny the allegations set forth in paragraph “116” of the petition.

117. In response to the allegations set forth in paragraph “117” of the petition, the Respondents repeat and reallege the responses set forth in paragraphs “1” through “116,” inclusive of this answer, as if fully set forth herein.

118. Deny the allegations set forth in paragraph “118” of the petition.

119. Deny the allegations set forth in paragraph “119” of the petition.

120. Deny the allegations set forth in paragraph “120” of the petition.

121. Deny the allegations set forth in paragraph “121” of the petition.

122. Deny the allegations set forth in paragraph “122” of the petition.

123. Deny the allegations set forth in paragraph “123” of the petition.

124. The Amended Verified Petition does not include a paragraph “124.”

125. Deny the allegations set forth in paragraph “125” of the petition, and respectfully refer the Court to the legal decisions cited therein for their complete text and import.

126. Deny the allegations set forth in paragraph “126” of the petition.

127. Deny the allegations set forth in paragraph “127” of the petition, except admit that the renovation of Washington Square Park is a Type I action under SEQRA/CEQR, and respectfully refer the Court to the regulation cited therein for its complete text and import.

128. Deny the allegations set forth in paragraph “128” of the petition, and respectfully refer the Court to the legal decision cited therein for its complete text and import.

129. Deny the allegations set forth in paragraph “129” of the petition.

130. Deny the allegations set forth in paragraph “130” of the petition.

131. The “WHEREFORE” clause in the Petition sets forth legal conclusions to which no responses are required.

**AS AND FOR THEIR AFFIRMATIVE  
STATEMENT OF MATERIAL FACTS,  
RESPONDENTS RESPECTFULLY ALLEGE:**

132. For a complete statement of pertinent and material facts, Respondents respectfully refer the Court to the Affidavit of Joshua Laird, sworn to on April 4, 2007 and the exhibits referred to therein; the Affidavit of Charles McKinney, sworn to on April 4, 2007 and the exhibits referred to therein; the Affidavit of William Steyer, sworn to on April 4, 2007 and the exhibits referred to therein; and the Affirmation of Amanda C. Goad, dated April 3, 2007, and the exhibits annexed thereto.

**AS AND FOR A FIRST DEFENSE  
RESPONDENTS RESPECTFULLY ALLEGE:**

133. The petition fails to state a cause of action.

**AS AND FOR A SECOND DEFENSE  
RESPONDENTS RESPECTFULLY ALLEGE:**

134. Respondents’ actions were in all respects legal, proper, reasonable and in conformity with all applicable laws and regulations, were not *ultra vires*, and were neither arbitrary nor capricious.

**WHEREFORE**, respondents respectfully request that the petition be denied in its entirety and the relief sought therein be denied in all respects, with costs and disbursements.

Dated: New York, New York  
April 5, 2007

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
Attorney for City Respondents  
100 Church Street, Room 6-141  
New York, New York 10007  
(212) 788-0598

By: 

Chris Reo  
Assistant Corporation Counsel

TO: Joel R. Kupferman  
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Attorneys for Petitioners  
351 Broadway #400  
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Arlene Boop, Esq.  
Alterman & Boop LLP  
Attorneys for Greenberg Petitioners  
35 Worth Street  
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**VERIFICATION**

**CHRIS REO**, an attorney admitted to practice law in the State of New York, affirms under penalty of perjury:

I am an Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for respondents the City of New York, the Department of Parks and Recreation of the City of New York, Michael Bloomberg in his official capacity, William Castro in his official capacity, and Adrian Benepe in his official capacity. I make this verification pursuant to the Civil Practice Law and Rules Section 3020(d) on the grounds that I am acquainted with the facts of this proceeding.

I have read the foregoing Answer and assert on information and belief that the contents thereof are true. The sources of my information and belief are my review of documents referred to in the Answer and the Verified Petition and my discussions with employees of the City of New York.

Dated:           New York, New York  
                  April 5, 2007



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CHRIS REO