

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,

Petitioners,

For an Order and 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,

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 under Article 78 of the Civil Practice
Law and Rules,

- against -

CITY OF NEW YORK, ET AL.,

Respondents.

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**AFFIRMATION OF
AMANDA C. GOAD**

Index No. 2007/100760

(Madden, J.)

AMANDA C. GOAD, an attorney admitted to practice before the courts of the State of New York, affirms upon information and belief and under penalty of perjury pursuant to Rule 2106 of the Civil Practice Law and Rules (“CPLR”) as follows:

1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York (the “City”), attorney for the respondents in these consolidated actions. I am familiar with the facts set forth herein. My knowledge is based on review of the records and communications with the current and former employees of the New York City Law Department, the New York City Department of Parks and Recreation (“Parks Department”), and other City agencies. I make this affirmation in support of the City’s Verified Answers.

A. Environmental Issues

2. Attached as Exhibit “1” is a true and correct copy of the Environmental Assessment Statement (“EAS”) for planned renovations to Washington Square Park, issued on November 8, 2006.

3. Attached as Exhibit “2” is a true and correct copy of the Negative Declaration for planned renovations to Washington Square Park, issued on November 8, 2006.

4. Attached as Exhibit “3” is a true and correct copy of relevant excerpts from the Tree Planting Guidelines for the Parks Department’s Street Tree program, published in February 2003. This document is available online at

http://www.nycgovparks.org/sub_permits_and_applications/images_and_pdfs/NYC-Parks-Dept.-Street-Tree-Planting-Permit-and-Guidelines.pdf.

B. The Contracting Process

5. Attached as Exhibit "4" are true and correct copies of relevant excerpts from the contract drawings for Phase I of planned renovations to Washington Square Park, issued in March 2006. The March 2006 request for bids for this Project was subsequently withdrawn. It is expected that these drawings will not be substantially modified when the Parks Department issues a modified Request for Bids for Phase I. A complete set of the prior contract drawings is available at the Court's request.

6. Attached as Exhibit "5" are true and correct copies of relevant excerpts from the bid book for Phase I of planned renovations to Washington Square Park, issued in March 2006 and subsequently withdrawn. Upon information and belief, the annexed contract specifications will be reissued in a substantially similar form when the Parks Department issues a modified Request for Bids for Phase I of the renovation project. A complete copy of the prior bid book is available at the Court's request.

C. Public Approval History

7. In December 2003, the Parks Department announced to Community Board 2 ("CB2") its intention to renovate Washington Square Park. The Community Board unanimously endorsed the Parks Department's preliminary plan to refurbish the Park. A copy of the CB2 resolution endorsing that plan is annexed hereto as Exhibit "6."

8. On April 21, 2005, after hearing a more detailed presentation from the Parks Department regarding its plans to renovate Washington Square Park, CB2 adopted a resolution endorsing the renovation plan by a vote of 35-5. As part of its endorsement, the Community Board requested that the Parks Department revisit certain issues including the plan

to eliminate asphalt mounds, the location of dog runs, and the retention of an elevated concert stage. A copy of CB2's April 21, 2005 resolution is annexed hereto as Exhibit "7."

9. On October 20, 2005, CB2 adopted a resolution reaffirming its endorsement of the renovation plan. A copy of that resolution is annexed hereto as Exhibit "8."

10. The Landmarks Preservation Commission (LPC) has jurisdiction over certain elements of the Park due to its location in the Greenwich Village Historic District, and it held a public hearing and public meeting in May 2005 to discuss the proposed renovations. The LPC approved the Washington Square Park renovation plan on May 17, 2005. The LPC report approving the plan is annexed hereto as Exhibit "9."

11. Subsequent to LPC's approval of the renovation plan, the Parks Department determined that a technical change to its renovation plans affecting the pedestrian walkway at the southern end of the Park at Thompson Street was necessary. Parks Department officials notified the Landmarks Preservation Commission of this modification and received certification from LPC that this change did not require a separate Commission approval. A copy of the letter acknowledging the technical change is annexed hereto as Exhibit "10."

12. In January 2006, the Parks Department made a presentation to the Art Commission, addressing only the restoration and conservation of the *Giuseppe Garibaldi* and *Alexander Lyman Holley* statues and the central fountain, since these three works of art are the only components of the Washington Square Park design over which the Art Commission has jurisdiction. The Art Commission approved the renovations in three resolutions dated January 9, 2006. A copy of these three resolutions is annexed hereto as Exhibit "11."

D. Prior Litigation

13. In July 2005, the Emergency Coalition Organization to Save Washington Square Park ("ECOSWSP") filed an Article 78 proceeding against various municipal

respondents in New York State Supreme Court, New York County (Index No. 2005/110200), contending that the City had improperly failed to prepare an environmental review of the renovation Project. After the lawsuit had been filed, the parties entered into a stipulation that dismissed the lawsuit and provided that Petitioners would receive a copy of the environmental review after it had been published.


14. In January 2006, Ronald Podolsky filed an Article 78 proceeding in Supreme Court, New York County (Index No. 2006/100998), contending that the Parks Department should have provided him with a copy of its presentation to the Art Commission in advance of the January 9, 2006 Art Commission public hearing on the Project's art-related approvals. In July 2006, Supreme Court Justice Emily Jane Goodman granted the City's motion to dismiss the *Podolsky* petition. Petitioner appealed to the Appellate Division, First Department, which in February 2007 affirmed the lower court's dismissal of his petition. *See Matter of Podolsky v. Bloomberg*, 830 N.Y.S.2d 145 (App. Div. 1st Dep't, Feb. 22, 2007).

15. In May 2006, a third Article 78 proceeding was filed in New York County Supreme Court (Index No. 2006/105857), claiming that there was no environmental review and that the City had provided insufficient information on the Project to the local Community Board, LPC, and Art Commission. Petitioners in that proceeding sought to overturn all three public bodies' project-related recommendations and approvals. By decision dated July 25, 2006, Justice Goodman granted the petition and temporarily enjoined construction work on the fountain and fountain plaza components of the Project pending further review by the each of the three bodies. The Court also held that claims pertaining to the environmental review were unripe. The City appealed the decision. On March 8, 2007, the Appellate Division, First Department, dismissed the petition and lifted the injunction, holding that the City properly

disclosed all material elements of its renovation plans to the three reviewing bodies. *See Matter of Greenberg v. City of New York*, 2007 N.Y. Slip Op. 1943, 2007 N.Y. App. Div. LEXIS 2687 (1st Dep't March 8, 2007). On information and belief, leave to appeal this decision is being sought by petitioners.

WHEREFORE, it is respectfully requested that the Court deny these petitions in their entirety.

Dated: New York, New York
 April 3, 2007



AMANDA C. GOAD
Assistant Corporation Counsel
Environmental Law Division