

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

In the Matter of the Application of

THE WEST HARLEM COMMUNITY
PRESERVATION ORGANIZATION, INC., YUIEN
CHIN, ALEXA DONAPHIN, ANDRES OREJUELA,
TIFFANY KHAN, BARRY WEINBERG, NEW YORK
STATE SENATOR CORDELL CLEARE, NEW YORK
STATE ASSEMBLY MEMBER AL TAYLOR, and
NEW YORK STATE ASSEMBLY MEMBER JORDAN
WRIGHT,

Petitioners/Plaintiffs,

For Judgment Pursuant to Articles 63, 78, and 3001 of the
Civil Practice Law and Rules,

- against -

NEW YORK CITY DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT; CITY
PLANNING COMMISSION OF THE CITY OF NEW
YORK; NEW YORK CITY DEPARTMENT OF CITY
PLANNING; DANIEL R. GARODNICK, in his official
capacity as former Chair of the City Planning
Commission and Director of the Department of City
Planning; SIDEYA SHERMAN, in her official capacity
as Chair of the City Planning Commission and Director
of the Department of City Planning; MARK LEVINE, in
his official capacity as former Manhattan Borough
President; CITY OF NEW YORK; NEW YORK CITY
COUNCIL; NEW YORK CITY HEALTH AND
HOSPITALS CORPORATION; and BOWERY
RESIDENTS' COMMITTEE, INC.,

Respondents/Defendants.

Index No.:

**VERIFIED
PETITION/COMPLAINT**

Petitioners/Plaintiffs THE WEST HARLEM COMMUNITY PRESERVATION
ORGANIZATION, INC. ("West Harlem CPO"), YUIEN CHIN, ALEXA DONAPHIN, ANDRES

OREJUELA, TIFFANY KHAN, BARRY WEINBERG, NEW YORK STATE SENATOR CORDELL CLEARE, NEW YORK STATE ASSEMBLY MEMBER AL TAYLOR, and NEW YORK STATE ASSEMBLY MEMBER JORDAN WRIGHT (collectively, “Petitioners” or the “Coalition”), as and for their Verified Petition pursuant to Article 78 and Section 3001 of the Civil Practice Law and Rules (“CPLR”) against respondents/defendants NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT (“HPD”), CITY PLANNING COMMISSION OF THE CITY OF NEW YORK (“CPC”); NEW YORK CITY DEPARTMENT OF CITY PLANNING (“DCP”); DANIEL R. GARODNICK, in his official capacity as former Chair of the CPC and Director of the DCP (“Garodnick”); SIDEYA SHERMAN, in her official capacity as Chair of the CPC and Director of the DCP (“Sherman”); CITY OF NEW YORK (the “City”); MARK LEVINE, in his official capacity as former Manhattan Borough President (“Levine”); NEW YORK CITY COUNCIL (“City Council”); NEW YORK CITY HEALTH AND HOSPITALS CORPORATION (“H+H”); and BOWERY RESIDENTS’ COMMITTEE, INC. (“BRC,” and collectively, “Respondents”), to annul, vacate, reverse, and/or remand the determinations (the “Determinations”) of Respondents to approve the land use project (“Project”) for 1727 Amsterdam Avenue in Manhattan (“Project Site”), rendered final on March 26, 2026, and for declaratory and injunctive relief, by and through their attorneys, Hiller, PC, allege and aver as follows:

PRELIMINARY STATEMENT

1. By this hybrid action and Article 78 Proceeding, the Coalition, consisting of a community organization, individual members of the community, and elected officials from the community, seeks to rectify a serious error that threatens to permanently eliminate a critical healthcare facility which, for generations, has been providing essential medical services to the

West Harlem community. In particular, the City, under the auspices of the New York City Uniform Land Use Review Procedure (“ULURP”) set forth in the New York City Charter (“City Charter”), the New York State Environmental Quality Review Act (“SEQRA”), the New York City Environmental Quality Review (“CEQR”), and N.Y. Gen. Mun. L. §§690 *et. seq.*, rendered the Determinations to approve the Project and permit the disposition of the City-owned property (the “Property”) at 1727 Amsterdam Avenue (Project Site, previously defined) to a developer for \$1.00 as a supposed Urban Development Action Area (“UDAA”) and Urban Development Action Area Project (“UDAAP”). The principal consequences of Respondents’ determinations, if not promptly corrected, would be the permanent loss of a community healthcare facility, which, for the past 50 years, has been providing critical medical care to an underserved population, including many vulnerable patients who suffer from HIV/AIDS, many who receive Medicare and Medicaid, and many who are uninsured. Respondents’ approval of the Project was made without a thorough public environmental review and the preparation and publication of an environmental impact statement (“EIS”) and without holding a public hearing on such environmental impacts.

2. The City-owned building at the Project Site (the “Building”), which has been a critical healthcare hub for the Hamilton Heights community for approximately fifty years. Providers at the Project Site have ensured that members of this community, including those receiving Medicare and Medicaid and who do not speak English, received access to, among other things, HIV treatment, mental-health services, substance-use treatment, a therapeutic preschool, a food pantry, primary and preventive medical care, dental care, podiatry, and ophthalmology services. Since approximately 1975, one of the community healthcare facilities at the Project Site has been Heritage Health and Housing, Inc. (“Heritage”), which operates a Federally Qualified Health Center (“FQHC”) and which serves approximately 7,000-10,000 patients each year and

accommodated approximately 37,000 patient visits in 2025 alone. With the implementation of the Project, Heritage would be permanently removed from the Project Site, and no FQHC would remain there. The Project would have significant environmental impacts on community healthcare facilities, socioeconomic conditions, neighborhood-character, open-space, noise, hazardous-materials, and historic resources.

3. Incredibly, despite that, under SEQRA, the Project is a Type I Action and there is a presumption that an EIS is required, Respondents irrationally decided that no EIS needed to be prepared and published for public review and comment. HPD decided, against the overwhelming weight of evidence and without reasoned elaboration, that there would supposedly be no displacement or alteration of health-care facilities, even though the Project would remove an existing FQHC. HPD notably understated Heritage's footprint and omitted The Jackson Center of Ophthalmology (the "Ophthalmology Center"), which has been at the Project Site for over 35 years and is now part of Heritage, from the displacement analysis altogether. These are among the clear errors which call into question the integrity of the entire review process by HPD and the other Respondents which approved the Project.

4. HPD's stated basis for eliminating Heritage from the Project Site was that Heritage would supposedly be relocated to a new site a couple of blocks away, at 1649 Amsterdam Avenue ("Purported Relocation Site") – property which is currently used for supportive housing. Inexplicably, HPD failed to account for the number of residents in the supportive housing units at the Purported Relocation Site that would be displaced as a result of converting the building into a healthcare facility for Heritage to use. HPD also failed to analyze, *inter alia*, the timing or feasibility of Heritage moving to the Purported Relocation Site, or even the adequacy of such a site as a community healthcare facility. Indeed, the Purported Relocation Site, a designated

landmark, is subject to, *inter alia*, affordable-housing restrictions, Landmarks Preservation Commission (“LPC”) approval, recorded agreements, mortgage restrictions, and certificate-of-occupancy limits, which currently do not authorize a 20,000-square-foot ambulatory health-care use. HPD did not consider the extent to which these restrictions will prevent the conversion of the Purported Relocation Site into a healthcare facility of comparable capacities as that which Respondents are eliminating through the Project. Moreover, Heritage has represented that it lacks the millions of dollars needed to build out the space, and even if it were to obtain all the financing it needs, the relocation would take approximately 18-24 months. HPD failed to account for what would happen to Heritage and its patients during that time period.

5. HPD further irrationally decided there would be no reduction in public open space, even though the project would eliminate a large outdoor plaza, and a playground within it, used by the community and children in particular. Additionally, supposed mitigation measures such as noise protection, hazardous-materials measures, and historic-resource protections were impermissibly left to a future private agreement, in violation of the law. In other words, Respondents decided upon a course of action and then proceeded to jerry-rig the ULURP and environmental review processes to align with its desired outcome and timetable.

6. Disregarding the multiple potential environmental impacts identified above, HPD issued a negative declaration (the “Negative Declaration”), asserting, without reasoned elaboration and discussion, that supposedly no such impacts will result and bypassing the requirement for an EIS to be prepared and published, and for a public hearing on the findings of such an EIS. The Negative Declaration was issued following HPD’s: (a) failure to consider outcome-determinative facts in the record; (b) concocting of supposed facts that do not exist; (c) drawing of purported inferences from such manufactured “facts;” (d) failure to examine the potential relocation of

Heritage, the displaced FQHC, and the resulting displacement and reduction of essential community health-care services; and (e) deferring of purported mitigation measures imposed through future, private agreements never publicly evaluated before issuance. Respondents, in approving the Negative Declaration and the Project, failed to take a “hard look” at these critical environmental impacts from the Project, rendering such approvals unlawful.

7. The community identified the errors by Respondents. Manhattan Community Board 9 (“CB9”) voted overwhelmingly to recommend denial of the Project. CB9, along with other members of the community, including Petitioners, proposed an alternative plan that would have preserved the healthcare facilities at the Project Site while simultaneously allowing more housing than the Project advanced by HPD. However, Respondents irrationally refused to study that alternative plan.

8. Despite Respondents’ clear errors, CPC, despite strong reservations from several of its Commissioners, rubber-stamped the Project, and the City Council gave final ULURP approval. The approvals would allow the demolition of a long-standing public health-care facility, the displacement of essential providers, the reduction of neighborhood health-care capacity, and the transfer of City-owned land for nominal consideration without the EIS that SEQRA and CEQR require when a project may have a significant effect on the environment. The bar for requiring an EIS is very low.

9. The Coalition respectfully requests that the Court annul the approval of the Project, enjoin any demolition and disposition of the City-owned property, and remand the Project to require HPD to prepare a full EIS for public review and comment. To be clear, the Coalition does not ask the Court to decide that affordable housing should not be built. Quite the contrary, the Coalition firmly supports the creation of affordable housing. Rather, the Coalition asks that

Respondents follow the law, tell the truth about what the adverse environmental impacts and other consequences of the Project will be, study such impacts and consequences before acting, and consider alternatives that would provide housing without destroying essential community healthcare services in West Harlem.

PARTIES

Petitioners

10. Petitioner The West Harlem Community Preservation Organization, Inc. (“West Harlem CPO”) is a not-for-profit, grassroots community-preservation organization founded in 1996, with a headquarters located at 502 West 142nd Street, New York, New York 10031. West Harlem CPO’s mission is to inform, educate, and advocate on issues affecting the quality of life in West Harlem, including the preservation of the neighborhood’s historic architecture and the delivery of essential city services.

11. Petitioner Yuien Chin (“Yuien”) is, and at all relevant times has been, a citizen and resident of the State of New York in the County of New York. Yuien resides in West Harlem and currently serves as the Executive Director of the West Harlem CPO. Yuien is also a longtime business owner in Hamilton Heights.

12. Petitioner Alexa Donaphin (“Alexa”) is, and at all relevant times has been, a citizen and resident of the State of New York in the County of New York. Alexa resides in West Harlem, in close proximity to the Project Site. Alexa currently serves as the Vice President of the West Harlem CPO. Alexa currently receives medical services at Heritage, located at the Project Site. Alexa has been a patient of the Ophthalmology Center, which is now part of Heritage, for over 25 years. Alexa would no longer have access to those services if the Building were demolished and the Project were to proceed as approved.

13. Petitioner Andres Orejuela (“Andres”) is, and at all relevant times has been, a citizen and resident of the State of New York in the County of New York. Andres resides in West Harlem on the same block as, and in close proximity to (*i.e.*, less than 500 feet from), the Project Site. Andres currently receives medical services at Heritage, located at the Project Site. Andres would no longer have access to those services if the Building were demolished and the Project were to proceed as approved. Andres is a member of the West Harlem CPO. *See* Affirmation of Andres Orejuela, dated July 22, 2026 (“Orejuela Aff.”).

14. Petitioner Tiffany Khan (“Tiffany”) is, and at all relevant times has been, a citizen and resident of the State of New York in the County of New York. Tiffany resides in West Harlem in close proximity to the Project Site, and is a current patient of Heritage located at the Project Site, where she sees a primary care physician and internist. She has received treatment from Heritage since in or around 2014. Tiffany has grave concerns about the quality of care from decades of malpractice experience, and trusts the providers she sees at Heritage. Tiffany would lose, or suffer materially diminished, access to those services as a direct result of the Project. Tiffany is a member of the West Harlem CPO. Tiffany was previously a member of the Housing Land Use and Zoning Committee of CB9. *See* Affirmation of Tiffany Khan, dated July 23, 2026 (“Khan Aff.”).

15. Petitioner Barry Weinberg (“Barry”) is, and at all relevant times has been, a citizen and resident of the State of New York in the County of New York. Barry is a member of the West Harlem CPO. Barry is also a Public Member and former Chair of CB9. *See* Affirmation of Barry Weinberg, dated July 23, 2026 (“Weinberg Aff.”).

16. Petitioner New York State Senator Cordell Cleare serves the 30th New York State Senate District, which includes the Project Site.

17. Petitioner New York State Assembly Member Al Taylor serves the 71st New York State Assembly District, which includes the Project Site.

18. Petitioner New York State Assembly Member Jordan Wright serves the 70th New York State Assembly District, the boundary of which is one block away from the Project Site. Many of Assembly Member Wright's constituents are currently served by Heritage, and would lose their access to the healthcare services provided thereby if the Project were to proceed as planned.

Respondents

19. Respondent HPD is a department of the City of New York, with a principal location at 100 Gold Street, New York, NY 10038. HPD is supposed to “promote quality and affordability in the city's housing, and diversity and strength in the city’s neighborhoods.”¹ HPD was the lead agency for the Project under SEQRA and CEQR.

20. Respondent CPC is, and since 1936 has been, a commission under the New York City Charter (“City Charter”), and is “responsible for the conduct of planning relating to the orderly growth, improvement and future development of the city, including adequate and appropriate resources for the housing, business, industry, transportation, distribution, recreation, culture, comfort, convenience, health and welfare of its population.”² CPC has a principal location at 120 Broadway, New York, New York 10004.

21. Respondent DCP is, and at all relevant times has been, New York City’s primary land-use agency, with a principal location at 120 Broadway, New York, New York 10004. DCP is

¹ N.Y.C. Dep’t. of Hous. Pres. & Dev., *About HPD*, <https://www.nyc.gov/site/hpd/about/about-hpd.page> (last visited July 9, 2026).

² City Charter, §192(d).

supposed to “serve as technical support to the City Planning Commission in its annual review of approximately 450 land-use applications, and ensure that processes, reviews and approvals are efficient, consistent, and user-friendly.”³

22. Respondent Sherman is currently the Chair of the CPC and Director of DCP.

23. Respondent Garodnick was the Chair of the CPC and Director of DCP at the time that CPC voted in favor of approving the Project.

24. Respondent Levine was the Manhattan Borough President at the time that the ULURP Project was before him. Levine recommended approval of the Project.

25. Respondent City of New York (the City, previously defined) is a municipal corporation under General Construction Law §66(2). The City is the governmental body charged with oversight responsibility for public affairs and public lands within the City’s five boroughs. The City is the fee-simple owner of the Property at the Project Site.

26. Respondent City Council is the legislative body of The City of New York established and duly existing pursuant to Chapter 2 of the City Charter and vested with the ultimate authority to approve land use applications under ULURP.

27. Respondent H+H is a public benefit corporation and municipal healthcare delivery system in New York City, with a principal location at 50 Water Street, New York, NY 10004.

28. Respondent BRC is a not-for-profit organization, with a principal location at 131 West 25th Street, New York, NY 10001.

³ NYC Dep’t. of City Planning Language Access Implementation Plan 2025, https://www.nyc.gov/assets/planning/downloads/pdf/about-us/policies-notice/lap_dcp_2025.pdf (last visited July 21, 2026).

JURISDICTION AND VENUE

29. This Court has jurisdiction over this Proceeding pursuant to Article 78 of the New York Civil Practice and Rules (“CPLR”).

30. This Court also has jurisdiction to render a declaratory judgment pursuant to CPLR 3001.

31. Venue is proper in New York County under CPLR 506(b) and 7804(b) because Respondents’ Determinations were made, and the Project Site is located, in New York County. In addition, venue is also proper in New York County, where Petitioners reside or have their principal place of business.

UNIFORM LAND-USE REVIEW PROCEDURE (ULURP)

32. ULURP, as set forth in §§197-c and 197-d of the City Charter and in §§2-01 – 2-07 of the Rules of the City of New York (“R.C.N.Y.” or “City Rules”), is a standardized framework by which the public reviews land use planning and policy decisions in New York City.⁴

33. ULURP was enacted in 1975 for the purposes of ensuring “community input on significant land use decisions regarding public land.”⁵ As reflected in the City Charter itself, ULURP provides that “applications by any person or agency for changes, approvals, contracts, consents, permits or authorization thereof, respecting the use, development or improvement of real property subject to city regulation shall be reviewed pursuant to a uniform review procedure.”⁶

⁴ City Charter §§197-c, 197-d; 62 R.C.N.Y. §§2-01 – 2-07.

⁵ *Dist. 4 Presidents’ Council v. Franchise & Concession Review Comm. of City of New York*, 18 Misc.3d 1123(A) (Sup. Ct. N.Y. Co. Jan. 30, 2008).

⁶ City Charter §197-c(a).

34. Strict compliance with the ULURP review process is required for certain types of land use actions, including, *inter alia*, “[c]hanges in the city map” or “[d]esignations of zoning districts under the zoning resolution, including conversion from one land use to another land use,” or a “[s]ale, lease (other than the lease of office space), exchange, or other disposition of the real property of the city.”⁷

35. Once ULURP is triggered, a multi-step, multi-agency procedure (involving different branches of City government) must take place, including review by: (i) DCP; (ii) the affected community boards; (iii) the affected Borough President or Borough Board; (iv) the CPC; and (v) the City Council.⁸

36. In summary, ULURP is designed to invite public participation in significant land-use decisions, and to ensure that multiple, coordinate agencies and departments are afforded the opportunity to analyze and consider, *inter alia*, the extent to which such decisions will affect the City’s neighborhoods and communities.

SEQRA AND CEQR

37. SEQRA and CEQR require strict compliance with environmental-review procedures.⁹

38. SEQRA, a New York State law, is designed to protect and regulate the environment; it requires that state and local government agencies assess environmental effects of discretionary actions before undertaking, funding or approving them.¹⁰

⁷ *Id.* §197-c(a)(1),(3),(10).

⁸ *See id.* §§197-c(b)-(m), 197-d; *see also* 62 R.C.N.Y. §2-01-2-07.

⁹ *Matter of King v. Saratoga County Bd. of Supervisors*, 89 N.Y.2d 341, 347 (1996).

¹⁰ *See* N.Y. Env. Cons. L. (“ECL”) §8-0101, *et. seq.*; *see also* 6 N.Y.C.R.R. 617.1, *et seq.*

39. Under SEQRA, projects and other actions are classified by three categories: Type I Actions, Type II Actions, and Unlisted Actions.¹¹

40. Type I Actions consist of “those actions and projects that are more likely to require preparation of an [Environmental Impact Statement]....”¹²

41. The legal threshold to trigger an obligation to require an Environmental Impact Statement (EIS, previously defined) is particularly low. All that is required is that the record reflects that an action “may have a significant effect on the environment.”¹³

42. A Type I Action carries a regulatory presumption that it is likely to have a significant adverse impact and thus will require an EIS.¹⁴

43. An applicant seeking approval under SEQRA submits an Environmental Assessment Form and provides an Environmental Assessment Statement (“EAS”) to inform the lead agency’s decision to require or prepare an EIS and whether to hold a public hearing on the proposed action.

44. If an action is determined to have even mere “potential” significant impacts on the environment, the lead agency must issue a positive declaration and an EIS must be prepared for public review.

45. An EIS is used in order to analyze reasonable alternatives to the proposed action and to identify ways to avoid or reduce adverse impacts.

¹¹ 6 N.Y.C.R.R. §§617.2(ak), 617.4, 617.5.

¹² *Id.* §617.4(a).

¹³ ECL §8-0109(2) (emphasis added); 6 N.Y.C.R.R. §617.7(a).

¹⁴ 6 N.Y.C.R.R. §617.4(a)(1).

46. A negative declaration is a determination by the lead agency that an action would not significantly impact the environment.

47. A negative declaration must identify the relevant areas of environmental concern, take a hard look at them, and provide a reasoned elaboration for the determination.

48. Conclusory findings, generalized assertions, and unsupported assumptions do not constitute either a hard look or a reasonable elaboration.

49. A conditioned negative declaration (“CND”) is a determination that an action would impact the environment, but enforceable conditions will fully mitigate such impacts.

50. A CND is not available to Type I Actions.

51. CEQR, a law enacted by the City, provides the mechanism by which the City complies with its obligations under SEQRA.¹⁵

52. Applicants, “whether public or private entities, are responsible for preparing the environmental analyses in accordance with methodologies set forth in the CEQR Technical Manual.”¹⁶

53. Under CEQR, “[n]o final decision to carry out or approve an action which may have a significant effect on the environment shall be made until after the filing and consideration of a final EIS.”¹⁷

¹⁵ See City Executive Order No. 91 of 1977, *as amended*; 62 R.C.N.Y. §5-01, *et. seq.*; 43 R.C.N.Y. §6-01, *et. seq.*

¹⁶ N.Y.C. Dep’t. of City Planning, *Environmental Review*, <https://www.nyc.gov/content/planning/pages/planning/environmental-review> (last visited July 20, 2026). See CEQR Technical Manual, December 2021 Edition, http://www1.nyc.gov/assets/oec/technical-manual/2014_ceqr_technical_manual_rev_04_27_2016.pdf (last visited July 13, 2026) (“CEQR Technical Manual”).

¹⁷ 43 R.C.N.Y. §6-12(a).

UDAAP

54. Under Article 16 of the General Municipal Law, an urban development action area (UDAA, previously defined), must meet statutory eligibility requirements, including the requirement that at least 60% of the area be an eligible area.¹⁸

55. Before approving a Project as a UDAAP, the governing body must make the mandatory findings required by N.Y. Gen. Mun. L. §694(4), including that, *inter alia*: (i) the present status of the area tends to impair or arrest sound municipal growth; (ii) any tax incentives are necessary; and (iii) the designation is consistent with the statute's policy and purposes. These findings are conditions precedent to a valid designation and must be supported by evidence in the record. Conclusory findings unsupported by the record do not satisfy these mandatory statutory predicates. A UDAAP may be designated only where the area is a slum or blighted, or is becoming slum or blighted, because of substandard, insanitary, deteriorated, or deteriorating conditions.

CLAIM FACTS

The Project Site and Its Existing Healthcare Uses

56. The Project Site is a corner lot in the Hamilton Heights neighborhood of Manhattan Community District 9 in West Harlem, with frontages on West 146th Street, Amsterdam Avenue, and West 145th Street.

57. The Building, constructed in 1974, is four-stories, is approximately 59,209-gsf, and is used, in its entirety, for community-facility health-care purposes (EAS at 23, Ex. 1).

58. The Project Site was constructed as public health-care infrastructure.

¹⁸ N.Y. Gen. Mun. L. §§690 *et. seq.*

59. Contracts for a "\$4.5-million neighborhood family care center" at the Building to serve "55,000 residents of the area, which has a shortage of private physicians, dentists and psychiatrists," were awarded in 1972, and the four-story facility was completed to "offer complete diagnosis and treatment of physical and mental ailments."¹⁹

60. When fiscal-crisis-era officials left the fully equipped Building shuttered, its nonuse became, in the words of then-State Senator (later State Comptroller) Carl H. McCall, "like getting kicked in the face every day...a reminder, if anyone needed one, that nobody really cared about poor people."²⁰

61. The community's elected officials and leaders "pleaded repeatedly" that the services at the Building "were desperately needed in their community, which has been designated by the Federal Government as having critical health problems."²¹

62. The Project Site is across the street from PS 153 Adam, the Clayton Powell Jr. Elementary School, which serves approximately 400 students in Pre-K through 5th grade, and MS 368, the William Lynch School, which serves approximately 300 middle school students.

63. For approximately 40+ years, the Building was occupied by two community healthcare facilities, including, most recently, the Emma L. Bowen Community Service Center ("EBC") and Heritage Health and Housing, Inc. ("Heritage").

64. EBC is a nonprofit providing outpatient mental-health and substance-abuse treatment, a therapeutic preschool, a clubhouse, and a food pantry.

¹⁹ Ronald Sullivan, *After 5 Years, Harlem Family-Care Center Is to Open*, N.Y. Times, May 7, 1979, §B, at 3; *Metropolitan Briefs*, N.Y. Times, Feb. 7, 1972, at 35.

²⁰ Sullivan, *supra* note 19.

²¹ *Id.*

65. Until in or around April 2026, EBC occupied approximately 44,000 gsf at the Project Site.

66. The Building is, and continues to be, occupied by Heritage, an FQHC and a non-profit organization providing community services and ambulatory medical care (EAS at 23, 37, Ex. 1; Second Tech Memo at 2, Ex. 2). Heritage has been at the Project Site for nearly 50 years.

67. Heritage “provides essential health care, dental, and behavioral and mental health services to the medically underserved community of Harlem” (Affidavit of Douglas Blomberg, dated Jan. 12, 2026 (“Blomberg Aff.”) ¶7, Ex. 3). *See also* Affirmation of Danielle Milano, M.D., dated July 23, 2026 (“Milano Aff.”).

68. Heritage offers “medical care in the fields of internal medicine, family medicine, pediatrics, HIV/AIDS, podiatry, cardiology (including cardiovascular risk reduction and diabetes testing and treatment), gastroenterology (including treatment of liver disease and ulcerative colitis), and dental and behavioral health services (including psychiatry and psychotherapy)” (Blomberg Aff. ¶7).

69. “Heritage’s patients are predominantly people of color and members of minority communities” (*id.* ¶8), including Spanish-speaking immigrant families (Second Tech Memo at 3, Ex. 2; EAS, Ex. 1; 2014 License Agreement, Ex. 4; Orejuela Aff. ¶9; Milano Aff. ¶4).

70. “Fifty-seven percent of Heritage’s patients are eligible to receive Medicaid, eighteen percent are eligible for Medicare, ten percent are uninsured, and only fifteen percent are covered by private insurance” (Blomberg Aff. ¶9, Ex. 3). *See also* Milano Aff. ¶4).

71. Heritage includes the Ophthalmology Center (Testimony of Dr. Ralph Jackson at 1-2, Ex. 5; Affirmation of Dr. Ralph Jackson, dated July 22, 2026 (“Jackson Aff.”), ¶4).²²

²² *See also* <https://www.heritagencyc.org/ophthalmology> (last visited July 20, 2026).

72. Heritage occupies approximately 20,000 gsf across the first through fourth floors of the Building, and serves between 7,000 and 10,000 patients and clients each year.

73. Heritage operates at least eight dedicated examination rooms and three laboratory-testing rooms at the Project Site.

74. Upon information and belief, more than 100 employees work for Heritage at the Project Site.

75. As an FQHC, Heritage's operation at the Project Site is a federally funded and federally supervised program of primary healthcare.

76. Heritage, as an FQHC, operates under the Public Health Service Act.

77. The United States Health Resources and Services Administration ("HRSA") lists the Heritage as an active, federally funded service-delivery center.

78. Heritage's clinicians are deemed employees of the United States Public Health Service (Federal Tort Claims Act Search Tool at 1, Ex. 6).²³

79. Heritage's operation under the Public Health Service Act means that Heritage is in compliance with federal program requirements and is serving a population the federal government has designated as "medically underserved." *See* 42 U.S.C. §254b(b)(3)(A).

80. A health center operating under the Public Health Service Act must serve a medically underserved area or population, 42 U.S.C. §254b(a)–(b).

81. HRSA subjects facilities such as Heritage to continuing oversight and does not permit the continued federal funding and operation of a facility that had ceased to function or fallen into a substandard or insanitary condition. *Id.* §254b(k)(3).

²³ <https://data.hrsa.gov/topics/health-centers/ftca-search-tool> (last visited July 23, 2026).

82. In 2023, the City and H+H commenced an action against Heritage in the Supreme Court of the State of New York, seeking to eject Heritage from the Building (“Heritage Ejectment Action”).²⁴ As of the date of this filing, the Heritage Ejectment Action is still pending.

The Project’s Proposed Removal of Heritage and Significant Reduction of Community Facility Health-Care Space

83. The Project proposes to demolish the existing 59,209-gsf community healthcare facility Building.

84. The Building would be replaced by a nine-story residential building containing 199 dwelling units, including approximately 120 supportive-housing units for formerly homeless individuals with serious mental illness and/or substance-use disorders, and the remainder for affordable housing units (HPD Project Description at 4, Ex. 7).²⁵

85. While the Project purports to provide supportive-housing units for formerly homeless individuals with serious mental illness, the Project does not provide for a single licensed healthcare professional to be on site to support individuals with mental illness.

86. According to HPD, the exact mix of and affordability is subject to change up until the closing of the Project. In other words, the extent to which the Project will provide affordable housing is not guaranteed.

87. Under the proposed Project, EBC would temporarily be relocated and would return to the Project Site, but would be reduced from approximately 44,000 gsf to 21,000 gsf, constituting more than a 50% reduction in its space.

²⁴ The Heritage Ejectment Action is styled *The City of New York and New York City Health and Hospitals Corp. v. Heritage Health and Housing, Inc.*, Index No. 451964/2023 (Sup. Ct. N.Y. Co.).

²⁵ N.Y.C. Dep’t. of Hous. Pres. & Dev., *Area Median Income*, <https://www.nyc.gov/site/hpd/services-and-information/area-median-income.page> (last visited July 17, 2026).

88. In contrast, under the proposed Project, Heritage would not return to the Project Site. Heritage's removal from the Project Site would be permanent. The Project would permanently and completely eliminate Heritage, including the Ophthalmology Center, from the Project Site (EAS, Ex. 1; Second Tech Memo, Ex. 2; HPD Project Description, Ex. 7; Jackson Aff. ¶¶56).

89. Upon completion of the Project, there would be a total reduction of approximately 65% in community health-care facility space, from 59,209 gsf to 21,000 gsf.

90. Upon the removal of Heritage from the Project Site, Heritage's patients will no longer have access to the healthcare services they have been relying on for years. *See* Milano Aff. ¶6.

91. Community member Saundra Fisher, a Medicaid recipient, will no longer have access to the dental care she relies upon at Heritage (Affirmation of Saundra Fisher, dated July 23, 2025 ("Fisher Aff.") ¶6).

92. Petitioner Andres would no longer have access to medical services at the Ophthalmology Center, where he has been a patient for approximately 4 years (Orejuela Aff. ¶8).

93. Petitioner Alexa would no longer have access to medical services at the Ophthalmology Center, where she has been a patient for over 25 years.

94. Petitioner Tiffany would no longer have access to medical treatment by the primary care physician and internist she sees at Heritage. *See* Khan Aff. ¶11.

95. Upon the removal of Heritage, there would no longer be an FQHC at the Project Site.

Respondents' Attempt to Evade ULURP Through False Statements

96. The City holds fee simple title to the Property at the Project Site.

97. The City acquired the Property by condemnation in or around 1969.

98. The plans for redevelopment of the Project Site originated in or around 2019.
99. Such plans were not disclosed to the public, including CB9, for approximately three years.
100. When the City, through H+H, began its plans to redevelop and transfer the Property to a developer, it sought to do so without undergoing ULURP review, notwithstanding that the disposition of City-owned real property requires ULURP review.
101. On or about March 1, 2024, BRC submitted an EAS for the Project (EAS, Ex. 1).
102. HPD was designated as lead agency for the Project.
103. The EAS inaccurately states that the Project does not require ULURP review.
104. The EAS inaccurately states that the Project does not require approval by CPC.
105. In early 2025, H+H requested that the Project Site be transferred to H+H's portfolio, so that H+H could then transfer the Project Site to BRC without going through ULURP review.
106. The City Council rejected H+H's request, and the City acquiesced to the reality that the Project must proceed through ULURP in order for there to be a disposition of the City-owned property at the Project Site.
107. HPD filed a Land Use Application for the Project on or about August 18, 2025 (Land Use Application, Ex. 8).
108. Unlike the EAS, the Land Use Application lists HPD as the applicant for the Project.
109. The Land Use Application also lists HPD as the lead agency for the Project.
110. HPD states in the Land Use Application that the City-owned Property at the Project Site would be disposed of as a UDAA by transfer to a recipient "to be selected by HPD."
111. The Land Use Application does not reference BRC.

112. The Land Use Application does not list any restrictions or conditions for the disposition of the City-owned property at the Project Site.

113. HPD did not submit a new EAS that indicates that ULURP review and CPC are required for the Project.

114. The application for the Project was certified as complete and ready to proceed through ULURP review on or about September 15, 2025.

***HPD's Failure to Prepare an EIS or Take a Hard Look
at the Environmental Impacts for the Project***

115. In addition to ULURP review, Respondents were also required to conduct an environmental review for the Project under SEQRA and CEQR.

116. The Project was classified as a Type I Action in the EAS.

117. The applicant for the Project submitted the EAS falsely indicating that the Project will not eliminate public open space.

118. In fact, the Project would eliminate an approximately 8,000-square-foot open and publicly accessible plaza, including an approximately 1,200-square-foot fenced playground, long used by neighborhood children and community members (Orejuela Aff. ¶12; Google Maps Area Measurements of Plaza and Playground, Ex. 9; Photographs of Plaza, Ex. 10).

119. The applicant for the Project submitted the EAS falsely indicating that the Project would not displace or alter healthcare facilities.

120. In fact, the EAS acknowledges that the Project would result in the “direct displacement” of Heritage from the Project Site.

121. The EAS further acknowledges that the Project would result in the net reduction of approximately 38,209 gsf of community healthcare facility space.

122. According to the EAS, Heritage occupies 15,029 gsf at the Project Site.

123. According to Heritage's 2014 license agreement with H+H and the City and H+H's own Verified Amended Complaint in the Heritage Ejectment Action, Heritage in fact occupies 20,000 gsf at the Project Site (2014 License Agreement, Ex. 4; City and H+H's Verified Amended Complaint in Heritage Ejectment Action, Ex. 11).

124. Upon information and belief, the EAS understates Heritage's actual footprint by approximately 5,000 square feet (EAS, Ex. 1).

125. The EAS does not provide any details about the type of healthcare services that Heritage provides to the community.

126. The EAS vaguely states that "it is anticipated that [Heritage] will relocate to a nearby site that would serve a similar area and population as in the existing conditions."

127. The EAS does not provide any details or specificity about the supposed relocation of Heritage.

128. The EAS does not explain its unsupported conclusion that the permanent removal of Heritage, and the temporary removal and reduction of EBC by over 50% of its gsf, would not constitute a displacement or alteration of community healthcare facilities.

129. The EAS omits the Ophthalmology Center altogether.

130. On or about April 29, 2024, HPD issued the Negative Declaration for the Project (Ex. 12).

131. In the Negative Declaration, HPD arbitrarily decided that the Project "will have no significant effect on the quality of the environment" (Negative Declaration at 2, Ex. 12).

132. The Negative Declaration does not address the significant reduction in community healthcare space.

133. The Negative Declaration does not address the permanent removal and direct displacement of Heritage from the Project Site.

134. The Negative Declaration does not address the thousands of West Harlem residents who would lose their access to their critical healthcare services by reason of the Project.

135. The Negative Declaration identifies hazardous materials such as asbestos in the window casings and chlorinated solvents (perchloroethylene and trichloroethylene).

136. HPD decided that there would be no significant environmental impacts for noise, historic and cultural resources, and hazardous materials, but only due to mitigation measures to be enforced through a private Regulatory Agreement between HPD and the project sponsor. Such mitigation measures include:

- (a) For noise, “[t]he specific attenuation requirements will be memorialized through the provisions included in the...Regulatory Agreement between HPD and the project sponsor.”
- (b) For historic resources, impacts are avoided “[w]ith implementation of the LPC-approved CPP carried out through a Regulatory Agreement between HPD and the Project Sponsor.”
- (c) For hazardous materials, the measures are “required through the Regulatory Agreement between HPD and the Project Sponsor.”

(Negative Declaration at 2-4, Ex. 12).

137. Because HPD issued a Negative Declaration, an EIS for the Project was never prepared.

138. Had an EIS been prepared, members of the public would have had the opportunity to review it and provide comment on it to Respondents.

139. Had an EIS been prepared, Respondents would have had the opportunity to determine the extent to which any significant adverse impacts would result from the Project.

140. On or about July 8, 2025, over a year after the Negative Declaration had been submitted, HPD issued a Technical Memorandum that purported to evaluate the City of Yes for Housing Opportunity, air quality and potential significant adverse impacts to disadvantaged communities (“First Tech Memo”).

141. On or about October 8, 2025, HPD issued a second Technical Memorandum concerning the Project (“Second Tech Memo,” Ex. 2).

142. In the Second Tech Memo, HPD acknowledged that, under the 2021 CEQR Technical Manual, the threshold for whether a detailed analysis is necessary to determine potential impacts of a proposed action on community facilities and services is the “introduction of a sizeable new neighborhood or direct effect” (*Id.* at 3).

143. HPD acknowledged that the Project would have a “direct effect” on two healthcare-related community facilities (*Id.* at 3).

144. HPD conceded in the Second Tech Memo that there would be a “permanent relocation of the Heritage Health Center” (*Id.* at 5).

145. According to HPD, Heritage would “permanently relocate to 1649 Amsterdam Avenue...” (“Purported Relocation Site”) (*Id.* at 5).

146. The Purported Relocation Site is a designated landmark under the New York City Landmarks Law.

147. According to HPD, the Purported Relocation Site is “under the ownership of [Heritage], which is located approximately 0.2 miles south of the Project Site” (*Id.* at 5).

148. According to HPD, despite the permanent relocation of Heritage from the Project Site, “continuous service delivery to the local community” would supposedly be ensured (*Id.* at 5).

149. Without any further analysis of either the loss of Heritage from the Project Site or the Purported Relocation Site, HPD arbitrarily made the prediction that “a disruption of services is not expected as a result of the [Project] as both healthcare facilities [EBC and Heritage] would continue to operate and deliver services and programming to the local community” (*Id.* at 5).

150. HPD ordained, again, without evidence, that “[n]o further analysis of direct effects on community facilities and services is warranted” (*Id.* at 5).

151. The Second Tech Memo, along with the Negative Declaration and First Tech Memo, reflect HPD’s final determination under SEQRA and CEQR that the preparation of EIS for the Project is not required (“SEQRA Determination”).

152. By the time HPD made its decision in the Second Tech Memo, the Project had already been certified into ULURP.

153. Had HPD concluded that an EIS or further analysis of the direct effects of the displacement and reduction of community facilities and services was warranted, the ULURP review of the Project that had already been certified would have been delayed and would not have been completed within the timetable set under the City Charter.

154. Upon information and belief, HPD arbitrarily decided that no further analysis was warranted, not because such was unnecessary, but rather, to avoid delaying the ULURP application for the Project.

155. Under the CEQR Technical Manual, if a project has a “direct effect” on community healthcare facilities, HPD is required to consult with the Department of Health (“DOH”).²⁶

156. HPD did not consult the DOH concerning the “direct effect” and loss of Heritage, an FQHC, from the Project Site.

²⁶ CEQR Technical Manual, Ch. 6 §§200, 210, 321, 322.

157. HPD did not perform the detailed analysis the CEQR Technical Manual demands when a community healthcare facility is altered or displaced.

158. HPD did not analyze the size of the Purported Relocation Site as compared to the current size of Heritage at the Project Site.

159. HPD did not analyze how many patients Heritage would be able to serve at the Purported Relocation Site as compared to the number of patients Heritage serves at the Project Site.

160. HPD did not consider the disruption in healthcare services between the time that Heritage would be removed from the Project Site and when it would move into the Purported Relocation Site.

161. Upon information and belief, when issuing the Second Tech Memo, HPD did not confer or consult with Heritage on the impacts that the Project, the elimination of Heritage from the Project Site, and the possible move to the Purported Relocation Site, would have on Heritage's patients and the community.

162. HPD did not consider that the City and H+H are currently involved in a pending litigation against Heritage in an effort to eject Heritage from the Project Site.

163. HPD did not consider that the Heritage Action has been pending for approximately three years.

164. HPD did not consider that the City and H+H may be unsuccessful in ejecting Heritage from the Project Site.

165. In an affidavit submitted to the Court earlier this year in the Heritage Action, Heritage's then-Chief Financial Officer ("CFO"), Douglas Blomberg, swore as follows:

The abrupt ejectment of Heritage from the Building would have a devastating impact upon the many members of the Harlem community who have come to rely

upon Heritage for medical care and other social services. Even a temporary closure of [Heritage] would disproportionately harm those who are most in need. And allowing the City to eject or evict Heritage before our new space is open would require a closure, resulting in patients loss of essential care (Blomberg Aff. ¶10, Ex. 3).

166. Neither the City nor H+H sought any input from Heritage or provided Heritage with any advance notice of the City’s plans for the Project before beginning the redevelopment process (*Id.* ¶18).

167. The City and H+H have shown a “disregard for the Harlem community’s own leaders and for its partnering institutions” (*Id.* ¶19).

168. HPD concealed in its Second Tech Memo that the City and H+H “are working to force Heritage out when its new space is not yet ready” (*Id.* ¶23).

169. The Purported Relocation Site is an approximately 7,000-square-foot lot and requires significant construction work in order to make it physically possible for Heritage to occupy the space therein.

170. According to Heritage’s former CFO, “Heritage cannot relocate until [Heritage’s] new space is renovated and [Heritage has] received all necessary approvals and permits to perform health care services in that space” (Blomberg Aff. ¶24, Ex. 3).

171. Heritage’s relocation to the Purported Relocation Site would take “approximately eighteen to twenty-four months from the time the necessary funding is made available to Heritage” (*Id.* ¶24).

172. Once Heritage were to be removed from the Project Site, it may be closed for nearly two years before a possible move to the Purported Relocation Site might be able to be accomplished.

173. HPD did not consider how Heritage’s patients would obtain essential healthcare services in the nearly two-year period that Heritage would be closed. *See* Milano Aff. ¶7.

174. Heritage “is still trying to secure all the funds it needs” and “all the necessary funding is still not in place” (Blomberg Aff. ¶24).

175. Upon information and belief, Heritage lacks the millions of dollars required to build out and renovate the Purported Relocation Site. *See* Milano Aff. ¶7.

176. Without such funds, upon information and belief, the relocation of Heritage cannot be financed and the FQHC’s services would, as a practical matter, cease.

177. HPD did not rely upon any secured relocation agreement for the Purported Relocation Site.

178. HPD did not rely upon any purpose-built or fitted-out replacement space, or any construction or build-out plan at the Purported Relocation Site.

179. The Deed for the Purported Relocation Site shows that disposition or lease of all or substantially all of the parcel is barred without HPD Commissioner approval, and any modification of the certificate of occupancy is barred “without obtaining written approval from the Commissioner” of HPD (Deed for 1649 Amsterdam Ave at 3, Ex. 13).

180. The certificate of occupancy (“C/O”) for the Purported Relocation Site does not authorize an ambulatory health-care use (1649 Amsterdam C/O, Ex. 14).

181. The property at the Purported Relocation Site is further encumbered by a recorded Regulatory Agreement dated November 23, 1992 (“1649 Regulatory Agreement”), and by a HOME Written Agreement dated June 30, 2010 (“HOME Agreement,” Ex. 15), together with a mortgage (“1649 Amsterdam Mortgage,” Ex. 16).

182. Under the HOME Agreement, 142 rental units at the Purported Relocation Site must be maintained as rental housing, with no fewer than 66 units reserved for low-income and very-low-income families.

183. The affordability restrictions under the HOME Agreement run until on or about June 27, 2043.

184. The 1649 Amsterdam Mortgage prohibits the owner from changing the “general nature of the occupancy” of the premises, or initiating any restrictive covenant or public or private restriction defining the uses of the premises, without HPD’s prior written consent (Ex. 16).

185. Were Heritage to move to the Purported Relocation Site, such relocation would, *inter alia*, change the general nature of the occupancy thereon, displace residential units that the HOME Agreement requires be maintained as affordable housing through approximately 2043.

186. Respondents did not consider or analyze whether the relocation of Heritage would require, among other things, an amended C/O from the Department of Buildings (“DOB”) to authorize an ambulatory healthcare use that the existing C/O does not permit.

187. Respondents did not consider whether the LPC has approved, or will in the future approve, the changes to the Purported Relocation Site to accommodate Heritage.

188. Respondents did not undertake any analysis of whether relocating Heritage to the Purported Relocation Site would be lawful or feasible.

189. Heritage’s move to the Purported Relocation Site has never been confirmed. *See* Milano Aff. ¶7.

190. Upon information and belief, Heritage is considering potential alternative sites, other than the Purported Relocation Site, which may not be within several blocks or walking distance of the Project Site.

191. As reflected in the Second Tech Memo, HPD addressed the two health-care facilities that would be displaced by the Project in strikingly different terms.

192. For EBC, the facility that would be temporarily relocated but which Respondents intend to eventually restore to the Project Site, the Second Tech Memo specifies a receiving site, a timetable, a return, and a purpose-built replacement space (Ex. 2 at 4).

193. Without explanation or justification, Respondents arbitrarily refused to treat Heritage in the same way it proposes to treat EBC.

194. With respect to Heritage, Respondents failed to, *inter alia*: arrange a temporary relocation for Heritage pending completion of the Project; obtain an amended C/O from the DOB authorizing ambulatory health-care use that the existing C/O does not permit; and obtain LPC approval required for work at the Purported Relocation Site.

195. HPD failed to conduct any analysis of build-out feasibility, usable clinical area, accessibility, or HRSA facility compliance at the Purported Relocation.

196. There is no support for HPD's conclusion in the Second Tech Memo that the Heritage's services as an FQHC would continue without disruption.

197. With respect to the possibility of Heritage moving to the Purported Relocation Site, upon information and belief, as of the date of this filing:

- (i) No new regulatory agreement has been recorded with the City Clerk through ACRIS;
- (ii) No approvals have been requested or obtained from LPC; and
- (iii) No approvals have been requested or granted by DOB for this conversion.

ULURP Review of the Project

198. On or about October 8, 2025, CB9 conducted a public hearing on the Project as part of the ULURP review.

199. On or about November 20, 2025, CB9 passed a resolution recommending that the Project not be approved (“CB9 Resolution,” Ex. 17).

200. Thirty (30) CB9 members voted in opposition to the Project.

201. Only two (2) CB9 members voted in support of the Project.

202. The CB9 Resolution cataloged HPD’s failure to take a "hard look" at the 64.5% reduction in healthcare space and the City’s bad-faith refusal to study a feasible R8A upzoning alternative (*Id.*).

203. The CB9 Resolution pointed out the numerous erroneous statements or omissions in the EAS, including, *inter alia*, that: (i) “the application would not result in the reduction of public open space;” and (ii) the Project would not displace, or alter public or publicly funded community facilities such as...health care facilities” (*Id.* at 4).

204. The CB9 Resolution stated that HPD’s misstatement as to public open space “would likely trigger a need for the targeted EIS to include examination of the impacts of the [P]roject on open space” (*Id.* at 4).

205. As to healthcare facilities, the CB9 Resolution explained that the Project “will result in direct effects to both the mental health services provided by [EBC] (through temporary displacement and permanent alteration of the physical space) and the healthcare services provided by Heritage Health (through permanent removal of the healthcare facilities at [the Project Site].” (*Id.* at 4).

206. The CB9 Resolution stated that HPD’s misstatements as to healthcare facilities “improperly relieved HPD from the requirements of (a) assessing the impact provided by both [EBC] and Heritage Health and (b) consulting with the Department of Health and Mental Hygiene regarding the impact of the project on public health” (*Id.* at 4).

207. The CB9 Resolution further stated that HPD’s misstatements “raise an obvious need for a targeted [EIS] examining the impact of the direct effects of disruption to the mental health services provided by [EBC] and the guaranteed disruption to and potential ending of the healthcare services provided by Heritage Health” (*Id.* at 4).

208. CB9 concluded that the proposed reduction of healthcare provider space is “unacceptable, ill-advised, and counter to the needs of the West Harlem community” (*Id.* at 5).

209. As to HPD’s application under UDAAP, the CB9 Resolution stated that “the statutory requirements of the UDAA Act are not met” and no “evidence has ever been presented regarding the project area because the area is not, in fact, a slum or blighted or facing ‘substandard, insanitary, and blighting conditions,’ aside from H+H’s deliberate refusal to maintain the building so as to render it beyond its useful life” (*Id.* at 5, 7).

210. CB9 strongly contested HPD’s position that the Project area is “a slum or blighted” and noted “with disapproval the long history of the City and State in using ‘urban renewal’ to designate areas as ‘slums’ and, in so doing, render significant damage to communities that are majority Black and/or Latino” (*Id.* at 5).

211. CB9 put forth an “Alternative Plan” and “urge[d] HPD to revise the redevelopment plans for [the Project Site] to address the community's concerns and needs around affordable housing, healthcare and mental health services, and an active retail streetscape at the Site” (*Id.* at 6). *See also* Weinberg Aff. ¶17.

212. As part of the Alternative Plan, CB9 suggested an R8A zoning designation “with MIH Option 3 (income band targeting a weighted average of 40% AMI) that allows for the inclusion in the project of the same square footage required to accommodate and return the existing and necessary community services while creating 50% more affordable housing than what is

planned under the Hill Top Apartments proposal put forth by HPD and BRC by an estimated 78,000 square feet.” (*Id.* at 6; *see also* Alternative Plan, Ex. 18; Weinberg Aff. ¶18).

213. Based on the occupancy standards set forth in the HPD Marketing Handbook, the Project as proposed houses a maximum of 419 individuals across 200 units, including 120 supportive studios fixed at one person per unit and a mere 31 family-sized apartments (2BR and 3BR).²⁷

214. The Alternative Plan, in contrast to the Project, prioritizes family-sized housing (55% of units), and has the capacity to house as many as 1,127 individuals, which is more than double that can be housed under the auspices of the Project.

215. The Project allocates the majority of proposed units to supportive housing for single adults, leaving only 79 units for the general lottery at 40% and 60% of Area Median Income (“AMI”). The significance of these affordability tiers is profound for the large households prevalent in this district; for a family of seven (7), the qualifying income at 40% AMI is \$84,160, while at 60% AMI it rises to \$126,240.

216. The Alternative Plan would have rezoned the parcel to an R8A district, increased the number of housing units by approximately 50% over the Project, increased the number of residents by 300%, and preserved the existing community healthcare uses, including Heritage as an FQHC.

217. HPD declined to study or adopt CB9’s Alternative Plan.

²⁷ N.Y.C. Dep’t of Hous. Pres. & Dev. & N.Y.C. Hous. Dev. Corp., *Marketing Handbook: Policies and Procedures for Resident Selection and Occupancy* (Rev. Apr. 2026), <https://www.nyc.gov/assets/hpd/downloads/pdfs/services/marketing-handbook.pdf>.

218. HPD’s stated reason for rejecting the Alternative Plan was that such an action would require a new environmental review, thereby introducing a delay of approximately 12 to 18 months (Weinberg Aff. ¶19; FAQ, dated October 3, 2022, Ex. 21; CB9 Resolution, Ex. 17).

219. HPD was proceeding under the 2014 New York City Construction Codes and sought to obtain permits before the more stringent 2022 Construction Codes, which took effect in November 2022, would apply (Weinberg Aff. ¶20). Thus, decision-making was motivated, not by governmental policy preferences or measured substantive analysis, but rather by efforts to “game the system” to take advantage of less stringent restrictions on development and construction.

220. HPD’s asserted concern about delay was unrelated to the merits of the Alternative Plan.

221. HPD did not provide a reasoned explanation connecting that timing objective to the environmental merits of the Alternative Plan.

222. On or about December 10, 2025, then-Manhattan Borough President Mark Levine issued a favorable recommendation for the Project.

223. Then-Manhattan Borough President Levine did not consider or analyze the, *inter alia*, proposed permanent removal of Heritage from the Project Site.

224. Then-Manhattan Borough President Levine did not hold a public hearing for the Project.

225. On or about January 7, 2026, CPC held a public hearing under ULURP for the Project (“CPC Hearing”) (CPC Resolution, Ex. 19).

226. Twenty-seven speakers testified in opposition to the Project at the CPC Hearing (*Id.*).

227. Only three speakers testified in favor of the Project at the CPC Hearing. (*Id.*).

228. Members of West Harlem CPO testified in opposition to the Project at the CPC Hearing.

229. CPC voted to approve the Project.

230. Several of the CPC Commissioners, although voting in favor of the Project, stated on the record that they would like to make sure that the relocation of Heritage -- which these Commissioners acknowledged had been described as being a critical part of the whole Project -- is still on track. These Commissioners expressed concern as to whether all agencies were working to make sure that Heritage moves into the Purported Relocation Site as swiftly as possible so that services can continue in an uninterrupted way and that the ophthalmological community facility there would be able to move back in.

231. Commissioner Juan Osorio, although voting in favor of approving the Project, stated on the record that this Project was reducing the amount of community facility space when it should be doing the opposite.

232. Referring to the Project, Commissioner Osorio stated, "we can do better than this."

233. Referring to the Alternative Plan, Commissioner Osorio stated that the planning process had dismissed a community that had put forth a proposal that would maximize the amount of housing.

234. When approving the Project, Respondents did not ensure that any of the concerns stated by the CPC Commissioners would be addressed.

235. When approving the Project, Respondents did not make sure that Heritage moves into the Purported Relocation Site as swiftly as possible so that services can continue in an uninterrupted way and that the Ophthalmology Center there would be able to move back in.

236. On or about February 18, 2026, CPC issued a resolution to approve the Project (CPC Resolution, Ex. 19).

237. CPC did not conduct any analysis as to whether the statutory requirements for UDAAP designation were satisfied.

238. CPC acknowledged in its Resolution that the Project would result in a reduction of healthcare services and community facilities space from 59,000 gsf to approximately 21,000 gsf (*Id.*).

239. CPC made a conclusory assertion that “the proposed new facility will provide a high-quality and purpose-built environment for healthcare delivery,” without any analysis of the quality and extent of services (*Id.* at 16).

240. CPC acknowledged that the possible relocation of Heritage to the Purported Relocation Site would take approximately 18 to 24 months (*Id.* at 11).

241. As with HPD, CPC did not consider how Heritage’s patients would obtain healthcare services in the approximately two-year period in which Heritage would be closed if the plan for moving Heritage to the Purported Relocation Site were in fact ever effectuated.

242. CPC did not determine the extent to which this timeline would cause disruption in healthcare services for Heritage’s patients.

243. CPC did not analyze the adequacy of the facility at the Purported Relocation Site.

244. CPC did not analyze the size of the Purported Relocation Site as compared to the current size of Heritage at the Project Site.

245. CPC did not analyze how many patients Heritage would be able to serve at the Purported Relocation Site as compared to the number of patients Heritage serves at the Project Site.

246. CPC did not consider the ongoing attempt by the City and H+H to eject Heritage from the Project Site.

247. That CPC merely “encourage[d]” HPD to “coordinat[e] closely with [EBC] and [Heritage] to ensure that service interruptions are minimized and that the transition period is managed with sensitivity to the patient population” (CPC Resolution, Ex. 19 at 16), was toothless.

248. On or about March 3, 2026, the City Council’s Subcommittee on Landmarks, Public Sitings, Resiliency and Dispositions (“Council Subcommittee”) held a public hearing on the Project.

249. CB9 was not notified of the City Council’s public hearing on the Project.

250. Members of the public, including members of West Harlem CPO, submitted testimony in opposition to the Project.

251. On or about March 26, 2026, City Council granted final approval of the Project (“City Council Resolution,” Ex. 20).

252. The City Council Resolution does not mention the significant reduction and displacement of community facilities and healthcare services at the Project Site.

253. The City Council Resolution does not mention the permanent removal of Heritage from the Project Site.

254. City Council adopted the findings in the Negative Declaration and Second Tech Memo without any analysis.

255. City Council found that the Project “is consistent with the policy and purposes of Section 691 of the General Municipal Law” and approved the designation as an UDAA, without any analysis of the statutory requirements for a UDAAP designation under the law.

256. The City Council Resolution approved the disposition of the Property “to a developer to be selected” by HPD (City Council Resolution at 1, Ex. 20).

257. The City Council Resolution does not name the developer selected.

258. The City Council Resolution leaves open the possibility that HPD can select a developer other than BRC.

259. Respondents have not provided a definite time period for the UDAAP designation.

260. In its UDAAP Project Summary, HPD vaguely states that the proposed time schedule for the UDAAP designation is “approximately 24 months from closing to completion of construction.”

261. Respondents’ Determinations are final.

FIRST CLAIM

The SEQRA Determination Was Irrational, Arbitrary and Capricious Because It Failed to Take a Hard Look at the Potential Adverse Environmental Impacts of the Project on Community Facilities

262. The Coalition repeats, realleges, and reasserts each and every allegation set forth in the preceding paragraphs, inclusive, as if set forth fully herein.

263. The Court in an Article 78 proceeding has the power to, and must, exercise a genuine, judicial function, and does not simply confirm a determination because it was rendered by an administrative agency.

264. Courts regularly annul agency determinations which (i) are not supported by substantial evidence, (ii) are arbitrary and capricious, and/or (iii) are otherwise unlawful.

265. For determinations concerning projects subject to SEQRA and CEQR, the lead agency must take a hard look at the relevant areas of environmental concern, and make a reasoned deliberation of the basis of its determination.

266. Because the Project is a Type I Action, it is “more likely to require preparation of an EIS....”²⁸

267. An EIS is required if an action may have a significant adverse environmental impact. ECL § 8-0109(2); 6 NYCRR 617.7(a).

268. An EIS is required even where the lead agency is uncertain as to whether an adverse environmental impact would result.

269. A negative declaration must reflect a reasoned elaboration, and not conclusory assertions.

270. Under the CEQR Technical Manual, “community facilities are public or publicly funded schools, libraries, child care centers, health care facilities, and fire and police protection.”²⁹ “A project can affect facility services when it physically displaces or alters a community facility....”³⁰

271. As set forth in the CEQR Technical Manual,

Health care facilities include public, proprietary, and non-profit facilities that accept public funds (usually in the form of Medicare and Medicaid reimbursements) and that are available to any member of the community. Generally, a detailed assessment of service delivery is conducted only if a proposed project would affect the physical operations of, or access to and from, a hospital or a public health clinic (see Section 210) or where a proposed project would create a sizeable new neighborhood where none existed before.³¹

272. Under the CEQR Technical Manual,

[t]he determination of whether an impact on a community facility would be significant is based on whether the people in the area would have adequate service delivery in the future with the project. Generally, the same assessment of service

²⁸ 6 N.Y.C.R.R. §617.4(a).

²⁹ CEQR Technical Manual Ch. 6.

³⁰ *Id.*

³¹ *Id.* §100.

delivery is appropriate whether the potential effects of the project would be direct or indirect. If service delivery would deteriorate to unacceptable levels as a result of a substantial (more than five percent) increase in population served by a facility, a significant impact may result.³²

273. The CEQR Technical Manual further provides that:

[H+H] or [DOH] (as appropriate) should each be contacted for their assessment of the project's effects on their operations. This information may be used in the determination of the potential significant impacts to their operations. A written statement from these departments should be obtained regarding their recommendations. The lead agency must then weigh these data and come to its own determination as to significance, using the guidance criteria for determining significance, as outlined in 6 NYCRR Part 617.7 (*Id.*).

274. Here, Heritage and EBC are community facilities, and specifically, healthcare facilities, as defined by the CEQR Technical Manual.

275. The Negative Declaration for the Project, a Type I Action, was utterly irrational, arbitrary and capricious because HPD, as the lead agency, failed to take hard look at important areas of environmental concern, and failed to make a reasoned deliberation as the basis of its conclusions.

276. The Negative Declaration consists of conclusory assertions that do not reflect a reasoned elaboration.

277. The Negative Declaration fails to identify potential significant adverse environmental impacts in the area of community facilities.

278. The Project would substantially reduce community facilities in the healthcare space by approximately 64.5%, with a reduction from approximately 59,209 gsf to approximately 21,000 gsf.

279. After temporary relocation and then restoration to the Project Site, the size of EBC would be significantly reduced, by over 50%.

³² *Id.* §400.

280. Heritage, the FQHC, would be permanently eliminated from the Project Site.

281. HPD did not undertake a meaningful analysis as to whether people in the community in Hamilton Heights or West Harlem would have adequate delivery of healthcare services if the Project were approved.

282. When issuing the Negative Declaration and Second Tech Memo, HPD did not consider an assessment from H+H or DOH as to the Project's effects on Heritage's operations.

283. Upon information and belief, HPD did not obtain a written statement from H+H or DOH regarding their recommendations as to the Project and the disruption and displacement of healthcare services.

284. HPD did not weigh the data before coming to a determination as to the significance of the direct effects on community facilities and healthcare services as a result of the Project.

285. HPD did not examine, *inter alia*: the number of examination rooms, providers, or patients served; the range of specialties and hours of operation; the mental-health services, therapeutic preschool, and food pantry, or the language-access services currently provided; the patient wait times and continuity of care; nor whether the smaller healthcare community facility could serve a comparable patient population.

286. HPD did not engage in a reasoned determination as to the viability or adequacy of the possible relocation of Heritage to the Purported Relocation Site.

287. HPD's arbitrary decision that the permanent removal of Heritage from the Project Site would not have an environmental impact is based solely on the single mitigating premise that Heritage would move to the Purported Relocation Site ("Purported Mitigating Factor").

288. HPD effectively conditioned its arbitrary findings in the Negative Declaration and Second Tech Memo on this Purported Mitigating Factor.

289. HPD's reliance on this Purported Mitigating Factor amounts to a CND, which is unavailable for Type I Actions such as the Project.

290. HPD's SEQRA Determination, which was based upon the Negative Declaration and Second Tech Memo, was unsupported by substantial evidence, irrational, arbitrary and capricious.

291. HPD's failure to require an EIS to be prepared for the Project, a Type I Action, constitutes an error of law.

292. HPD declined to study or adopt the Alternative Plan which would have produced more housing and preserved essential community healthcare services.

293. The Alternative Plan is less environmentally harmful than the Project because it would preserve the existing community healthcare uses, including Heritage, an FQHC.

294. HPD's refusal to consider the CB9's reasonable Alternative Plan was not based on the merits of the Alternative Plan or any policy objective.

295. By making the SEQRA Determination and approving the Project without requiring an EIS to be prepared, HPD and Respondents failed to take the requisite hard look at the potential significant adverse environmental impacts of the Project.

296. By reason of the foregoing, the Coalition is entitled to an order reversing, annulling and/or vacating the Determinations, including the SEQRA Determination, and an injunction against any work in furtherance thereof.

297. The Coalition is entitled to an order remanding the Project to HPD, as lead agency, and requiring it to prepare and publish an EIS for the Project.

298. The Coalition has no adequate remedy at law.

SECOND CLAIM

The SEQRA Determination Was Affected by Error of Law Because It Was Based Upon Conditional Mitigation Measures That Are Impermissible for a Type I Action

299. The Coalition repeats, realleges, and reasserts each and every allegation set forth in the preceding paragraphs, inclusive, as if set forth fully herein.

300. A CND is authorized only for Unlisted actions and may not be used for a Type I Action.

301. Here, HPD arbitrarily decided in the Negative Declaration that there would not be any environmental impact in the areas of hazardous materials, noise, and historic resources, but only by deferring enforcement to mitigation to be “memorialized through” and “required through” a private Regulatory Agreement between HPD and the project sponsor.

302. With respect to hazardous materials, HPD stated in the Negative Declaration that, “[w]ith these measures included as part of the proposed development and required through the Regulatory Agreement between HPD and the Project Sponsor, no significant adverse Hazardous Materials impacts would occur” (Negative Declaration at 3, Ex. 12). *See also* EAS, Attachment B: Supplemental Screening at 55, Ex. 1.

303. Similarly, with respect to noise and rather than moving forward with the required EIS, HPD states in the Negative Declaration that “The specific attenuation requirements will be memorialized through the provisions included in the Regulatory Agreement between HPD and the project sponsor.” (Negative Declaration at 4, Ex. 12). *See also* EAS, Attachment B: Supplemental Screening at 59 and Attachment E: Noise at 108, Ex. 1.

304. With respect to historic and cultural resources, HPD defers its assessment in the Negative Declaration by relying upon a supposed construction protection plan to be provided to

LPC for review and approval and to be carried out through a Regulatory Agreement between HPD and the Project Sponsor (Negative Declaration at 2-3, Ex. 12).

305. Mitigations for hazardous materials, noise and historic and cultural resources were required as a condition of the Negative Declaration to be placed into a Regulatory Agreement between HPD and the project sponsor.

306. Each such measure appears in the Negative Declaration, not as a project component evaluated on the merits before issuance, but as an obligation reserved for later performance through that private instrument.

307. The Regulatory Agreement was never made available to the public and the public never received an opportunity to comment on the sufficiency of mitigations proposed in the Regulatory Agreement.

308. By wrongfully and unlawfully deferring consideration of various environmental impacts, including, without limitation, hazardous materials, noise, and threats to historic and cultural resources, Respondents illegally deprived the public of the opportunity to participate in the environmental review process, in direct violation of SEQRA and CEQRA.

309. The Negative Declaration is tantamount to an impermissible CND for a Type I Action such as the Project.

310. For these reasons, the Negative Declaration and SEQRA Determination are affected by an error of law and were made in violation of lawful procedure.

311. By reason of the foregoing, the Coalition is entitled to an order reversing, annulling and/or vacating the Determinations, including the SEQRA Determination.

312. By reason of the foregoing, the Coalition is entitled to an order remanding the Project to HPD, as lead agency, and requiring it to prepare and publish an EIS for the Project.

313. The Coalition has no adequate remedy at law.

THIRD CLAIM

The SEQRA Determination Was Irrational, Arbitrary and Capricious Because It Failed to Take a Hard Look at the Potential Adverse Environmental Impacts of the Project on Public Open Space

314. The Coalition repeats, realleges, and reasserts each and every allegation set forth in the preceding paragraphs, inclusive, as if set forth fully herein.

315. Under the CEQR Technical Manual, "Open space that is accessible to the public on a constant and regular basis for active and passive recreation, including for designated daily periods, is defined as 'public' and analyzed under CEQR. Public open space may be under government or private jurisdiction..." CEQR Technical Manual Ch. 7 §100.

316. Public open space (i) "may be under government or private jurisdiction"; (ii) need only be accessible "for designated daily periods"; and (iii) encompasses "active and passive recreation" *Id.*

317. A negative declaration premised on inaccurate factual screening answers fails to take a hard look at the environmental impacts of a proposed action or project.

318. In the screening answers of the EAS, the applicant asserted that the Project supposedly would not reduce public open space.

319. The EAS disregards that the Project eliminates the large, approximately 8,000 sf corner outdoor plaza and the approximately 1,200 sf playground located within it.

320. The EAS failed to disclose and analyze the elimination of the plaza and playground.

321. HPD issued the Negative Declaration based upon the inaccurate answer regarding public space in the EAS.

322. The Second Tech Memo wrongly asserts that the plaza does not meet the criteria for a public open space because it includes a fenced-off playground which is used by the EBC and is not accessible to the public.

323. HPD disregards that the playground occupies only a small fraction of the plaza at the Project Site.

324. Members of the community such as petitioner Andres testified before the CPC that, for decades, neighborhood children have used the open space at the plaza to play baseball, ride bicycles, and families have gathered and engaged in other recreational activities there (Orejuela Aff. ¶12; Photographs, Ex. 10).

325. The plaza also satisfies the definition of a "public plaza" under the Zoning Resolution. *See* N.Y.C. Zoning Resolution §37-70 *et seq.*

326. As the foregoing reflects, HPD failed to take a hard look at the environmental impacts on public open space.

327. As a result, the SEQRA Determination was irrational, arbitrary and capricious, affected by an error of law and made in violation of lawful procedure.

328. By reason of the foregoing, the Coalition is entitled to an order reversing, annulling and/or vacating the Determinations, including the SEQRA Determination.

329. By reason of the foregoing, the Coalition is entitled to an order remanding the Project to HPD, as lead agency, and requiring it to prepare and publish an EIS for the Project.

330. The Coalition has no adequate remedy at law.

FOURTH CLAIM

The SEQRA Determination Was Irrational, Arbitrary and Capricious Because It Failed to Take a Hard Look at the Potential Adverse Environmental Impacts of the Project on the Socioeconomic Conditions and the Disruption of a Business

331. The Coalition repeats, realleges, and reasserts each and every allegation set forth in the preceding paragraphs, inclusive, as if set forth fully herein.

332. The CEQR Technical Manual requires assessment of significant adverse impacts arising from the direct displacement of businesses, including establishments that provide goods or services essential to the surrounding community. CEQR Technical Manual Ch. 5 §110.

333. The “direct displacement” is defined in the CEQR Technical Manual as the “involuntary displacement of existing residents or businesses from a site or sites directly affected by a proposed project. Examples include a proposed redevelopment of a currently occupied site for new uses or structures.” *Id.*

334. Where an EAS form shows displacement of more than 100 employees, the CEQR Technical Manual requires further study, including a socioeconomic assessment. *See id.* §200.

335. Even in the absence of the displacement of more than 100 existing employees, the CEQR Technical Manual requires socioeconomic assessment where:

The project would directly displace a business that is unusually important because its products or services are uniquely dependent on its location; that, based on its type or location, is the subject of other regulations or publicly adopted plans aimed at its preservation; or that serves a population uniquely dependent on its services in its present location. *Id.*

336. Here, the EAS for the Project indicates that the Project supposedly would not directly displace more than 100 employees (EAS, Ex. 1).

337. Upon information and belief, the EAS understated the workforce displaced on the Project Site in order to avoid triggering a socioeconomic assessment required by the CEQR technical manual.

338. Upon information and belief, Heritage, which currently occupies the Project Site and thus would result in its relocation, directly or indirectly employs approximately 100 workers (at the Project Site).

339. At the January 7, 2026 CPC public hearing, petitioner Andres stated that there was evidence indicating the total number of workers at the Project Site may exceed 100.

340. Respondents disregarded Andres's testimony.

341. HPD failed to correct or even address the incorrect employee count.

342. Heritage operates 10½ hours four days a week, 8½ hours on Fridays, and 6 hours on Saturdays, for a total of 56 hours a week.

343. Due to the extended hours offered by Heritage as an FQHC, the number of workers employed by or in support of Heritage is likely well over 100 and therefore would trigger the socioeconomic assessment threshold.

344. EAS was defective because it failed to include the socioeconomic assessment the CEQR Technical Manual requires where a proposed project would directly displace a business.

345. By issuing the Negative Declaration, HPD failed to take the requisite "hard look" at socioeconomic conditions that would be caused by the Project.

346. By making the SEQRA Determination and approving the Project without requiring an EIS to be prepared, HPD and Respondents failed to take the requisite hard look at the potential significant adverse environmental impacts of the Project.

347. The SEQRA Determination was arbitrary, capricious, and affected by an error of law.

348. By reason of the foregoing, the Coalition is entitled to an order reversing, annulling and/or vacating the Determinations, including the SEQRA Determination.

349. The Coalition is entitled to an order remanding the Project to HPD, as lead agency and applicant for the Project, and requiring it to correct the defective and inaccurate EAS.

350. The Coalition is entitled to an order remanding the Project to HPD, as lead agency, and requiring it to prepare and publish an EIS for the Project.

351. The Coalition has no adequate remedy at law.

FIFTH CLAIM

Respondents' UDAAP Designations Are Arbitrary and Capricious and Affected by Errors of Law

352. The Coalition repeats, realleges, and reasserts each and every allegation set forth in the preceding paragraphs, inclusive, as if set forth fully herein.

353. Article 16 of the General Municipal Law authorizes UDAAP designation for a project only where an area is “slum or blighted, or... becoming slum or blighted... because of substandard, insanitary, deteriorated or deteriorating conditions.” N.Y. Gen. Mun. Law §691.

354. A UDAA must be one of which at least sixty (60%) percent constitutes an “eligible area.” *Id.* §693.

355. The governing body approving the UDAAP designation “must by resolution first find that: (a) the present status of the area tends to impair or arrest the sound growth and development of the municipality; (b) the financial aid in the form of tax incentives, if any,...is

necessary to enable the project to be undertaken; and (c) the area designation is consistent with the policy and purposes stated in section six hundred ninety-one of this article.” *Id.* §694(4).

356. A designation resting on conclusory findings unsupported by the record does not satisfy these mandatory statutory predicates.

357. Here, Respondents’ unsupported designations of the Project Site as a UDAA and the Project as a UDAAP (“UDAAP Designations”) were based upon mere conclusory assertions in the record.

358. For nearly 50 years, the Project Site has been a longstanding community healthcare hub, providing sorely needed medical and social services for a vulnerable population. The Project is neither vacant nor derelict.

359. The Project Site has been occupied by Heritage, an FQHC that HRSA funds under §330 of the Public Health Service Act and lists Heritage as an active, federally-funded service-delivery site, which holds an active federal 340B covered-entity registration, and whose clinicians are deemed federal employees.

360. Based upon Heritage’s status as an FQHC, the federal government has made a determination that the facility at the Project Site is operating within federal specifications and serving a federally designated medically underserved population.

361. The determination by the federal government reflects the opposite of a “substandard, insanitary, deteriorated or deteriorating” condition under N.Y. Gen. Mun. Law §691.

362. Because the Project Site is occupied by a federally funded, federally supervised, licensed health center serving thousands of patients each year, it does not, by any rational analysis, tend to impair or arrest the sound growth and development of the municipality. *See id.* §694(4).

363. The United States Congress enacted §330 of the Public Health Service Act in order to expand access to primary care in medically underserved communities. The displacement of an operating, federally-funded FQHC such as Heritage, which provides critically necessary and essential healthcare services to such an underserved community, is inconsistent with the policy objectives of §330 of the Public Health Service Act.

364. Respondents failed to acknowledge and address the federal status of the Project Site's principal use before making their unsupported UDAAP Designations.

365. Respondents' UDAAP Designations did not rely upon any evidence of physical blight. Rather, Respondents merely asserted that the Project Site has been underutilized and that the Building is old – neither of which such description necessarily equates with the terms “blight” or “slum.”

366. Respondents do not reference any substandard, insanitary, or deteriorating conditions.

367. To the extent there are any deteriorating conditions at the Project Site, of which there is no evidence, Respondents' UDAAP Designations were made in bad faith because Respondents, as owners of the property, have neglected the Project Site and failed to adequately maintain the physical conditions of the Building. *See* Milano Aff. ¶5

368. Respondents' baseless UDAAP Designations ignore and contradict the federal government's determination.

369. When arbitrarily making the UDAAP Designations, Respondents also failed to make a finding concerning financial aid funding as required by N.Y. Gen. Mun. L. §694(4).

370. The Project is a municipally subsidized undertaking. The Project Summary incorporated into the City Council Resolution recites that the disposition price is “Nominal,” that

the “Sponsor will pay one dollar per lot and deliver an enforcement note and mortgage for the remainder of the appraised value (‘Land Debt’),” that “the Land Debt or City’s capital subsidy may be repayable out of resale or refinancing profits,” that “[t]he remaining balance, if any, may be forgiven at the end of the term,” and that the Project proceeds under the “Supportive Housing Loan Program” (City Council Resolution at 3 (Project Summary), ¶¶1, 4, Ex. 20).

371. Because the Project is enabled by municipal financial aid, the City Council was required to find, by resolution, that such aid “is necessary to enable the project to be undertaken.” N.Y. Gen. Mun. L. §694(4).

372. The City Council failed to make such a finding.

373. Respondents’ UDAAP Designations are also defective because they fail to satisfy the statutory requirements under N.Y. Gen. Mun. L. §695.

374. Under N.Y. Gen. Mun. L. §695, the sale, lease or other disposition of real property owned by the City must require effectuation of the UDAAP “within a definite and reasonable period of time.”

375. Respondents’ UDAAP Designations and disposition of the Project Site do not require the effectuation of the UDAAP within a definite and reasonable period of time.

376. The Project Summary vaguely states that the proposed time schedule for the UDAAP designation is “approximately 24 months from closing to completion of construction” (City Council Resolution at 4, Ex. 20).

377. Respondents’ UDAAP Designations are irrational, arbitrary and capricious, and affected by errors of law.

378. By reason of the foregoing, the Coalition is entitled to an order reversing, annulling and/or vacating the Determinations, including the UDAAP Designations.

379. To the extent Respondents have already transferred title or otherwise disposed of the Property, the Coalition is entitled to an order of specific performance, requiring any such transfer or disposition of the Property to be vacated and annulled, and deemed null and void.

380. The Coalition has no adequate remedy at law.

SIXTH CLAIM
(Pled in the Alternative)

The Coalition Is Entitled to a Declaratory Judgment That the UDAAP Designations Are Null and Void As Violative of the Law

381. The Coalition repeats, realleges, and reasserts each and every allegation set forth in the preceding paragraphs, inclusive, as if set forth fully herein.

382. Respondents' UDAAP Designations, finalized by the City Council Resolution, are acts taken under the auspices of Article 16 of the N.Y. General Municipal Law.

383. A justiciable controversy exists between the Coalition and Respondents concerning the lawfulness of the UDAAP Designations.

384. The UDAAP Designations are final.

385. Respondents intend to effectuate the disposition of the Project Site and demolition of the Building under the auspices of the UDAAP Designations.

386. The record contains no support for the finding that the Project Site "tends to impair or arrest the sound growth and development of the municipality" under N.Y. Gen. Mun. Law §694(4)(a).

387. The City Council Resolution omits any finding under Gen. Mun. Law §694(4)(b) that municipal financial aid "is necessary to enable the project to be undertaken."

388. The City Council Resolution disregards that the Project Summary recites nominal consideration, an enforcement note and mortgage for the remainder of the appraised value, a City capital subsidy, and participation in the Supportive Housing Loan Program.

389. N.Y. Gen. Mun. Law §691 requires that the UDAAP Designations make findings that the proposed UDAA is slum or blighted, and suffers from substandard, insanitary, deteriorated, or deteriorating conditions.

390. The findings required by Gen. Mun. Law § 694(4) are conditions precedent to any UDAAP designation.

391. A resolution by a governing body purporting to make a UDAAP designation, but which omits the required findings under N.Y. Gen. Mun. Law §691 or which recites a required finding without any support in the record, violates N.Y. Gen. Mun. Law.

392. A UDAAP designation rendered violation of N.Y. Gen. Mun. Law is made without the authority the statute confers.

393. The UDAAP Designations failed to make the requisite findings under N.Y. Gen. Mun. Law §691.

394. The UDAAP Designations were made without evidence in the record that would support the requisite findings under N.Y. Gen. Mun. Law §691.

395. The UDAAP Designations are in violation of N.Y. Gen. Mun. Law.

396. By reason of the foregoing, the Coalition is entitled to a declaratory judgment declaring that the UDAAP Designations were made in violation of N.Y. General Municipal Law §690, *et. seq.*, are contrary to law, and are null and void.

397. By reason of the foregoing, the Coalition is entitled to an order reversing, annulling and/or vacating the Determinations, including the UDAAP Designations.

398. To the extent Respondents have already transferred title or otherwise disposed of the Property, the Coalition is entitled to an order of specific performance, requiring any such transfer or disposition of the Property to be vacated and annulled, and deemed null and void.

399. The Coalition has no adequate remedy at law.

SEVENTH CLAIM

Respondents' Failure to Take a Hard Look At Socioeconomic Conditions or Consider the Continuing Federal Interest Arising from the Regulation and Preservation of an FQHC

400. The Coalition repeats, realleges, and reasserts each and every allegation set forth in the preceding paragraphs, inclusive, as if set forth fully herein.

401. As set forth above, the CEQR Technical Manual requires socioeconomic assessment where:

The project would directly displace a business that is unusually important because its products or services are uniquely dependent on its location; that, based on its type or location, is the subject of other regulations or publicly adopted plans aimed at its preservation; or that serves a population uniquely dependent on its services in its present location. CEQR Technical Manual Ch. 5 §200.

402. Real property and equipment acquired, constructed, renovated, improved, or purchased with federal financial assistance³³ are subject to a continuing federal interest under the Uniform Administrative Requirements, 45 C.F.R. Part 75 (HHS adoption of 2 C.F.R. Part 200).³⁴ Property so encumbered “must not be” sold, transferred, conveyed, or otherwise disposed of, and

³³ This includes capital assistance made available to FQHCs under and in connection with §330 of the Public Health Service Act, 42 U.S.C. §254b, and related federal appropriations (among them the American Rescue Plan Act’s Health Center Construction and Capital Improvements program, the American Recovery and Reinvestment Act Capital Improvement Program, and the Affordable Care Act School-Based Health Centers Capital Program).

³⁴ See 45 C.F.R. §75.318 (real property); *Id.* §75.320 (equipment); accord 2 C.F.R. §§200.311, 200.313.

its use may not be changed, “except as” authorized in writing by the awarding agency, which may require that disposition proceed only on federally prescribed terms, including reimbursement of the federal share of the property’s value.³⁵

403. HRSA’s own grant records confirm that Heritage has received federal capital assistance tied to its operations. According to the United States Department of Health and Human Services Tracking Accountability in Government Grants System (“TAGGS”), Heritage received:

- (a) an American Recovery and Reinvestment Act Capital Improvement Program award, in the amount of \$400,010, issued on or about June 25, 2009;
- (b) an Affordable Care Act School-Based Health Centers Capital Program award, in the amount of \$44,737, issued on or about December 17, 2012; and
- (c) a Health Center Infrastructure Support award, in the amount of \$548,521, issued on or about September 20, 2021.

(HRSA Data Warehouse Grant Record, Ex. 22).

404. Heritage separately received operational American Rescue Plan funding in the amount of \$1,178,625, on or about March 27, 2021, a portion of which, upon information and belief, funded equipment likewise subject to a federal interest (HHS TAGGS Recipient Detail Export, Ex. 23).

405. As a matter of Federal law, Heritage is subject to both “regulations or publicly adopted plans aimed at its preservation.” CEQR Technical Manual Ch. 5 §200.

406. Respondents were required by the CEQR Technical Manual to provide a socioeconomic assessment relating to regulations or publicly adopted plans aimed at the preservation of Heritage.

407. Respondents failed to ascertain the status of federally funded improvements and equipment.

³⁵ 45 C.F.R. §75.318; 2 C.F.R. §200.311.

408. Respondents did not investigate, analyze, or take a hard look at the federal-interest implications of Heritage's documented capital funding.

409. The record does not reflect any examination of Heritage's federal capital-funding history, or consultation with HRSA concerning the disposition of federally assisted property or equipment, or any evidence that the awarding agency's written authorization or disposition instructions were sought or obtained.

410. As a result, the Determinations were irrational, arbitrary and capricious, affected by an error of law and made in violation of lawful procedure.

411. By reason of the foregoing, the Coalition is entitled to an order reversing, annulling and/or vacating the Determinations.

412. By reason of the foregoing, the Coalition is entitled to an order remanding the Project to Respondents and requiring them to consider regulations or publicly adopted plans aimed at preserving the continuing federal interest in Heritage as an FQHC.

413. To the extent Respondents have already transferred title or otherwise disposed of the Property, the Coalition is entitled to an order of specific performance, requiring any such transfer or disposition of the Property to be vacated and annulled, and deemed null and void.

414. The Coalition has no adequate remedy at law.

EIGHTH CLAIM

The Coalition is Entitled to an Injunction

415. The Coalition repeats, realleges, and reasserts each and every allegation set forth in the preceding paragraphs, inclusive, as if set forth fully herein.

416. Upon the grant of relief set forth in the foregoing Claims, the Coalition would be entitled to an order and judgment, enjoining Respondents from undertaking any action or work proposed by the Project.

417. To the extent that Respondents, under the auspices of the Unlawful Approvals, may attempt to proceed, during the pendency of this Proceeding, with disposition or real estate transfer of the Property, demolition of the Building and/or any other construction activity pertaining to the Project, the Coalition would be entitled to a temporary restraining order (“TRO”) and preliminary injunction, based upon a substantial likelihood of success on the merits, threatened irreparable harm, and a balance of equities weighing in the Coalition’s favor.

418. By reason of the foregoing, the Coalition is entitled to an order, enjoining Respondents from undertaking any action or work permitted by the Unlawful Approvals, and, to the extent that a TRO and preliminary injunction become necessary to preserve the *status quo* pending judgment in this Proceeding, the Coalition is entitled to such relief as well.

419. The Coalition has no remedy at law.

WHEREFORE, the Coalition respectfully requests that the Court enter an order and judgment:

- (a) As to the First Claim, vacating, annulling, reversing, and/or remanding the Determinations, directing Respondents to comply with the provisions of ULURP, SEQRA and CEQR and enjoining Respondents (and/or those acting at their direction or on their behalf) from proceeding with the disposition of the Property or undertaking any construction and demolition work proposed by the Project;
- (b) As to the Second Claim, vacating, annulling, reversing, and/or remanding the Determinations, directing Respondents to comply with the provisions of ULURP, SEQRA and CEQR and enjoining Respondents (and/or those acting at their direction or on their behalf) from proceeding with the disposition of the Property or undertaking any construction and demolition work proposed by the Project;

- (c) As to the Third Claim, vacating, annulling, reversing, and/or remanding the Determinations, directing Respondents to comply with the provisions of ULURP, SEQRA and CEQR and enjoining Respondents (and/or those acting at their direction or on their behalf) from proceeding with the disposition of the Property or undertaking any construction and demolition work proposed by the Project;
- (d) As to the Fourth Claim, vacating, annulling, reversing, and/or remanding the Determinations, directing Respondents to comply with the provisions of ULURP, SEQRA and CEQR and enjoining Respondents (and/or those acting at their direction or on their behalf) from proceeding with the disposition of the Property or undertaking any construction and demolition work proposed by the Project;
- (e) As to the Fifth Claim, vacating, annulling, reversing, and/or remanding the Determinations, directing Respondents to comply with the provisions of N.Y. General Municipal Law §§690 *et. seq.* and ULURP, and enjoining Respondents (and/or those acting at their direction or on their behalf) from proceeding with the disposition of the Property or undertaking any construction and demolition work proposed by the Project, and to the extent Respondents have already transferred title or otherwise disposed of the Property, an order of specific performance, requiring any such transfer or disposition of the Property to be vacated and annulled, and deemed null and void;
- (f) As to the Sixth Claim, declaring that the UDAAP Designations were made in violation of N.Y. General Municipal Law §§690, *et. seq.*, are null and void, and an order directing Respondents to comply with the provisions of ULURP, SEQRA and CEQR and enjoining Respondents (and/or those acting at their direction or on their behalf) from proceeding with the disposition of the Property or undertaking any construction and demolition work proposed by the Project, and to the extent Respondents have already transferred title or otherwise disposed of the Property, an order of specific performance, requiring any such transfer or disposition of the Property to be vacated and annulled, and deemed null and void;
- (g) As to the Seventh Claim, vacating, annulling, reversing, and/or remanding the Determinations, directing Respondents to comply with the provisions of ULURP, SEQRA and CEQR and enjoining Respondents (and/or those acting at their direction or on their behalf) from proceeding with the disposition of the Property or undertaking any construction and demolition work proposed by the Project, and to the extent Respondents have already transferred title or otherwise disposed of the Property, an order of specific performance, requiring any such transfer or disposition of the Property to be vacated and annulled, and deemed null and void;
- (h) As to the Eighth Claim, enjoining Respondents (and/or those acting at their direction or on their behalf) from proceeding with the disposition of the Property, transferring title to the Property, or undertaking any construction and demolition work proposed by the Project, and, to the extent that a TRO and preliminary injunction become necessary to preserve the *status quo* pending judgment in this Proceeding, the Coalition is entitled to such relief as well;

- (i) Awarding Petitioners their costs, disbursements, and reasonable attorneys' fees to the extent permitted by law; and
- (j) Granting such other and further relief in favor of Petitioners as the Court deems just and proper.

Dated: New York, New York
July 23, 2026

Respectfully submitted,

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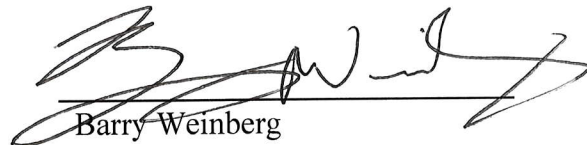
Jason E. Zakai

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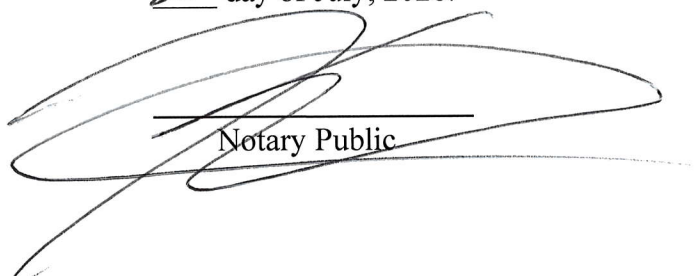
VERIFICATION

State of New York)
) ss.:
County of New York)

BARRY WEINBERG, having been duly sworn, deposes and says: I am a petitioner/plaintiff in the within proceeding, and a member of The West Harlem Community Preservation Organization, which is also a petitioner/plaintiff in the within proceeding. I have read the attached Petition/Complaint ("Petition"), and the same is true to my knowledge, except as to those matters alleged on information and belief, and as to those matters I believe the Petition to be true.


Barry Weinberg

Sworn before me this
23 day of July, 2026.



Notary Public

KEANNA LYNN PEREZ
Notary Public - State of New York
No. 01PE0011241
Qualified in New York County
My Commission Expires 07/14/2027

