

Robert A.M. Stern Architects

Robert A.M. Stern's Statement on Two Columbus Circle before the New York City Council,
March 29, 2001

I am here before the City Council to champion the case of Two Columbus Circle, an important albeit often-maligned building in serious danger of being lost. You must not let that happen. Although the city's Landmarks Preservation Commission has failed to designate it as an official city landmark, please don't let their mistake prevent you from taking action. Rest assured that Two Columbus Circle, the former Huntington Hartford Gallery of Modern Art, is without question a landmark worthy of being saved, a serious piece of architecture that, when it was built in 1965, had an important point to make, and brilliantly did so while serving as a fine complement to its significant and challenging site, now made even more critical with the long-awaited construction of the mammoth Columbus Centre project.

Two Columbus Circle is a confounding work of architecture but an important one. This thoughtful, carefully articulated building was designed by Edward Durell Stone, a much admired and prolific American architect who was considered by some influential observers to be the heir to Frank Lloyd Wright. Indeed, Wright himself had predicted Stone's "brilliant future." Two Columbus Circle doesn't fit neatly into any stylistic category, constituting as it does, a bold, original, and very early attempt to break with the Modernist aesthetic that held sway in the post-World War II era. It's unabashedly decorative, whimsical—one might even say zany. With lessons learned from the past, Two Columbus Circle challenged the architectural culture of its era. Stone's building must, therefore, be seen as equally important and equally valid as Eero Saarinen's contemporaneous TWA Terminal at JFK, now safely landmarked, and as the major buildings at Lincoln Center, now facing the threat and promise of a billion dollar makeover.

Stone's pioneering work in International Style Modernism in the 1930s included the Mandel House in Westchester and, with Philip Goodwin, the Museum of Modern Art in the city. In the 1940s he designed a series of houses in the manner of Frank Lloyd Wright, but by the mid-1950s he saw clearly that Modernism was virtually bankrupt, with a vocabulary of forms so small that, as a critic remarked about the early work of the actress Katherine Hepburn, it ran the gamut of emotions from A to B. Modernism had become a straightjacket and Two Columbus Circle ran out of the aesthetic asylum with abandon. The building was a joyful attack at Modernism's fetishization of functionalism. Stone's design mined architectural history--it was a Venetian-inspired palazzo rendered ten stories tall and, according to the architect, also inspired by the Romanesque church Saint-Germain-des-Pres. Whatever one's stylistic predilections, the building was clearly arresting--and delightful. It reinforced the geometry of the circle to which it was sensitively scaled. And inside it had some nice galleries to display pictures. In fact it was, and is, quite a good building, one well worth keeping, which would be obvious to many if real estate considerations and egos were put aside and civic values put forward in their place. Moreover, there must be room in architecture, as in our city, for witty commentary. As the architectural critic Olga Gueft so aptly stated soon before the building's completion in 1965, its design was one that "only a Bauhaus ogre with hardened arteries could fail to smile at."

Both Two Columbus Circle and the art collection of A&P heir Huntington Hartford, which the building was built to house, were squarely intended to counter what was then the Museum of Modern Art's ardently polemical bias towards a reductivist Modernism. What an irony that Stone had designed MoMA's 53rd Street building which, I might add, was until recently decried

as not very good compared to its European precedents but is now properly being given kid-glove treatment by that institution's trustees who recognize their first building for the landmark it is. But it is precisely this exquisite irony that we must learn from. We must not allow ourselves to be seduced into aesthetic myopia based on the tastes of the moment, swayed by subjective definitions of beauty that are ever changing.

I'm well aware that many people find it hard to believe that I want to preserve a building they think is so idiosyncratic. It may be idiosyncratic and it certainly is iconoclastic but it is indisputably an important building in the history of architecture. If we let this building go down, our city will be diminished. This is a challenging building and though it may now seem out-of-fashion that does not mean that it is trivial. This is a building that challenged the art establishment; and today it is challenging the preservation establishment, which has yet to come to terms with the heritage of the recent past. Aesthetic cleansing is no more defensible than ethnic cleansing or any other kind of simple-minded exclusionary behavior. Two Columbus Circle must be preserved for future generations to consider, debate, learn from, and, heaven help us, actually enjoy. I urge the City Council to take an active role in this issue and save a building that the city can ill afford to spare and prevent a loss that will long be regretted.

**The City Council of the City of New York
Committee on Economic Development
Hearing on the Proposed Sale of 2 Columbus Circle**

I, Matthew W. Woitkowski Esq., an attorney duly admitted to practice in the State of New York, am a partner at The Law Offices of Woitkowski and Schmidt, located at 1562 Richmond Road, Staten Island, New York 10304. Please allow this statement to act as my written testimony in this matter.

This testimony is based in response to a Request For Proposal that was issued by the New York City Economic Development Corporation, dated March 2000, which proposes to sell 2 Columbus Circle. This testimony is further based upon a contradiction in statements contained in the RFP which appears to assert that the Uniform Land Use Review Procedure need not be complied with prior to the sale of 2 Columbus Circle. This statement is inaccurate.

The two contradicting statements are as follows, on page 3, # I it states,

“EDC is a local development corporation established pursuant to §1411 of the New York not for profit corporation law that acts on the behalf for real estate development and related financial assistance”.

This statement contradicts page 6, paragraph E, which states,

“EDC holds a reversionary interest in title to the site, which EDC may exercise upon 6 months notice to the City. Therefore, EDC does not expect site disposition to require

approval under the City Uniform Land Use Review Procedure (“ULURP”).

To appreciate why these two terms contradict each other it is important to understand the statutory and procedural background in this matter.

First, 2 Columbus Circle is presently owned by the City of New York. The City of New York acquired title to 2 Columbus Circle by deed dated March 20, 1980 by Gulf and the Western Foundation. Pursuant to the disposition of property, from Gulf and the Western Foundation to the City of New York, a restrictive covenant was imposed upon the City of New York, which required them to use the property as a “principal public facility for visitors, services, and cultural affairs” (hereto after referred to as “restrictive covenant”). A copy of the 1980 deed is attached as Exhibit A. Should the City of New York fail to use the property as its principle public facility for visitors, services, and cultural affairs then the property would revert back to Gulf and Western Foundation. (Hereinafter referred to as “reversionary interest”). Pursuant to the deed, the restrictive covenant requiring the City to use 2 Columbus Circle as its principle public facility for visitors, services, and cultural affairs lasts for 30 years from the date of the deed, namely until, March 20, 2010. To reiterate, if at any time during that period of time the City of New York fails to use the property as stated in the restrictive covenant then the owner of the reversionary interest may elect to seek a forfeiture of the estate and reacquire the property.

As this panel may know, Gulf and Western Foundation was succeeded by Paramount Foundation who was later succeeded by Viacom Foundation. In July 1996, Viacom Foundation sold its reversionary interest to New York City Economic

Development Corporation. A copy of the July 1996 deed is attached as Exhibit B. Accordingly, should the City of New York fail to use this property as stated in the restrictive covenant, the Economic Development Corporation, who has acquired the reversionary interest, may elect to seek a forfeiture of the deed and take possession of 2 Columbus Circle as its sole owner. This has not taken place to date. Accordingly, the City of New York is still the record owner of the property with the restrictive covenant in place.

Under normal circumstances, it is in disputed that when the City of New York wishes to sell city owned property compliance with ULURP must take place. A copy of New York Charter §197-C is attached hereto as Exhibit C.¹ Therefore, if the City of New York chooses to sell this property as its seems to desire then compliance with ULURP must take place.

Some confusion regarding 2 Columbus Circle involves the position of the New York Economic Development Corporation. The New York Economic Development Corporation was formed pursuant to Not For Profit Corporation Law §1411. Pursuant to this section a local development corporation can be formed to “lessen the burden of government in acting in the public interest”. As this panel is well aware, and as stated in the Request For Proposal, the New York City Economic Development Corporation very often “acts on behalf of the City for real estate develop and related financial assistance”. In essence, for lack of a better phrase, in some situations the New York City Economic Development Corporation acts as the City’s real estate broker. However, it is clear and well established that when the New York City Economic Development Corporation is acting in that capacity, compliance with ULURP is still required. Accordingly, if the

¹ All statutes which have been cited herein are annexed hereto as exhibit “C”

City of New York is selling 2 Columbus Circle and EDC is acting on behalf of the City, which it is stated it is on page 3 of the RFP, then there should be no dispute that EDC and the City of New York must comply with ULURP.

However, what is troubling is that on page 6, paragraph E, EDC claims that it holds it reversionary interest in title to the site and claims that because of this fact ULURP does not apply. While it is true that EDC does maintain a reversionary interest in the property the latter statement is inaccurate.² First, a holder of a reversionary interest must exercise that interest pursuant to RPAPL §1953. It is not automatic. Specifically, if EDC as owner or holder of the reversionary interest is claiming that New York City is failing to meet its obligations under the restrictive covenant, it must bring an action in Supreme Court, New York County and seek relief under its right of reverter to acquire title outright in this property. It is a necessary prerequisite to any ownership or deed transfer for 2 Columbus Circle. To date this has not occurred. It is important to note that if this were to occur the New York City Economic Development Corporation would be the record owner of the property, not the City of New York. It would not be acting on New York City's behalf when it sells the property. Any proceeds from the funds of the sale should not and would not go to New York City. Rather the proceeds of the sale would go directly to the benefit of the New York City Economic Development Corporation which is not a City agency, and not beholden to any review by city government. Furthermore, should the City allow this property be forfeited by reason of reverter it would be an obvious and extreme case of waste of city assets and would be subject to an Article 78 petition to prevent this occurrence.

² Numerous questions can also be asked to why the deed was issued to Viacom Foundation to New York City Economic Development Company

The City of New York need only use this property as its principle public facility for visitors, services, and cultural affairs up until March 20, 2010. After said date, the City of New York would own this property outright free and clear of any encumbrance or restrictive covenant.³ If New York City Economic Development Corporation sought title by right of reverter then the City of New York would lose a valuable asset.

While this may seem to be a trivial distinction, because the New York City Economic Development Corporation has always been thought of as part of the City of New York, it is not. ULURP was enacted to provide community and public review and involvement in the sale of city owned real property. It is evident by this Request For Proposal that EDC is trying to circumvent ULURP. It appears that if left unchecked, the New York City Economic Development Corporation will exercise its right of reverter in Supreme Court and seek outright ownership, by claiming the City of New York breached the restrictive covenant. It appears the City of New York will allow this to occur by default and circumvent ULURP and the entire public review process. This is City owned land. As such, ULURP should apply. Purposefully allowing a forfeiture of property to the New York City Economic Development Corporation to do an end run around ULURP is improper. The City of New York would be subjecting itself immediately to an Article 78 petition.

*MS → no credit to EDC
\$15 million in this agreement
increasing the delivery interest*

³ In the alternative, EDC can voluntarily relinquish its reversionary interest resulting in a fee simple absolute estate (meaning outright ownership with no restrictive covenant).