

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

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In The Matter of the Application of

LANDMARK WEST!; ARLENE SIMON, individually  
and in her capacity as President of LANDMARK WEST!;  
the HISTORIC DISTRICTS COUNCIL; DOCOMOMO  
US/New York Tri-State; CHRISTOPHER LONDON; SUE  
MELLINS; SOPHIA DEBOER and JULIET HARTFORD,

Petitioners,

For a Judgment pursuant to Article 78 of the Civil Practice  
Law and Rules

- against -

AMANDA M. BURDEN, Chair of the New York City  
Planning Commission; the New York City Planning  
Commission; ROBERT R. KULIKOWSKI, Assistant to  
the Mayor for the Deputy Mayor for Economic  
Development and Rebuilding; ANDREW ALPER,  
President of the New York City Economic Development  
Corporation; the New York City Economic Development  
Corporation; MARTHA K. HIRST, Commissioner of the  
New York City Department of Citywide Administrative  
Services; the New York City Department of Citywide  
Administrative Services; the MUSEUM OF ARTS AND  
DESIGN; and HOLLY HOTCHNER, Director of the  
Museum of Arts and Design,

Respondents.  
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Respondents, the Museum of Arts and Design (the "Museum") and Holly  
Hotchner, Director of the Museum of Arts and Design (collectively, the "Museum  
Respondents"), by their attorneys Stroock & Stroock & Lavan LLP, state the following for their  
Verified Answer to the allegations of the Verified Petition:

**MUSEUM  
RESPONDENTS'  
VERIFIED  
ANSWER TO THE  
PETITION**

Assigned To: Hon.  
Walter B. Tolub

Index No. 03/119036

IAS Part 15

1. Deny the allegations contained in paragraph 1 of the Verified Petition, except admit that the building located at Two Columbus Circle (the "Building") is on the south side of Columbus Circle and is nine stories high.

2. Deny the allegations contained in paragraph 2 of the Verified Petition.

3. Deny the allegations contained in paragraph 3 of the Verified Petition, except admit that, upon information and belief, the City intends to transfer the Building to the New York City Economic Development Corporation ("EDC"), so that EDC may sell it to the Museum of Arts and Design (the "Museum").

4. Deny the allegations contained in paragraphs 4 and 5 of the Verified Petition, except admit that petitioners have commenced an Article 78 proceeding and respectfully refer the Court to the contents of the Verified Petition for a description of the relief sought by petitioners.

5. Admit the allegations contained in paragraphs 6 and 7 of the Verified Petition.

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 8 through 21 of the Verified Petition.

7. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the Verified Petition, except state that, upon information and belief, Robert R. Kulikowski, Ph.D. is Assistant to the Mayor for the Deputy Mayor for Economic Redevelopment and Rebuilding, that the Office of the Deputy Mayor for Economic Redevelopment and Rebuilding served as lead agency under the City Environmental Quality Review ("CEQR"), Executive Order No. 91 of 1977, as amended, for the

environmental review concerning the proposed disposition of 2 Columbus Circle, and that Mr. Kulikowski signed the Negative Declaration.

8. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Verified Petition, except state that, upon information and belief, Andrew M. Alper is President of the EDC, the City intends to dispose of the Building to EDC and EDC then intends to sell the building to the Museum.

9. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of the Verified Petition, except state that, upon information and belief, Martha K. Hirst is Commissioner of the Department of Citywide Administrative Services ("DCAS").

10. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25 of the Verified Petition, except state that, upon information and belief, Amanda M. Burden is the Chairperson of the New York City Planning Commission ("CPC") and that the CPC issued a resolution dated July 2, 2003.

11. Deny the allegations contained in paragraph 26 of the Verified Petition except admit that the Museum is a non-profit modern and contemporary cultural and educational institution dedicated to the collection and exhibition of sculpture and functional objects created in media such as clay, glass, wood, metal and fiber which span the fields of craft, art and design, architecture, jewelry, fashion, interior design, technology and performing arts. The Museum Respondents further admit that the Museum was selected by EDC as the successful bidder for the Building on June 14, 2002. The Museum Respondents further admit that, prior to relocating from its present location to the Building, it will perform certain renovations and has engaged an architect to assist it in the renovation process.

12. Admit the allegations contained in paragraph 27 of the Verified Petition.

13. Deny the allegations contained in paragraph 28 of the Verified Petition, except deny knowledge or information sufficient to form a belief as to the truth of the allegations concerning coverage of Edward Durell Stone's work and admit that the Building was commissioned by Huntington Hartford, an heir to the A & P Supermarket fortune, in order to house his collection of art and display it to the public, and that it was designed by architect Edward Durell Stone.

14. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of the Verified Petition, except admit that the Building has a curved marble façade, and that the corners have portholes.

15. Deny the allegations contained paragraph 30 of the Verified Petition, except admit that the Building is nine stories high and sits at the southern end of Columbus Circle.

16. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31 through 33 of the Verified Petition.

17. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 34 of the Verified Petition, except admit that in March 2000 EDC issued a Request for Proposals and that on or about June 14, 2002, the Museum was selected as the successful bidder.

18. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 35 of the Verified Petition and respectfully refer the Court to the RFP for its true and correct contents.

19. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 36 of the Verified Petition, except admit that on or about June 14, 2002, EDC selected the Museum as the successful bidder.

20. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 37 of the Verified Petition, and respectfully refer the Court to the New York City Landmarks Law, NYC Administrative §§ 25-301 et. seq., for the true and correct complete contents thereof.

21. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 38 through 44 of the Verified Petition.

22. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of the Verified Petition, except admit that the EAS was prepared by Philip Habib and Associates and respectfully refer the Court to the Environmental Assessment Statement (“EAS”) for its true and complete contents.

23. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of the Verified Petition.

24. Deny the allegations contained in paragraph 47 of the Verified Petition, and respectfully refer the Court to the EAS for its true and correct contents.

25. Deny the allegations contained in paragraph 48 of the Verified Petition except admit that the Museum has retained Brad Cloepfil of Allied Works Architecture to perform design work for the Building and that the Museum has undertaken a fundraising campaign to finance the acquisition and renovation of the Building.

26. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 49 of the Verified Petition, and respectfully refer the Court to CEQR and 6 NYCRR § 617.7 for their true and correct contents.

27. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50 of the Verified Petition, and respectfully refer the Court to the relevant section of the CEQR Technical Manual for its true and complete contents.

28. Deny the allegations contained in paragraph 51 of the Verified Petition.

29. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52 of the Verified Petition, and respectfully refer the Court to the EAS for its true and complete contents.

30. Deny the allegations contained in paragraph 53 of the Verified Petition, and respectfully refer the Court to the draft EAS and final EAS for their true and complete contents.

31. Deny the allegations contained in paragraph 54 of the Petition and respectfully refer the Court to the EAS for its true and complete contents.

32. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55 of the Verified Petition.

33. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 56 of the Verified Petition, and respectfully refer the Court to the EAS for its true and complete contents.

34. Deny the allegations contained in paragraph 57 of the Verified Petition, and respectfully refer the Court to the EAS for its true and complete contents.

35. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 58 of the Verified Petition except admit that Kulikowski signed the Negative Declaration.

36. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 59 of the Verified Petition, except admit that on or about May 8, 2003, Community Board 5 adopted a resolution approving the application by a vote of 18 in favor, 8 opposed and 1 abstention and on or about May 27, 2003, the Manhattan Borough President issued a recommendation approving the application.

37. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 60 of the Verified Petition, except state that, upon information and belief, the CPC held a hearing on or about June 18, 2003.

38. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 61 through 65 of the Verified Petition.

39. Admit the allegations contained in paragraph 66 of the Verified Petition.

40. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 67 of the Verified Petition.

41. Aver that paragraph 68 of the Verified Petition contains a legal conclusion for which no response is required and respectfully refer the Court to the statutes for the true and complete contents thereof.

42. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 69 through 73 of the Verified Petition, and respectfully refer the Court to the statutes and regulations for the true and complete contents thereof.

43. Deny the allegations contained in paragraph 74 of the Verified Petition.

44. Aver that the "WHEREFORE" Clause of the Verified Petition states petitioners' demands, to which no response is required.

**AS AND FOR THEIR AFFIRMATIVE STATEMENT  
OF FACTS, THE MUSEUM RESPONDENTS  
RESPECTFULLY ALLEGE THE FOLLOWING:**

45. Respondent Museum, formerly known as the American Crafts Museum, is a non-profit modern and contemporary cultural and educational institution dedicated to the collection and exhibition of sculpture and functional objects created in media such as clay, glass, wood, metal and fiber which span the fields of craft, art and design, architecture, jewelry, fashion, interior design, technology and performing arts. The Museum is known for creating exhibitions that showcase emerging artists and new art forms. The Museum is the preeminent institution of its kind in the world. Affidavit of Holly Hotchner, sworn to on February 5, 2003 ("Hotchner Aff."), ¶ 1. Respondent Hotchner is the Director of the Museum and has acted in that capacity since 1996. Hotchner Aff. ¶ 1.

46. The Museum Respondents incorporate, and rely on in support of this Verified Answer, the Affidavits, Exhibits and Memorandum of Law submitted by the City Respondents in support of the City Respondents' Verified Answer to the Petition.

**A. The Museum's Need For Additional Space And  
Submission Of A Proposal For Two Columbus Circle**

47. At least as early as 1996, it became apparent that the Museum, which is shoehorned into 17,000 square feet, had outgrown its existing space and needed to explore ways to secure additional space. The Museum's limited existing space precludes exhibition of any portion of the Museum's permanent collection, lacks any restaurant or other seating for the public, affords a scant 800 square feet of space for the Museum's revenue generating store, and

is devoid of classroom and educational facilities. Hotchner Aff. ¶ 5.

48. After attempts to obtain additional space at its current location failed, the Museum submitted a bid proposal for the purchase and renovation of the Building in response to EDC's March 2000 Request for Proposals. The Museum was selected as the successful bidder on or about June 14, 2002. Hotchner Aff. ¶ 6.

49. The Building's approximately 54,000 square foot space will enable the Museum to better achieve its cultural and educational objectives; it will also facilitate the Museum's exhibition of its remarkable and extensive permanent collection of decorative arts and design objects for the first time. It will permit the Museum to extend its schedule of exhibitions, expand its school, public and professional outreach efforts, and provide studio and classroom space for Master Classes, Artists in Residence and Open Studio programs. The existing auditorium – a “centerpiece” of the Building which the Museum plans to maintain and refurbish – will allow the Museum to offer a greater range of lectures, seminars, courses and workshops. And finally, the Building will have enough space for the Museum to include seating areas, a public restaurant, sufficient restroom facilities and a spacious Museum Store. The Building can accommodate all of the amenities necessary for the Museum to maintain its preeminence in the industry and expand into other related fields. The Museum intends to double its current attendance of 275,000 and increase public services to New Yorkers. Hotchner Aff. ¶ 7.

**B. The Museum's Proposed Renovation Of The Deteriorating, Abandoned And Unworkable Building**

50. The Museum's proposed renovations were painstakingly crafted to produce a building that would complement a beautiful, aesthetically pleasing neighborhood. In addition to satisfying the Museum's desire for additional light and accessibility, they reflect the

Museum's vision of itself as an exciting, integral part of a revitalized Columbus Circle area. Hotchner Aff. ¶ 8.

51. The original Building, constructed in 1964, was commissioned by Huntington Hartford to accommodate his collection of modern art. Hotchner Aff. ¶ 9. The Huntington Hartford Gallery of Modern Art, as it was originally known, closed after just five years. Julie V. Iovine, *Fighting a Face-Lift*, THE NEW YORK TIMES, January 22, 2004, p. 9, col. 1 (Exhibit A). "For the next 30 years, [the Building] was home to the New York Cultural Center and after the city acquired it in 1975, it housed the Cultural Affairs Department, but failed to find a permanent resident. By 1998, it was empty." (emphasis added). Id.

52. Homeless people have taken up residence in the Building's shadows. The marble façade has cracked and spalled. The shims supporting the marble skin have rusted. A sidewalk shed has been erected to protect passersby from falling debris. The existing façade cannot be repaired; it will have to be replaced. See Ada Louise Huxtable, *The Best Way to Preserve 2 Columbus Circle? A Makeover*, THE WALL STREET JOURNAL, January 7, 2004 p. D10, col. 1. Hotchner Aff. ¶ 10 and Exhibit B.

53. In addition to its deteriorated condition, the existing facade hampers the Building's functionality. Hotchner Aff. ¶ 11. The entrance is obscured and the interiors are widely acknowledged to be "small, dark and claustrophobic." Hotchner Aff., Exhibit A. The Building lacks a vapor barrier to enable art to be successfully exhibit and cared for beneath the façade and the ground floor is completely closed off to the public. Hotchner Aff. ¶ 11.

54. While the final design for the Building has not yet been completed, the Museum's planned renovation will not change the size or bulk of the Building; the shape, the concrete pillars and light color will be retained and the overall floor area square footage will be

unchanged. Hotchner Aff. ¶ 12. Indeed, the curved shape of the facade praised by petitioners for “reflect[ing] and enhanc[ing] the geometry of [Columbus] circle” (see Verified Petition ¶ 29), will be maintained. Fundamentally, the proposed renovation will introduce light into the interior of the Building which is not only essential for the effective display of the Museum’s collections but is vital to a positive visitor experience. Hotchner Aff. ¶ 12.

55. As Ada Louise Huxtable, a noted architectural critic with the *Wall Street Journal*, has observed about the Museum’s proposed renovation:

We do not lose the building; everything that is good about it will be retained – its size, its scale and its intimate relationship to the street. Although three stories could be added legally, the decision was made to change nothing about its iconic form and presence. What is bad about the building – the dark, cramped and virtually useless interior and those faux harem walls that close off spectacular views – will be changed. Yes, we will lose the façade, and the new one will not offer the instant appeal of exotic kitsch; it is a restrained, expressive reflection of an unusual way of using the concrete frame to open the building visually, inside and out. It is hard not to see this as a trade-off worth making.

Hotchner Aff., Exhibit B.

56. The Petitioners in this litigation, who claim that the renovation and transformation of an abandoned, deteriorating building into a functioning cultural center in their community will negatively impact their well-being, are but a small part of the West Side community bordering on Columbus Circle. In connection with the City’s Uniform Land Use Review Procedure, Community Board 5’s Land Use and Zoning Committee voted overwhelmingly in favor of the sale, notwithstanding the Museum’s proposed renovation of the Building façade, and after a public hearing on May 8, 2003, Community Board 5 adopted a resolution recommending approval of the disposition of 2 Columbus Circle to the Museum. The Manhattan Borough President, C. Virginia Fields, also issued a recommendation approving

the Museum's application and after a hearing on June 18, 2002, the City Planning Commission adopted a resolution approving the disposition. Hotchner Aff. ¶ 14.

57. What Petitioners have accomplished with this proceeding is to stir up uncertainty regarding the Building's Disposition, delay any sale to the Museum and hinder the Museum's ability to raise funds.

58. The Museum's proposed renovation of , and relocation to, the Building will transform what many believe to be an unfunctional building into a distinguished center of cultural and educational activity and will provide the Museum with an ample home. As Ms. Huxtable notes, the Building,

has been elevated to masterpiece status and cosmic significance by a campaign to save its marginally important, mildly eccentric, and badly deteriorated façade – a campaign that has escalated into a win-at-any-cost-and-by-any-means-vendetta in the name of “preservation.”

Ada Louise Huxtable, *The Best Way to Preserve 2 Columbus Circle? A Makeover*, THE WALL STREET JOURNAL, January 7, 2004 p. D10, col. 1. Hotchner Aff., Exhibit B.

#### **AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

59. According to the City Respondents, the Negative Declaration offered a reasoned elaboration for its determination that the Project will result in no significant adverse environmental impacts.

#### **AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

60. According to the City Respondents, the City Respondents took a “hard look” at the potential impacts on historic resources and the determination of no significant impacts was neither arbitrary nor capricious, nor based on a violation of law.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

61. According to the City Respondents, their actions were in all respects legal, proper, reasonable and in conformity with all applicable laws and regulations, and were neither arbitrary nor capricious.

62. The Museum Respondents' actions were in all respects legal, proper, reasonable and in conformity with all applicable laws and regulations, and were neither arbitrary nor capricious.

**AS AND FOR A FOURTH DEFENSE AFFIRMATIVE DEFENSE**

63. The Verified Petition fails to state a cause of action.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

64. Petitioners lack standing to maintain this proceeding.

WHEREFORE, the Museum Respondents respectfully request that the Court enter an order: (i) dismissing the Petition in its entirety; and (ii) awarding them such other and further relief as may be just and proper.

Dated: New York, New York  
February 4, 2004

STROOCK & STROOCK & LAVAN LLP

By: 

Alan M. Klinger  
Regan A. Shulman

180 Maiden Lane  
New York, New York 10038  
(212) 806-5400

*Attorneys for Respondents The Museum of Arts  
and Design and Holly Hotchner*



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

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In The Matter of the Application of

LANDMARK WEST!, et al.,

Petitioners,

For a Judgment pursuant to Article 78 of the Civil Practice  
Law and Rules

- against -

AMANDA M. BURDEN, Chair of the New York City  
Planning Commission, et al.,

Respondents.

**AFFIDAVIT OF  
HOLLY HOTCHNER**

Assigned to: Hon. Walter B.  
Tolub

Index No. 03/119036

IAS Part 15

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STATE OF NEW YORK    )  
                                  : SS:  
COUNTY OF NEW YORK )

HOLLY HOTCHNER, being duly sworn, deposes and says:

1. I am currently the Director and a Member of the Board of Governors of Respondent Museum of Arts and Design (the "Museum"), formerly known as the American Crafts Museum. I have served the Museum in my current capacity since 1996. The Museum is a non-profit modern and contemporary cultural and educational institution dedicated to the collection and exhibition of sculpture and functional objects created in media such as clay, glass, wood, metal and fiber which span the fields of craft, art and design, architecture, jewelry, fashion, interior design, technology and performing arts. The Museum is known for creating exhibitions that showcase emerging artists and new art forms. The Museum is the preeminent institution of its kind in the world.

2. As the Museum's Director, I help shape the Museum's vision and carry out the Museum's educational and cultural missions. Before my current appointment at the Museum, I served for seven years as Director of the New York Historical Society's Museum. I was awarded an MA in Art History and have held positions at The Tate Gallery in London, and the Museum of Modern Art and Metropolitan Museum of Art in New York.

3. The Museum and I, in my capacity as Director of the Museum, have been named as Respondents in this Article 78 proceeding (the "Museum Respondents"). As I understand it, this proceeding seeks to prevent the New York City Economic Development Corporation (the "EDC") from selling the building located at 2 Columbus Circle to the Museum (the "Building") for its proposed relocation from 40 West 53<sup>rd</sup> Street by challenging the City's environmental review process in approving the City's disposition of the Building to the EDC.

4. I submit this Affidavit in support of the Museum's Verified Answer to the Petition and more specifically, to describe the Museum's cultural and educational role and general plan for renovating the Building. This Affidavit is based on my personal knowledge, my review of the Museum's books and records, my discussions with the Museum's staff and the Exhibits annexed hereto. In opposing the Petition, the Museum and I incorporate, and rely on in support of our Verified Answer, the Affidavits, Exhibits and Memorandum of Law submitted by the City Respondents in support of the City Respondents' Verified Answer to the Petition.

**A. The Museum's Need For Additional Space And Submission Of A Proposal For Two Columbus Circle**

5. Shortly after my appointment as Director, it became apparent to me that the Museum, which is shoehorned into 17,000 square feet, had outgrown its existing space and

needed to explore ways to secure additional space. The Museum's limited existing space precludes exhibition of any portion of the Museum's permanent collection, lacks any restaurant or other seating for the public, affords a scant 800 square feet of space for the Museum's revenue generating store, and is devoid of classroom and educational facilities.

6. After attempts to obtain additional space at its current location failed, the Museum submitted a bid proposal for the purchase and renovation of the Building in response to EDC's March 2000 Request for Proposals. The Museum was selected as the successful bidder on or about June 14, 2002.

7. The Building's approximately 54,000 square foot space will enable the Museum to better achieve its cultural and educational objectives; it will also facilitate the Museum's exhibition of its remarkable and extensive permanent collection of decorative arts and design objects for the first time. It will permit the Museum to extend its schedule of exhibitions, expand its school, public and professional outreach efforts, and provide studio and classroom space for Master Classes, Artists in Residence and Open Studio programs. The existing auditorium – a “centerpiece” of the Building which the Museum plans to maintain and refurbish – will allow the Museum to offer a greater range of lectures, seminars, courses and workshops. And finally, the Building will have enough space for the Museum to include seating areas, a public restaurant, sufficient restroom facilities and a spacious Museum Store. The Building can accommodate all of the amenities necessary for the Museum to maintain its preeminence in the industry and expand into other related fields. The Museum intends to double its current attendance of 275,000 and increase public services to New Yorkers.

**B. The Museum's Proposed Renovation Of The  
Deteriorating, Abandoned And Unworkable Building**

8. The Museum's proposed renovations were painstakingly crafted to produce

a building that would complement a beautiful, aesthetically pleasing neighborhood. In addition to satisfying the Museum's desire for additional light and accessibility, they reflect the Museum's vision of itself as an exciting, integral part of a revitalized Columbus Circle area.

9. The original Building, constructed in 1964, was commissioned by Huntington Hartford to accommodate his collection of modern art. The Huntington Hartford Gallery of Modern Art, as it was originally known, closed after just five years. Julie V. Iovine, *Fighting a Face-Lift*, THE NEW YORK TIMES, January 22, 2004, p. 9, col. 1, a copy of which is annexed as Exhibit A. "For the next 30 years, [the Building] was home to the New York Cultural Center and after the city acquired it in 1975, it housed the Cultural Affairs Department, but failed to find a permanent resident. By 1998, it was empty." Id. (Emphasis added).

10. Homeless people have taken up residence in the Building's shadows. The marble façade has cracked and spalled. The shims supporting the marble skin have rusted. A sidewalk shed has been erected to protect passersby from falling debris. The existing façade cannot be repaired; it will have to be replaced. See Ada Louise Huxtable, *The Best Way to Preserve 2 Columbus Circle? A Makeover*, THE WALL STREET JOURNAL, January 7, 2004 p. D10, col. 1, a copy of which is annexed as Exhibit B.

11. In addition to its deteriorated condition, the existing facade hampers the Building's functionality. The entrance is obscured and the interiors are widely acknowledged to be "small, dark and claustrophobic." Exhibit A. The Building lacks a vapor barrier to enable art to be successfully exhibited and cared for beneath the façade and the ground floor is completely closed off to the public.

12. Petitioners claim that “the Museum[‘s renovation] will completely change the exterior look of the building” such that it will “compromise [their] quality of life,” and “sense of well-being,” be tantamount to a loss of the building and “severe[ly] and negative[ly] impact . . . [their] sense of place and neighborhood identity.” Verified Petition ¶¶ 8, 17, 18. Whether this is the product of studied ignorance regarding the proposed renovation or the gross overreaction of a select few, I cannot discern. While the final design for the Building has not yet been completed, the Museum’s planned renovation will not change the size or bulk of the Building; the shape, the concrete pillars and light color will be retained and the overall floor area square footage will be unchanged. Indeed, the curved shape of the facade praised by petitioners for “reflect[ing] and enhanc[ing] the geometry of [Columbus] circle” (see Verified Petition ¶ 29), will be maintained. Fundamentally, the proposed renovation will introduce light into the interior of the Building which is not only essential for the effective display of the Museum’s collections but is vital to a positive visitor experience.

13. As Ada Louise Huxtable, a Pulitzer Prize winner and noted architectural critic with the *Wall Street Journal*, has observed about the Museum’s proposed renovation:

We do not lose the building; everything that is good about it will be retained – its size, its scale and its intimate relationship to the street. Although three stories could be added legally, the decision was made to change nothing about its iconic form and presence. What is bad about the building – the dark, cramped and virtually useless interior and those faux harem walls that close off spectacular views – will be changed. Yes, we will lose the façade, and the new one will not offer the instant appeal of exotic kitsch; it is a restrained, expressive reflection of an unusual way of using the concrete frame to open the building visually, inside and out. It is hard not to see this as a trade-off worth making.

Exhibit B.

14. The Petitioners in this litigation, who claim that the renovation and transformation of an abandoned, deteriorating building into a functioning cultural center in

their community will negatively impact their well-being, are but a small part of the West Side community bordering on Columbus Circle. In connection with the City's Uniform Land Use Review Procedure, Community Board 5's Land Use and Zoning Committee voted overwhelmingly in favor of the sale, notwithstanding the Museum's proposed renovation of the Building façade, and after a public hearing on May 8, 2003, Community Board 5 adopted a resolution recommending approval of the disposition of 2 Columbus Circle to the Museum. The Manhattan Borough President, C. Virginia Fields, also issued a recommendation approving the Museum's application and after a hearing on June 18, 2002, the City Planning Commission adopted a resolution approving the disposition.

### **C. Conclusion**

15. The Museum's proposed renovation of, and relocation to, the Building will transform what many believe to be an unfunctional building into a distinguished center of cultural and educational activity and will provide the Museum with an ample home. All Petitioners have accomplished with this proceeding is to stir up uncertainty regarding the Building's Disposition, delay any sale to the Museum and hinder the Museum's ability to raise funds. Indeed, as Ms. Huxtable notes, the Building

has been elevated to masterpiece status and cosmic significance by a campaign to save its marginally important, mildly eccentric, and badly deteriorated façade – a campaign that has escalated into a win-at-any-cost-and-by-any-means-vendetta in the name of “preservation.”

Ada Louise Huxtable, *The Best Way to Preserve 2 Columbus Circle? A Makeover*, THE WALL STREET JOURNAL, January 7, 2004 p. D10, col. 1, (Exhibit B).

16. For all the reasons set forth in the submissions of the City Respondents and the Museum Respondents, the Museum Respondents respectfully request that the Petition be denied.

  
HOLLY HOTCHNER

Sworn to before me this 5<sup>th</sup>  
day of February, 2004.

**MARINA SHINDER**  
**Notary Public, State of New York**  
**No. 01SH6097194**  
**Qualified in Kings County**  
**Commission Expires August 16, 2007**  
Notary Public



1 of 1 DOCUMENT

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January 22, 2004, Thursday, Late Edition - Final

**SECTION:** Section F; Page 9; Column 1; House & Home/Style Desk**LENGTH:** 1286 words**HEADLINE:** On Columbus Circle, Fighting a Face-Lift**BYLINE:** By JULIE V. IOVINE**BODY:**

THIS much will always be true: The view from the top floor of 2 Columbus Circle is stunning.

You can see the mighty vectors of Broadway and Central Park West radiating north and Central Park carpeting the landscape to the east. Hard to the west, the new Time Warner Center rises skyward.

The prospect from the top floor of 2 Columbus Circle may be clear as far as the eye can see, but the building's future is still murky. Last month, the Museum of Arts and Design approved a design by Brad Cloepfil of Allied Works Architecture for a complete overhaul of the 40-year-old building, designed by Edward Durell Stone. The museum, formerly the American Craft Museum, is in the process of buying the building, vacant since 1998, from the city.

That transaction, and the subsequent renovation, is threatened by a lawsuit filed in November by a consortium of three preservation groups, arguing that the building's historic value was inadequately analyzed by the city before it agreed to turn the building over for private development. The case will go before a judge of the New York County Supreme Court on Feb. 20.

The controversy has made for some unlikely bunkmates, with critics known for championing more new avant-garde architecture joining neighborhood groups known for opposing new development.

The New York City Landmarks Preservation Commission is not going to protect the building, having declined to submit it for consideration in 1996, two years after it became eligible for landmark status.

Theodore Prudon, the president of Docomomo, a preservation group dedicated to saving modern structures and one of the plaintiffs in the lawsuit, said: "The building has very many detractors and supporters. With that much interest, clearly it is a building of significance that should be considered a New York landmark. Independent of whether the current design is good or bad, these prior issues need to be settled."

Others feel that the building, not considered one of Stone's most significant, has had its day in court. "It's a building of no consequence whatsoever," said Terence Riley, chief curator of architecture and design at the Museum of Modern Art. "To deserve landmark status, something either has to have happened there or it has to be a place of great architectural distinction. It's not enough to say it's quirky and interesting."

On Tuesday, the Committee for Environmentally Sound Development, a neighborhood group, published an open letter to Robert B. Tierney, chairman of the Landmarks Preservation Commission, in AM New York, a free daily newspaper. The letter asks the commission to reconsider awarding the building landmark status for its "novel and daring style" and radical departure from the established corporate architecture of its day. In a phone interview, Mr. Tierney said that the commission was mindful of the "robust debate" about 2 Columbus Circle, but would not reconsider. "In the past year, we've seen it talked about, we've seen a lot in print and we've thought about it and the decision made in 1996 is the decision that stands," he said.

The museum was a critical lightning rod from the very start. Huntington Hartford's Gallery of Modern Art, as it was originally known, was built in 1964 to house his personal art collection. Its perforated ornamental flourishes invoked either Venice or acoustical tiles, depending on your viewpoint. The interiors were widely acknowledged to be

too small, dark and claustrophobic, and Mr. Hartford closed his museum after just five years. Over the next 30 years, it was a temporary home to the New York Cultural Center and after the city acquired it in 1975, it housed the Cultural Affairs Department, but failed to find a permanent resident. By 1998, it was empty.

In 2002 the city agreed to sell the building to the Museum of Arts and Design, which is squeezed into three and a half levels at 40 West 53rd Street. "It's ridiculously small," said Holly Hotchner, the director. "There's no room for showing the collection, no room for public programs, no visitors' services. There's not even room to sit down." After the city agreed to the sale, the museum held a competition to choose an architect for the building's conversion. The contest, which included submissions by Zaha Hadid, Toshiko Mori, and Smith-Miller & Hawkinson Architects, led to the selection of Mr. Cloepfil, a 47-year-old architect from Portland, Ore., who recently completed the Contemporary Art Museum in St. Louis.

Renderings released to the public last week by the museum show the building, with its small-bore windows and elongated loggia at the top, now etched with a channel of glass tracking up a terra-cotta facade. "I want it to maintain a sense of silence and singularity," Mr. Cloepfil said, "to emphasize its role as a marker on Columbus Circle in juxtaposition to all the noise around it."

Some elements of the old building will be preserved in its new form. Its original 10-story height, the concave curve of the facade and the arcade of "Venetian lollipop" columns, as the critic Ada Louise Huxtable dismissively called them when it opened, will all remain. The exterior cladding, however, will be entirely removed, replaced by glazed terra-cotta tiles with an iridescent sheen. "I want the facade to have a character and a texture so that it shows its materiality more, the closer you get to it, like an object you go to pick up on a shelf," Mr. Cloepfil said.

The distinguishing feature of the lobby will be switchback stairs that wrap around a glass display. Both stairwell and staircase will rise to the fifth floor, taking natural light from the lobby with them. The lack of windows in a prime city location has always dismayed the building's critics, but because the original structure is a concrete box, instead of a steel frame, the walls themselves hold up the building, and only about 30 percent of the concrete could be incised. Bringing in light without endangering the structure was Mr. Cloepfil's chief challenge. His solution is a 30-inch-wide channel of glass that runs up the facade and continues inside, cutting across floors, ceilings and walls. The most glass, both transparent and fritted, will be found on the upper floors, where offices and a cafe are to be located. The channel motif, Mr. Cloepfil said, "had to fill the galleries with light, connect people to the views and render the entire building more transparent to the city."

The design more than doubles the building's original gallery space on the four floors above the lobby by relocating the fire stair and restrooms, and by modernizing the mechanical systems. The sixth and seventh floors will be dedicated to artists' studios, classrooms and event spaces.

The dilapidated building still has some ornate interior finishes, including parquet floors, walnut paneling and bronze balustrades decorated with a whimsical bubble motif. Mr. Cloepfil said that it would be too costly to preserve most of the interior detailing, except for a basement auditorium with oversize bronze doors, which will be completely restored. The construction budget, Ms. Hotchner said, is under \$30 million.

Construction was to begin in April, Ms. Hotchner said, but plans are on hold, pending the outcome of the lawsuit.

Meanwhile, architects continue to take sides. Unimpressed by the building's long and checkered past, Lindy Roy, a young architect from South Africa who set up a design office in Manhattan in 2000, said she's an admirer of the building just as it is: "I love it for all its craziness. It's so unapologetic. Any windowless structure in the city is compelling." But compelling toward what remains the question.

<http://www.nytimes.com>

**GRAPHIC:** Photos: NOW AND WHEN — The 1964 facade at 2 Columbus Circle, below, and the proposed makeover, left.; NEW SURROUNDINGS — Brad Cloepfil of Allied Works, left, is the designer of the renovation for the Museum of Arts and Design. The base, as rendered below, would place its columns behind glass. Natural light would enter galleries, right, through channels in the walls, ceiling and floors. (Photographs by Allied Works Architecture above left, above right and top; Jack Manning/The New York Times, top right; Alan S. Weiner for The New York Times, far left)

# The Best Way to Preserve 2 Columbus Circle? A Makeover.

By Ada Louise Huxtable

New York

I have been watching, with wonder and disbelief, the beatification of 2 Columbus Circle, né the Huntington Hartford Museum, a k a the lollipop building (so-named, for better or worse, by me). This small oddity of dubious architectural distinction, designed by Edward Durell Stone, has been elevated to masterpiece status and cosmic significance by a campaign to save its marginally important, mildly eccentric, and badly deteriorated façade—a campaign that has escalated into a win-at-any-cost-and-by-any-means vendetta in the name of “preservation.”

Never has that term been so taken in vain. The opposition to the renovation of this derelict little building with an uncertain future as the new home of the Museum of Arts and Design (formerly the American Crafts Museum) seems to be operating by tunnel vision and a blind resistance to change. What is conspicuously missing from the orchestrated hysteria that has replaced rational debate about 2 Columbus Circle is any desire to see or understand the plans for the building's conversion before going into attack mode. For those fixated on saving the existing façade, that is simply not an option.

The architect of the conversion, Brad Cloepfil, of Allied Works Architecture, reports that he has not received a single call or inquiry from anyone writing the impassioned pieces that have flooded the press, which appears to have abandoned the idea of fact checking or a balanced point of view. There is enough irresponsibility to go around. Few have seen the version of the evolving design now receiving city review. Any civic or architectural virtues it may possess are irrelevant. The facts would only spoil a good fight.

The most basic preservation question is not being asked at all. What will be lost, and what will be gained? The proposal being rejected out of hand is a promising solution by a talented young American practitioner that will reclaim an abandoned building of debatable merit for a desirable cultural facility. We do not lose the building; everything that is good about it will be retained—its size, its scale, and its intimate relationship to the street. Although three stories could be added legally, the decision was made to change nothing about its iconic form and presence.

What is bad about the building—the dark, cramped and virtually useless interior and those faux harem walls that close off spectacular views—will be changed. Yes, we will lose the façade, and the new one will not offer the instant appeal of exotic kitsch; it is a restrained, expressive reflection of an unusual way of using the concrete frame to open the building visually, inside and out. It is hard not to see this as a trade-off worth making.

I have studied the design carefully, and I have also visited Columbus Circle, which is in the process of a long-delayed rebuilding and revitalization. The city's most notorious traffic circle, a survival challenge of Jersey barriers, is coming into focus, and the surprise is that it is going to be wonderful. The immense, nearly complete AOL Time Warner Center on its west side, by David Childs, of Skidmore, Owings and Merrill, totally eclipses Donald Trump's hotel and residential tower on the north, an alienated Central Park has been refurbished and re-embraced to the east, and a landscaped surround for the traffic-impacted Columbus statue in the middle is under way. Columbus finally stands tall, and



New York's Trafalgar Square: An artist's rendering of the proposed Museum of Arts and Design at 2 Columbus Circle. Glass façade on right is AOL Time Warner Center.

even the Maine Memorial looks grand. Think—sort of—Trafalgar Square.

The AOL Time Warner Center is exactly what a New York skyscraper should be—a soaring, shining, glamorous affirmation of the city's reach and power, and its best real architecture in a long time. Its two tall towers rise from symmetrical lower sections rotated in a bow to the Circle, where the huge building morphs into pedestrian shops and restaurants at ground level. But the wonder is the delicacy, the elegance, of these perfectly calibrated, glittering glass façades, the suave, sharp-edged precision that is amazingly subtle and refined for a structure of this enormous size.

### The Building's New Look

Seen against AOL Time Warner's astonishing and unexpected beauty, the shabby little punchboard façade of 2 Columbus Circle sticks out like a small, sore thumb. It didn't seem so bad before, but the sophisticated finesse of Mr. Childs's first-rate building makes it look like the second-rate building that it really is. Its retro mannerisms are suddenly crude caricatures.

Because Brad Cloepfil is also an architect who designs with a precise delicacy, the new look for 2 Columbus Circle works in this setting. The building's enrichment will be its façade of terracotta panels, the texture and tone of the tiles to be developed in collaboration with an artist, in keeping with the museum's crafts tradition. But the exterior is only part of the story; it is integral to a far more radical, three-dimensional concept that is virtually impossible to understand from pictures—a system of cuts into the concrete structure starting on the outside walls and carried inside on the floors and ceilings to the building's core that create a continuous sense of space.

Exterior vertical and horizontal bands in a linear pattern provide daylight for the galleries and outside views. They connect to interior slits that open ceilings and floors to slotted glimpses of other spaces and galleries above and below. As one approaches, the building's solidity will give way to layered transparencies, from terracotta screens to large areas of fritted, or patterned, glass at the top, with glimpses of galleries near street level.

But let us assume for argument's sake

that none of this matters; that the façade should be saved even if everything else about the building remains unresolved. Structural studies made in the heat of battle are suspect; I've been through too many cooked reports to believe them. However, some facts, although unwelcome, are incontrovertible. Inspection has found the façade so badly deteriorated that it can't be saved; it would have to be rebuilt—a copy or reproduction would have to replace it.

The metal shims—pieces of metal attached behind each piece of marble to level the stones—have rusted as water got into the joints, and the damage has spread to the marble, which has cracked and spalled. Because the entire façade is affected, all of the rusted shims would have to be replaced and new marble cut and installed. There is no way it can be repaired. Nothing less than a Sansovino survival would justify an expensive replica, and only as a last resort for a rare artifact of the Venetian Renaissance, but a Sansovino façade this is not.

The necessity of constructing a vapor barrier for humidity control around the building—all museums require them—complicates things further. This is done on the exterior, although landmark buildings have been retrofitted inside at great cost and with extreme difficulty. We begin to get into a Catch-22 dilemma when a vapor barrier cannot be installed under a damaged façade, the preservation of which is debatable in the first place, and cost and space restrictions foreclose doing it inside.

What I find most personally disturbing, however, is the manipulated and manufactured history that has accompanied the demand for landmark status for a building already denied designation—and let's forget those paranoid ideas about political plots and underhanded deals that always surface when things get hot. I marvel at the spin that is being put on both the building and its architect, Ed Stone, to reposition them in a mythical past. I don't have to invent history; I was there.

Actually, there were two Ed Stones, the good one and the bad one, architecturally speaking. The first was Edward D. Stone, a talented practitioner of the International Style, and the architect, with Philip Goodwin, of the landmark building for the Museum of Modern Art, a charm-

ing man who frequented the better clubs and watering holes to the eventual disruption of his career. For a while, his life fell apart. Then it came together again with the help of a new wife and helpmeet, who informed me that he was to be referred to, henceforth, in anything I wrote, as Edward Durell Stone. Thus began the new persona and second career of Edward Durell Stone.

### Mr. Stone's Seraglio Period

This second phase was his better-known seraglio period, which coincided with the start of a State Department program for new U.S. embassies abroad. The program stressed the hiring of architects for reasons other than their political connections and specified that these buildings should not be brash interlopers, but that each should be designed to reflect or respect the particular country's culture. This well-meant, but somewhat shallow and patronizing idea led to curious architectural acrobatics; the buildings strained to incorporate something “native” in their forms, and the strain shows. The significance of the program in Mr. Stone's work has been explained by Laurie Kerr on this page—it is the only real history we have been given.

There was one outstanding success—Edward Durell Stone's American Embassy in New Delhi, an enchanted place of fountains, arcades and screens that achieved immediate fame. He was besieged with commissions and he obliged—with screens. His clients couldn't get enough of them, and they conveniently covered everything he built. What they covered was often not very good, but it was very popular, culminating in Washington's most vacuous marble monument, the Kennedy Center. Mr. Stone's pierced and arcaded façades became his signature gimmick, a crowd pleaser that never rose much above mediocrity; to those who knew his earlier work, this was all downhill. Along the way he built 2 Columbus Circle, which had a certain toy-like charm.

Some profess to see its palazzo pretensions as a forerunner of postmodernism. I find that a stretch. You could say that anything like the State Department's Foreign Buildings program was a step on the way to the liberation of architecture from the shackles of the functionalism and anti-historicism of the modern movement. But the overseas embassy program soon succumbed to the government's pendulum swing between patronage and periodic attempts to upgrade, and significant change occurred only after the silly season of postmodernism had passed. At best, 2 Columbus Circle is memorably idiosyncratic.

One wonders at what point New York's civic groups lost their vision, just when they decided nostalgia and trendy revisionism overrode a positive contribution to the city's cultural and architectural quality. In St. Louis, Brad Cloepfil has just completed a fine small museum that successfully shares a plaza with Tadao Ando's Pulitzer Foundation for the Arts in the revitalization of an older area. The news does not seem to have traveled as far as New York.

There is a great deal more at stake than this one building. When preservation distorts history and reality in a campaign of surprising savagery, it signals an absence of standards and an abdication of judgment and responsibility. It has lost its meaning when we prefer a stagnant status quo.

Ms. Huxtable, the Journal's architecture critic, last wrote on *Jørn Utzon* and *Frank Gehry*.