

candles and a statuette positioned in the front hall of the apartment. Buildings filed a petition to padlock the apartment, charging the Wankos and the building owner with violating the zoning code restriction on operating a commercial business in a residential district. At the hearing, the Wankos argued that the use was permitted under the zoning code as an accessory "home occupation" because the apartment was their primary residence, the fortune-telling oper-

ation took up less than 25 percent of the unit, and the wife did not have employees.

OATH ALJ Raymond E. Kramer ruled that the psychic consulting business met the general zoning resolution requirements related to home occupation use, but the exterior signs violated the provisions regulating the use of signs in residential areas. Signs directing attention to the commercial use or advertising the business were prohibited. With the signage, the home occupa-

tion is an illegal commercial use.

The ALJ recommended that Buildings padlock the unit unless the Wankos immediately remove all three exterior signs.

*Buildings v. Owners of 333 E. 52nd St.*, OATH Index No. 400/05 (Feb. 2, 2005) (Kramer, ALJ) (Attorneys: Ingrid M. Addison, for Buildings; Mara R. Levy, for Wankos). **CITYADMIN**

**CITYLAND Comment:** The Wankos removed the signs on February 19, 2005.

## COURT DECISIONS

City Planning Commission  
Midtown West, Manhattan

### Sale of Two Columbus Circle gets ahead

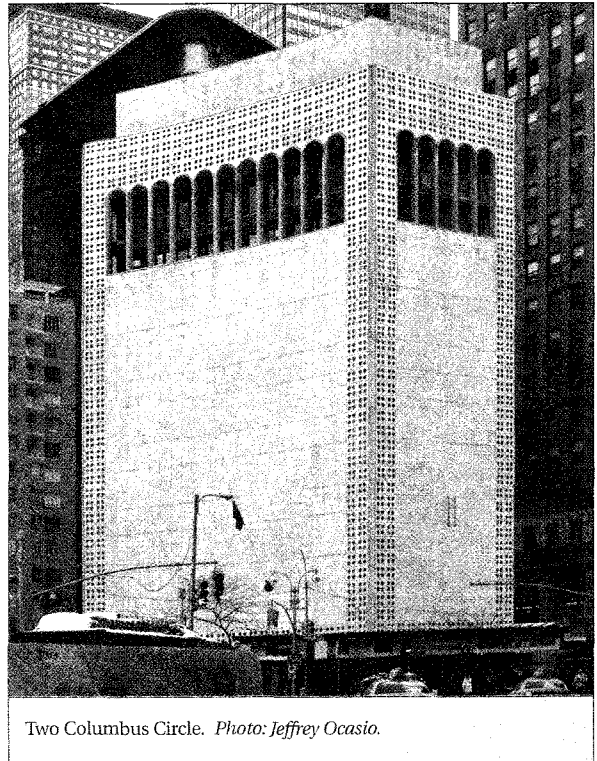
*Environmental study ruled proper; Landmarks not obligated to hold public hearing.* Two Columbus Circle, the white marble-clad, nine-story modernist building fronting Columbus Circle, was at the center of two suits filed against the City. The building, commissioned in 1964 by the A & P Supermarket heir Huntington Hartford for the Gallery of Modern Art, was donated to the City in 1980 after the Gallery closed. In 2003, the Planning Commission approved its sale from the Economic Development Corporation to the Museum of Arts and Design, which planned a massive renovation to the building. The Museum proposed to remove the white marble cladding, re-clad the facade and increase the window and door openings for improved interior light and added views, which would break up the building's characteristic closed facade.

Landmark West, with a supporting brief by the National Trust for Historic Preservation, filed suit to void the approval, claiming that the environmental review was flawed and adding that the Landmarks Preservation Commission

was required to hold a public hearing on Two Columbus Circle once it received a request from the public to designate it a City landmark.

The First Department unanimously upheld the lower court ruling of Justice Walter B. Tolub to deny the petition. The court found that it was proper for Landmarks to be asked to comment on the environmental study even though Landmarks had refused in the past to designate the building a landmark. The court also ruled that Landmarks was not obligated to hold a public hearing prior to making an internal decision not to calendar a designation hearing on the infamous building.

In a related case, Landmark West lost its challenge to the Manhattan Borough Board's approval of the sale. The suit claimed that the Borough Board's August 24, 2004 hearing violated the State open meetings laws because the hearing took place when residents had left the city for summer vacation. Justice Harold B. Beeler denied the claim,



Two Columbus Circle. Photo: Jeffrey Ocasio.

ruling that Landmark West failed to identify any injury, since its executive director knew of, attended, and spoke in opposition at the hearing.

*In re Landmark West!*, 2005 NY Slip Op 01431, Feb. 24, 2005 (1st Dep't) (Antonia Levine Bryson, Esq., for Landmark West!; Michael A. Cardozo, Susan Choi-Hausman, for NYC); *Landmark West! v. Manhattan Boro. Bd.*, Index No. 116913/04, (Feb. 15, 2004) (N.Y.Cty.Sup.Ct.) (Beeler, J.) (David Rosenberg, Marcus Rosenberg & Diamond, LLP, for Landmark West!).

CPC: 2 Columbus Circle (C 030392 PPM) (July 2, 2003). **CITYADMIN**