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GEM WITH A FLAW

By STEVE CUOZZO

ONLY one way will the city ever be spared the blight of Columbus Circle's "Lollipop" eye sore, the crumbling marble monstrosity the city is trying to sell to the Museum of Arts & Design as a new home for its sparkling collection:

Either the city will show some spine against a few pesky preservationist zealots who want to tie the sale up in court forever, or the museum will find the guts to buy the damn building and commence reconstruction even while lawsuits drag on.

Rough and risky? Sure. But the unthinkable alternative — that the deal falls apart and the city is stuck with Edward Durrell Stone's useless architectural abomination forever — looks ominously possible.

The campaign against the museum might be the death rattle of New York's ingrained, anti-development culture. Times Square's reclamation and the triumph of Time Warner Center at Columbus Circle itself did much to dissipate knee-jerk hostility to progress. So did a more reasonable mood in the courts; the days are gone when a few neighborhood belly-achers could get a stop-work order against any project they didn't like.

But the people trying to scuttle the deal at 2 Columbus Circle are trying to turn back the clock. If they win, the citizens will be stuck, possibly forever, with a hideous structure useful only to shelter derelicts under its crumbling colonnade.

WHAT'S at issue, of course, is the museum's plan to replace Stone's widely unloved, window-less marble facade with terra cotta and glass — not only to let light in, but to protect its art collection. (The load-bearing marble makes it impossible to control interior humidity).

Museum officials hope to start the job this fall, but it's hard to see how it can happen. They're queasy about closing on the purchase until the litigation is cleared up. The latest suits will drag on for months and new filings are certain. The plaintiffs are waging a cowardly war-by-nuisance suit, hoping the delays hamper the museum's fund-raising to the point that it simply gives up the fight.

Meanwhile, the museum is getting steamrollered in most of the media — especially in The New York Times, which has a cozy relationship with Upper West Side radicals.

After 10 years of dithering over 2 Columbus Circle, and two years since it first announced a deal with the museum, the city finally signed a \$17 million sale contract last month.

But city and museum seem unaware they are in a knife fight. They are playing patty-cake against switchblades. They seem surprised by each new court action, oblivious that the preservationists mean to go on suing until kingdom come.

At this rate, the museum's collection will remain in the cramped confines of a Midtown office building. The Lollipop — window-less, irreparably decayed and unsuitable for any use in its present form — will survive as a permanent black eye on Columbus Circle.

OF four lawsuits filed against the city and/or the museum by the Landmark West group and its stooges, two have been tossed and an appeal of one rejected 5-0 in the Appellate Division. But as long as cases remain

open, the nonprofit museum, with a fiduciary obligation to donors, hesitates to move ahead.

It does entail some risk. Yet lawsuits need not bar the museum from starting the job. Related Cos. CEO Stephen M. Ross, who developed Time Warner Center (and wants the eyesore on his doorstep replaced), says: "They should buy the building, file plans with the Buildings Department and start work."

In fact, the museum has filed some preliminary plans — a good sign, but only a first step.

If the museum holds back, it's up to the city. Mayor Bloomberg, who made the decision to sell the Lollipop to the Museum of Arts & Design, seems to forget he has a 450-attorney Corporation Counsel at his disposal.

The city's lawyers have played good defense against the lawsuits, but are gun-shy about fighting back in kind. The least they can do is to seek sanctions (court costs and attorneys' fees) against Landmark West. Or counter-sue for tortious interference.

Will the city have the stomach for such a hardball tactic? It better: If Bloomberg can't push through the sale of one small building, his vastly more ambitious schemes for stadiums and the far West Side have to be taken as a joke.

PRESERVATIONIST causes (including many taken up by Landmark West) are often genuinely worthy. But re-cladding the Lollipop poses no problems of height, bulk or shadows; the building will remain exactly the same size and shape. Only to a handful of like-minded elitists is the facade replacement unacceptable. And even they don't argue that Stone's goofy, Moorish pastiche is beautiful — but merely that it somehow matters in the context of the architect's late-career rebellion against Modernism.

But architectural asterisks belong in textbooks, not at one of the city's gateway locations.

LANDMARK West is apopleptic because the Landmarks Preservation Commission has deemed 2 Columbus Circle unworthy of a hearing. Indeed, the landmarks panel *under three different chairmen* has declined to hold a hearing on 2 Columbus Circle since 1996, when at age 30 it first became eligible for consideration. The panel refused to shove aside other, far more worthy claims, to pander to the few Lollipop-lovers.

The sale to the museum, moreover, has been due-processed to a fault. It was overwhelmingly approved by the local community board; by the Manhattan Borough Board; and by the City Council.

Yet Landmark West, charges "fraud," "collusive transactions," violation of "more than two centuries of common law" and "conspiracy."

One ridiculous suit sought to void the Manhattan Borough Board's 9-1 vote OKing the sale because the board held a public hearing on it in August, "when New Yorkers traditionally take summer vacations."

A judge tossed the claim — a no-brainer for sure. But, incredibly, Landmark West is appealing; anything to delay the sale.

Sadly, the museum has more enemies in the fight than friends. Preservationist groups en masse oppose the deal. Nor does it enjoy much support from West Siders — who tend to oppose to any change in their backyard, even when it's good for them. (Before the fact, anyway: The same locals who now cram Time Warner Center's Whole Foods Market resisted Columbus Circle development for 20 years.)

Most of the media shamefully takes the obstructionist side. A May 27 Times article might as well have been churned out by Landmark West. Reporting with breathless excitement on the latest suit, its sympathies were entirely with the "decade-long effort to seek a [Landmarks] commission hearing on 2 Columbus Circle." Nowhere did the story mention that Landmark West's earlier actions were thrown out of court.

MAYOR Bloomberg has been eerily silent on the subject of 2 Columbus Circle. He has other things on his mind, including re-election.

But it's time he put some soap-box moxie behind the sale. He can be proud the Parks Department has so magnificently transformed the center of the circle, now in bloom and soon to turn on grand new fountains.

But he should stand before the Lollipop and, shout, like Ronald Reagan in Berlin: *Tear down this wall.*

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