

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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In the Matter of the Application of :
:
STERLING PLACE BK-NY BLOCK :
ASSOCIATION INC., NOÉMIE BONNET, :
and DANIEL SALK, :
:
Petitioners, :
:
For Judgment Pursuant to Articles 63 and 78 of the :
Civil Practice Law and Rules, :
:
- against - :
:
CITY OF NEW YORK, NEW YORK CITY :
LANDMARKS PRESERVATION :
COMMISSION, HOPE STREET CAPITAL LLC, :
959 STERLING PLACE GROUND OWNER LLC, :
and XYZ CORP./LLC, :
:
Respondents. :
:
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Index No. 510458/2022

**EMERGENCY AFFIRMATION
OF MICHAEL S. HILLER
IN SUPPORT OF THE
ORDER TO SHOW CAUSE**

MICHAEL S. HILLER, an attorney duly admitted to the practice of law before the Courts of the State of New York, and aware of the penalties of perjury, hereby affirms as follows pursuant to §2106 of the CPLR:

1. I am the managing principal of Hiller, PC, attorneys for Sterling Place BK-NY Block Association Inc., Noémie Bonnet, and Daniel Salk, petitioners in the above-captioned Article 78 proceeding (collectively, “Petitioners” or the “Coalition”). I submit this Affirmation of Emergency in Support of the Coalition’s Order to Show Cause for a Temporary Restraining Order (“TRO”) and Preliminary Injunction. By the Order to Show Cause, the Coalition seeks to prevent developer-respondents Hope Street Capital LLC and 959 Sterling Place Ground Owner LLC (together, the

“Developer”) from demolishing and destroying a portion of a cherished 19th-Century Church and constructing a large apartment complex (the “Project”) in the landmark-protected Crown Heights North Historic District II (the “Historic District”). The site of the proposed Project (“Project Site”) has an address of 959 Sterling Place, Brooklyn, New York, although other nearby addresses, such as 955 Sterling Place, have been used by the Developer in connection with the Project for the purposes of obtaining permits and licenses, and the Church has an address of 914-920 Park Place, Brooklyn, New York. *See* Exhibits 3-4, annexed hereto.

2. The factual basis for the relief requested in this Order to Show Cause is set forth in the Verified Petition, dated April 8, 2022 (“Petition”) (annexed as Exhibit 1 hereto); the Affidavit of Noémie Bonnet, sworn to on April 26, 2022 (“Noémie Moving Aff.”) and the exhibit annexed thereto; and the Affidavit of Daniel Salk, sworn to on April 27, 2022 (“Daniel Moving Aff.”) and the exhibit annexed thereto. The points and legal authorities in support of the Petition and in support of the instant Order to Show Cause are set forth in the accompanying Memorandum of Law in Support.

**EMERGENCY CIRCUMSTANCES
WARRANTING EXPEDITED CONSIDERATION**

3. After the COA was granted, the Developer moved quickly to begin construction of the Project. Construction activity is now ongoing nearly every weekday, with the Developer’s heavy machinery moving up and down the street from 7AM until approximately 5PM each day (Noémie Moving Aff. ¶4; Daniel Moving Aff. ¶4). The Developer has begun excavating at the Project Site in order to pour the foundation for the Project’s proposed apartment complex (“Proposed Apartment Complex”) (Noémie Moving Aff. ¶3; Daniel Moving Aff. ¶3; DOB Page, Ex. 3). At the same time,

the Developer appears to be preparing, as part of the Project approved in the COA, to demolish a portion of the landmarked-protected 19th-century Romanesque Revival and Gothic Revival-style Hebron Seventh Day Adventist Church and School, often referred to as the “Crown Jewel” of Crown Heights (“Church”). Clearly, the Developer is attempting a race to completion of the Project before this Proceeding is heard and decided on the merits. Worse, after we provided notice yesterday to opposing counsel of our intention to seek a TRO and preliminary injunction (*see* ¶5, *infra*), the Developer seems to have ramped up its construction activity this morning, with additional vehicles and/or equipment, ostensibly to accelerate the rush to complete its work ahead of this Court’s determination.

4. Given the Developer’s activity, a TRO and preliminary injunction are needed immediately to preserve the *status quo* – specifically, preserving the site in its current condition rather than permitting the Developer to demolish a portion of the Church or substantially complete construction of the Proposed Apartment Complex. Once demolition were to occur, or construction of the Proposed Apartment Complex were to be substantially completed, it would no longer be possible for the *status quo* to be preserved. The Developer’s planned actions to demolish a portion of a building and construct a large apartment complex cannot be readily undone. Accordingly, the Coalition is threatened with irreparable harm, as its claims would be mooted if the *status quo* were not preserved during the pendency of this Article 78 Proceeding and before the Coalition’s claims are heard by this Court. *See* Memorandum of Law, Point A.

** 5. ***On April 27, 2022, we notified all Respondents through counsel of this application and informed them that we would be making this application in this Court today, April 28, 2022, to request a temporary restraining order and preliminary injunction on behalf of the Coalition***

(Ex. 12). Counsel for each of the Respondents responded to our notice, thus confirming receipt thereof.

**** 6. The relief requested herein has not been previously requested by the Coalition in this or in any other Court.**

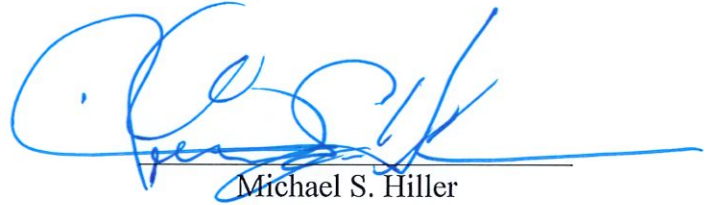
EXHIBITS

7. The following exhibits are annexed hereto:

- Exhibit 1 Verified Petition, dated April 8, 2022
- Exhibit 2 LPC Certificate of Appropriateness Issued to the Developer, dated December 9, 2021
- Exhibit 3 Summary of 311 Complaints and OATH/ECB Violations for Proposed Project, NYC DOB Website, last visited April 27, 2022
- Exhibit 4 Email from LPC General Counsel Mark Silberman, dated March 9 2021
- Exhibit 5 Letter from former Councilmember Robert E. Cornegy, Jr., dated March 4, 2021
- Exhibit 6 Developer's Presentation Materials to the LPC, October 20, 2020
- Exhibit 7 Developer's Presentation Materials to the LPC, May 11, 2021
- Exhibit 8 Affidavit of Daniel Salk in Support of the Petition, sworn to on April 7, 2022 ("Daniel Pet. Aff.")
- Exhibit 9 Affidavit of Noémie Bonnet in Support of the Petition, sworn to on April 7, 2022 ("Noémie Pet. Aff.")
- Exhibit 10 Excerpts of LPC Designation Report for Crown Heights North Historic District II, dated June 28, 2011
- Exhibit 11 Affidavit of Architect David P. Helpern, sworn to on April 8, 2022 ("Helpern Aff.")
- Exhibit 12 Notice to Opposing Counsel of Intention to Seek Order to Show Cause, dated April 27, 2022

WHEREFORE, for the reasons stated, it is respectfully requested that the Court grant the relief set forth in the Order to Show Cause, including the temporary relief pending hearing.

Dated: New York, New York
April 28, 2022



Michael S. Hiller