

In the Matter of the Application of,

Petitioners,

For an Order and Judgment Pursuant to CPLR  
Article 78

— against —

THE CITY OF NEW YORK; BILL DE BLASIO, in his official capacity as Mayor of the City of New York; SCOTT M. STRINGER, in his official capacity as Comptroller of the City of New York; THE NEW YORK CITY DEPARTMENT OF HOMELESS SERVICES (“DHS”); THE NEW YORK CITY HUMAN RESOURCES ADMINISTRATION (“HRA”); STEVEN BANKS, in his official capacity as Commissioner of DHS and Commissioner of HRA; JODY RUDIN, in her official capacity as Deputy Commissioner of Adult Services of DHS; JACQUELINE BRAY, in her official capacity as Deputy Commissioner of HRA; WESTHAB, INC.; NEW HAMPTON, LLC; JOHN PAPPAS; PAUL PAPPAS; TMS PLUMBING & HEATING CORPORATION; B GENCO CONTRACTING CORP.; BASS ELECTRICAL CORPORATION.

Respondents.

Index No.

**AFFIDAVIT OF ROBERT  
SKALLERUP IN SUPPORT OF  
PETITIONERS' VERIFIED  
PETITION AND ORDER TO  
SHOW CAUSE**

STATE OF NEW YORK     )  
                                      ) ss.:  
COUNTY OF NEW YORK    )

**Robert Skallerup**, being duly sworn, deposes and says:

1. I have been a licensed professional architect in New York and New Jersey since 1980. From 1980-2001, I worked in large architectural firms specializing in the design and project management of multi-family buildings, large scale commercial structures, justice facilities and hospitality buildings (i.e. hotels and motels) in New York City. During these years, I designed and/or managed \$200-\$300 Million worth of construction in New York City and nationally.

2. From June, 2001 until June, 2002, I served as the Manhattan Borough Commissioner for the New York City Department of Buildings (the "DOB"). As Borough Commissioner, I was responsible for supervising a staff of approximately 100 people with respect to the day to day permitting, inspection and application process. Further, I was responsible for all of the reconsideration applications in Manhattan whereby an applicant sought a variance and/or waiver of a prior DOB objection/requirement. The ultimate decision with respect to these reconsiderations rested with me alone.

3. Additionally, I led a team assigned to the inspection and assessment of building collapses in Manhattan. As you can imagine, that team was exceptionally busy during my tenure since I was the Commissioner on September 11, 2001.

4. In 2002, I was hand-picked to serve as the Deputy Commissioner of Facilities Management and Development ("Facilities Commissioner") for the New York City Department of Homeless Services (the "DHS") where I served until my retirement in April of 2011. As Facilities Commissioner, I was personally responsible for making sure that DHS had enough

facilities to take care of all of the homeless people in New York City, and to scout and approve new potential facilities, both public and private, for that purpose. In that regard, I supervised a staff of approximately 250 people for the purpose of analyzing and inspecting prospective buildings for safety purposes and to assure that they were generally suitable to serve as homeless shelters. I also led an in-house design team at the DHS whose responsibility it was to prepare and approve design drawings for prospective city owned buildings.

5. I made the final determination with respect to all proposed facilities. If I determined that a prospective building was unsafe, I would make the decision not to permit the building to operate as a homeless shelter even if there was a shortage in homeless housing capacity in the City at the time. The policy during my time with the DHS was that we would not risk the safety and welfare of future occupants of a building, or the public, in order to open a new facility. Sometimes such a determination would hamper the City's ability to house the entirety of the homeless population, but it was a decision that had to be made, and a decision that I made on at least two (2) occasions.

6. Having been a licensed professional architect for more than thirty (30) years, Manhattan Borough Commissioner for the DOB and the Facilities Commissioner for the DHS, I have significant experience in both preparing and reviewing DOB documents and filings including, but not limited to, permit applications and drawings, in order to ascertain whether a building is safe, in general, and whether a prospective building is suitable to operate as a homeless shelter.

7. This affidavit is respectfully submitted in support of the Petitioners' verified petition and order to show cause seeking, among other things, a temporary restraining order to prevent the proposed homeless shelter from opening and operating in the building located at 158

West 58<sup>th</sup> Street, New York, New York (the “Building”), the former Park Savoy Hotel. I have been informed that the City is planning to operate a homeless shelter in the Building that will house up to 150 men on nine (9) floors, with a restaurant operating on the ground floor. I am also informed that the opening of the homeless shelter is imminent.

8. I retired in April, 2011, and have not consulted in any litigation since that time. However, when presented with the relevant documents in this matter, I felt compelled to offer my services to the Petitioners in this matter as I have significant concerns about the safety and welfare of the future occupants of this Building, as well as the public at large, should this Building open as a homeless shelter. I felt that it was my duty to share my knowledge and experience with the Court to prevent this homeless shelter from opening until the Building is confirmed to be safe.

9. I have personally reviewed the DOB documents and filings with respect to the Building including, but not limited to, the Construction Code Determination Form (“CCD1”), filed by the Building owner on March 15, 2018, which attached the floor plan for each floor of the Building (the “Floor Plans”). Based upon my review and analysis of these documents, and as explained in more detail in this affidavit, this Building is unsafe and unsuitable to open and operate as a homeless shelter.

10. I have also reviewed the affidavit of Robert G. Kruper (“Kruper”) in support of Petitioner’s application. I completely agree with Mr. Kruper’s findings with respect to the multiple fire-safety issues in the Building, and I agree with his conclusion that “...there is a significant risk that people lose their lives if this Building is permitted to open and operate as a homeless shelter at this time. This Building is a fire disaster waiting to happen.” I also concur

that the proper classification of the Building is as a Residential 1 (“R-1”), and not a Residential 2 as proposed by the Building owner.

## **I. Additional Safety Concerns in the Building**

### **A. The Corridors are too Narrow**

11. In addition to the fact that there is no standpipe in the Building, and there is only one means of egress (as Mr. Kruper explains in detail in his affidavit), both of which are violations of the New York City Building Code (the “Building Code”) and the New York City Fire Code, I have noted several additional safety concerns in the Building.

12. First, the corridors on each of the floors are entirely too narrow, especially considering that there is only one means of egress. Based upon the floor plans, it appears that the corridors are approximately thirty-six inches (36”) wide, while they are required to be at least forty-four inches (44”) wide pursuant to Section 1018.2 of the Building Code. Such a narrow hallway is a significant safety concern as it will prevent occupants from being able to quickly exit the Building in the event of an emergency as 150 people will be forced to travel through narrow corridors in order to access a single means of egress.

### **B. The Dead-End Corridors**

13. Additionally, each floor of the Building has a single stair tower exit located in the middle of the exit corridor; creating a condition appropriated called a “dead-end corridor”. A dead-end corridor is extremely dangerous since, in the event of a fire, residents on either ends of the corridor will be forced to travel a great distance to reach the stair tower exit. Further, if the fire breaks out between the rooms on the end of the corridor and the stair tower exit located in the middle, the residents will be trapped as they will be unable to reach the stair tower exit. The acceptable, and safer, layout for each corridor would be to have two (2) stair tower exits located

on either end of the corridor. This will ensure that all occupants of the floor will be able to access one of the stair towers exits in the event of a fire.

**C. The Travel Distance to the Means of Egress is too Far**

14. Section 1014.3 of the Building Code provides that, for R-1 buildings, the travel distance to a means of egress may not exceed 75 feet. The travel distance is measured from the furthest occupied point of a room and ends at the entrance to the means of egress.

15. Based upon my review of the Floor Plans, it appears that the travel distance from the farthest point of the most remote occupied rooms on each floor to the sole means of egress exceeds 75 feet which, in addition to be a violation of the Building Code, constitutes a significant safety hazard.

**D. The Sole Means of Egress Improperly Exits to the Lobby of the Building**

16. While a building is permitted to have one (1) means of egress which exits to the lobby, the other means of egress must exit directly to the street. In this Building, there is only one (1) means of egress, and that means of egress exits into the lobby only. More simply stated, this Building does not have a means of egress which exits directly to the street.

17. The lack of an exit directly to the street constitutes a significant hazard to the future occupants of the Building as there are emergency situations where the residents may not be able to safely exit through the lobby like, for example, if the lobby is filled with smoke. Without a means of egress which exits directly to the street, the residents will be forced to walk through the dangerous condition in the lobby instead of directly to the safety of the street.

**II. This Building should be Subjected to a Full Audit by the DOB**

18. The DOB routinely, and randomly, audits approximately 20% of all buildings where the work has been self-certified by the owner's professionals. However, the DOB is also

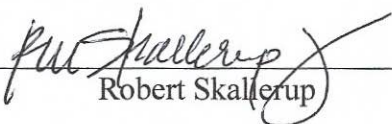
permitted to audit a building when, for example, there is a reason to believe that there are safety issues in the building either during or after construction. When I was Borough Commissioner, I would occasionally request that a specific building be audited if I had reason to be concerned about the safety of the occupants or future occupants or if it became apparent that the accuracy of the self-certifications was in question.

19. The DOB records indicate that the Building owner has opted to "self-certify" the multiple required inspections of the Building. Since there are a host of safety issues and concerns with this Building as described in my affidavit and in the Kruper Affidavit, the DOB should perform a full audit of the Building in order to ensure that the Building is safe for occupancy and that the self-certifications are accurate.

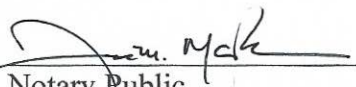
### CONCLUSION

20. As Borough Commissioner and/or as Facilities Manager of the DHS, I never would have accepted this Building as the site of a homeless shelter nor would I have permitted this Building to operate as a homeless shelter in its current condition.

21. It is my professional opinion that the DOB should not issue a certificate of occupancy for the Building, and the DOB and DHS should not permit anybody to occupy the Building for purposes of a homeless shelter, unless and until the DOB confirms that the Building owner has resolved and corrected all of the serious life-safety issues in the Building. It is not worth risking human life in order to rush the opening of such a shelter.

  
Robert Skallerup

Sworn to before me this  
14 day of June, 2018

  
Notary Public  
4021739 v1

Justin M. McRae  
Notary Public, State of New York  
Qualified in Orange County  
01MC6210389  
Commission Expires August 17, 2021