

**Valerie Campbell**

Partner

T 212-715-9183**F** 212-715-8252

VCampbell@KRAMERLEVIN.com

1177 Avenue of the Americas

New York, NY 10036

T 212.715.9100**F** 212.715.8000**September 5, 2023**By Electronic Submission

Sarah Carroll

Chair, Landmarks Preservation Commission

Municipal Building

One Centre Street, 9th Floor North

New York, NY 10007

Re: West Park Presbyterian Church

165 West 86th Street, Manhattan (Block 1217, Lot 1) (the "Building")

Application pursuant to NYC Administrative Code § 25-309 (2)

Response to Public Hearing and Testimony June 13, 2023

Dear Chair Carroll:

This letter is submitted in connection with the above-referenced hardship application by the West-Park Presbyterian Church (the "Church"), in response to certain issues raised at the Commission's June 13, 2022 public hearing, in subsequent written testimony, and in supplemental questions submitted to us from the Commission.

This submission includes the following components:

- A. Response to legal and other issues raised in written and oral testimony;
- B. Response to Commissioners' questions in memoranda dated June 19, July 3, and July 21, 2023 provided by Roger Leaf, Chair of the West Park Administrative Commission and the West Park Presbyterian Church;
- C. Response to Commissioners' question regarding recent church sales data, provided by Appraisers & Planners, Inc.;



- D. Response to WJE Engineering report from Façade MD;
- E. Response to WJE Engineering report from Severud Engineering;
- F. Response to written testimony of David Finehirsh from FXC Collaborative Architects.

The Church and its consultants look forward to responding to any additional questions the Commission and its staff may have.

Very truly yours,

Valerie Campbell

cc: Roger Leaf – West Park Administrative Commission
Kenneth Horn – Alchemy Properties
Mark Silberman, Esq. – Landmarks Preservation Commission

.

A. Response to Legal and Other Issues in Hearing Testimony

1. The Statutory Hardship Standard and the Role of the "Reasonable Return" Analysis

Several commenters submitted testimony arguing that the Church's application improperly considered whether the Church could earn a reasonable return from the Building, and that the "reasonable return" test does not apply to charities. They assert that the only relevant inquiry for this application is whether the Building interferes with the Church's charitable mission and purpose. (See, e.g., testimony of Historic Districts Council, Municipal Art Society, Victorian Society, Landmarks West!) These commenters have confused the judicial hardship test, which applies when a not-for-profit is remaining in ownership, with the statutory hardship test pursuant to New York City Administrative Code § 25-309(a)(2), which applies when a not-for-profit intends to sell its building, as here.

Section 25-309(a)(2)(b) states the necessary finding as that:

"The improvement parcel which includes such improvement, as existing at the time of the filing of such request, would not, if it were not exempt in whole or in part from real property taxation, be capable of earning a reasonable return;"

This reasonable return analysis does not, as some commenters seem to believe, evaluate whether the charitable entity itself is able to earn a reasonable return from its property; rather, it evaluates whether the landmark is capable of earning a reasonable return in the hands of a potential purchaser, in those circumstances where the charitable entity intends to dispose of the property.

In asserting that the only relevant question for this application is whether the Building interferes with the Church's charitable mission and purpose, the commenters are, in effect, seeking to apply the judicial hardship test to the Church's application. As we discussed in our letter to the Commission on July 15, 2022, caselaw precedents make clear that the judicial hardship test only applies where a charitable entity does not intend to dispose of its property. The court in *Matter of Trustees of Sailor's Snug Harbor v. Platt*, 29 A.D. 2d 376, 288 N.Y.S. 2d 314 (1968) clarified that the judicial test is an alternative that is available where the statutory test is not applicable, and that the statute "must be interpreted as

giving power to the commission to provide relief in the situation covered by the statute, but not restricting the court from so doing in others.” *Snug Harbor* at 378. The judicial test does not apply to the Church, which has entered into a binding contract with Alchemy Properties to sell its property, pending the resolution of the hardship application.

However, it should be noted that even if the judicial test did apply here, the Church would meet its findings, not only because the Building’s current carrying costs have driven the Church to the brink of bankruptcy, but also because the tremendous costs of restoring the Building make it unsuitable for carrying out the Church’s charitable purposes. *Snug Harbor* explains the judicial test as follows:

“A comparable test for a charity would be where maintenance of the landmark either physically or financially prevents or seriously interferes with carrying out the charitable purpose. In this instance the answer would depend on the proper resolution of subsidiary questions, namely, whether the preservation of these buildings would seriously interfere with the use of the property, whether the buildings are capable of conversion to a useful purpose without excessive cost, or whether the cost of maintaining them without use would entail serious expenditure — all in the light of the purposes and resources of the petitioner.” *Snug Harbor* at 378.

This case makes clear that financial considerations – both operating costs and the costs of renovation and the resources of the building owner – are central to the determination of “suitability.” As discussed in our prior submissions, the Building is no longer suitable for the Church’s purposes because of the burden of ongoing carrying costs that far exceed the Church’s resources, as well as the tremendous restoration costs make it infeasible for the Church to continue occupying the Building. These same considerations also support the determination required under the statutory hardship test, pursuant to Admin. Code §25-309(a)(2)(c), that the landmark “has ceased to be adequate, suitable, or appropriate for carrying out” the applicant’s charitable purposes.¹

¹ As discussed in our July 15, 2022 submission, the Marymount School of New York determination (LPC Notice to Proceed (No.82292) dated February 2, 1983) noted that the findings of fact that must be made in applying the judicial test “are basically the same ones that the Commission must make under the third and fourth findings of Section 207-80a(2)” (the precursor provision to the current hardship statute).

With regard to the reasonable return calculation itself, it has also been suggested by one commenter (See Testimony of David Finehirsh, June 9, 2023) that it was improper for the Church to add the estimated restoration costs to the assessed value of the Building in calculating the two percent annual depreciation allowed by the statute. This commenter asserts that only the assessed value of the Building should have been used in calculating the depreciation allowance. The Church in its calculation of reasonable return followed the Commission's precedent in the Stahl Yorkville matter, which we believe is the appropriate precedent for this analysis. See Denial of Notice to Proceed, City & Suburban Homes, First Avenue Estate (LPC-127519)(May 29, 2014) pp.23-25).

2. Present vs. Future Suitability

Hiller, P.C., on behalf of the Center at West Park, in a letter dated June 9, 2023, asserts that the Church has improperly considered whether the Building can sustainably be operated into the future in its assessment of the suitability of the Building for the Church's charitable purpose, and that the Landmarks Law dictates a consideration of present suitability only. The Hiller letter argues that because the Building is being rented and used as a religious and cultural arts facility today, it must be suitable for these purposes at the present time. Mr. Hiller repeated this argument in his oral testimony at the Commission's public hearing.

The condition of the Building described by the Church's experts is a present, existing condition, and the need to restore the Building is immediate. The Building's façade poses a current and ongoing risk to pedestrians, which requires the use of the sidewalk bridge today and will require it forever unless the Building's façade is repaired. The Building continues to receive violations from DOB, which the Church has no resources to address.

The short-term rental of the Building to cultural and religious users, as highlighted in the Hiller letter, has been possible only because none of these tenants have had to bear the responsibility of restoring and maintaining the Building. Any fair assessment of the suitability of the Building for use by these groups would need to take into consideration the cost of repairing the Building to make their use sustainable. The appropriate question is whether the Building is suitable for use by its owner, not by tenants who do not bear all of the costs of the Building.

In this regard, the Hiller letter and alleges that the Center at West Park has spent \$500,000 on the repair of the Building. To date, the Center has not produced any documentation in support of this representation, and there is no evidence that the Center has performed any such work. Even if the Center has made these expenditures on the repair of the Building, they are far short of the tens of millions of dollars needed to repair and stabilize the Building for safe continued use. It is worth noting that as of the date of this letter, the Center has raised only \$19,630 in its recent campaign to raise \$250,000 notwithstanding the Director's claims during the public hearing that raising \$50,000,000 is achievable.

3. Intent to demolish

Hiller P.C., in its letter and testimony, also asserts that the Church has failed to meet the statutes' requirement in §25-309(a)(2)(d) that a prospective purchaser "intends, in good faith, . . . to demolish such improvement immediately for the purpose of constructing on the site thereof with reasonable promptness a new building or other facility." Hiller asserts that the Church cannot meet this finding because the Church has not yet sought Attorney General or Supreme Court approval for the sale of the property to Alchemy, and because the Center at West Park is currently occupying the Building and is contesting its eviction in a pending court proceeding.

The "reasonable promptness" requirement in the Landmarks Law does not mean that each and every approval must be in hand before the Commission can act on an application. It would be premature for the Church to seek Attorney General or Supreme Court approval for the sale in this case since a prerequisite to the sale – the demolition of the Building – has not been approved. The Church will seek Supreme Court approval of the sale immediately upon receipt of such approval.

With regard to the pending litigation between the Church and the Center, the Church believes this is a spurious claim by the Center brought to interfere with the Church's hardship application. But we do not ask the Commission to assess the validity of the Center's claim; in fact, it would be improper for either the Church or the Center to ask the Commission to do so. The hardship determination process under the Landmarks Law is not the proper forum to adjudicate the merits of the Center's landlord/tenant claim, which is outside of

the purview of the Commission. The Church has a statutory right to pursue this hardship application, and to receive a determination on the merits. The Church's pursuit of the eviction case against the Center, in fact, is evidence of its intent to demolish the Building and proceed with reasonable promptness as required under the statute.

4. Self-created hardship: the market for transferable development rights

Hiller P.C.'s letter and testimony argue that the any hardship faced by the Church is self-created, because the Church has not pursued transactions for the sale of its development rights.

As we have explained in prior submissions, there is no realistic buyer for the Church's development rights, whether through a zoning lot merger or a transfer pursuant to Section 74-79 of the Zoning Resolution. Our July 15, 2022 letter submitted to the Commission included a memorandum prepared by FX Collaborative Architects, which explained that each of the potential receiving sites identified by Mr. Hiller is occupied by a substantially built residential building that could not utilize any transferred development rights without either (i) extensive and intrusive structural interventions, which would be highly disruptive to current residents, or (ii) the unprecedented purchase of the apartments of the current tenants by a developer that would allow for the construction of the building infrastructure to support the additional floors. We also explained that for any transfers that would require a Section 74-79 special permit, the Church would be required, as a condition, to put the Building into a "sound, first-class condition" and to maintain it in this condition in perpetuity. Thus, all of the repair costs identified by the Church's consultants would need to be incurred, and the limited transfers that would be possible, even if they were desired by the owners of the receiving site buildings, would not generate sufficient funds to support these extraordinary costs and the associated continuing maintenance commitment. Any offers the Church has received for its development rights have been nominal (e.g., \$1-2 million), which is essentially the cost of a light and air easement to prevent future development, not the fair market value of the Building's available unused development rights.

5. Whether the Building Restoration Costs are Exaggerated

The Hiller, P.C. letter, the letters submitted by WJE Engineers & Architects, P.C.², dated June 8th and 9th, and several other commenters have claimed, without evidence, that the Church's restoration costs are exaggerated. Reasonable professionals can differ in their judgment of the costs of a building renovation, but none of the consultants who have testified in opposition to the application has put forward a complete alternative restoration proposal and has staked their professional reputation on it. The Church's engineers and other experts have responded to all questions raised regarding their analyses, and they stand by their estimates. In this regard, note in particular the responses that follow from Façade MD and Severud Engineering to the WJE Engineering letters.

Regarding the WJE June 8th and 9th letters, it is important to note that WJE states in its report that it assumes the sidewalk shed will remain. This assumption calls into question all of WJE's recommendations for the façade. They are not recommending a solution that will make the façade safe, but rather assuming it can remain in its deteriorated condition forever. Sidewalk sheds are not a permanent solution to the deterioration of a building; they are encroachments on the public right of way allowed on a temporary basis due to construction or unsafe conditions. DOB and DOT will not allow them to remain in perpetuity; indeed, DOB violations have continued against the Building despite the presence of the sidewalk shed. These fines could increase under Mayor Adam's recently announced "Get Shed's Down" program which contemplates that penalties of up to \$6,000 a month could be imposed on owners for sheds that remain in place without active building repairs. The Church is under the obligation to make the façade safe, such that the sidewalk bridge can be removed. A solution that assumes the permanent retention of the sidewalk bridge does not responsibly address the building condition issues and adversely impacts any potential rental income.

6. Phased restoration

Several commenters, including WJE, stated that restoration costs could be lowered by performing a phased restoration. While it would provide more time for fundraising, according to the Church's experts, a phased approach would

² Despite the repeated characterizations of WJE Engineers and Architects PC as an "independent" party, this firm was hired by opponents to the application.

actually lead to higher costs, due to the loss of economies of scale and repeated mobilization and the associated costs. It would also delay the time at which additional rental income from the Building could be earned, in the third-party use scenario. Furthermore, because the condition of the Building continues to deteriorate, a phased approach to repair would threaten to subject the Building to continuous and never-ending repair: Once the last portion of the façade has been repaired, the areas repaired initially would likely have deteriorated anew and would again be in need of repair. A phased restoration would also not allow the sidewalk shed to be removed until all repairs were completed, since the danger to the public would continue to exist.

B. Response to Commissioners' questions in memoranda dated June 19, July 3, and July 21, 2023 from West Park Presbyterian Church

To: Landmarks Preservation Commission

From: West Park Administrative Commission
165 West 86th Street, Manhattan

Re: West Park Presbyterian Church Hardship Application

Date: August 30, 2023

Cc: Mark Silberman, General Counsel

A. Response to Commissioner Holdford-Smith's Question Regarding Other Offers for the Building

In Public Hearing LPC-22-04861 on June 13, Commissioner Holdford-Smith asked Roger Leaf, Chair of the West Park Administrative Commission (the "WPAC") if the West Park Presbyterian Church (the "Church") had received any offers to purchase the Building, other than from Alchemy Properties Inc. ("Alchemy"). Mr. Leaf said that the Church had received other indications of interest on various occasions, but that there were no offers on the table other than the offer reflected in the contract with Alchemy Properties. Several witnesses subsequently gave testimony challenging this statement, so the following is a more detailed response.

On March 30, 2021, the Church entered into a Letter of Intent with Alchemy Properties, a copy of which was submitted to the Commission on April 13, 2023. This began months of analysis of the Building's condition issues, investigation of development alternatives and the Church's needs for a sustainable place for worship and community programs. This process ultimately resulted in the plan submitted to the Commission on April 5, 2022, based on a 200-page Purchase and Sale Agreement (the "PSA") that was approved by the WPAC on February 28, 2022 and signed on March 3, 2022. The PSA was then unanimously approved by the session of the Church on March 17, 2022, by the congregation of the Church on March 27, 2022, and by the Board of Trustees of the Presbytery of NYC on April 4, 2022. It was then approved by the full Presbytery on June 7, 2022 by a vote of 91 to 3.

As reported in earlier testimony, the PSA obligates Alchemy to pay the Church \$33 million for the purchase of the Building, and to pay the Church over \$8 million to fund

the build-out of an approximately 10,000 square foot worship and community facility to be designed, owned and used by the Church.

On June 11, 2022, 67 days after our application to the Commission and four days after the approval of the PSA by the Presbytery, Mr. Leaf received an unsolicited email from Ted Berger, together with a two-page, conditional offer from the Center at West Park (the “Center”), signed by Marian Warden, to purchase the Building for \$3.5 million. The terms of the offer included a 5% “refundable deposit” that would be paid once a definitive purchase and sale agreement had been negotiated and signed. The signing of the definitive agreement would be followed by a 30-day “due diligence period,” during which time the Center could back out of the deal. To date, this June 11, 2022 email is the only communication from Mr. Berger, Ms. Warden or the Center that the Church has received relating to this conditional offer.

The Church did not seriously consider this offer. The Church is bound by the terms of the PSA, which, like any land sale contract, does not give the Church the unilateral right to back out of the deal, and certainly not merely because it receives a non-binding, conditional offer from another potential purchaser for a fraction of the agreed-upon purchase price.

Mr. Leaf’s response to Mr. Berger’s email, which was read by one of the witnesses at the June 13 hearing, stated what the Center already knew: that the Church had already entered into a binding contract that had been approved by both the congregation and the Presbytery for multiple times the amount proposed in Ms. Warden’s letter. Mr. Leaf’s response went on to say that *“if this agreement does not close, we will consider any and all legitimate offers for the property at that time.”* This is indeed a true statement because the Church’s never-ending struggles to maintain the Building has driven it so deeply into debt that the only way it can avoid bankruptcy is to sell the Building.

B. Response to June 19, 2023 Questions from Mark Silberman, General Counsel

1. *There was testimony that West Park refused to get listed on the S/NR? Is that true and, If so, why?*
 - The Church has not applied for registration at either the State or National Register of Historic Places, even though it likely would have qualified. While such registration would have provided recognition of the Building’s historical or architectural significance and could have qualified the Church for relatively small Federal and State preservation grants, the application process is time-consuming and the Church did not have

anyone who was qualified to undertake the application. Federal investment tax credits for income-producing properties provide little benefit to non-profits unless they can be syndicated, which is an extremely complex undertaking. Tax credits for rehabilitation for third-party use are more fully described in our submission by Appraisers and Planners, Inc.

While preservation grants may have provided funding for small restoration projects, they would not have been nearly enough to address all of the Building's needs. With no staff to take on the application process, this was not considered an option for the Church.

2. *You testified that 27 of approximately 95 congregants voted in the 2010 referendum on the Administrative Council's recommendation to sell. What was the actual vote to not sell the building?*
 - The vote of the congregation was held on May 16, 2010, just six days after the City Council's May 12 vote to approve the Commission's designation of the Building. According to the minutes of that meeting, there were 87 Active Members of the Church at the time, of which 24 were present. An Administrative Commission that had been formed earlier that year brought forward a recommendation that the Church merge with the West End Presbyterian Church, effectively bringing an end to West Park as a congregation, and sell the Building. No sales price or other potential terms were discussed. The vote, which was only on whether to seek a buyer of the Building, was 8 in favor and 16 opposed. The minutes highlight the view that more time was needed to study options before committing to a sale.
3. *What prompted the Congregation to vote to sell the building in 2020, only two years after working to set up the Center?*
 - The Church calculated how much money it had on hand, how much income it would receive from the Center, and what expenses it would have to pay in the coming years. It had become clear at that time that the Church was going to run out of money within two years and would have to declare bankruptcy if it couldn't sell the Building.
- a. *How many were in the Congregation at this time; how many voted; and what was the vote?*

- A congregational meeting was held on May 1, 2020, preceding worship. At the time, there were 12 Active Members of the Church. Nine Active Members, the Moderator, and three guests were in attendance. The vote by the Active Members to sell the Building was unanimous.

b. When did you tell the Center about the vote?

- Four members of the Center's Board attended the May 1st congregational meeting, including President Marian Warden, Mitchel Schamroth, Donald Frantz, and Marsha Flowers. All were present for the vote.

c. Did you reach out to Borough President Brewer or make any other efforts raise money before voting? If not, why not?

- Over the years, especially in the years immediately after landmarking, Rev. Brashear and other session members met with Gale Brewer several times to pursue potential funding. Several of these meetings also included Board members of the Center at West Park. By the time of the 2020 congregational meeting, the congregation had given up on ever receiving any substantial funding from the City.

4. Your client stated the Congregation voted "unanimously" to sell the building to Alchemy at the meeting of March 27, 2022; what was the vote?

- Prior to the March 27, 2022 congregational meeting, the session had confirmed that there were 12 Active Members with authority to vote. Nine Active Members were present at the congregational meeting. The vote to sell the Building to Alchemy was eight in favor, none opposed, and one abstention.

5. How many times has the Presbytery of New York approved the sale of a church building between 2000 and 2023?

- The Presbytery has approved the sale of at least 28 other church properties, including church buildings, manses, vacant lots and other properties, and property received as bequests that have closed since

2000. Some of these sales were for multiple parcels. In some cases, the buildings were retained, and in others the buildings were demolished.

Of these, nine were sales of a church building, including:

- Astoria Presbyterian Church - 2006. The congregation sold the church to a developer of affordable housing, relocated to a new building and used sale proceeds for its ongoing mission.
 - Staten Island Presbyterian Church - 2006. The Church closed and sale proceeds were deposited into a restricted fund managed by the Presbytery.
 - Redeemer Presbyterian Church of East Brooklyn - 2010. The congregation sold the church and merged with another congregation in the Presbytery. Proceeds were used for the ongoing mission of the new combined congregation.
 - United Ridgewood Presbyterian Church - 2011. The church closed and sale proceeds were used to endow a new congregation.
 - French Evangelical Church - 2011. The property and air rights were sold to a developer of market rate housing. Developer restored the church as part of development, which is still used by the congregation.
 - Bay Ridge United Presbyterian Church - 2012. The congregation sold the church and merged with another congregation in the Presbytery. Sale proceeds were used to fund the mission of the new combined congregation.
 - Home Street Presbyterian Church - 2015. The church closed and sale proceeds were deposited into a restricted fund to support Presbytery churches in the Bronx.
 - Jan Hus Presbyterian Church - 2018. The congregation sold the church and used the proceeds to purchase a new property better suited to its mission.
 - Flatbush Redeemer Presbyterian Church - 2019. The church closed and half the sale proceeds were deposited into a restricted fund to support the mission of Presbytery churches, and half were deposited into the Presbytery's operating endowment.
-
- The Presbytery approved the proposed sale of the Building to Alchemy on June 7, 2022, which is not included in the above list because it has not yet closed. The vote was 91 in favor, 4 opposed.

6. *When was the last time the Church decided to try and fundraise? I note that according to the submissions, there was successful fundraising in the few years after designation, especially in 2015 and 2016.*
- In February 2017 the congregation ended Rev. Brashear's tenure as senior pastor, leaving a paid staff of just one part-time administrator. After this point, the Church did not have the resources to fundraise, and it had already begun the process of transferring the maintenance of the Building to the Center. But even prior to Rev. Brashear's departure, the Church was never able to fund-raise at a level that would have generated sufficient funds to restore the Building.
7. *Please explain the various amounts of rental income between 2015 and 2022? What happened between 2016 and 2017 when rental income declined significantly?*
- In 2015, Noche Flamenca and Shen Wei were the Church's largest tenants, although the Inure Community Church (a Korean congregation) and the Buddhist Council of New York also used the sanctuary for worship.
 - In 2016, Restoration Temple Ministries briefly leased space in the Building, and Russian Arts and the Lighthouse Church became long-term tenants. (Noche, Russian Arts, and Lighthouse accounted for the big jump in space use income, and continue to be major tenants to this day, but their rental agreements were turned over to the Center in 2017.) In 2016, the Church also generated some additional revenue from film shoots. In 2016, the Church's cash receipts for space use income reached an all-time high of \$276,242.
 - Starting in 2017, the Church's income from tenants was largely redirected to the Center, which assumed the cost of paying utilities in February of that year. This coincided with the termination of the Church's pastor. In 2017, the Church's space use income, including payments by the Center, dropped by 68% to \$89,048.
 - Starting in 2018, all space use income from tenants in the Building was retained by the Center in exchange for the payment of a monthly rental of \$2,200 to \$2,400 per month that it paid to the Church. In 2018, the Church's cash income from space use dropped an additional 82% to \$16,248. From 2019 to 2022, space use income from the Center ranged from \$22,549 to \$34,776.

Church Space Use Income (cash basis)

2015	2016	2017	2018	2019	2020	2021	2022
\$212,590	\$276,242	\$89,048	\$16,248	\$26,400	\$22,549	\$34,776	\$28,848

8. *Your team testified about the number of sales of religious buildings for over a million dollars and that all but one was for demolition. Please provide detailed numbers and sources for that information.*

- See Response dated July 24, 2023 by Appraisers & Planners Inc.

9. *What is the difference between a “church” and a “worshiping community”?*

- Within the context of the Presbytery of NYC, a “church” is a religious body that is under the guidance of the Presbytery and is incorporated under the New York Religious Corporation law with its own charter and by-laws. A “worshiping community” is a community of worshipers under the stewardship of the Presbytery that holds religious services led by an ordained minister of the Presbyterian Church (USA), but which is not incorporated, and typically does not own a space for worship. In time, a worshiping community typically evolves into a “church” as it grows in membership and resources. Many of the worshiping communities in the Presbytery are started by immigrants looking for a spiritual home.

10. *The church signed a 3-month exclusive Letter of Intent (“LOI”) with Alchemy on 3/30/21. The contractual goal was to evaluate different schemes to adaptively reuse church for some development. The actual contract to sell to Alchemy occurred in March 2022. Was there no other agreement in the interim between when LOI expired in June 2021 and March 2022?*

- On July 20, 2021, the LOI was extended to October 15, 2021. By the end of that extension, negotiations had already begun on the Purchase and Sale Agreement that was signed on March 3, 2022.

C. Response to July 3, 2023 Questions from Mark Silberman, General Counsel

1. *Please describe specific net and gross rental income (lessees and amounts) received by the church for 2012-2015. Did the Church utilize a broker to obtain these leases?*

- The Building remained empty and unoccupied through 2011 until repairs were made and heat was restored to the Building. In 2012, the Church leased space to the Occupy Wall Street movement, but the majority of rental income was from Sanctuary USA (an AME church) and Noche Flamenca. In 2013, the Manhattan Jewish Experience also became a tenant for several months, and in 2014 the French Christian Ministry began worshipping in the sanctuary.

In 2015, Noche Flamenca and Shen Wei were the Church's largest tenants. The Inure Community Church and the Buddhist Council of New York also worshiped in the sanctuary. In 2016, Restoration Temple Ministries briefly leased space in the Building, and Russian Arts and the Lighthouse Church became long-term tenants. Collectively, Noche, Russian Arts, and Lighthouse accounted for the big jump in space use income in this year. The Church did not use a broker to find any of these tenants. In 2016, the Church generated about \$17,000 in additional revenue from film shoots, which typically involves a broker who specializes in identifying filming locations.

Church Space Use Income (cash basis)

2012	2013	2014	2015	2016
\$60,454	\$51,042	\$47,902	\$212,590	\$276,242

2. *Please describe the yearly payments received by the congregation from the Center for West Park pursuant to the 2018 lease:*
 - a. *Monthly Rental income (section 3(a) of lease)*
 - b. *Annual Rental Fee -- 50% of Center's annual net profits (section 3(b) of the lease)*
 - c. *Contributed income from fundraising, individual donations for "facility improvement" (section 2(l) of the lease)*
 - Starting in 2017, the Church began to transfer its space use agreements to the Center at West Park, which paid the Church a monthly rent for the entire Building. The difference between the rental income collected by the Center and the rent paid to the Church was used by the Center to pay a staff of up to six people, to promote performances, and to pay for utilities and the sidewalk shed rental. Despite its extremely low rental payments, the Center did not undertake any major building repairs or undertake a capital campaign, as required under the lease. In fact, when

the Church had pay for the removal of the finial on the parish house roof for safety reasons and for the repair of the south wall of the sanctuary in 2021, the Center refused to pay any of the repair costs.

Center at West Park Lease Payments (accrual basis)

	2018	2019	2020	2021	2022
Monthly Rent - Sec. 3 (a)	\$2,200	\$2,200	\$2,266	\$2,334	\$2,404
Annual Sec. 3(a) Rental Income	\$26,400	\$26,400	\$27,192	\$28,008	\$28,848
Annual Rental Fee - Sec. 3 (b)	0	0	0	0	0
Fundraising - Sec. 2 (l)	0	0	0	0	0
Rent per SF (18,353 sf)	\$1.44	\$1.44	\$1.48	\$1.53	\$1.57

3. *According to the lease, the Church has up to 3 members on the Board of the Center. The Center claims it has spent approximately \$500,000 on maintenance and improvements. Can you provide financial statements for the Center from 2018-2022 showing what income the Center had from leases and other activities, and what it spent on upgrading the interior and/or exterior of the Church. (If you do not have ready access to this information I will ask the Center.)*

- In 2018, three members of the Church were elected to the Center at West Park's Board: Rev. Robert Brashear, former pastor of the Church, Marsha Flowers and Don Frantz. In 2021, Rev. Brashear resigned from the Board over policy differences, and died suddenly of a heart attack in 2022. The Church was not given the opportunity to appoint a successor to Rev. Brashear. Ms. Flowers and Mr. Frantz remain on the Board, albeit in name only as the Center has excluded them from any formal voice in the administration of the Center, including votes by the Center Board. They do not have access to the Center's books and records, and do not receive annual financial statements from the Center's accountants. Neither the Church nor Ms. Flowers or Mr. Frantz have access to any information regarding the Center's alleged expenditures on the Building, and they have no evidence that any repairs have been made by the Center.

The Center would be the best source for its financial statements, or for a detailed breakdown of any capital expenditures by the Center to restore the Building, as was required under its lease.

4. *The lease with the Center provides for the church to use the walls of the Chapel for temporary arts exhibition of up to 6 weeks for each 6-month cycle, as defined by the lease. How many temporary art exhibitions did the church have before the March 2020 Covid Emergency?*

- According to Marsha Flowers and Congregation member Leila Elias, the Church hosted a number of art exhibits in the Chapel during the early years after landmarking, but there have been only two since 2018, and none during the Covid epidemic.

5. *Who are the existing members of the congregation, and have they all been members of the congregation since 2010?*

- According to the Book of Order, Active Members of the congregation must first be baptized and received into membership by the session, either by Certificate of Transfer, or by Profession or Reaffirmation of Faith. The session is responsible for maintaining a record of Active Members, including the removal on the names of former members who are no longer active.
- In a meeting on March 17, 2022, in preparation for the calling of a special congregational meeting, the session confirmed the following Active Members. All have been Active Members for at least nine years, and many had long ties to the Church before becoming an Active Member.

Church Congregation in 2022

<u>Active Members</u>	<u>Member Since</u>
Berik Kulmamirov	2014
Marsha Flowers	1993
Russ Jennings	2014
Dion Thompson	2013
Rudy VanDaele	1990s
Arcadia Brenes	1990s
Junia Flavia D’Affonseca	2015
Leila Elias	2005

Don Frantz	2014
Hugo deMenenses	1990s
Patricia Klein	2000s
Andre Solomon-Glover	2000s

6. *What is the expected “endowment” for the congregation if the hardship is granted?*

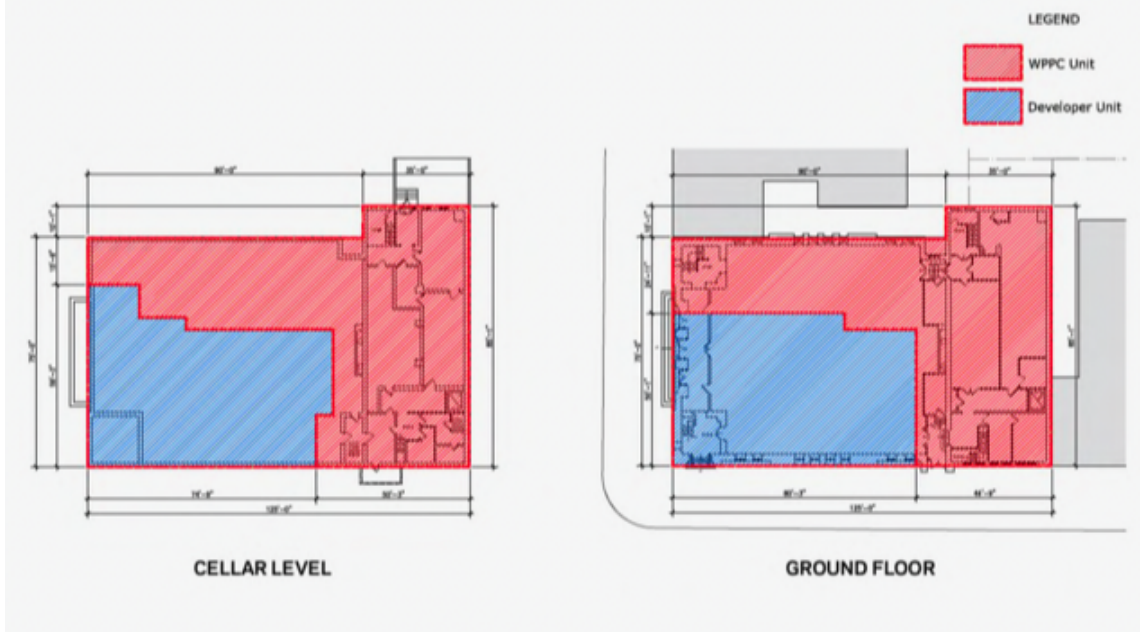
- The resolution approved by the Church congregation and accepted by the Presbytery stipulates that the *“the [Church’s] Session, in partnership with the Board of Trustees of the Presbytery will prepare a financial plan for the revival, growth, stability and continued mission of the Church and determine an amount to be set aside for the benefit of the Church in the form of an endowment to provide assistance in meeting these goals. Such funds would be invested by the Presbytery, and the earnings thereon used for the benefit of the Church.”* The amount of the endowment will thus be determined by the Session and the Presbytery as an amount sufficient to fund the Church’s annual operations.
- The endowment should presumably be large enough so that an annual draw of 4.5% of its average value over three years (together with stewardship, space use and other income) would be sufficient to cover the cost of a senior pastor, custodial and administrative staff, worship expenses, community outreach programs, and building maintenance costs. The size of the required draw would vary depending upon the amount of revenue that can be generated from space use and stewardship. For example, to offer very low-cost space to arts groups would necessitate a larger endowment.

7. *If the hardship is granted, the contract between the AC and Alchemy requires Alchemy to provide the congregation with a 10,000 sf “white box” community space in the new building, which can be used for arts programming, other community uses, and church worship space. How did the congregation determine the amount of space it needed and/or desired in the new space?*

- Nearly all of the available space on the ground floor and lower level of the new building has been dedicated to use by the Church, other than space occupied by the residential lobby and a small amount of corner retail space set aside to animate the streetscape. A floor plan showing the community space is included below.

EXHIBIT F

General Depictions of Community Space Unit and Developer Unit



- The Church's space in the new building will include a double-height, column-free space to accommodate seating for approximately 150 people, which would be suitable both for the Church's own needs and for the types of performing arts groups and other religious institutions who are the most likely tenants of the space. The 10,000-square-foot space to be retained by the Church will be approximately 1.7 times the size of its current Parish House.
- 8. *The church estimates the value of the white box community space to be \$12 million, not including outfitting it for theater, community and worship use. How was that value calculated? What is the estimated cost for outfitting it for actual use?*
 - The \$12 million value cited in our testimony referred to the completed space retained by the Church. This includes the value of the "white box" and the \$8,823,500 that Alchemy will donate to the Church to build out the space.

The BBG appraisal dated August 9, 2021 valued the retail space on the ground floor at \$1,100 per gross square foot. The space retained by the Church on the ground floor totals 5,750 gross square feet, and would be valued at \$6,325,000 if it were used instead for retail.

The 6,000 gross square feet of below-grade space was not included in the BBG appraisal. This space is contiguous to the ground floor space, which has its own entry from Amsterdam Avenue. The two-level white box includes fire stairs and exits, a dedicated elevator, an interior stairway, plumbing for bathrooms, and full HVAC.³ Even if no value were assigned to this below grade space, the built out space retained by the Church, based on the BBG appraisal, would be valued at \$15,150,000, including the grant from Alchemy.

- The funds that Alchemy would provide to the Church to build out the white box into finished space for worship and community programs is based on a budget of \$610 per square foot for hard costs, and \$265 per square foot for soft costs, which are the same cost assumptions Alchemy used for the construction of residential units in the new building. The total funds Alchemy would provide would therefore be $10,078 \times (\$610 + \$265) = \$8,818,250$, assuming 1,700 square feet of double-height space.

9. *On page 6 of the revised 4/10/23 LGB cost estimate (Exhibit F) the top left text says: "1. Revised Scope see estimate dated March 30, 2023" has a cost of \$13,698, 294. We don't know what that is and don't have it.*

- The \$13,698,294 figure is LBG's March 30, 2023 estimate of the cost of the façade restoration, excluding the cost to repair the stained glass windows and expenses for contingencies, insurance, general conditions, and construction management. The bulk of this cost is \$9,888,274 for masonry restoration and \$1,279,000 for roofing and waterproofing. We provided the attached spreadsheet to Mark Silberman on July 7, 2023, showing how that estimate was derived.

³ As currently designed, there is 1,700 gross square feet of double height space for a sanctuary/theatre, which would reduce the amount of useable square footage on the ground floor. The valuation assumes that this double height space is eliminated and the full ground floor space is used for retail.

D. Response to July 21, 2023 Email Request from Mark Silberman, General Counsel

Alchemy has stated that it analyzed a variety of adaptive reuse schemes, each of which was determined to be infeasible. Can you please clarify the basis of the infeasibility and, to the extent that the purchase price was a factor in the determination, was the purchase price assumed to be the same as it is currently (\$33 million cash + \$12 million for construction of 10,000sf white box space = \$45 million).

As discussed in our April 2023 submission, the Church and Alchemy investigated a number of possible adaptive reuse schemes before determining that demolition of the Building is the only feasible option. The purchase price to be paid by Alchemy was not a factor in evaluating any of these options. Rather, they were evaluated based on qualitative factors, including constructability, marketability, and finance-ability. The purchase price was determined only after the Church and Alchemy identified demolition as the option that they would pursue.

For example, FX Collaborative Architects prepared two schemes involving construction on the Parish House site and preservation of the Sanctuary building. The matrix prepared by FXC, included with this submission, shows the factors considered in the evaluation of these schemes, and why they were determined to be infeasible. FXC has also used these same criteria to evaluate the proposal submitted by Urban Artisan / David Finehirsh in a letter dated June 9, 2023. The matrix includes this evaluation of the Urban Artisan proposal.

C. Response to Commissioners' question regarding recent church sales data, provided by Appraisers & Planners, Inc.



APPRAISERS AND PLANNERS INC

9 EAST 40TH STREET NEW YORK, NY 10016

(212) 683-1122 FAX (212) 213-6120

www.appraisersandplanners.com

JAMES L. LEVY, MAI, ASA
SHARON LOCATELL, MAI, CRE, MRICS
ADAM L. WALD, MAI
CHRISTIN L. PHILLIPS, MAI
KERRY MARINACCIO, MAI

EDWARD LEVY, ASA (1907-2004)
RUTH A. AGNESE, MAI, MRICS (1962-2013)

July 24, 2023

Hon. Sarah Carroll, MFA
Chair – Landmarks Preservation Commission
1 Centre Street
New York, New York 10007
Cc: Mark A. Silberman, General Counsel

**Re: Response to LPC Question #8
June 19, 2023 Memo
West-Park Presbyterian Church
165 West 86th Street
New York, New York**

Dear Chairperson Carroll:

The June 19th memo from Mark Silberman includes the following question from LPC staff:

“8. Your team testified about the number of sales of religious buildings for over a million dollars and that all but one was for demolition. Please provide detailed numbers and sources for that information.”

During testimony provided by the applicant team, Roger Leaf of the West Park Administrative Commission stated the following:

“In the last 10 years there have been 65 sales of religious properties for over \$1 million in the Borough of Manhattan. Of these 65 sales, 61 were purchased for demolition or for 3rd party use. Only four were purchased by a faith-based organization, and only one of these was on the Upper West Side – a property on 97th Street that sold for \$3.7 million. Clearly the high cost of restoration makes the building uneconomic, not just for West Park, but for any congregation.”

The data referenced by Mr. Leaf was provided to him by Appraisers and Planners, Inc., in preparation of his remarks. The data was sourced from a list of religious sales from CoStar in the first week of April 2023, capturing recorded data through mid-March 2023. Since then, four additional sales of religious facilities have closed or entered into contract. For two of these sales, indications are they will ultimately be used for religious purposes. The updated data now includes sales through May 18, 2023 and one sale that entered into contract in May 2023.

Within the initial list of sales, three of the transactions were reported by CoStar as six transactions, with an allocation of price by parcel. We have revised the presentation of these sales and combined the sale prices of multi-parcel transactions where the buyer bought multiple parcels from the same seller.

This was the case for 237-241 East 62nd Street, 252 East 72nd Street / 257-259 East 71st Street and 568 Broome Street / 32 Dominick Street. Additionally, a sale that was reported as a religious facility at 119 East 95th Street was removed from the list as it was misclassified. The consolidation of these transactions, plus the four (4) additional sales transactions occurring since Mid-March 2023 results in a total of 65 sales. Only one (1) sale on the Upper West Side was purchased by a religious organization, or for use as a religious facility. The full list of sales is attached to this letter in Exhibit A.

Following an analysis of each transaction, we have organized the sales into three categories identified as Religious, Redevelopment and Demolition. The categories reflect the following status:

Redevelopment: A change in use from the previous religious use into an alternative use. Uses included conversions for multifamily rental, multifamily condominium, single-family, co-living, dormitory, museum, government offices and non-profit foundation/institutional use.

Demolition: The building purchased was entirely demolished; new development is either completed, ongoing or contemplated.

Religious: The building was purchased by a congregation for use as a place for prayer or to support an existing religious facility.

Summary of Manhattan Religious Facility Sales Over \$1,000,000 – April 2013 to May 2023

Actual / Intended Use	# of Sales
Religious	6
Redevelopment	22
Demolition	37
Total	65

Summary of Religious Facility Sales

Property Address	Building SF (Per	Sale Price	Sale Date	Status	Comments
612 W 180th St	10,595	\$3,700,000	9/20/2013	Religious	Purchased for use as a church by The Universal Church. Property was renovated and in very good condition.
351 E 74th St	23,975	\$22,500,000	2/25/2019	Religious	Purchased by Church of the Epiphany after selling 1393 York Avenue for \$68,000,000.
204 W 97th St	6,500	\$7,000,000	2/27/2019	Religious	Purchased by the RC Diocese. Abuts several other buildings owned by RC Diocese
237-241 E 62nd St	8,838	\$17,800,000	7/19/2019	Religious	Purchased by the Coptic Orthodox Church. Property was renovated and in excellent condition at sale.
147 W 123rd St	9,418	\$4,300,000	3/30/2023	Religious	Purchased by the Universal Church for use as a church
2315 Adam Clayton Powell Jr Blvd	4,000	\$2,200,000	5/18/2023	Religious	Purchased by the Community of St. Egidio for use as a church

EXHIBIT A

Property Address	Building SF (Per	Sale Price	Sale Date	Status
371-373 Manhattan Ave	4,860	\$1,200,000	4/26/2013	Redevelopment
145-151 Central Park N	9,168	\$11,375,000	6/18/2013	Demolition
72 Hamilton Ter	4,124	\$1,125,000	6/27/2013	Redevelopment
67 Avenue C	3,819	\$2,400,000	7/18/2013	Demolition
612 W 180th St	10,595	\$3,700,000	9/20/2013	Religious
145-151 Central Park N (resale)	9,168	\$16,500,000	10/28/2013	Demolition
568 Broome St / 32 Dominick St	5,412	\$19,500,000	11/7/2013	Demolition
1 W 96th St	30,000	\$26,000,000	4/21/2014	Redevelopment
30 E 31st St	20,065	\$15,599,500	6/9/2014	Demolition
568 Broome St (resale)	3,312	\$18,400,000	6/11/2014	Demolition
534 W 29th St	7,200	\$6,291,520	6/12/2014	Demolition
42-46 W 66th St	10,030	\$45,000,000	12/17/2014	Demolition
193 Henry St	5,050	\$2,250,000	12/18/2014	Demolition
103-105 Morningside Ave (Part of Multi-Property Sale)	6,800	\$2,865,171	2/24/2015	Demolition
10 W 17th St	12,000	\$28,250,000	7/16/2015	Demolition
193 Henry St	5,050	\$4,150,000	8/11/2015	Demolition
206-212 Wadsworth Ave	57,200	\$8,000,000	9/18/2015	Demolition
200-204 Amsterdam Ave	19,535	\$275,000,000	10/15/2015	Demolition
2535 Frederick Douglass Blvd	9,962	\$1,540,000	12/11/2015	Demolition
308 W 133rd St	11,982	\$4,000,000	1/7/2016	Demolition
1763 Amsterdam Ave	12,029	\$2,588,327	1/15/2016	Demolition
142 W 81st St	10,386	\$6,711,506	1/20/2016	Redevelopment
143 W 87th St	2,116	\$4,310,000	4/29/2016	Redevelopment
262 W 118th St (resale)	5,808	\$4,510,500	6/8/2016	Redevelopment
362 W 125th St	11,890	\$28,500,000	7/26/2016	Demolition
238 E 15th St	18,720	\$18,800,000	8/17/2016	Demolition
204-214 W 31st St	23,110	\$47,999,900	12/1/2016	Redevelopment
1713 Madison Ave	12,357	\$6,700,000	2/16/2017	Demolition
413 Lenox Ave	3,763	\$2,430,000	2/17/2017	Demolition
2457 Frederick Douglass Blvd	8,990	\$1,706,800	3/7/2017	Redevelopment
460 W 44th St	9,191	\$8,010,000	3/17/2017	Redevelopment
26 W 127th St	2,115	\$1,000,000	7/3/2017	Demolition
249 W 14th St	30,000	\$7,995,000	7/31/2017	Demolition
116 Edgecombe Ave	5,015	\$7,544,000	8/30/2017	Redevelopment
58 W 135th St	6,700	\$1,250,000	9/8/2017	Demolition
160 E 35th St	11,500	\$8,250,000	11/28/2017	Redevelopment
1 W 96th St	30,000	\$45,000,000	12/22/2017	Redevelopment
223 E 25th St	6,507	\$6,000,000	2/1/2018	Redevelopment
18 W 116th St	9,687	\$6,722,784	6/11/2018	Demolition
252 E 72nd St & 257-259 East 71st	12,240	\$30,200,000	8/28/2018	Demolition
109-111 Mulberry St	4,440	\$12,800,000	9/21/2018	Demolition
190 Prince St	10,998	\$19,000,000	12/7/2018	Redevelopment
15 W 124th St (Part of Multi-Property Sale)	18,216	\$7,030,028	2/11/2019	Demolition
1393 York Ave	21,000	\$68,000,000	2/20/2019	Demolition
351 E 74th St	23,975	\$22,500,000	2/25/2019	Religious
204 W 97th St	6,500	\$7,000,000	2/27/2019	Religious
1975 Madison Ave	18,434	\$16,000,000	5/31/2019	Demolition
1834 3rd Ave	72,522	\$13,400,000	7/9/2019	Demolition
237-241 E 62nd St	9,008	\$17,800,000	7/19/2019	Religious
454 Convent Ave	11,034	\$7,600,000	12/11/2019	Redevelopment
463 W 142nd St	12,605	\$4,500,000	2/10/2020	Redevelopment
42-44 Second Ave (Part of Multi-Property Sale)	5,790	\$18,689,753	3/16/2020	Demolition
218 W 108th St	13,800	\$5,160,000	8/25/2020	Redevelopment
60 Norfolk St	4,600	\$12,000,000	12/23/2020	Demolition
50 E 130th St	86,981	\$11,350,000	3/26/2021	Redevelopment
168 W 225th St	7,759	\$2,625,000	11/22/2021	Demolition
539 W 54th St	30,210	\$25,000,000	12/28/2021	Demolition
524 Fort Washington Ave (Part of Multi-Property Sale)	24,839	\$5,529,853	1/28/2022	Demolition
12 W 131st St	3,825	\$1,100,000	6/3/2022	Redevelopment
116 Edgecombe Ave (Resale from investor)	5,015	\$9,000,000	9/13/2022	Redevelopment
338-342 W 53rd St (Part of Multi-Property Sale)	18,146	\$16,500,000	3/20/2023	Redevelopment
147 W 123rd St	9,418	\$4,300,000	3/30/2023	Religious
114-124 E 35th St	20,215	\$15,000,000	4/3/2023	Redevelopment
53 Catherine St (2 Properties)	46,851	\$14,500,000	Under Contract	Redevelopment
2315 Adam Clayton Powell Jr Blvd	4,000	\$2,200,000	5/18/2023	Religious

D. Response to WJE Engineering report from Façade MD



362 Fifth Avenue
11th Floor
New York, NY 10001
(212) 560-9292
(212) 560-9746 fax
www.FacadeMD.com

July 26, 2023

Ms. Sarah Carroll, Chair
NYC LANDMARKS PRESERVATION COMMISSION
1 Centre Street
9th Floor North
New York, NY 10007

Re: **Additional Consultant Documents**
165-167 West 86th Street, aka 541 Amsterdam Avenue – West Park Presbyterian Church
LPC-22-09135
Manhattan
Tax Block: 1217
Tax Lot: 1

Dear Chair Carroll and Commissioners:

We are submitting this letter in response to certain inaccurate statements made in the submissions dated June 8, 2023 and June 9, 2023, by WJE Engineers & Architects PC, the professionals engaged by the parties who are opposing the Church's application.

Generally speaking, the June 8 letter agrees with Façade MD's assessment that there is significant deterioration of the red sandstone elements of the facade, particularly at window surrounds and at upper portions of the building, and including failure of cementitious repair materials. WJE suggests that the extent of deterioration in the brown sandstone is much less.

The June 8 letter closes on page 6 with the statement that "available reports and cost estimates recommended extensive structural face and roofing repair sometimes in excess of those necessary (to) maintain the building in a safe and weather-resistant condition." While it is common and expected that professionals will have different opinions regarding building conditions, including the severity of deterioration and extent of recommended repair, it is important to be accurate regarding specific items for which clarification is readily available.

Page 5 of the June 8 letter states that no photos included within the Façade MD report dated November 16, 2021 and updated December 2, 2021 suggest that Façade MD staff had access to the building above the window sill height at the bell tower (approximately 42 feet above grade). As stated several times during site meetings, and during the public hearing of June 13, Façade MD spent 3 days on a boom lift provided by Alpha Platforms in October, 2021. During that time, Façade MD was at close range to the entire exterior of the building.

Page 9 of the June 9 letter indicates that Façade MD stated in the May 10, 2023 site meeting that Façade MD had accessed only 5 percent of the building's façade are at close range for physical examination or sounding. In fact, Façade MD stated that Façade MD had accessed all of the building's façade area at close range, but physically sounded only about 5 percent of the total wall are due to concerns about the stability of the stone.

On page 2 of the June 9 letter, WJE mistakenly suggests that the NYC DOB online database Buildings Information System (BIS) Property Profile Overview for the building, by indicating "YES" adjacent to the "Local Law" field, proves that this building is subject to FISP filing with the NYC Department of Buildings. Unfortunately, this incorrect statement was repeated a few times during the June 13 hearing.

NYC DOB Façade Unit has confirmed that the applicability of the FISP requirement is not the intention of the "Local Law" field on this BIS page, and the Façade Unit has also confirmed that 165 West 86th Street is not required to file FISP reports.

According to NYC Administrative Code 28-302.1 and 1RCNY 103-04(c)(1), FISP requires periodic inspection of exterior walls for buildings greater than six stories in height. The Church has never filed a FISP report, and has never received a violation for failure to file – despite receiving numerous violations over the years related to the condition of the façade.

Page 2 of the June 9 letter suggests that there are conflicts between Façade MD statements on the thickness of the sandstone units and other sources, including observed field conditions. Façade MD has maintained from the beginning of our investigation that the thickness of the sandstone units is between 4 and 8 inches. In our opinion, the variety of stone thickness at various locations in this building is typical of solid masonry construction of this vintage.

Pages 7 through 9 of the June 9 letter suggest that the Façade MD characterization of the sandstone as "veneer" is inaccurate. Façade MD has always characterized the exterior walls of this building to be a load-bearing wall system, as agreed by WJE on page 6 of the June 9 letter. In our opinion, therefore, the labeling of the components within this load-bearing system is a semantic issue.

The issue of anchors within the wall is also discussed in pages 7 through 9 of the June 9 letter, suggesting that the essential staggered construction of the wall did not require anchors to provide a mechanical bond between the elements of the bearing wall assembly. Façade MD does not agree with this suggestion, as our investigation testing and probing clearly indicated voids and gaps between elements of the solid wall assembly, resulting in diminution of the load carrying ability of the wall.

I am happy to clarify further if needed.

Very truly yours,


Richard W. Lefever, PE, LEED AP
President



07/26/2023

E. Response to WJE Engineering report from Severud Engineering

Severud Associates

CONSULTING ENGINEERS P. C.

469 Seventh Avenue • New York, New York 10018 • (212) 986-3700

Edward M. DePaola
Cawsie Jijina
Steven J. Najarian
Brian A. Falconer

Fortunato Orlando
J. Benjamin Alper
Matthew H. Peitz
Daniel J. Surret

June 28, 2023

Re: #17298
North and South Wall Lean
West Park Church
165 West 86th Street
New York, NY

Roger Leaf
West Park Administrative Commission
165 West 86th Street
New York, NY

Dear Mr. Leaf:

The purpose of this letter is to respond to structural engineering related comments made by WJE Engineers & Architects, P.C. in a letter addressed to the New York City Landmarks Preservation Commission dated June 9, 2023. Their structural engineering related comments concern documents that were previously issued by us that describe observed structural conditions of the church and provide recommendations to repair these conditions and stabilize the church structure. In addition, their comments concern verbal commentaries that were given by us on site in the presence of the Landmarks Preservation Commission to highlight and clarify our observed conditions and recommendations.

WJE Comment:

These gable end walls receive no outward thrust from the roof and, as the LPC's question suggests, they could be stabilized by tying them back to adjacent roof structure.

Response:

They opine that the gable walls receive no outward thrust from the walls, yet the fact remains that the walls are leaning, and no alternative explanation has been given as to why they are leaning.

WJE Comment:

Removing the "girts" from the scope of structural stabilization measures would remove \$1.2 million from the \$1.9 million cost estimated by LBG based on Severud's report.

Response:

No basis has been given for the quantity of these savings and no specific alternative design concept has been provided to address the leaning walls.

WJE Comment:

In summary, Severud's response to LPC's question does not demonstrate that the outward displacement of exterior walls is "excessive" or that it results in conditions that cannot be stabilized.

Response:

This conclusion is based on their analysis that states that the greatest reported outwards displacement in the front (south) wall below the main roof eave is 0.38 feet or 4.5", which significantly misrepresents

Severud Associates

Roger Leaf
West Park Administrative Commission

Page 2
June 28, 2023

the data. The 0.38 feet is only over a 15-foot height between the bottom of the round circular stained-glass window and the main roof eave, as that is the only area of wall that could be scanned by the surveyor from 86th Street. There is still an approximately 17-foot height of wall below that they are neglecting in their analysis, over which the tilt in the wall is approximately the same based on our field observations and extrapolation of survey data. Based on our analysis, the wall is leaning approximately 8" from the base (sidewalk) to the main eave and 12" from the base to the pinnacle, which in our opinion is excessive. Even if the survey data alone is used, an existing bearing wall that slopes 0.38 feet over a height of 15 feet (H/40) is excessive by any industry standard. The above statement also misrepresents our report by stating that the tilt results in conditions that cannot be stabilized. We do say that it can be stabilized, and we have issued conceptual drawings indicating what those stabilization measures look like. No alternate design concept regarding the method of stabilizing these walls has been given.

WJE Comment:

Severud's reporting of outward displacement over a shorter vertical distance (18 versus 28 feet) exaggerates the angle of rotation of the surveyed portion of the north facade, making the outward rotation seem 1-1/2 times larger than it actually is.

Response:

They are misrepresenting our conclusions by assuming that we misread the extent of the data on the rear (north) wall. This is not correct. Although the overall northern scanned area is 28 feet high, we focused on a smaller 18 foot section of the wall, where the slope in the wall is more severe. The readings go from zero to 4" outwards over a height of 18' (at the top of the round window.) We are not making the rotation seem larger than it actually is – that is what the rotation actually is.

WJE Comment:

Additionally, the reported outward displacement of the surveyed portions of exterior walls likely includes contributions from multiple sources and does not result in conditions that cannot be stabilized.

Response:

We do say that it can be stabilized, and we have issued conceptual drawings indicating what those stabilization measures look like. No alternate design concept regarding the method of stabilizing these walls has been given.

If you have any questions, comments or concerns, please do not hesitate to contact us.

Very truly yours,

Severud Associates



Muhammad Rahal, PE
Senior Associate

MTR/mmi

F. Response to written testimony of David Finehirsh from FXC Collaborative Architects

FX Collaborative Architects prepared two schemes involving construction on the Parish House site and preservation of the Sanctuary building. The attached matrix shows the factors considered in the evaluation of these schemes, and compares them to the proposal submitted by David Finehirsh / Urban Artisan in a letter dated June 9, 2023.

Issue	Park West - Urban Artisan / ZGF	Study F - Alchemy / FXC	Study G - Alchemy / FXC	Feasibility Impacts
1. Zoning				
1.1 Building Height	As of Right	As of Right	Zoning Compliance with ZR 23-692 is unclear. Discretionary approval may be required.	Modification of the bulk is a discretionary action. It would add time and development risk as well as additional costs. As part of the process, additional requirements may be imposed including the incorporation of affordable housing, negatively impacting the financial feasibility.
1.2 Street wall Continuity	Non compliance w/ Streetwall Continuity on floors 5-7.	As of Right	As of Right	Modification of the bulk is a discretionary action. It would add time and development risk as well as additional costs. As part of the process, additional requirements may be imposed including the incorporation of affordable housing, negatively impacting the financial feasibility.
2. Residential Space				
2.1 Number of Floors	20 Floors: 10' floor to floor heights are shown on floors 4-20. This is unrealistically low. New luxury condominiums target 10' clear ceiling height = 10'-9" floor to floor; no allowance is made for offsets or cantilevers.	13 floors with adequate ceiling heights and clearances	19 floors with adequate ceiling heights and clearances	UA/ZGF Scheme will need to be reduced by two floors
2.2 Sellable Area per floor	Floors 2 - 7: Units are 50% oversized for marketability, given habitable room sizes Floors 8-14: Assume reduction of approximately 700sf of sellable to create reasonably sized units.	Floors are reasonably sized for marketable units, but would involve loss of approx. 2,825 SF overall for smaller unit mix (multi-tenant corridor).	Floors are reasonably sized for marketable units.	UA/ZGF Scheme unit sellable areas are over-valued given how few habitably sized bedrooms and living rooms can be create.
2.3 Light and Air	Windows under cantilever results in very compromised daylight light and views on 7th floor south unit. While north-facing windows on floors 2-4 provide legal light and air, the 16' rear yard (grandfathered by virtue of preserving the existing north wall of the Rectory) but very compromised access to daylight and views.	Adequate lighting under shallow cantilevers. All windows onto min 30' depth spaces.	Adequate lighting under shallow cantilevers. All windows onto min 30' depth spaces.	UA/ZGF Scheme windows are compromised by poor access to light and air. Utilizing existing rectory north wall, and deep cantilevers increases floor area has significant impact on value of floor area.

Issue	Park West - Urban Artisan / ZGF	Study F - Alchemy / FXC	Study G - Alchemy / FXC	Feasibility Impacts
2.4 Amenity Space	None indicated - assume reduction of 2,000 Sellable SF	Included	Included	UA/ZGF Scheme needs to account for amenity space in order to be feasible.
2.5 Sellable Area Impact Summary	Sellable: 48,015 SF (reduction from 57,503 SF) The sellable area will be reduced a total of 9,488 SF due to: two less floors per 2.1 (6,788 SF); more marketable corridor per 2.2 (700 SF); Need Amenity space per 2.4 (2,000 SF).	Sellable: 23,218 SF (or 20,395 SF for smaller unit mix)	Sellable: 38,208 SF	UA/ZGF Scheme creates more sellable area, however, it is of lower value due to compromised light, views, and oversized units. It also comes with the penalty of increased construction costs.
3. Structural / Constructability				
3.1 Partial Demolition	Demolition and stabilization of rectory floors and roof; Demolition and stabilization of Sanctuary East wall	Complete demolition of structurally independent rectory building.	Complete demolition of structurally independent rectory building.	UA/ZGF Scheme involves very complex and costly phased partial preservation and demolition.
3.2 Structure	New structure for east side of church - required to support walls and roof; New core and columns on Rectory site need to tie-in and maintain 75% of existing rectory building to utilize existing non-compliant legal windows (per ZR 54-41).	Create structurally independent new building on rectory site	Create structurally independent new building on rectory site	UA/ZGF Scheme involves much more complex and costly tie-in of existing and new buildings, due the lack of structural independencies of their new building.
3.3 Preservation of North Wall	Preservation of north wall required to utilize grandfathered non-compliant legal window distances (per Multiple Dwelling Law 277)	No preservation	No preservation	UA/ZGF Scheme is contingent on costly preservation of the north wall.

Issue	Park West - Urban Artisan / ZGF	Study F - Alchemy / FXC	Study G - Alchemy / FXC	Feasibility Impacts
4. Existing Façade				
4.1 Costs and Phasing	Phasing required to stabilize partial portions of existing sanctuary and rectory buildings during construction. Façade restoration of church would likely occur after new building structure built.	Façade restoration of church could occur while new building structure built.	Façade restoration of church could occur while new building structure built.	On all schemes, this would be a significant cost impact to construction.
4.2 Scaffolding	Scaffold remains up during phased renovation of façade	Façade restoration complete prior to occupancy of new building	Façade restoration complete prior to occupancy of new building	UA/ZGF Scheme's marketability of the retail and residential space will be impacted.
5. Church Use	No church space provided.	Church sanctuary to remain	Church sanctuary to remain	UA/ZGF Scheme does not enable congregational use.