

Thursday, November 12, 2015

**Statement of the Honorable Carl Weisbrod, Chairman of the NYC Planning Commission
and Director of the Department of City Planning, before the Parks and Recreation
Committee of the City Council, on Intro 737**

Good afternoon Chairman Levine and members of the Committee. I am here this morning to testify about Intro 737 and am joined by officials from the Department of Parks and Recreation (DPR). As I understand it, this bill would require the Parks Department to establish a task force to study the effect of shadows cast on public parks by new or proposed buildings. The proposed task force would issue a report on steps the City can take to mitigate negative consequences.

GENERAL LAND USE REVIEW

As the City's planning and land use agency, the Department of City Planning's role is to develop land use policies and apply zoning designations that are appropriate for a growing city. Through this process, which is informed by input from the public, civic organizations, elected officials, as well as interested and involved agencies through both open hearings and technical environmental review, we have found that in some cases there are significant shadows impacts. However, we believe there are appropriate safeguards in the existing Uniform Land Use Review Procedure (ULURP) and through the City Environmental Quality Review (CEQR) process to address identified impacts. The proposal that is the subject of this hearing would allow this new task force to act as a "shadow zoning agency" without benefit of the robust multi-layered public input that ULURP provides. In my view, this is unnecessary and would establish a dangerous precedent of splintering and diffusing our environmental and land-use processes, which would add increased uncertainty to an already complex process.

Most discretionary land use actions considered by the City Planning Commission (CPC) are subject to CEQR. Pursuant to state and local law, CEQR identifies any potential adverse environmental effects of a proposed action, assesses their significance, and proposes measures to avoid or mitigate significant impacts. Shadows are one of the potential environmental impacts required to be assessed under CEQR. There is already an established methodology for doing that assessment and standards for determining whether impacts from shadows are significant and can feasibly be mitigated. CEQR lead agencies work with interested and involved agencies in assessing and mitigating potential impacts. So the collaboration between the agencies that this bill hopes to achieve is already required and happening. The State Environmental Quality Review (SEQR) regulations require that an agency, in taking a discretionary action, take a "hard look" at the environmental effects of the action, by identifying the relevant areas of environmental concern, thoroughly analyzing such areas to determine whether an action has the potential for significant adverse impacts, and supporting its determination with a reasoned elaboration. The proposed bill, by requiring shadows analyses outside of CEQR, would inevitably lead to conflicts with a lead agency's determination and interfere with the CEQR process and accepted methodologies for analyzing potential

shadows impacts. This could result in costly litigation and unnecessary delays due to the ambiguity that will be created. With respect to shadows on parks, I do want to underscore that the Department of Parks and Recreation is, of course, one of the agencies that the lead agency always consults with in its environmental review.

CENTRAL PARK CONDITION

The Department of City Planning has heard from individuals, civic organizations and elected officials particularly about the impact of shadows on Central Park. We know, also, that this is an issue of some concern throughout the five boroughs. With respect to Central Park, I note that Midtown Manhattan has always been appropriately a high density/high bulk area due to its concentration of mass transit and its role as the city's premier business district. The new high-rise buildings south of Central Park were built pursuant to existing bulk and density regulations. No new floor area allowances – either through rezoning or bonus - were created for these “super-tall” developments. In view of the important role Midtown Manhattan plays in the city's economy, the City has no immediate plans to reduce the current as-of-right density or bulk requirements. The “super-tall” buildings occur due to a redistribution of available development bulk from neighboring sites through zoning lot mergers, which are typically the result of private transactions. Shifting the available bulk on the entire merged zoning lot from one portion to another means that the other portion of the lot's bulk is restricted with regard to future development.

“Super-tall” buildings, created due to zoning lot mergers, have the effect of preserving existing height on neighboring sites, which usually also means that buildings with different heights and of different eras (even if not of landmark quality) are much less likely to be demolished. This often leads to a more interesting streetscape and pedestrian experience, as well as an incredibly dynamic, iconic skyline that is the envy of the world. It avoids a solid wall of bulky, very tall, albeit not “super-tall”, buildings along certain streets and avenues. The 57th Street corridor has always had a mixed-height character, which these new additions actually may help preserve by sponging up the as-of right development otherwise available to many existing buildings. The lower-scale fabric that is maintained also allows for more light and air to the streets and sidewalks.

We share your concern about the effect of shadows on Central Park, which we all recognize is an invaluable, unique public resource. As we think about the effect of these new buildings on the park we note that the shadows of tall, slender towers, in fact, move more swiftly and efficiently than those of squatter buildings with a similar built FAR. We should not lose sight of the fact that buildings which may not be considered skyscrapers can also have shadow impacts on parks. There have been examples of land use applications where shorter, bulkier structures have created more significant shadow impacts, requiring mitigation that was developed in conjunction with the Parks Department.

Thus, there are trade-offs between slender buildings which cast a shadow deeper into the park in certain periods of the year, but for a very short time, as opposed to a wall of somewhat less tall buildings, like the wall of apartment-hotel buildings along Central Park South, that cover a segment of the southern portion of the park for much of the day throughout the year. This is a rather complex balancing of impacts that we will continue to consider in our review of proposals for new developments that affect not only Central Park but other parks and open spaces as well.

PERENNIAL DEVELOPMENT ISSUE

Shadows have been a perennial development issue not only near Central Park, but also throughout the City over its development and evolution. The direct catalyst for our pioneering 1916 Zoning Resolution was the speculative development of 120 Broadway, also known as the Equitable Building, in Lower Manhattan. When it was built, its height inspired fear and anger among neighboring property owners, and for many years after construction it was a skyscraper that was despised by planners and the civic community generally.

Today, 120 Broadway is a much beloved City Landmark. Thus goes the ebb and flow of planning and architectural taste.

From a brief glimpse of our skyline here in New York, you can see our city is flourishing. We have record numbers in gross city product, tourism, transit ridership, and job growth. Both our population and our private sector jobs are at all-time highs. Our economy is more diversified than ever, reflecting the appeal of New York to individuals of talent from all over the world. New Central Business Districts are emerging and we see new skylines growing in areas like Long Island City and Downtown Brooklyn.

As a City we have to ensure that this new growth is accompanied by quality transit, a livable street environment and appropriate infrastructure. In the Vanderbilt Corridor, the first phase of our strategy for East Midtown, a new 67 floor, state of the art office building will rise, and along with it comes \$220 million in developer funded and built improvements to the surrounding transit infrastructure and public realm.

And, in this regard, I want to commend the work of the East Midtown Steering Committee, co-chaired by Council Member Dan Garodnick and Manhattan Borough President Gale Brewer, which has recommended an approach in East Midtown that preserves the as-of-right nature of our midtown zoning, while assuring that greater density and significant shifts in where height and density can go is accompanied by appropriate public realm improvements.

But from the days of 120 Broadway a century ago, there has always existed a degree of tension among New Yorkers between pride in what our skyline represents and fear that continued construction of ever increasingly tall buildings will block out the sun, strain our infrastructure, and ultimately dwarf and overshadow some of most cherished landmark skyscrapers.

Clearly, unconstrained height is not appropriate everywhere. We have established and we continue to protect contextual zones in neighborhoods throughout the city which have fixed height limits. It is our responsibility in government, and as city planners, to strike the right balance: to continue to allow new buildings to reflect the commercial dynamism and architectural creativity in the city's commercial centers, while ensuring that the city as a whole contains a mix of bulk, density, architectural variety and is embraced by all as a desirable place to work, to visit, and, most importantly, to live.

To an extent, the mechanisms of our Zoning Resolution, which, among other things, allow bulk to be transferred from adjoining sites to a development site, and some resulting developments to rise to great heights, ensures the variety and delight of the New York City skyline. There's no question that height, shadows and open space are important issues. To us as urban planners, they are essential considerations that must be weighed in evaluating specific development proposals and broader land use plans in general to ensure that New York is a thriving, attractive and equitable global city for years to come.

Thank you and I would be happy to take questions now.



**New York City Council Committee on Parks & Recreation
Hearing on Int. 737
November 12, 2015
Tupper Thomas, Executive Director**

Good morning. I am Tupper Thomas, Executive Director of New Yorkers for Parks. I want to thank the Committee on Parks and Recreation for inviting me to speak today on this important issue.

NY4P supports the creation of a task force to study the effects of shadows on New York City parks and open spaces. Over the years, we have seen many examples of high rise buildings completely changing the nature of our open spaces through shadows. The impacts of shadows can have profound effects on our public parks and gardens: they change the microclimates that sustain plant life, plunging active spaces into darkness well before the sun has set.

We know that this issue is a citywide concern. The city seeks to increase the density of neighborhoods across the five boroughs to allow for more growth and more affordable housing. We need to ensure that the immediate result of these rezonings, higher buildings, will not create adverse effects on the hundreds of parks and open spaces, including community gardens and street trees, in these neighborhoods. Keeping these neighborhood green spaces clean, well-maintained, and abundant with sunshine will be even more important as they serve an ever-larger number of local residents. It is crucial that our communities be able to balance more housing units with the appropriate kinds of neighborhood infrastructure and services that create truly livable neighborhoods: well-lit open spaces are key to this conversation.

The creation of a task force to monitor this issue will go a long way in helping to protect the sunlight available in neighborhood green spaces. Our hope is that the task force will also have some authority in keeping the development around these spaces limited to a reasonable building height. While the creation of such a task force would be an important step toward protecting the sunlight that so many park-goers cherish, there must be a way for the recommendations put forth in the annual report to be put into action. In a city as dense and highly built as New York, we must not lose what precious light we have available to us. We hope this task force will be an opportunity to protect this most basic and vital of resources.

Thank you.

LANDMARK WEST!

THE COMMITTEE TO PRESERVE THE UPPER WEST SIDE

**Testimony of LANDMARK WEST!
Before the New York City Council Parks Committee
Re: Intro, 737
November 12, 2015**

LANDMARK WEST! is a not-for-profit community organization committed to the preservation of the architectural heritage of the Upper West Side.

Thank you for the opportunity to testify on this critical issue. Here in New York City, we are hurdling towards a future where our skyline is an anonymous thicket of mega-towers, our parks dark and lifeless. This future is the antithesis of the City Beautiful. It is the city unlivable.

We often hear that New York City has no real “planning,” only zoning. This is generally true at the municipal level. But at the neighborhood level, communities have been planning. We have been working for decades to secure balanced growth, using every tool at our disposal, from zoning to landmarks preservation to small business and affordable housing protection policies.

Too often, we are placed on the defensive when short-sighted interests find ways to manipulate and avoid these protections. Too often, it takes a crisis or series of crises before sound planning policies are introduced. Entire blocks of lower Manhattan were cast in shadow before we got a zoning ordinance. It took the devastating loss of Pennsylvania Station before we got a landmarks preservation law. In each case, task forces were set up to study the need for policy reform. And each day those task forces labored, the city was steadily diminished.

LW! applauds the goal of interagency collaboration and focus on the crucial problem of shadows on our parks. But we urge you not to tarry at the “task force” stage. Study must be accompanied by action.

I highly recommend Bill Moyers’s compelling and inarguable documentary “The Long, Dark Shadows of Plutocracy” to anyone who doubts the crisis we face. Studies by the Municipal Art Society already show dramatic impacts of shadows on Central Park. In 2007—eight years ago—LW! conducted a study of development potential along Central Park West and identified 10 soft sites where towers could rise. Given current construction technology, economics, the untracked transferability of development rights, and the Mayor’s political endorsement of supertall buildings, the area of impact is significantly broader than we once thought possible. For smaller parks, all it would take is one large building—even one blocks away—to destroy it as a functional public asset.

Many civic and political voices across the city have united in support of a moratorium on tall buildings while policy reform is deliberated and advanced. Please make that your top priority. We have already sacrificed enough.

In addition, we urge you to make a “sunshine” ordinance, such as San Francisco’s, a focus of your study.

Finally, we need to set the record straight on who owns the sky. We must have a transparent, publicly accessible means of tracking development rights. There must be tighter limits on how those development rights travel. We should explore tools modeled on rural land trusts established to reappropriate development rights where their use goes against the public interest.

We talk about “development rights,” but they are not an entitlement. Like all other aspects of property ownership, they are subject to rules and regulations designed to protect the public interest. The sky, our parks, our communities—these are our “commons.” You are entrusted with their safekeeping.

Testimony for Shadows on Parks Committee
November 11, 2015

In Tribeca, the shadow problem presents itself not just on parkland, but on the public streets, sidewalk, plazas, and indeed, over our entire neighborhood as eight new out-of-scale towers rise in and around our small historic districts. In economics this over-building phenomenon is called a free-rider problem: in this case developers take advantage of the quality of public amenities or historic district by overbuilding at the borders. This overbuilding happens everywhere at all borders of public amenities; be they parks or historic districts or river views. In what is a tragedy of the commons, the developers end up incrementally destroying these public amenities at the same time. The only solution is to clarify that our light, air, historic fabric and iconic views are part of our public commons and use of them must be regulated.

For this reason, we believe your policy initiative on shadows is a good, but very weak policy beginning. The initiative needs to go beyond parkland and to be more aggressive. Contextual neighborhood height limits might be useful here. We also need a demolition moratorium for historic fabric that predates 1945, one in effect until community-based zoning plans can be developed. *Doing away with TDRs - lot mergers are useful too.*

So we urge the City Council to be more aggressive. New York is at a tipping point in terms of its built environment. If you do not act, we not slowly but surely be plunged into a kind of Bladerunner street level darkness and we will lose the what is left of the human-scaled historic fabric of our city.

Sincerely,

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**Testimony for Nov 12, 2015 City Council Committee
on Parks and Recreation Hearing 'Shadows on Parks'**

Int. No. 737 by Council Members Levine, Cabrera, Constantinides, Johnson, Mendez, Rodriguez, Rosenthal, and Garodnick

Thank you for holding this hearing about shadows. We all know that time is of the essence in this matter. My Committee has advocated for quality of life issues for decades. Int. No. 737 proposes to study the effects of shadows cast on parks. But, truly, we already know the effect; loss of sunlight. In densely over congested Manhattan there are now scant places where you can find and enjoy a bit of sun. Our streets have become narrow dark wind tunnels because of shadows.

Truly, there is no question about the negative effects of shadows; the question, rather, is how to minimize their prevalence. In civic-minded San Francisco no new building may be constructed if it will cast a shadow on a park. And you must strongly recommend likewise for New York's amendment to local law. Only construction that does not further darken a neighborhood should be allowed. Of course that would vary for different neighborhoods. I am advocating for Midtown, the Upper East and West Side where bad things are happening. Tall buildings are stealing our sunlight as we speak.

We are being subjected to 100+ story buildings and mile long shadows in Central Park without any discussions on their environmental impact and quality of life issues. [We all know that increased density means more traffic, congestion, water, garbage and sewage.] This is an emergency and calls for a moratorium on construction so that we can address these problems before they become worse and then irremediable. The moratorium would not apply to construction of buildings under 26 stories or to replacement of current structures.

To determine proper regulations, laws, and zoning we must:

Set a limit on height.

Demand a Sun Shine Clause that prohibits shadows in parks caused by new construction

Require an Environmental Impact Study for ALL buildings over 25 stories (no as-of-right)

Consider existing density and congestion on neighboring streets

Adhere to the Public trust and Open Space Doctrines (as it is we do not comply)

Require operable windows [tall building have glass walls, hence it takes power to get fresh air]

Designate landmark-worthy sites and ensure contextual zoning in Historic Districts

We must adhere to a Moratorium with a long term civic view for the health of our parks, the lungs of our City. We do not want to be remembered as the administration that ruined the jewels of our city, our parks and open spaces.

In a related matter the Amendment 'Zoning for Quality and Affordability' should enhance quality by limiting height and forbidding new shadows in parks. Affordability should not be obtained at the expense of livability but rather by retaining existing stock.

Olive Freud, President



Testimony of Diane D. Buxbaum, MPH Re: Int. No. 737 – In relation to the creation of a task force to study the effects of shadows cast by large buildings over parkland.

The Sierra Club as an organization at every level has worked to preserve Parks: National, State and Local Parks. We strongly oppose any kind of construction that would cause damage to any park. We have strongly opposed the building of residential buildings in parks, and certainly would oppose any kind of construction that would damage a park as important as the Jewel of New York City, Central Park. The proposed buildings would damage our Park. Warren St. John in the New York Times, Oct. 28, 2013 said that studies had shown that on the winter solstice (December 22), the shadows of the larger planned buildings would be half a mile into the park during midday, and a mile into the park as it grew later, "darkening playgrounds and ball fields, as well as paths and green space like Sheep Meadow...." He pointed out that already Heckscher Playground in the south side of the park was cut off from sun by midafternoon by the shadow of Extell's One57 which is 1005 ft. tall.

According to a Municipal Arts Society report in 2013 there were 7 planned very tall buildings for the area south of Central Park, an area sometimes called Billionaires Belt. The impact of these very tall structures will change the very nature of Central Park, making it less inviting and useful to all of us who enjoy our Park and making it less frequented by visitors to our City.

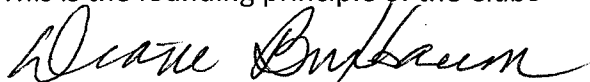
There may be a profound impact on vegetation and animal life in the park. We must not allow damage to our nature, whether it be animal or plant. We must protect our park

In addition, there is no apparent concern for the impacts of such buildings on local density, traffic movement, public transit, schools. All of these would be negatively impacted by building such mega buildings.

We have outdated zoning laws that give developers great leeway in planning the megabuildings. These laws must be updated to protect all of us, residents and users of our city.

We must not allow avaricious people to take over. The feeding frenzy of real estate developers must not be allowed to damage the jewel of New York City. We must guard our not only our jewel, Central Park, but every park in New York City whether Manhattan or any of the outer boros.

The Sierra Club was founded to protect our nature nationally and locally, to protect the environment. This is the founding principle of the Club.



Diane Buxbaum, Conservation Co-Chair, New York City Group of the Sierra Club on of the Sierra Club, 365 Sackett Street, Brooklyn, NY 11231, ddbuxbaum@earthlink.net

To:
Committee on Parks and Recreation

From:
Luc Wilson, KPF

Re:
Proposed Shadows Task Force

I work at the architecture firm Kohn Pedersen Fox, an international firm known for large scale work such as skyscrapers and master plans. Here in New York we are designing Hudson Yards and One Vanderbilt, a new skyscraper near Grand Central Terminal. My work at Kohn Pedersen Fox focuses around spatial urban analytics, with a particular interest in how global cities regulate the impact of new development on public spaces developed through research with the Center for Urban Real Estate at Columbia University, and the Department of Computer Science at NYU.

The key question today is whether shadows cast by tall buildings have the capacity to impact the comfort level of park goes such that they need to be regulated city wide. Assuming that regulations beyond existing zoning height and setback requirements are necessary, who does the review and what criteria is used for evaluation? My research has shown that height alone is not the only consideration.

In Boston, the city can regulate new buildings based on the duration of new shadow created. They quantify the new continuous 1 hour shadow cast on specified areas (Fig 1.) The duration of continuous shadow is directly related to user comfort level. They do this in certain cases where the proposed building will exceed the zoned bulk for the site. In a comparative analysis between the new supertalls south of central park with the Time Warner Center using this criteria, I found that the total impact of the new supertall towers was very similar to the impact of the Time Warner Center (Fig 2.)

Given the same amount of built area, tall skinny buildings have a much smaller net new shadow duration impact as compared with short wide buildings. In fact, as is the case with the supertalls south of Central Park, it is the bottom 25% of the towers that have the greatest impact on shadow duration. This implies that absolute height as the reason for which buildings need to be evaluated is counter to the intent of the proposed legislation.

San Francisco also regulates the impact on new construction on parks. In general, no new construction over 40 ft tall that will cast new shadows on parks during specified dates and times is allowed. When the zoned FAR of a site would result in unavoidable shadows, the department of planning sets the acceptable level of impact based on a generic massing for the site by area of shadow cast (Fig 3, Appendix A.)

For New York, it would be beneficial to determine what an acceptable level of new shadow on parks would for certain sites given their current zoned as-of-right FAR. This would create performance based criteria that protects the comfort level of parks while providing certainty to developers who know that a project will be approved if it meets the specified criteria.

I will end with a few recommendations:

- First we need to establish the criteria by which we will evaluate the impact of shadows cast by new towers near parks.
- Based on current zoning, we need to determine which parks are near potential tall towers that may cast shadows on the parks. If only a few parks across the city get identified then a city wide solution may not be appropriate. Additionally, for those parks that new development may cast shadows on, we need to determine if the shadow casting is significant enough to impact park goer comfort levels.
- Given park goer comfort level as a primary concern, the distinction between shade (desirable during summer months) vs shadow (not desirable during winter months) is important to consider.
- Related to this, we need to determine not only impact relative to comfort levels, but impact relative to park use. This can be done using time dependent, geolocated social media data such as twitter or facebook check-ins to determine when (time of year and time of day) people are using what parts of parks.

Along with the computer science department at NYU, we are currently developing a software platform (fig 4) to analyze city wide shadow impact of new development and would be happy to help the city study this issue.

I'd like to thank the Committee on Parks and Recreation for their time,

Luc Wilson
LWilson@kpf.com

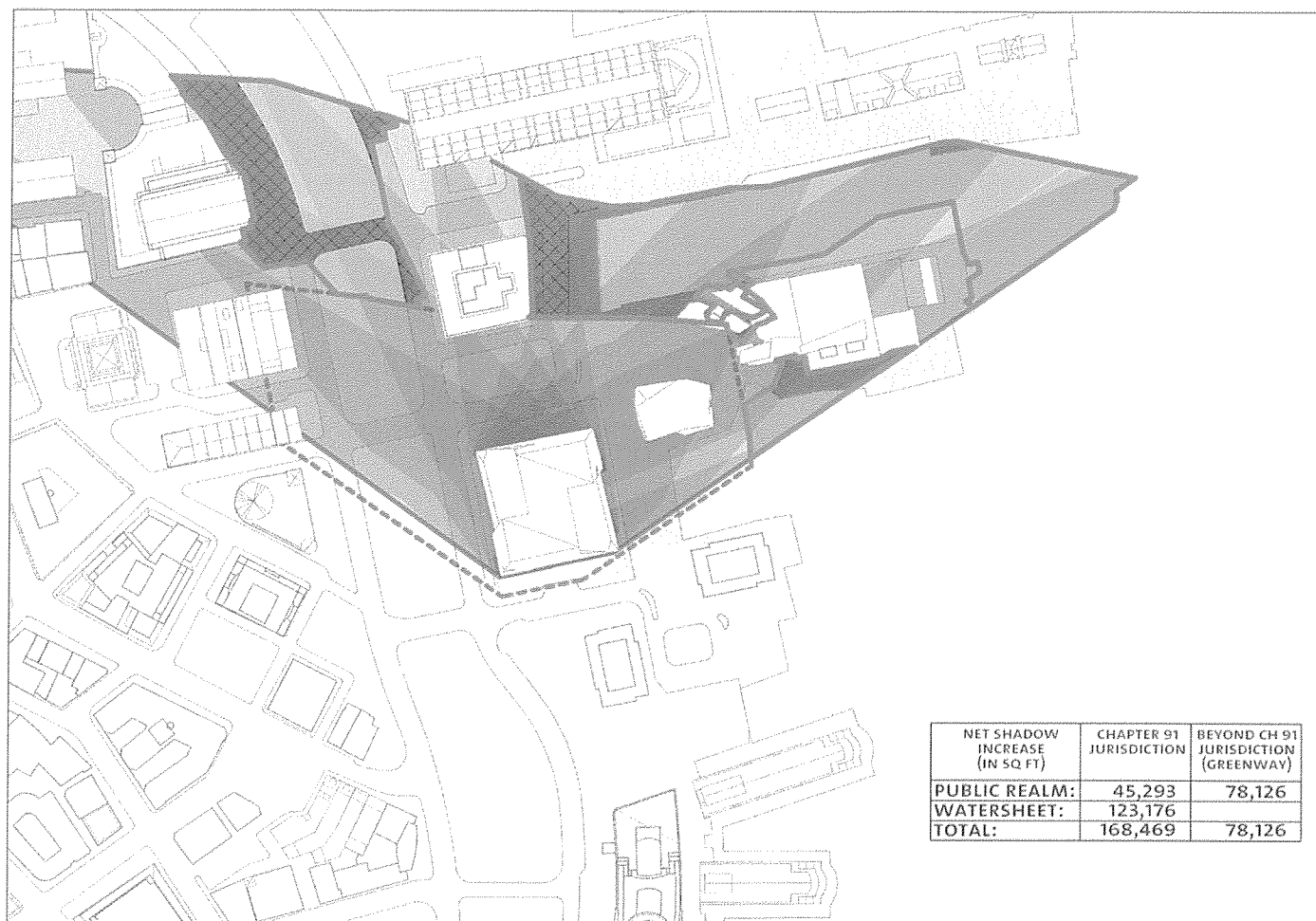
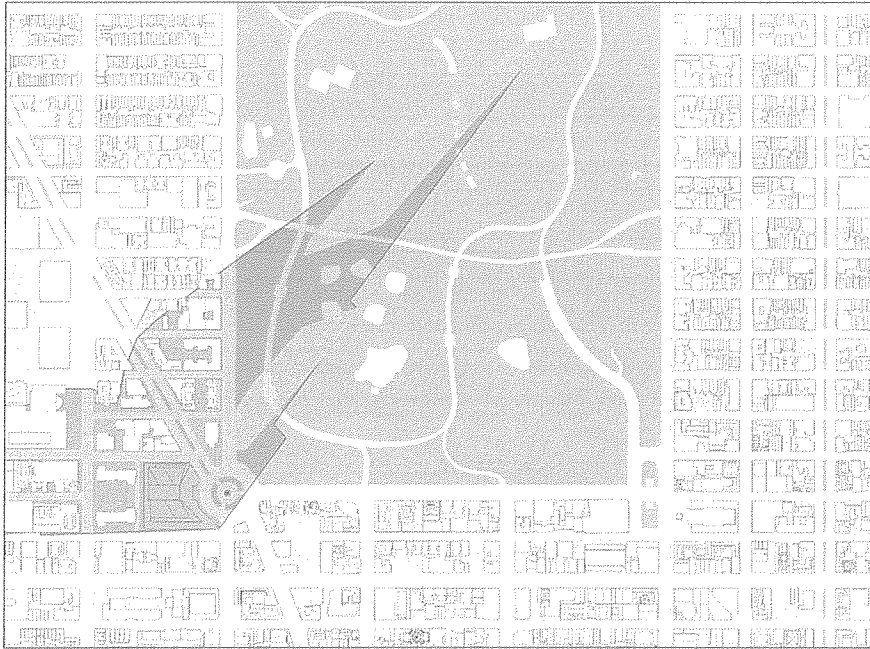
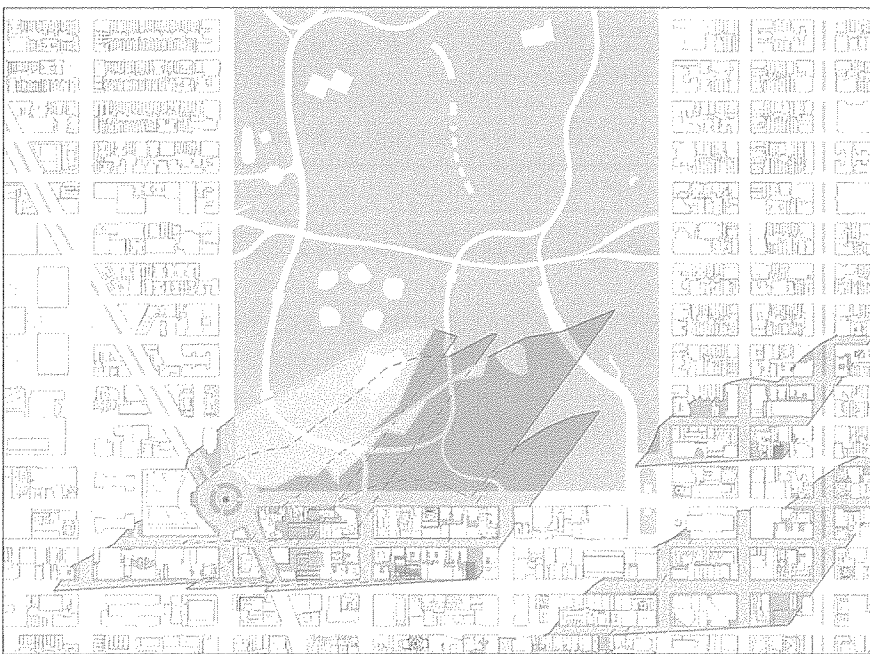


Figure 1.
 Example of 1 hour net new shadow duration regulation in Boston on October 21st.






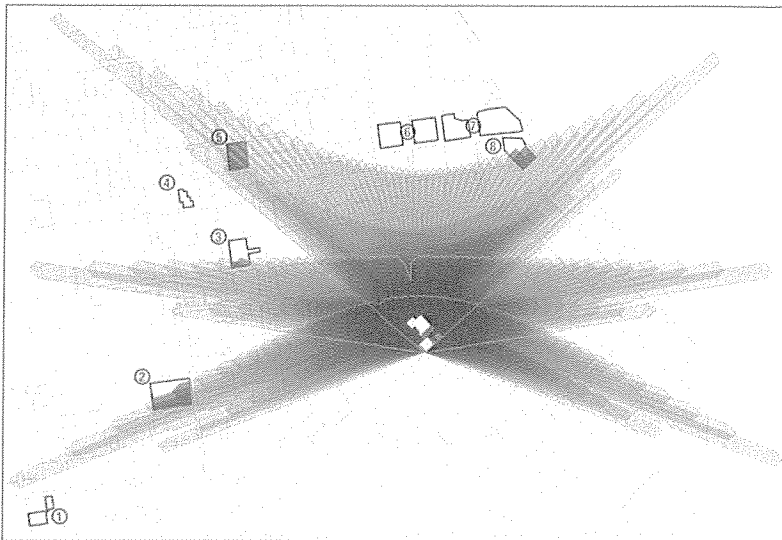
Time Warner Center: 600,000 sq ft
30 minute shadow duration, Oct 21st



57th St Towers: 700,000 sq ft
30 minute shadow duration, Oct 21st

Figure 2.
Boston shadow duration regulations applied to New York on October 21st. Thirty minute shadow duration used instead of one hour.

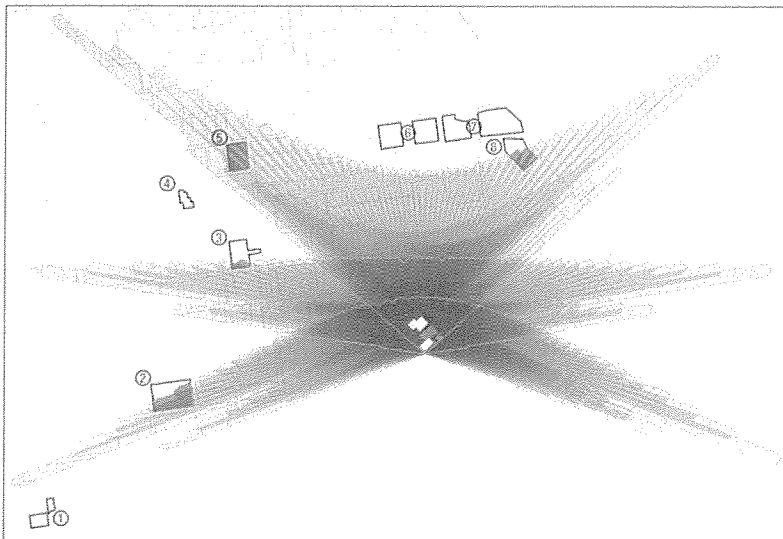
-  Park
-  Net New 30 min shadow
-  Existing 30 min shadow



Average Shadow Area Per Day

	Solstice (Summer)	Equinox	Solstice (Winter)
① Father Alfred E. Boeddicker Park	0.0 %	0.0 %	0.0 %
② Union Square	1.51 %	0.0 %	0.0 %
③ St. Mary's Square	0.0 %	0.47 %	0.0 %
④ Willie "Woo Woo" Wong Playground	0.0 %	0.0 %	0.0 %
⑤ Portsmouth Square	0.0 %	0.0 %	3.67 %
⑥ Maritime Plaza	0.0 %	0.0 %	0.0 %
⑦ Sue Bierman Park	0.0 %	0.0 %	0.0 %
⑧ Justing Herman Plaza	0.0 %	0.0 %	2.01 %

City Approved Bulk



Average Shadow Area Per Day

	Solstice (Summer)	Equinox	Solstice (Winter)
① Father Alfred E. Boeddicker Park	0.0 %	0.0 %	0.0 %
② Union Square	1.51 %	0.0 %	0.0 %
③ St. Mary's Square	0.0 %	0.44 %	0.0 %
④ Willie "Woo Woo" Wong Playground	0.0 %	0.0 %	0.0 %
⑤ Portsmouth Square	0.0 %	0.0 %	3.56 %
⑥ Maritime Plaza	0.0 %	0.0 %	0.0 %
⑦ Sue Bierman Park	0.0 %	0.0 %	0.0 %
⑧ Justing Herman Plaza	0.0 %	0.0 %	1.68 %

Proposed Design

Improvement highlighted in Red

Figure 3. Example of San Francisco shadow casting evaluation. Comparison of city approved bulk with proposed design

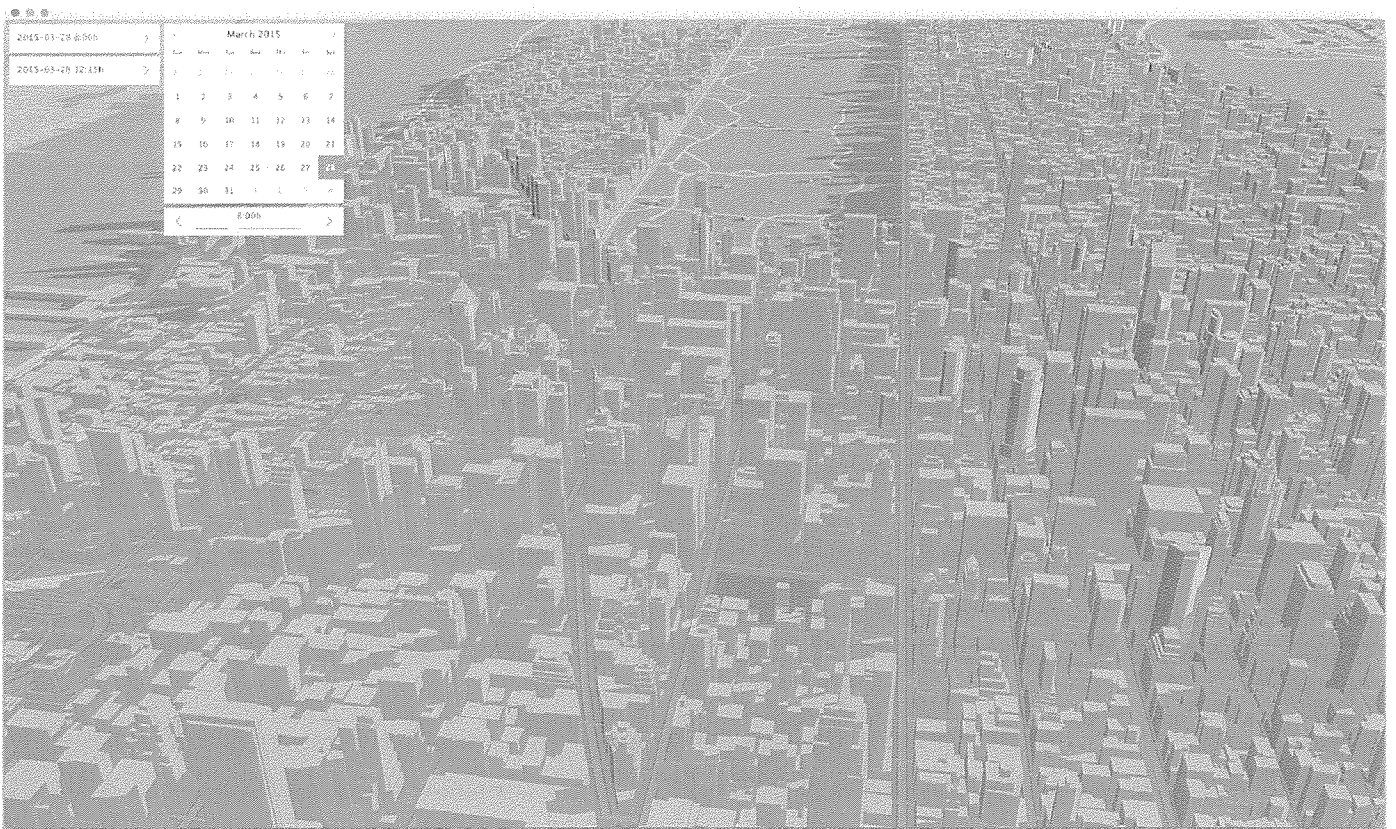


Figure 4.
Screenshot of software being developed with NYU to study shadow impact of new development of parks.

Appendix A

Example of San Francisco Planning Department shadow impact evaluation from a Preliminary Project Assessment:

Shadow Study. Planning Code Section 295 generally prohibits new buildings above 40 feet that would cast new shadow on open space that is under the jurisdiction of the San Francisco Recreation and Park Commission between one hour after sunrise and one hour before sunset, at any time of the year, unless that shadow would not result in a significant adverse effect on the use of the open space. The proposed project would result in construction of a 605-foot tall building and an 850-foot tall building. The TCDP FEIR included an analysis of potential shadow impacts from development within the Plan area and determined that shadow resulting from subsequent projects in the Plan area could result in significant individual and cumulative shadow impacts. The TCDP FEIR did not identify feasible mitigation measures and determined shadow impacts to be significant and unavoidable. Potential shadow impacts from the subject property were modeled using a theoretical building envelope, based on the height and bulk limitations proposed in the Plan (not including allowable extensions above those limits). The analysis in the TCDP FEIR indicates that the Project could potentially cast shadow on Union Square, Saint Mary's Square, Portsmouth Square, and Justin Herman Plaza.

On October 11, 2012, the Planning Commission and the Recreation and Park Commission jointly adopted Planning Commission Resolution No. 18717 raising the absolute cumulative shadow limits (ACLs) for seven open spaces that could be shadowed by development sites in the Plan area, including the subject property. In revising these ACLs, the Commissions also adopted qualitative criteria for each park related to the characteristics of shading within these ACLs that would not be considered adverse, including the duration, time of day, time of year, and location of shadows on the particular parks. Under these amendments to the 1989 Shadow Memorandum, any consideration of allocation of "shadow" within these newly increased ACLs for projects must be consistent with these characteristics.

As discussed further below under "Preliminary Project Comments," the project is required to prepare a shadow analysis in compliance with Planning Code Section 295. The shadow analysis should demonstrate how the new shadow conforms with the qualitative criteria adopted in Planning Commission Resolution No. 18717 and should conclusively demonstrate that the shadow from the Project does not exceed the shadow anticipated by the modeling in the TCDP FEIR. The shadow analysis shall be prepared by a qualified consultant who would be required to prepare a proposed scope of work for review and approval by the Environmental Planning case manager prior to preparing the analysis.



ULURP application No. C 050260 ZSM, and related ULURP applications No. C 050269 ZSM, No. C 050271 ZSM, and No. N 090170 ZRM, respectively.

Potential Environmental Effects of the Proposed Action and Proposed Project

18. Approval of Fordham University's *Lincoln Center Master Plan* will enable the University to meet its long-term needs for modernization and expansion. Phase I of the Proposed Project will include the construction of an approximately 463,000-sq-ft, 22-story (plus basement) Law School building and 430-student residence hall, as well as a plaza and related landscaping.
19. As disclosed in the *FEIS*, Fordham University's *Lincoln Center Master Plan* has the potential to result in significant adverse impacts on shadows, traffic and parking, and construction traffic and noise. As such, specific measures have been identified that will minimize or eliminate the significant adverse impacts. Fordham's commitments to implement these mitigation measures are embodied in the Restrictive Declaration dated April 22, 2009 (Exhibit A of CPC's report C 050260 ZSM). The following focuses on potential significant adverse impacts and mitigation measures.

Shadows

- 2/22/11
SEQR
*
20. Shadows cast from the project's maximum building envelopes will result in significant adverse shadow impacts, as follows:

Damrosch Park The Proposed Project will substantially reduce sunlight to Damrosch Park in the fall, winter, and early spring affecting primarily the seating areas and vegetation on the eastern side of the park. To mitigate this impact, Fordham will create a dedicated maintenance and horticultural fund in coordination with the New York City Department of Parks and Recreation ("NYCDPR") to sustain the park landscape under the less favorable growing conditions created by the building shadows. This mitigation measure will be implemented in accordance with a city-approved Restrictive Declaration.

The Grove New shadow will fall on the planned seating and landscaped area (the "Grove") between the David H. Koch Theater (formerly the New York State Theater) and Columbus Avenue, which will add approximately four hours of new shadow on this part of the Lincoln Center open space in the spring, summer and fall, and nearly two hours in the winter. Any plant materials adversely affected by shadows from the buildings on Sites 1 and 6 (after they are built in the second phase of campus development) could be replaced with more shade-tolerant species. This measure will be sufficient to mitigate the potential impact caused by the increased duration of shadows on this area that could occur as the result of the Proposed Project. In addition, the dedicated maintenance and horticultural fund referred to above will also be used to sustain the Grove landscape under the less favorable growing conditions created by the building shadows. This



Sara Roosevelt Park Community Coalition

<http://sdrpc.mkgarden.org/>

City Council:

November 12, 2015

Sara Roosevelt Park is 7.85 acres in the Lower East Side and Chinatown. Due to its narrowness (190 feet wide), our park has little tolerance for shadowing created during the fall and winter months by the deluge of out of scale luxury development. Shading means significantly colder temperatures in large swaths of parkland that are no longer warmed by sunshine. Shadowing is changing and will change what can be grown in our two GreenThumb gardens (M'Finda Kalunga Garden and New Forsyth Conservancy Garden) as well as in the Elizabeth Hubbard Scent Garden. It will drastically alter time available in the Hua Mei Bird Sanctuary here. Soccer games and bike polo matches are getting colder and the spectators becoming fewer. Parents don't congregate on benches while their children explore playgrounds and make friends. Our shared city life shrinks.

This is still a poor and working/middle class neighborhood, with children and elders who have no country home, no vacation respite, no weekends out of the city, no air conditioning and no backyard - this park is it.

City Parks play a vital role in civic life - as meeting places for neighbors, as the only democratic mixers left in this city for any one who will join the rest of humanity for a stroll, some gardening, a game, or a quiet sit-down.

Studies have been done already. The former Parks Council was an organization dedicated to the protection, preservation and enhancement of NYC's public parks and open spaces. Their document "Preserving Sunlight in NYC's Parks: A Zoning Proposal, was a thorough survey with solid recommendations to avoid parkland being shadowed by development. Any building that would cast shadow on a public park should be required to undergo a rigorous shadow assessment with rigorous restrictions where needed – 'City Planning' for the people who actually live here.

In the 1924 Times article, the city's former health commissioner, Dr. Haven Emerson said that the "value of the park lies in its ability to provide sunlight". Tall buildings that shadow parks may be a great investment and profit maker for some but they mean greatly reduced park time in the fall and winter months and a little less sun for everyone else.

Thank you,

K Webster

President

Sara Roosevelt Park Coalition

<http://sdrpc.mkgarden.org/>

**New York City Council Committee on Contracts
Intro 288 A - NYC Charter - Conflict of Interest Disclosures
Friday, September 25, 2015**

Second testimony about MoMA by Veronika Conant, M.L.S.

45 W 54 St., 7C, New York, NY 10019 vaconant@yahoo.com 212 581-1895

I am Veronika Conant, a retired academic librarian and member of the Committee to Save the New York Public Library. I am also past President of the West 54 - 55 Street Block Association, a group active during the disastrous sale of the Donnell Library and also the Museum of Modern Art's (MoMA's) most recent expansion at 53 W 53 Street.

Thank you for calling this important hearing. **I am in support of Intro 288-A to require conflict-of-interest disclosures from executives of city-funded not-for-profit organizations.**

The Museum of Modern Art (MoMA) is a not-for profit organization. According to MoMA's Annual Report for FY 2015 they received \$176 million in public funds. It is a significant amount.

Over the last several decades MoMA has become a real estate developer as well as an art museum, with less and less of their expansions devoted to gallery space.

In 1979, during NYC's major financial crisis, the City allowed MoMA to sell for \$17 million its unused development rights mid-block on West 53 Street to a developer to build Museum Tower (MT), a 54 stories tall condo over six floors of MoMA's galleries.

At that time the **Trust for Cultural Resources was created, and the 260 condo owners at MT received exemption from NYC property taxes in perpetuity. Instead, each year the property taxes are being administered through the Trust to MoMA. This means MT, a luxury condo, gets free City services and MoMA pockets their property taxes.**

According to the the Annual Report of Tax Expenditures by the Department of Finance, in FY 2015 alone this was \$15 million. Electronic records at the site <http://www1.nyc.gov/site/finance/taxes/annual-report-on-tax-expenditures.page> go back to 1998, with a few yeas missing. I added up as best I could and the loss of property taxes by the City for the period 1998 to 2015 came to about \$170 million. Since the arrangement goes back to about 1985, the total of lost property tax revenue by NYC must be above \$200 million.

The Trust for Cultural Resources has a very important function in the City and has helped many other cultural institutions. However, the only property tax exemption granted is to MoMA.

During the last thirty years MoMA underwent two major expansions, each involving a series of real estate deals.

Rezoning of Midtown in the early 1980's, except for the footprint of Museum Tower, downzoned the North side of W 53 Street, and both sides of W 54, 55 and 56 Streets between 5th and 6th Avenues to C5-P (max. FAR 8, downzoned from max. FAR 10), and created a Preservation Subdistrict of the Midtown Special District to protect and preserve these blocks, filled with architecturally significant townhouses and unique, low scale, older buildings, many designated landmarks. The Block Association initiated and got five additional landmark designations. to the already existing ones.

MoMA's expansion in 2000 resulted in a 250 foot tall Museum/Office building in mid-block, between W 53 and W 54 Streets, with the office space for commercial rentals over six floors of galleries. Much space was added to the museum, including about 40,000 square feet new gallery space (16% of the total space added). During this time MoMA managed to get their property on the North side of W 53 Street be upzoned to C5-2.5 (max. FAR 12). The tall MoMA Office Building destabilized the Preservation Subdistrict and the blocks North of it.

MoMA gradually bought all the remaining smaller buildings West of it on both W 53 and 54 Streets, up to the Financial Times Building at 6th Avenue, razed them, and sold the small empty lot to Hines developers in 2007 for \$125 million. The razing caused changes in zoning and a small portion near 6th Avenue allowed MoMA and Hines to buy unlimited amount of air rights, and the Bloomberg Administration allowed them to build mid-block a 1,050 feet tall building, totally out of scale with every other building around it. This latest expansion, started in August 2014 at 53 W 53 Street, will take 4 1/2 years, and is currently in progress. Three floors out of 72 floors of the condo-museum will become galleries, adding 40,000 square feet to the existing gallery space (less than one tenth of the new space added).

Clearly, real estate interests have taken over the Museum of Modern Art. They need closer examination and oversight by the City.

For the latest expansion MoMA paid \$10.8 million to University Club for 136,000 square feet. Hines paid St Thomas Church over \$71 million for 275,000 square feet. MoMA paid in 2011 \$31.2 million to the American Folk Art Museum for their beautiful gem which, against much opposition, it then razed. Some Board of Trustee members have real estate interests. Jerry Speyer is Chairman of MoMA. MoMA's Director and administrative staff get very high salaries, while the museum reputation has suffered.

In light of the above, after thirty years, it seems timely to reexamine and change the arrangement with the Trust, and use the condo's property taxes for the many dire needs of the City. An audit would be important to shed light on the use of City funds received by MoMA. It is also important that the new Hines/ MoMA building does not get tax exemptions.

Yes, to more disclosures by non-profits. Thank you.



PO Box 1315 Old Chelsea Station New York, NY 10113-1315
website: www.savechelseany.org email: savechelseany@gmail.com

November 12th, 2015

To: Council Member Mark Levine and Council Member Corey Johnson

From: SAVE CHELSEA

RE: In support of Intro 373 Shadows Task Force

***Above Grade On the High Line by Phillip Lopate**

November 2011 – which Save Chelsea has renamed “*A Cautionary Tale*”

“Much of the High Line’s present magic stems from its passing through an historic industrial cityscape roughly the same age as the viaduct, supplemented by private tenement backyards and the poetic grunge of taxi garages. It would make a huge difference if High Line walkers were to feel trapped in a canyon of spanking new high-rise condos, providing antlike visual entertainment for one’s financial betters lolling on balconies.”

Lopate goes on to say, “The High Line exemplifies a preservation conundrum: how do you protect not only the older structure itself, through intelligent adaptive re-use, but also retain the flavor of its original surrounding context? A certain amount of luxury high-rise will inevitably occur along this route: the question is how much. Only strict zoning regulations might prevent a forest of new apartment buildings from flanking the High Line, but the city seems to be encouraging more, rather than less, high-rise residential development in the Far West Side. We can only pray that the current recession, which has temporarily brought a halt to some of the new construction, will last as long as possible.”

Concluding, “While wringing our hands, we should also remember that when the High Line was built, one of its initial purposes was to spur “air rights” development over the site.”

In 2012, during the opposition to the up-zoning of the Chelsea Market, CB4 Land Use Committee member, David Holowka said, “The Special West Chelsea District might as well be called the Special District to Ensure That Light, Air and Views Are Preserved along the High Line Open Space, for the number of times these words are repeated in its zoning text.” And, that same year, Assemblyman Richard Gottfried lamented that, in the end, “The 2005 Special West Chelsea District will create a corridor of large commercial and residential buildings running north from Chelsea Market, intended largely to compensate property owners for the preservation of the High Line.”

Despite the promise that light, air, and views would be preserved as a public amenity, the High Line Park has become a shadowed canyon of greatly diminished views, now obscured by new construction. It is, sadly, too late for the High Line Park, but we support Intro. 373, and hope that this task force will have sufficient teeth to save numerous other New York City Parks from this “dark park” fate.

* From: <https://placesjournal.org/article/above-grade-on-the-high-line/>

TESTIMONY Nov 12, 2015: COMMITTEE ON PARKS AND RECREATION HEARING ON THE EFFECT OF LARGE BUILDINGS OVER PARKLAND

Attached is unequivocal evidence that tall buildings do adversely impact on our public parks.

Damrosch Park, a dedicated NYC Park located in the southwest quadrant of Lincoln Center sits in shade much of the time because of Fordham 's construction of its law school and dormitory and the 55 story Glenwood rental which was built on property sold to them by the University in 2011.

P. 14 of DASNY SEQR Findings Statement on Fordham University 2011 Financing Project clearly states that the "shadows cast from the project's maximum building envelopes will result in significant adverse shadow impacts..."

The attached photograph of Damrosch Park in total shade was taken October 2015 while the Big Apple Circus is in residence. When the Park is available to the public the rest of the year, park goers retreat hourly to the alcoves on the southern wall of the Metropolitan Opera House by 3 o'clock, the only place where sun can be found. Prior to the construction of these buildings, residents of the Amsterdam Houses and surrounding buildings, Lincoln Center workers, visitors and tourists would mingle and chat in a leafy, sunny park that, sadly, is no more.

Cleo Dana
President, Friends of Damrosch Park
161 W. 61 St. (26C)
New York 10023
212-262-0619
Cleodg@verizon.net

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 737 Res. No. _____

in favor in opposition

Date: 11/12/15

Name: CARL WEISBROD (PLEASE PRINT)

Address: 22 READS STREET 12'

I represent: DEPT OF CITY PLANNING

Address: 22 READS STREET

**THE COUNCIL
THE CITY OF NEW YORK**

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I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: CAROL WILLIS (PLEASE PRINT)

Address: 101 W 61 ST NY

I represent: FRIENDS OF JAMESTOWN PARK

Address: 101 W 61

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 0737 Res. No. _____

in favor in opposition

Date: 11/17/2015

Name: Luc Wilson (PLEASE PRINT)

Address: ~~100 W 42nd St~~ 200 Sterling Pl

I represent: Kohn Pedersen Fox

Address: 11 W 42nd St

Please complete this card and return to the Sergeant-at-Arms

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THE CITY OF NEW YORK**

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 in favor in opposition

Date: 11/12/15

(PLEASE PRINT)

Name: Megan Douglas
Address: 55 Broad St NYC 42-0447th Ave Sunnysid
I represent: New Yorkers for Park
Address:

**THE COUNCIL
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Date: 11/12/15

(PLEASE PRINT)

Name: Elinor Fine
Address: 235 EAST 57th - 9B
I represent: New Yorkers
Address: same

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 in favor in opposition

Date: 11/12/15

(PLEASE PRINT)

Name: Alyssa Cobb Kanan
Address: 830 5th Ave
I represent: NYC Parks
Address: Central Park

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THE CITY OF NEW YORK**

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in favor in opposition

Date: 11/12/15

(PLEASE PRINT)

Name: Kate Slevin

Address: _____

I represent: Municipal Art Society

Address: 488 Madison Ave

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in favor in opposition

Date: 11/12/15

(PLEASE PRINT)

Name: KATE WOOD

Address: _____

I represent: LANDMARK WEST

Address: 45 W 67th St 10023

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in favor in opposition

Date: 11/12/15

(PLEASE PRINT)

Name: Diane Buxbaum

Address: 365 Sackett St. Rm 1123

I represent: Sierra Club NYC Group

Address: _____

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THE CITY OF NEW YORK**

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Date: _____

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Name: LAYLA LAW-GISIKO

Address: 9W 20th St

I represent: CBS

Address: 480 7th Ave

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THE CITY OF NEW YORK**

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Date: _____

(PLEASE PRINT)

Name: Olive FREUD

Address: _____

I represent: Committee for Environmentally Sound

Address: Develop

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Henry "Pen" Richmond

Address: 360 Furman St Brooklyn NY 11201

I represent: People for Green Space Foundation

Address: PO Box 22537, 271 Cadman Plaza East, Suite 1

Brooklyn NY 11201

Please complete this card and return to the Sergeant-at-Arms

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I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Tyngan Thomas

Address: _____

I represent: New Yorkers 4 Park

Address: _____

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Lynn Ellsworth

Address: 165 Duane NYC

I represent: The Beech Trust

Address: _____

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in favor in opposition

Date: 11/12/15

(PLEASE PRINT)

Name: WESLEY DOVEL

Address: 790 RSD NYC #7K

I represent: SAUF CHELSEA

Address: PO BOX 1615 02D CHELSEA STATION NY
10011

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THE CITY OF NEW YORK**

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: PLEO DANA

Address: 161 W. 61 ST NY

I represent: FRIENDS of JAMLOSCIT PARK

Address: 161 W 61

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Brad Taylor

Address: 54 Morningside Dr.

I represent: self.

Address: _____

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 0737 Res. No. _____

in favor in opposition

Date: 4.12.15

(PLEASE PRINT)

Name: Howard ...

Address: 411 ...

I represent: ...

Address: 1232 E. 110th St.

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