SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of the Application of

RACHEL DOWLING and TIBOR ISTVAN KRISKO,

Petitioners,

For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules,

-against-

NEW YORK CITY DEPARTMENT OF BUILDINGS; AHMED TIGANI, in his official capacity as Commissioner of the New York City Department of Buildings; NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT; DINA LEVY, in her official capacity as Commissioner of the New York City Department of Housing Preservation and Development; THE CITY OF NEW YORK; and STATEWIDE DEMOLITION CORP.,

Respondents.

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Index No. _____ Date Purchased: _____

VERIFIED PETITION

VERIFIED PETITION

Petitioners RACHEL DOWLING and TIBOR ISTVAN KRISKO, appearing pro se, as and for a verified petition pursuant to Article 78 of the CPLR, respectfully allege:

NATURE OF THE PROCEEDING

1. This is a special proceeding under CPLR Article 78 to annul a determination of the New York City Department of Buildings ("DOB") that authorizes the demolition of the two masonry smokestacks of a 1939 industrial building at 5 East Main Street, Roosevelt Island, in the County of New York (the "Premises"), and to compel Respondents to conduct the environmental review and land use review required by law before any demolition of the Premises proceeds.

2. This proceeding challenges the determination of DOB embodied in Work Permit No. M01305740-S4-GC-CX, issued March 3, 2026, classified by DOB as an alteration but expressly authorizing the demolition of the two masonry smokestacks at the Premises, together with any final determination of Respondents first embodied in, incorporated into, implemented by, or made reviewable through that permit. Earlier acts described in this petition, including a July 2024 demolition order, are pleaded as background and as evidence of a single connected action improperly segmented from required environmental and land use review, and not as standalone determinations for which review is separately sought in this proceeding.

3. Petitioners appear pro se and bring this proceeding to preserve the limitations period. Petitioners expressly reserve the right to amend and supplement this petition — including to add parties, add or restate causes of action, and submit supporting affidavits and exhibits — upon the appearance of counsel or as otherwise permitted by the CPLR.

THE PARTIES

4. Petitioner RACHEL DOWLING is a natural person and a resident of Roosevelt Island, New York, residing at [redacted], New York, New York 10044, directly across Main Street from the Premises at 5 East Main Street and approximately 207 feet from the site. As a result of the asbestos-abatement and demolition activity at the Premises, Petitioner Dowling is directly and repeatedly exposed to airborne dust and particulate matter, potential lead- and asbestos-containing dust, and noise, and to the disturbance of contaminated soil that remains on site from an open State petroleum spill case (NYSDEC Spill No. 2508914). Demolition-related truck traffic travels on Main Street — the island's single through-road — immediately past Petitioner Dowling's residence. An avid runner, she regularly uses and enjoys the public open spaces in the immediate vicinity, including Main Street and the waterfront promenades. Petitioner Dowling values the historic 1939 Premises, visible from her home, as a defining feature of her neighborhood. Her injury from the demolition is direct, concrete, and different in both kind and degree from that of the public at large.

5. Petitioner TIBOR ISTVAN KRISKO is a natural person and a resident of Roosevelt Island, New York, residing at [redacted], New York, New York 10044.

Petitioner Krisko is a physician. He and the members of his household personally and regularly pass through and use the area within the immediate impact zone of the Premises, along Main Street — the single through-road over which all demolition-related truck traffic enters and travels the island — and at the public open spaces and community facilities near the Premises. As a result of the asbestos-abatement and demolition activity at the Premises, Petitioner Krisko and his household are exposed to the airborne and waterborne release of hazardous materials (among them asbestos, lead, silica, and combustion byproducts) and to the disturbance of contaminated soil associated with an open State petroleum spill case (NYSDEC Spill No. 2508914).

6. Petitioner Krisko resides with his family, including four children under the age of five, the youngest of whom is scheduled to begin a two-year early-childhood program at the lower campus of the Roosevelt Island Day Nursery, located at the corner of West Main Street and West Road, in or about September 2026 — approximately 260 feet from the Premises and directly along the demolition truck route. Petitioner Krisko's children will attend that facility daily, placing his household squarely and repeatedly within the immediate zone of dust, noise, truck traffic, and physical impact of the challenged demolition. Petitioner Krisko and the members of his household also regularly use and enjoy the public open spaces and community facilities in the vicinity of the Premises and along that route, including Firefighters Field, the Sports Park, the Roosevelt Island Day Nursery, and neighborhood playgrounds, including the playground behind Blackwell House. Petitioner Krisko will suffer direct and particularized injury — distinct in kind and degree from that of the public at large — from the demolition, including from the release of hazardous materials in the immediate vicinity of the community facilities and open spaces his household uses daily, from the disturbance of contaminated soil, and from truck traffic on the single through-road; and he values the historic 1939 Premises and has a longstanding interest in its preservation and in the environmental review the law requires before demolition proceeds.

7. Respondent New York City Department of Buildings is a department of Respondent the City of New York that issued the challenged permit.

8. Respondent Ahmed Tigani is the Commissioner of the New York City Department of Buildings and is sued in his official capacity.

9. Respondent New York City Department of Housing Preservation and Development is a department of Respondent the City of New York that is executing and directing the demolition of the Premises.

10. Respondent Dina Levy is the Commissioner of the New York City Department of Housing Preservation and Development and is sued in her official capacity.

11. Respondent the City of New York is a municipal corporation of which the foregoing departments are agencies. Respondent Statewide Demolition Corp. is the entity to which the

challenged permit was issued, and is named as a respondent because its interests may be affected by the judgment sought herein.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this proceeding pursuant to CPLR 7801 et seq. and 7803.

13. Venue is proper in New York County pursuant to CPLR 7804(b) and 506(b), because the challenged determinations were made, and the material events occurred, in New York County; the Premises is located on Roosevelt Island, in the County of New York; and the principal offices of the respondent agencies are located in New York County.

STATEMENT OF FACTS

14. The Premises is a 1939 steel-frame industrial building with masonry cladding, designed by the architectural firm Starrett & Van Vleck, together with two masonry smokestacks approximately 210 feet and 240 feet in height.

15. On information and belief, in or about July 2024 a demolition order was issued for the Premises under the failure-to-maintain provision of the Administrative Code / Building Code (§ 28-301.1), which is a non-emergency provision, as distinct from the emergency authority of § 28-215.1. This July 2024 order is pleaded as background and as evidence of the connected action and its segmentation, and did not constitute the final and binding determination from which the limitations period for this proceeding runs.

16. On information and belief, on March 3, 2026 DOB issued Work Permit No. M01305740-S4-GC-CX, classified as an alteration but authorizing demolition of the two masonry smokestacks at the Premises, in conjunction with full demolition Job No. M01347346-I1.

17. On information and belief, the demolition of the Premises is a predicate to, and a component of, a planned residential redevelopment of the site; the demolition and the redevelopment are components of a single government action.

18. On information and belief, no environmental review under the State Environmental Quality Review Act ("SEQRA"; ECL article 8; 6 NYCRR part 617) or City Environmental Quality Review ("CEQR") was conducted for the demolition or for the connected redevelopment, and no land use review under the Uniform Land Use Review Procedure ("ULURP"; New York City Charter § 197-c) was conducted.

19. On information and belief, funding for the demolition is provided in whole or in part by the State of New York, which implicates the environmental-review obligations applicable to a State-funded action and to any State agency involved in its funding or approval.

20. On information and belief, an independent licensed structural engineer has assessed the building and concluded that it is physically salvageable and that its repair is feasible, such that the choice to demolish it rather than repair it is a matter of policy rather than technical necessity. On information and belief, the estimated cost of repairing the two masonry smokestacks is

approximately equal to the estimated cost of demolishing them, and the demolition determination does not reflect a rational weighing of repair against demolition on the administrative record.

21. On information and belief, at a public meeting on or about May 15, 2026, the responsible First Deputy Commissioner of DOB stated on the record that the demolition was not ordered as an emergency, confirmed that he had ordered the demolition, and stated that the City "has no use for the building."

22. On information and belief, a New York State petroleum spill case concerning the Premises (Spill No. 2508914) remains open, contaminated soil remains on the site, and a soil-removal work plan is required before demolition may proceed.

AS AND FOR A FIRST CAUSE OF ACTION

(Violation of lawful procedure — failure to conduct required environmental and land use review; CPLR 7803[3], [2], [1])

23. Petitioners repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

24. The demolition of the Premises, as a component of a single government action that includes a planned residential redevelopment, is an "action" subject to environmental review under SEQRA and CEQR and to land use review under ULURP to the extent required by law.

25. Respondents authorized and directed the demolition of the Premises without conducting the environmental review required by SEQRA and CEQR, and without the land use review required by law, and improperly segmented the demolition from the connected redevelopment of which it is a part.

26. In so doing, Respondents proceeded in violation of lawful procedure and committed an error of law (CPLR 7803[3]), and failed to perform duties enjoined upon them by law (CPLR 7803[1]). Petitioners have no adequate remedy at law.

AS AND FOR A SECOND CAUSE OF ACTION

(Arbitrary and capricious; error of law — rationality; CPLR 7803[3])

27. Petitioners repeat and reallege each of the foregoing paragraphs as if fully set forth herein.

28. On the administrative record, the determination to demolish the Premises rather than to repair it does not rest on a rational finding that repair is infeasible; an independent structural assessment concludes that the building is physically salvageable, and the estimated cost of repairing the masonry smokestacks approximates the estimated cost of their demolition. The determination therefore fails to reflect a reasoned weighing of the remedy of repair against the

remedy of demolition, and the record does not rationally support the demolition of a salvageable structure.

29. In these circumstances, the determination to demolish the Premises — rather than to require or permit its repair — was arbitrary and capricious, affected by an error of law, and an abuse of discretion (CPLR 7803[3]). Petitioners have no adequate remedy at law.

TIMELINESS, FINALITY, AND RIPENESS

30. This proceeding is timely. The determination challenged became final and binding upon the issuance of the March 3, 2026 permit, which is the definitive and overt act authorizing demolition of the smokestacks; the four-month limitations period of CPLR 217(1) runs from that issuance, and this petition is filed within that period. The July 2024 demolition order did not afford Petitioners, as third-party residents, a final, binding, and actionable determination authorizing demolition, nor notice of the connected redevelopment, and is pleaded as background only. Petitioners reserve all rights with respect to later-accruing determinations, including the partial lifting of the stop-work order at the Premises on or about June 30, 2026.

31. Petitioners are third-party residents of Roosevelt Island who received no meaningful notice of, and have no available administrative appeal that could review or stay, the March 3, 2026 permit before the irreversible physical harm of demolition; Petitioners have no adequate remedy at law. The challenge is ripe as to the authorization of demolition, which is a final, concrete, and irreversible first step of the single connected action, and does not depend upon any speculative future redevelopment approval.

NO PRIOR APPLICATION

32. No prior application for the relief requested herein has been made to this or any other court.

WHEREFORE, Petitioners respectfully request a judgment: (a) annulling and vacating the challenged determinations, including DOB Work Permit No. M01305740-S4-GC-CX, issued March 3, 2026 (classified as an alteration but expressly authorizing demolition of the two masonry smokestacks), and any final determination of Respondents to authorize or direct demolition of the Premises without required review, as made in violation of lawful procedure, affected by an error of law, and arbitrary and capricious; (b) directing Respondents, to the extent required by law, to conduct all environmental review (SEQRA/CEQR) and land use review (including ULURP to the extent required) before authorizing or undertaking any demolition of the Premises, or remitting the matter to the appropriate agency for such review and determination as the Court deems proper; (c) staying any demolition of the Premises pending the determination of this proceeding; (d) awarding costs and disbursements; and (e) granting such other and further relief as the Court deems just and proper.

Dated: New York, New York
July 3, 2026

RACHEL DOWLING, Petitioner Pro Se
405 Main Street, Apt. 14E, Roosevelt Island, NY 10044
Telephone: 332-208-3558 Email: rachel.dowling66@yahoo.com

Dated: New York, New York
July 3, 2026

TIBOR ISTVAN KRISKO, Petitioner Pro Se
20 River Road, Apt. 12L, Roosevelt Island, NY 10044
Telephone: 713-376-8079 Email: tibor.krisko@gmail.com

VERIFICATION

I, RACHEL DOWLING, affirm this 3rd day of July, 2026, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that I am a Petitioner in the above-entitled proceeding; that I have read the foregoing Verified Petition and know its contents; that the same is true to my own knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true; and I understand that this document may be filed in an action or proceeding in a court of law.

RACHEL DOWLING

VERIFICATION

I, TIBOR ISTVAN KRISKO, affirm this 3rd day of July, 2026, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that I am a Petitioner in the above-entitled proceeding; that I have read the foregoing Verified Petition and know its contents; that the same is true to my own knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true; and I understand that this document may be filed in an action or proceeding in a court of law.

TIBOR ISTVAN KRISKO