

UNITED STATES DISTRICT COURT

for the

Southern District of New York

Stahl York Avenue Co., LLC

Plaintiff

v.

The City of New York and the New York City Landmarks Preservation Commission

Defendant

14 CV

Civil Action No.

7665

SUMMONS IN A CIVIL ACTION

JUDGE RAMOS

To: (Defendant's name and address) The City of New York
The New York City Landmarks Preservation Commission
c/o Corporation Counsel of the City of New York
100 Church Street
New York, NY 10007
(212) 356-1000

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Alexandra A.E. Shapiro
Shapiro, Arato & Isserles LLP
500 Fifth Avenue, 40th Floor
New York, NY 10110
(212) 257-4880

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

RUBY J. KRAJICK

CLERK OF COURT

Caroline Lapsey (handwritten signature)

Date: 09/22/2014

Signature of Clerk or Deputy Clerk

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS  
Stahl York Avenue Co., LLC

DEFENDANTS  
The City of New York and the New York City Landmarks Preservation Commission

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
Shapiro, Arato & Isserles LLP  
500 Fifth Avenue, 40th Floor  
New York, NY 10110  
(212) 257-4880

ATTORNEYS (IF KNOWN)  
The Corporation Counsel of the City of New York  
100 Church Street  
New York, NY 10007  
(212) 356-1000

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)  
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Violation of substantive due process under 42 U.S.C. 1983

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No  Yes  Judge Previously Assigned

If yes, was this case Vol.  Invol.  Dismissed. No  Yes  If yes, give date \_\_\_\_\_ & Case No. \_\_\_\_\_

IS THIS AN INTERNATIONAL ARBITRATION CASE? No  Yes

(PLACE AN [X] IN ONE BOX ONLY)

NATURE OF SUIT

TORTS		ACTIONS UNDER STATUTES	
<b>CONTRACT</b>	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<b>FORFEITURE/PENALTY</b>
[ ] 110 INSURANCE	[ ] 310 AIRPLANE	[ ] 367 HEALTHCARE/	[ ] 625 DRUG RELATED
[ ] 120 MARINE	[ ] 315 AIRPLANE PRODUCT LIABILITY	[ ] 368 PHARMACEUTICAL PERSONAL INJURY/PRODUCT LIABILITY	[ ] 626 SEIZURE OF PROPERTY 21 USC 881
[ ] 130 MILLER ACT	[ ] 320 ASSAULT, LIBEL & SLANDER	[ ] 365 PERSONAL INJURY PRODUCT LIABILITY	[ ] 690 OTHER
[ ] 140 NEGOTIABLE INSTRUMENT	[ ] 330 FEDERAL EMPLOYERS' LIABILITY	<b>PERSONAL PROPERTY</b>	
[ ] 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	[ ] 340 MARINE	[ ] 370 OTHER FRAUD	
[ ] 151 MEDICARE ACT	[ ] 345 MARINE PRODUCT LIABILITY	[ ] 371 TRUTH IN LENDING	
[ ] 152 RECOVERY OF DEFAULTED STUDENT LDANS (EXCL VETERANS)	[ ] 350 MOTOR VEHICLE		
[ ] 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS	[ ] 355 MOTOR VEHICLE PRODUCT LIABILITY	<b>PRISONER PETITIONS</b>	
[ ] 160 STOCKHOLDERS SUITS	[ ] 360 OTHER PERSONAL INJURY	[ ] 463 ALIEN DETAINEE	
[ ] 190 OTHER CONTRACT	[ ] 362 PERSONAL INJURY - MED MALPRACTICE	[ ] 510 MOTIONS TO VACATE SENTENCE 28 USC 2255	
[ ] 195 CONTRACT PRODUCT LIABILITY	<b>ACTIONS UNDER STATUTES</b>	<b>PRISONER CIVIL RIGHTS</b>	
[ ] 196 FRANCHISE	<b>CIVIL RIGHTS</b>	[ ] 530 HABEAS CORPUS	
	[ ] 440 OTHER CIVIL RIGHTS (Non-Prisoner)	[ ] 535 DEATH PENALTY	
	[ ] 441 VOTING	[ ] 540 MANDAMUS & OTHER	
	[ ] 442 EMPLOYMENT		
	[ ] 443 HOUSING/ ACCOMMODATIONS	<b>IMMIGRATION</b>	
	[ ] 445 AMERICANS WITH DISABILITIES - EMPLOYMENT	[ ] 462 NATURALIZATION APPLICATION	
	[ ] 446 AMERICANS WITH DISABILITIES - OTHER	[ ] 465 OTHER IMMIGRATION ACTIONS	
	[ ] 448 EDUCATION		
<b>REAL PROPERTY</b>			
[ ] 210 LAND CONDEMNATION			
[ ] 220 FORECLOSURE			
[ ] 230 RENT LEASE & EJECTMENT			
[ ] 240 TORTS TO LAND			
[ ] 245 TORT PRODUCT LIABILITY			
[ ] 290 ALL OTHER REAL PROPERTY			

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND \$ \_\_\_\_\_ OTHER \_\_\_\_\_ JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

Check YES only if demanded in complaint

JURY DEMAND:  YES  NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- 1 Original Proceeding
- 2 Removed from State Court
  - a. all parties represented
  - b. At least one party is pro se.
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from (Specify District)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judge Judgment

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

IF DIVERSITY, INDICATE CITIZENSHIP BELOW.

- 1 U.S. PLAINTIFF
- 2 U.S. DEFENDANT
- 3 FEDERAL QUESTION (U.S. NOT A PARTY)
- 4 DIVERSITY

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF <del>[ ]</del> DEF <del>[ ]</del>	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [ ] [ ]	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [ ] [ ]
CITIZEN OF ANOTHER STATE	[ ] [ ]	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[ ] [ ]	FOREIGN NATION	[ ] [ ]

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Stahl York Avenue Co., LLC  
 c/o Stahl Organization  
 277 Park Avenue  
 New York, NY 10172  
 New York County

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

The City of New York  
 c/o The Corporation Counsel of the City of New York  
 100 Church Street  
 New York, NY 10007  
 New York County

The New York City Landmarks Preservation Commission  
 1 Centre Street, 9th Floor  
 New York, NY 10007  
 New York County

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO:  WHITE PLAINS  MANHATTAN  
 (DO NOT check either box if this a PRISONER PETITION/PRISONER CIVIL RIGHTS COMPLAINT.)

DATE 9/22/2014 SIGNATURE OF ATTORNEY OF RECORD 

ADMITTED TO PRACTICE IN THIS DISTRICT  
 NO  
 YES (DATE ADMITTED Mo. 06 Yr. 2000 )  
 Attorney Bar Code # AS 4816

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge \_\_\_\_\_ is so Designated.

MAG. JUDGE PECK

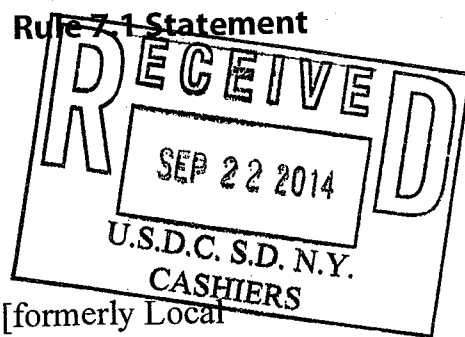
Ruby J. Krajick, Clerk of Court by \_\_\_\_\_ Deputy Clerk, DATED \_\_\_\_\_

**JUDGE RAMOS**  
**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF NEW YORK**

14 CV 7665

	Plaintiff,
Stahl York Avenue Co., LLC	
-v-	
The City of New York and the New York City Landmarks Preservation Commission	Defendant.

Case No. \_\_\_\_\_

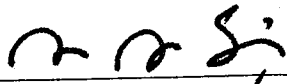


Pursuant to Federal Rule of Civil Procedure 7.1 [formerly Local  
General Rule 1.9] and to enable District Judges and Magistrate Judges of the Court  
to evaluate possible disqualification or recusal, the undersigned counsel for  
Stahl York Avenue Co., LLC (a private non-governmental party)

certifies that the following are corporate parents, affiliates and/or subsidiaries of  
said party, which are publicly held.

None

Date: 9/22/14

  
\_\_\_\_\_  
Signature of Attorney

Attorney Bar Code: AS 4816

**JUDGE RAMOS**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**14 CV 7665**

STAHL YORK AVENUE CO., LLC, :

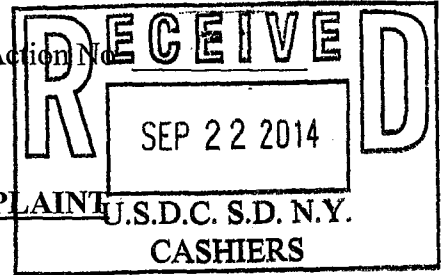
Plaintiff, :

v. :

THE CITY OF NEW YORK and THE NEW  
YORK CITY LANDMARKS PRESERVATION  
COMMISSION, :

Defendants. :  
-----X

Civil Action No.



Plaintiff-petitioner Stahl York Avenue Co., LLC (“Stahl”), by its attorneys

Shapiro, Arato & Isserles LLP, respectfully alleges as follows:

**PRELIMINARY STATEMENT**

1. For almost 30 years, Stahl, a real estate development corporation, reasonably believed that it was free to redevelop two century-old, architecturally insignificant tenement buildings that it purchased in 1977 (the “Buildings”). Stahl’s expectation that it could, at its election, demolish the Buildings and replace them with more modern structures was reinforced in 1990. At that time, the City of New York expressly decided *not* to landmark the Buildings and to preserve Stahl’s right to redevelop them, and its decision was affirmed in court.

2. Stahl therefore began to take steps to replace the archaic six-story walk-up Buildings with a modern, mixed-income condominium tower. As is, the apartments in the Buildings are simply unfit for modern living: they are tiny, cramped, and out-of-date; and because of their archaic design, many of them cannot accommodate basic needs such as queen-sized beds or normal bathroom fixtures. But as soon as Stahl revealed its redevelopment plans in 2006, the New York City Landmarks Preservation Commission (“LPC”) abruptly changed

course in the face of improper political pressure and, based on anti-developer political animus, landmarked the Buildings, 16 years after the City had decided not to do so. Absent the designation, the properties, if redeveloped pursuant to Stahl's plan, are worth up to \$200 million, and would provide the City with much-needed housing, jobs, tax revenues, and economic development. But the landmark designation has gutted the value of the properties, leaving Stahl with two antiquated Buildings and a negative economic return. At a time of an unprecedented housing shortage in New York City, the LPC's actions have blocked Stahl from pursuing exactly the kind of residential housing development this City needs.

3. Stahl sought relief through a statutory "hardship" procedure that requires the LPC to authorize alteration or reconstruction of a landmarked property when the owner cannot earn a reasonable return. Yet, the LPC, motivated by animus and undeterred in its insistence on preventing any development of the Buildings, denied Stahl's hardship application, based on a demonstrably flawed and indefensible analysis. The LPC manipulated its economic "analysis" and cherry-picked facts to reach its predetermined conclusion: that Stahl should be barred from developing the Buildings. The LPC's decisions, taken together, deprived Stahl of its substantive due process rights.

4. The Buildings are part of a complex of low-rise tenement housing units that Stahl owns, and which the LPC attempted to designate as a landmark in 1990. At the time, the Board of Estimate ("BOE"), which had final authority for the City on landmark designations, determined that the two Buildings should *not* be landmarked, expressly recognizing the need for additional housing units in the area and the need to preserve Stahl's development rights. In connection with that decision, Stahl acquiesced in the BOE's decision to designate as landmarks the other buildings in the same complex as the Buildings. Community groups challenged the

BOE's determination not to landmark the Buildings, but the New York Supreme Court upheld it, and the groups did not appeal.

5. Taking the City at its word, Stahl operated the Buildings for 16 years reasonably expecting that it could redevelop the properties in the future. But once Stahl began to bring its development plans to fruition, politically influential local residents who did not want their views obscured and did not want more people to live in their neighborhood, and allied interest groups who were hostile to development brought substantial political pressure to bear on the LPC to block Stahl's plans. The LPC succumbed to this pressure, even though it lacks authority to consider the types of issues the influential residents were concerned about. It therefore designated the Buildings as a landmark, thus stripping away the valuable development rights that the BOE had deliberately left in place.

6. At that point, Stahl's only avenue for judicial relief was an administrative petition under Article 78 of the New York Civil Practice Law and Rules, which it pursued. The state courts, however, believed that deference to the LPC's "expertise" was nonetheless required, and upheld the designation.

7. Because of the crushing economic impact of the designation and the need to obtain a final ruling before seeking a judicial remedy for the deprivation of its constitutional rights, Stahl sought redress by filing a hardship application pursuant to the New York City Landmarks Law. That law says that an owner of a landmarked property who is unable to earn a reasonable return on the property—defined as 6% of its assessed value—must be granted affirmative relief from the economic burden of the designation.

8. Stahl's intent, if its application were granted, was to promptly replace the outdated Buildings with a modern mixed-income condominium tower, which would have

provided much-needed additional housing for City residents and substantial economic development for the neighborhood. Stahl pledged to relocate tenants remaining in the Buildings to other apartments in the larger complex of buildings that were landmarked in 1990, to spend millions renovating those other buildings too, and to dedicate a number of new units for affordable housing.

9. Stahl presented overwhelming evidence in the hardship application process that it could not earn anything remotely approximating the statutory 6% reasonable rate of return, and demonstrated that, at the very most, it could earn a mere 1.19% return after performing substantial and costly renovations. This demonstrated the severe economic deprivation that the hardship application process was designed to avoid.

10. Nonetheless, the LPC again succumbed to political pressure to block any redevelopment, and engaged in a pre-judged, unreasonable, animus-driven, and result-oriented economic analysis tailored to deprive Stahl of its express rights under the Landmarks Law to demolish a designated building that cannot provide a reasonable rate of return. The administrative record is replete with statements by Commissioners and testimony from politically active residents and members of allied interest groups indicating that the LPC did not engage in an objective or fair review of Stahl's claim. As one commissioner put it, the LPC viewed its "job here" as "protect[ing] historic buildings and not to sort of be taken in . . . by a property owner whose goal is to tear a building down."

11. The LPC attempted to explain away the demonstrable hardship, by using erroneous interpretations of the Landmarks Law and a transparently flawed and jerry-rigged economic analysis to conclude that Stahl was somehow capable of earning a reasonable rate of return on these cramped and archaic tenement-style apartments—even after spending millions of