

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

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In the Matter of the Application of

THE RESIDENTIAL BOARD OF MANAGERS OF THE  
CENTURY CONDOMINIUM, by its Treasurer Paul Millman,  
and BONNIE EISLER,

Index No.

Petitioners,

**VERIFIED PETITION**

For an Order and Judgment Pursuant to Article 78 of the Civil  
Practice Law and Rules

–against–

THE DEPARTMENT OF TRANSPORTATION OF THE  
CITY OF NEW YORK and POLLY TROTTEBERG, as  
COMMISSIONER OF THE CITY OF NEW YORK  
DEPARTMENT OF TRANSPORTATION,

Respondents.

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Petitioners THE RESIDENTIAL BOARD OF MANAGERS OF THE CENTURY  
CONDOMINIUM, by its Treasurer Paul Millman, and BONNIE EISLER, by their undersigned  
attorneys, Akerman LLP, as and for their Verified Petition pursuant to Article 78 of the New York  
Civil Practice Law and Rules (“CPLR”), the New York State Environmental Quality Review Act,  
8 ECL §§ 8-0100, *et seq.*, its implementing regulations, 6 N.Y.C.R.R. Part 617 (collectively  
“SEQRA”) and New York City’s implementing regulations, 62 RCNY Chapter 6 (“CEQR”),  
allege upon personal knowledge, except as to the matters stated on information and belief, as  
follows:

### NATURE OF THE PROCEEDING

1. This special proceeding seeks declaratory and injunctive relief regarding a proposal, now apparently a *fait accompli*, to implement a wide-spread and comprehensive change to the traffic patterns on Central Park West between Columbus Circle on the south and Frederick Douglass Circle to the north.

2. According to descriptions of a “proposal” on its website, the New York City Department of Transportation (“DOT”) will (i) replace a single-lane 5-foot-wide bike lane on the east side of Central Park West with a “protected” 6-foot-wide bike lane and a 7-foot-wide buffer, (ii) which will eliminate approximately four hundred (400) parking spaces on the east side of Central Park West by DOT’s own estimate, and (iii) reconfigure turn lanes (“Proposed Project”).

3. Attached hereto as **Exhibit 1** is a true and correct copy of the DOT’s presentation to Manhattan Community Board 7 on the Proposed Project titled “Central Park West: Protected Bike Lanes and Traffic Calming.”

4. Prior to July 26, 2019, the only information on the DOT’s website regarding the Proposed Project was the “proposal,” but on that day, the agency announced the “proposal” will be implemented immediately.

5. The Proposed Project cannot be viewed in a vacuum. Rather, it is an integral part of an overall plan by the City of New York to expand bicycle lanes on a city-wide basis, and has been approved without DOT having complied with SEQRA or New York City’s own implementing regulations, CEQR.

6. Instead, DOT has apparently taken the position, one which is consistent with its policy regarding similar proposals, that the actions it seeks to implement are categorically exempt from review under SEQRA and CEQR. This conclusion, reached without a proper analysis or

meaningful public participation as mandated by SEQRA and CEQR, is based on an overly expansive reading of the implementing regulations, is in violation of lawful procedure, was affected by an error of law and/or was arbitrary and capricious.

7. DOT, like any other agency, is required to incorporate environmental considerations into its decision-making process, as strictly mandated by SEQRA and CEQR. Upon information and belief, based on DOT's representations in a similar action, DOT has not conducted any such review. DOT's failure to have done so mandates the granting of this Petition and the issuance of an injunction enjoining the implementation of the Proposed Project until it is properly vetted under SEQRA and CEQR.

8. The Petitioner readily satisfies all three criteria for injunctive relief in an Article 78 Proceeding: (a) the Petition presents a meritorious case; (b) allowing DOT to proceed with the Project (and presumably complete it) while this litigation proceeds would cause Petitioner irreparable harm; and (c) the balancing of the equities lies in their favor. (*See* the accompanying Memorandum of Law in Support of the Petition and the Motion for Preliminary Injunction.)

9. The threat to Petitioners is imminent: Upon information and belief, as of July 28, 2019, DOT has already posted signs on the east (northbound) side of Central Park West on the site of the Proposed Project reading: "TOW AWAY ZONE/NO PARKING" on Monday (July 29, 2019) and Tuesday (July 30, 2019): ROAD REPAIR."

10. Attached hereto as **Exhibit 2** is a true and correct copy of the photograph of this signage.

### **THE PARTIES**

11. Petitioner The Residential Board of Managers of the Century Condominium, by its Treasurer Paul Millman, exists by reason of New York State's Condominium Act and is the agent

of all owners of residential units located at 25 Central Park West, New York, New York, known as The Century. In 1989, when the Condominium and Board was created, there were 425 original residential units. Due to a number of apartment combinations in the intervening 30 years, there are somewhat fewer separate residential units today. The building was officially designated a landmark in 1985 by the NYC Landmarks Preservation Commission. Built in the 1930s by Irwin Chanin, who also designed and constructed The Majestic on 72nd and Central Park West, as well as several Broadway theatres, the building spans the entire block from West 62nd to West 63rd Streets.

12. Petitioner Bonnie Eisler is an individual and resident of 25 Central Park West, New York, New York.

13. Respondent DOT is an agency of the City of New York, created under the NYC Charter, with a Commissioner, Respondent Polly Trottenberg, who reports to the Mayor. DOT is responsible for the maintenance and management of New York City's roadways and bridges. It does not, itself, provide transportation to the public.

### **STATEMENT OF FACTS**

#### **The City's Newly Announced "Sweeping Plans" for Protected Bike Lanes**

14. On July 25, 2019, Mayor de Blasio announced an accelerated expansion of the protected bike lane network and a comprehensive \$58.4 million City-wide plan, entitled "Green Wave: A Plan for Cycling in New York City."

15. Attached hereto as **Exhibit 3** is a true and correct copy of the Office of the Mayor's Press Release: "Vision Zero: Mayor de Blasio Announces 'Green Wave' Bicycle Plan to Address Cycling Fatalities – With Citywide Protected Bike Lane Network and Increased Enforcement."

16. The proposed changes have been described as “sweeping” by the Deputy Director of the non-profit organization, Transportation Alternatives, Marco Conner: “The Department of Transportation knows that it takes a bold set of infrastructure and policy changes to make our streets safe for all New Yorkers, so we’re pleased to see Mayor de Blasio doubling down on his mandate to save lives and empowering DOT to bring sweeping changes to our streets.” *Id.*

17. To implement these “sweeping changes,” the City has committed \$58.4 million in new funding over the next five years, with 80 additional new staff. *Id.* The City has further committed to building 30 miles of protected bicycle lane annually, guided by a protected bike lane “vision” document.

18. Attached hereto as **Exhibit 4** is a true and correct copy of “Green Wave: A Plan for Cycling in New York City” (the “Green Wave Bike Plan”).

19. According to the Mayor’s office “[b]y the end of 2021, DOT will install over 80 miles of protected lanes. These projects are currently in various stages of planning and design.” Ex. 3. In addition, 50 intersections will receive turn calming treatments in 2019 and where possible, protected intersection designs will be added for new projects after streets are resurfaced or reconstructed. *Id.*

20. The Mayor also announced that after an average of over 20 protected bike lane miles per year for the last three years, a record amount of protected bike lanes – over 25 lane miles -- would be completed in 2019, with a commitment to even more protected lane miles in 2021 and 2022. *Id.* The Green Wave Bike Plan promises to “[i]ncrease our annual target of protected bike lanes (PBLs) from 10 PBL lane miles to 30 PBL lane miles to quickly fill in gaps and make new connections in the PBL network. This increased target will be a mix of new miles, upgraded miles of existing unprotected lanes, and capital construction.” (Ex. 4, p. 9).

21. However well-intentioned these sweeping changes may be, DOT is putting the cart before the horse. DOT states in the Green Wave Bike Plan that it will, *in the future*, “[c]reate and refine the vision for PBL (Protected Bike Lane) network expansion through additional data analysis and stakeholder input.” *Id.*

22. However, this “data analysis” and “stakeholder input” are required *prior to* the implementation of the sweeping changes, not after under SEQRA and CEQR. DOT has apparently failed to undertake a thorough SEQRA analysis of the Proposed Project and the so-called Green Wave Bike Plan, or provide a meaningful forum for hearing and taking into account the input of stakeholders.

23. In addition, the Green Wave Bike Plan is not without its detractors who claim that the push for more bike lanes has stripped the City of prime real estate on stately corridors like Columbus Avenue, caused an explosion of traffic tickets for delivery truck drivers who can’t afford them, ignores that the rise in bicycle accidents is attributable to the Mayor’s office in this and past administrations push to increase bicycle ridership, and favors a tiny minority of citizens by handing over vast swathes of the City’s public space.

24. Attached hereto as **Exhibit 5** is a true and correct copy of the New York Post Editorial “‘Bike Supremacy’ is Ruining the City,” published July 27, 2019.

#### **The Site and DOT’s Presentation of the Project to the Community Board**

25. Central Park West runs along the western border of Central Park, from 59th Street at Columbus Circle to 110th Street at Frederick Douglass Circle. On November 9, 1982, the linear stretch from 61st to 97th Streets was added to the National Register of Historic Places, and designated as the Central Park West Historic District. In addition to residential apartment buildings dating from the 19th century to the early 1940s, Central Park West is home to four

Christian churches, one synagogue, several smaller-scale, multi-family houses, the New York Society for Ethical Culture, the New York Historical Society and the American Museum of Natural History.

26. On or about June 11, 2019, DOT presented a proposal to Manhattan Community Board 7 (“MCB 7”) on the Proposed Project for the installation of a northbound protected bike lane along the east side of Central Park West, to run from Columbus Circle at West 59<sup>th</sup> Street to Frederick Douglass Circle at 110<sup>th</sup> Street, entitled “Central Park West Protected Bike Lane and Traffic Calming Proposal”. *See* Ex. 1.

27. On or about July 2, 2019, MCB 7 passed a Resolution approving the DOT’s Proposed Project. Attached hereto as **Exhibit 6** is a true and correct copy of the MCB 7 Resolution.

28. The current lane configuration on Central Park West is: (i) two 8-foot parking lanes along the east and west curbs; (ii) one 5-foot bike lane running northbound; (iii) one 10-foot and one 11-foot travel lane running northbound; (iv) one 10-foot and one 11-foot travel lane running southbound. (Ex. 4, p. 14).

29. The Proposed Project would increase the bike lane an additional foot, to 6 feet, and add a 7-foot buffer, thereby completely eliminating the northbound (east-curb) parking lane – approximately 400 parking spaces by DOT’s own estimate. (Ex. 4, pp. 15, 24).

30. The Proposed Project will negatively impact Petitioners in a number of ways. For instance, disabled residents travelling northbound and disembarking from motor vehicles will not be able to do so on the east side with the new lane configuration. In addition, disabled and elderly residents who wish to enter Central Park will be in harm’s way by having to cross the bike lanes due to bicycle riders who often neglect to abide by the normal traffic rules. Also, residents and building staff will lose available free parking, which will increase their expenses. Moreover, the

absence of parking on the northbound side will no doubt generate a significant number of illegal U-turns. Upon information and belief, none of these and other impacts have been analyzed as required by SEQRA.

### Statutory Summary

31. The SEQRA implementing regulations establish three different categories of actions funded, approved, or undertaken by agencies. Type I actions are presumed to have significant adverse environmental impacts. Type II actions have been previously “determined not to have a significant impact on the environment or are otherwise precluded from environmental review.”

32. Actions that are not classified as either Type I or Type II are treated as “Unlisted actions” and thus require further inquiry by the agency to determine whether they are likely to result in significant adverse environmental impacts.<sup>1</sup> No environmental review is required under SEQRA of a Type II action.<sup>2</sup>

33. Type I Actions are enumerated and considered more likely to require an Environmental Impact Statement (“EIS”).<sup>3</sup> Type II Actions, also enumerated, generally do not require environmental review.<sup>4</sup> All other actions are Unlisted Actions and thus, like Type I Actions, may require environmental review.<sup>5</sup> Among Type I Actions are actions that involve physical alteration of 2.5 acres which are contiguous to a historic district and publicly owned park land.<sup>6</sup>

<sup>1</sup> 6 N.Y.C.R.R. §§ 617.4, 617.5, 617.2(ak).

<sup>2</sup> See 6 N.Y.C.R.R. § 617.5(a) (exempting Type II actions from review); 6 N.Y.C.R.R. § 617.3(f) (confirming that “[n]o SEQRA determination of significance, EIS or findings statement is required” for Type II actions); 6 N.Y.C.R.R. § 617.6(a)(1)(i) (“If the action is a Type II action, the agency has no further responsibilities under this Part.”).

<sup>3</sup> See 6 N.Y.C.R.R. § 617.4(b)(I)-(II).

<sup>4</sup> See 6 N.Y.C.R.R. § 617.5(c)(1)-(37).

<sup>5</sup> See 6 N.Y.C.R.R. § 617.3(c).

<sup>6</sup> See 6 N.Y.C.R.R. 614.4(b)(9) and (10).

34. The Proposed Project falls squarely within the plain language description of a Type I Action: it materially affects the environment in a broad geographic area and is a large enough project, entirely contiguous to a major public park and an historic district, to be classified as Type 1, requiring a full environmental inquiry and the preparation of an Environmental Impact Statement (“EIS”). The Proposed Project, therefore, requires a “hard look” and full environmental inquiry and the preparation of an EIS or a Negative Declaration, which must be published in the Environmental Notice Bulletin of the New York State Department of Environmental Conservation. Yet, upon information and belief, DOT has conducted no environmental review whatsoever because, as it did in the 14th Street Bike Lane Proceeding, it almost certainly has, upon information and belief, mischaracterized the Proposed Project as a Type II action. Thus, DOT has failed even to consider whether the Proposed Project will have a “significant effect” on the environment. Accordingly, it has also failed either to make a Negative Declaration or prepare an EIS as required by ECL 8-0109[2].

35. Upon information and belief, DOT has failed to conduct a proper environmental inquiry, has not made a Negative Declaration, and has not prepared an EIS.

#### **DOT’s Position That SEQRA/CEQR Is Inapplicable to “Traffic Control” Projects**

36. Responding to a similar petition involving bike lanes and traffic restrictions on 14th Street in Manhattan, filed in June 2019, *In the Matter of Council of Chelsea Block Associations, et al., v. Polly Trottenberg, as Commission of the City of New York Department of Transportation*, Index. No. 156153/2019 (hereinafter referred to as the “14th Street Bike Lane Proceeding”), DOT made clear that it is taking the position that SEQRA inquiries “categorically do not apply” to traffic control projects, or to DOT’s “routine” administration of its function under the City Charter.

37. Attached hereto as **Exhibit 7** is a true and correct copy of Respondent's Memorandum of Law in Support of Its Verified Answer and in Opposition to the Petition and Petitioners' Motion for a Preliminary Injunction, filed on July 12, 2019, Index No. 156153/2019, [NYSCEF Doc. No. 65].

38. DOT classified the proposal in the 14th Street Bike Lane Proceeding as a Type II action for SEQRA purposes, claiming that the installation of traffic control devices on existing streets, roads and highways (6 N.Y.C.R.R. § 617.5(c)(22)), and "routine or continuing agency administration and management" which do "not includ[e] new programs or major reordering of priorities that may affect the environment," 6 N.Y.C.R.R. § 617.5(c)(26), are considered Type II actions. (Ex. 7 at pp. 7-10). DOT also explicitly stated that the environmental review requirements "categorically do not apply to traffic control projects, including the installation of protected bike lanes (*id.* at p. 2), and that all bike lane re-configurations are Type II actions under SEQRA/CEQR, and, thus insulated from environmental review. *Id.*

39. Accordingly, because the instant Proceeding also involves a similar protected bike lane, DOT has presumably classified the Proposed Project as a Type II action as well, and, consistent with its position in the 14th Street Bike Lane Proceeding, appears to have neither made a Negative Declaration nor prepared an EIS concerning the Proposed Project, in flagrant violation of SEQRA/CEQR. DOT has confirmed in its brief in the 14th Street Bike Lane Proceeding, that it has not prepared and has no intention of preparing any studies or other documents as required by SEQRA/CEQR.

40. As DOT stated explicitly in its brief in the 14<sup>th</sup> Street Bike Lane Proceeding, "[the 14<sup>th</sup> Street bike lane and traffic plan] fall squarely within the plain language of two Type II categories, categories that have broad applicability and no numerical or other qualifications. . . . [O]nce an action has been determined to be Type II, no environmental review is required. Thus, here, there was no such requirement that

NYCDOT meet a ‘hard look’ standard, nor was NYCDOT required to undertake any level of environmental review beyond determining that these actions are Type II.”

(Ex. 7. p. 6).

41. DOT’s conclusions are incorrect, in violation of lawful procedure, were affected by an error of law and/or are arbitrary and capricious.

42. There is no question that SEQRA applies to capital improvements to roadways. The current version of the SEQRA Handbook—SEQRA and Local Government, issued by the NY State Department of Environmental Conservation at Section C states: “Direct actions of local governments to acquire, construct, alter, remove or dispose of land or structures intended for public purposes require review under SEQRA. Included would be capital projects such as public buildings and open space, streets and highways, sewer and water systems and maintenance facilities.”

43. That same Handbook, in Section C, describes the following capital repairs as being Type II exceptions:

Maintenance or repair involving no substantial changes in an existing structure or facility; Replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, unless such action meets or exceeds any of the thresholds for Type I actions; and Maintenance of existing landscaping or natural growth.

A capital project which substantially changes a roadway would not be an exception.

44. DOT argues in the 14th Street Bike Lane Proceeding that the 14th Street proposed bike lane is “routine” because the NYC Charter states that it is part of the DOT’s mission to act to regulate vehicular and pedestrian traffic. (Ex. 7 at p. 9, *citing* NYC Charter, § 2903(a)(2)). But simply because regulating traffic is part the DOT’s mission as set for in the Charter, does not make DOT exempt from following other relevant laws, including SEQRA/CEQR. The City should not

be permitted to evade its responsibilities by hiding behind secretly made conclusory determinations just because doing so is expedient.

45. Moreover, there is nothing “routine” about an activity that will make major changes in traffic and pedestrian and parking along 60 blocks. The City publicly admitted that the Green Wave, including the accelerated protected bike lane initiative is a new, innovative program. (See Ex. 3). The fact that DOT has charter-imposed duty and power to deal with City transportation matters, does not abrogate its responsibility under CEQR and does not make everything it does “routine.”

46. DOT’s Proposed Project is far more comprehensive than the mere installation of traffic control “devices” as that term is defined in the New York State Vehicle and Traffic Law. Vehicle and Traffic Law § 153; ECL § 8-0101 (“[a]ll signs, signals, markings, and devices . . . erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic”).

47. The Proposed Project involves the major *restructuring* of an historic corridor with potentially grave implications for residents, pedestrians and motorists, which have not been considered, much less subjected to the required scrutiny.

48. In the 14th Street Bike Lane Proceeding, the New York County Supreme Court, Hon. Eileen Rakower, granted the petitioners request for a temporary restraining order enjoining DOT from implementing its plan “to restructure traffic on 14th Street in Manhattan, between 3<sup>rd</sup> Avenue and 9<sup>th</sup> Avenue...” Attached hereto as **Exhibit 8** is a true and correct copy of Justice Rakower’s Order.

49. On July 3, 2019, DOT filed a motion for leave to appeal, stay/vacatur of the temporary restraining order, and expedited consideration. On July 5, 2019, Judge Gische of the

Appellate Division, First Department issued an order denying the stay without prejudice, and a full panel of the Appellate Division denied DOT's motion in its entirety by order dated July 23, 2019, (2019 Slip. Op. 75872(U)).

### **Impact on Traffic and Harm to the Community**

50. By circumventing SEQRA and CEQR, DOT has failed to study the inevitable impact on traffic and the community of the elimination of 400 parking spaces, effectively shielding the Proposed Project from public review or comment as mandated by the environmental laws. Nor did DOT bother to evaluate using Central Park roads as an alternative and/or mitigation measure to restructuring Central Park West.

51. For example, the Protected Bike Lane, with its 7-foot buffer, would create a distance from the curb of 13 feet from the nearest traffic lane. Yet DOT has conducted no SEQRA analysis of the impact of the lack of curb access (on the northbound side) for individuals exiting taxis and other for-hire vehicles, especially for those who are wheelchair-bound, have service dogs, or are otherwise disabled.

52. Moreover, Central Park West is already plagued with double-parked cars frequently blocking traffic lanes, a condition that can only worsen with the removal of an entire parking lane and addition of the buffer. Nor has the DOT, upon information and belief, taken any look (much less the required "hard look" required by SEQRA ), at the Proposed Project's effect on vehicle distribution on the adjacent streets connecting to Central Park West, where slow-moving vehicles will be forcibly rerouted to cruise for parking spaces; the availability and affordability of alternate parking; the impact on commercial traffic; the impact on congestion pricing; or the possible mitigating measure of authorizing residential parking permits.

53. These potentially harmful results and mitigating measures are precisely what the environmental review requirements are designed to address – prior to implementation and not after the fact.

54. Similarly, upon information and belief, DOT has not studied in any depth the impact of the proposed turning restrictions, lane assignment changes, and signal turn changes (what DOT euphemistically refers to as “turn calming” measures), on traffic patterns, such as the inevitable increase in illegal U-turns. Other conditions that DOT has failed to examine include the impact on emergency vehicles, and motorized bikes and scooters, and the impact on air quality of increased congestion.

#### **DOT’s Improper Segmentation of the Interrelated City-Wide Protected Bike Lane Plan**

55. Segmentation is “the division of the environmental review of an action such that various activities or stages are addressed under this Part (*i.e.*, the SEQRA regulations) as though they were independent, unrelated activities, needing individual determinations of significance.” 6 N.Y.C.R.R. § 167.2(ag).

56. Of particular relevance here, in light of the City’s \$58.4 million Green Wave Bike Plan, the SEQRA regulations specifically require that an agency “consider reasonably related effects *‘including other simultaneous or subsequent actions which are: (1) included in any long-range plan of which the action under consideration is a part; (2) likely to be undertaken as a result thereof; or (3) dependent thereon.’*” 6 N.Y.C.R.R. § 617.7(c)(2) (emphasis added); *Village of Westbury v. Department of Transp.*, 75 N.Y.2d at 68 (quoting this provision).

57. If there is, as the Mayor and the Commissioner have announced recently, a City-wide initiative to increase the number of bike lanes, that overall program is subject to

SEQRA/CEQR and parsing the review by the subterfuge of calling it “routine” or a mere installation of traffic control devices is classic segmentation.

58. The Proposed Project is only one relatively small piece of DOT’s long-range, comprehensive Green Wave Bike Plan to alter the City’s landscape with miles of protected bike lines, and it is clearly related in purpose and kind to the dozens of other such projects that the City just announced it intends to implement. Indeed, the Green Wave Bike Plan and the Mayor’s recent press release openly acknowledge that DOT plans to implement the newly announced \$58.4 million City-wide project in piecemeal fashion, constructing over a period of many years a network of buffered bike lanes, one by one.

59. DOT thus plans to implement the newly announced \$58.4 million City-wide project in piecemeal fashion, constructing over a period of many years a network of buffered bike lanes, one by one, and taking the position that each one is simply a “routine” (and therefore Type II) action, insulated from environmental inquiry or public review and comment.

60. If not enjoined, the City will thus be able to shield an entire set of interrelated actions, which all share a common purpose, from the environmental review process.

**AS AND FOR A FIRST CAUSE OF ACTION**  
(NY State Environmental Quality Review Act)

61. Petitioners incorporate herein all prior allegations in paragraphs 1 through 61.

62. The Proposed Project materially affects the environment in a broad geographic area, and, in part, is a large enough project contiguous to a public park and an historic district to be considered a Type 1 Action.

63. The Respondent’s failure to take a “hard look” and prepare and properly file and publish an Environmental Assessment and Environmental Impact Statement addressed to the Proposed Project violates SEQRA, and its attendant regulations.

64. The Respondents' determination to implement the Proposed Project violation of SEQRA is in violation of lawful procedure, affected by an error of law and/or is arbitrary and capricious and must be annulled.

**AS AND FOR A SECOND CAUSE OF ACTION**

(City Environmental Quality Review Act)

65. Petitioners incorporate herein all prior allegations in paragraphs 1 through 65.

66. Respondent's failure to take a "hard look," and prepare and properly file and publish an Environmental Assessment and an Environmental Impact Statement addressed to the Proposed Project violates CEQR and NYC Executive Order 91.

67. The Respondents' determination to implement the Proposed Project violation of CEQR is in violation of lawful procedure, affected by an error of law and/or is arbitrary and capricious and must be annulled.

**AS AND FOR A THIRD CAUSE OF ACTION**

(Segmentation - NY State Environmental Quality Review Act)

68. Petitioners incorporate herein all prior allegations in paragraphs 1 through 68.

69. The \$58.4 million Green Wave Bike Plan, which includes the construction of a vast network of Protected Bike Lanes, to be constructed, one by one, over a period of years without conducting an environmental view of the entire plan constitutes segmentation in violation of SEQRA, and its implementing regulations.

70. The Respondents' violation of the rules and regulations against segmentation was in violation of lawful procedure, affected by an error of law and/or is arbitrary and capricious and must be annulled.

**NO PRIOR APPLICATION**

71. **No prior application for this or any similar relief has been made in this or any other Court.**

**PRAYER FOR RELIEF**

For all the foregoing reasons, Petitioners respectfully request that the Court enter judgment against the Respondents:

(i) declaring that the implementation of the Proposed Project is in violation of both SEQRA and CEQR;

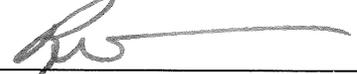
(ii) annulling Respondents' determination to proceed with the Proposed Project unless and until it complies with SEQRA and CEQR;

(iii) enjoining the Respondents from proceeding with the implementation of the Proposed Project until Respondents comply with SEQRA and CEQR; and

(iv) granting Petitioners all such further relief as the Court deems just and proper.

Dated: New York, New York  
July 30, 2019

**AKERMAN LLP**

By: 

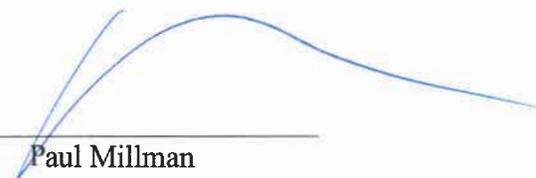
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*Attorneys for Petitioners  
The Residential Board of Managers of the  
Century Condominium, by its Treasurer Paul  
Millman, and Bonnie Eisler*

**VERIFICATION**

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

PAUL MILLMAN, being duly sworn, deposes and says, that he is the Treasurer of Petitioner The Residential Board of Managers of the Century Condominium, that he has read the foregoing Petition and knows the contents thereof; and that the statements made therein are true to deponent's own knowledge, except as to matters stated to be alleged on information and belief, and that as to those matters deponent believes them to be true.

  
\_\_\_\_\_  
Paul Millman

Sworn to before me this  
30th day of July, 2019

  
\_\_\_\_\_  
Notary Public

**W. CHRISTOPHER NELSON**  
**Notary Public, State of New York**  
**No.01NE6021164**  
**Qualified in New York County**  
**Commission Expires May 30, 2023**

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

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**In the Matter of the Application of**

**THE RESIDENTIAL BOARD OF MANAGERS OF THE  
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**Index No.**

**Petitioners,**

**For an Order and Judgment Pursuant to Article 78 of the  
Civil Practice Law and Rules**

**ORDER TO SHOW CAUSE  
WITH TEMPORARY  
RESTRAINING ORDER  
AND ARTICLE 78  
PETITION WITH  
SUPPORTING PAPERS**

**-against-**

**THE DEPARTMENT OF TRANSPORTATION OF THE  
CITY OF NEW YORK AND POLLY TROTTEBERG, as  
COMMISSIONER OF THE CITY OF NEW YORK  
DEPARTMENT OF TRANSPORTATION,**

**Respondents.**

-----X

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*Attorneys for Petitioners*

*Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.*

*Dated: July 30, 2019*

Signature   
Name: Richard G. Leland