

HIGH LINE'S PRESERVATION AND REUSE ADVOCATES WIN LEGAL VICTORY

Demolition Agreement Between Property Owners and Former Giuliani Administration Must Submit to Public Review Process

March 13, 2002 -- Advocates for the preservation and reuse of the High Line, an historic elevated rail structure on the West Side of Manhattan, won an important legal victory yesterday when Honorable Justice Diane A. Lebedeff of the Supreme Court of the State of New York ruled that controversial plans to demolish the High Line were "undertaken in violation of 'lawful procedure' and [were] an 'error of law.'"

"This win is an important step forward for New York City," said Robert Hammond, co-founder of Friends of the High Line, a not-for-profit group working to transform the out-of-use rail structure into an elevated walkway through the federally sanctioned "rail-banking" program.

Justice Lebedeff's decision resulted from an Article 78 lawsuit filed in December 2001 by the New York City Council, Manhattan Borough President C. Virginia Fields, Friends of the High Line, and six Chelsea residents. The petitioners claimed that a demolition agreement negotiated by the City of New York with a group of private property-owners during the final days of the Giuliani administration was required to pass through the City Charter-mandated Uniform Land Use Review Procedure, or ULURP, before being finalized. Justice Lebedeff strongly supported the petitioners' claim.

"Surely, there are few recent Manhattan projects which so appropriately fit within the broad purpose of ULURP.... ULURP review for this project is required under the terms of the City Charter," wrote Justice Lebedeff.

New York City Council Speaker Gifford Miller said, "I'm very pleased that the City Council's position has been upheld. We look forward to working with the Bloomberg Administration to save this historic structure that benefits the City as a whole."

Manhattan Borough President C. Virginia Fields said, "Justice Lebedeff's decision confirms what the Friends of the High Line have been attempting to prove throughout the process.... The people most affected by an action of this magnitude, the destruction of the High Line, should have a say in the process. That's not only the right thing to do legally, but perhaps even more importantly, it is the ethical thing to do."

ULURP is required of actions that will have a significant impact on planning and land use in any New York City community. The procedure includes review by the City Council, the Borough President, the Department of City Planning, and the community boards in question. In late 2001, Community Boards 2 and 4, through which the High

Line runs, both protested the City's attempt to commit to a demolition agreement outside of ULURP.

Respondents in the case, who unsuccessfully argued that ULURP was not required, included the City of New York, Rudolph Giuliani, in his former official capacity as the Mayor, and the New York City Department of Buildings.

"It's important to recognize this as a victory for the City of New York, not against it," says Hammond. "The High Line has the potential to add 6.7 acres of public open space to three park-starved neighborhoods. Now an innovative proposal that uses intelligent planning to link the creation of a great, new public space to long-term economic growth for the City has a real chance to flourish."

Two basic arguments formed the foundation of Judge Lebedeff's opinion: The High Line represents "real property" that would be acquired by the City through the demolition agreement; and the High Line is on the City Map. ULURP is required in both instances.

John R. Cuti, of Emery Cuti Brinckerhoff & Abady, counsel for the High Line plaintiffs, said, "This is significant victory for New Yorkers who want to have a say about how their communities develop. The former Mayor tried to do an end-run around ULURP and failed. The Judge made it clear that ULURP has teeth."

By reducing the threat of imminent demolition, the decision gives Friends of the High Line the time necessary to complete an important financial feasibility study, now in progress. The study will identify costs associated with reuse and demonstrate how those can be balanced by the economic value added to the City by a public open space atop the High Line.

The legal victory comes on the heel of another major success for Friends of the High Line. In February 2002, the group released Reclaiming the High Line, the first-ever comprehensive reuse and planning study of the High Line, co-sponsored by The Design Trust For Public Space, a not-for-profit organization dedicated to improving the quality of the public built environment in New York City. Reclaiming the High Line was exhibited at the Municipal Art Society and was published in a book sponsored by AOL Time Warner. On February 27, in association with Reclaiming the High Line, a panel of renowned architects spoke to a packed forum at the Reuters Building about the High Line's unique potential to anchor a pioneering design and planning vision for the far West Side. Participants included Julie Bargmann, Assistant Professor, Department of Landscape Architecture, University of Virginia; Gary Handel, Principal, Gary Edward Handel & Associates; Steven Holl, Principal, Steven Holl Architect; Terrence Riley, Chief Curator, Department of Architecture and Design, Museum of Modern Art; and Marilyn Jordan Taylor, Partner and Chairman, Skidmore, Owings & Merrill.

The High Line, currently owned by CSX Transportation Inc., was built in the 1930s as part of the \$175 million West Side Improvement Project, which ended dangerous conflicts between trains and other traffic on the West Side by burying freight lines in some locations and elevating them in others. Before it was built, 10th Avenue was known

as “Death Avenue,” because of the many fatalities caused by freight trains running at street level.

Efforts to preserve and reuse the High Line as an elevated walkway are supported by, among others, New York City Council Speaker Gifford Miller, Manhattan Borough President C. Virginia Fields, City Council Member Christine Quinn, Representative Jerrold Nadler, U.S. Senator Hillary Rodham Clinton, State Senator Tom Duane, State Senator Eric Schneiderman, and State Assembly Member Deborah Glick.

Similar rails-to-trails initiatives have already created more than 11,000 miles of rail-trails nationwide.

For more information, e-mail info@thehighline.org.

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