

HILLER, PC

Attorneys at Law

641 Lexington Avenue, 29th Floor
New York, New York 10022
(212) 319-4000

Web Address: www.hillerc.com
Direct email: mhillerc@hillerc.com

March 13, 2026

By Email: chair@lpc.nyc.gov
testimony@lpc.nyc.gov
msilberman1@lpc.nyc.gov

Hon. Angie Master
Landmarks Preservation Commission
253 Broadway, 2nd Floor
New York, New York 10007

Re: 27 East 4th Street
Dkt. No. LPC 26-06706
March 17, 2026 Cal. No. 6 (Public Hearing Calendar)

Dear Chair Master, Commissioners, and General Counsel Silberman:

As you are aware, we represent Merchant's House Museum, located at 29 East 4th Street in lower Manhattan ("Merchant's House" or the "Museum"). We write in opposition to the latest application ("New Application") for a certificate of appropriateness ("CofA") to construct a nine-story building ("Newly-Proposed Building") at 27 East 4th Street ("Property Site"), which is directly adjacent to Merchant's House. The Property Site lies at the outer perimeter of the NoHo Historic District Extension ("District").

EXECUTIVE SUMMARY

The New Application constitutes the third attempt by Kalodop II Park Corporation ("Developer") to construct a disproportionately large building on the Property Site. In or about 2012, the Developer proposed an eight-story hotel ("First Proposal" or "Proposed Hotel"). In or about 2018, the Developer proposed a seven-story commercial office building ("Second Proposal" or "Previously-Proposed Office Building"). And now the Developer seeks to erect the Newly-Proposed Building -- a *nine*-story commercial office building adjacent to the 3½ story Merchant's House.

The Commission approved the Proposed Hotel, but City Council rejected that plan during its ULURP review, based upon the risks posed to Merchant's House (City Council Transcript to Adopt Findings by Subcommittee on Landmarks, Ex. 1; Transcript of Subcommittee Hearing at 8-10, Ex. 2). After the Proposed Hotel was voted down, the Commission approved the Previously-Proposed Office Building, subject to, among other things, preparation of a study of how the adjacent construction would affect the 1832 original historic plaster at Merchant's House ("Original Historic Plaster") -- a study which the Developer never obtained. Now, the Developer seeks approval for its Newly-Proposed Building based upon the false assumption that this new proposal is somehow no

Hon. Angie Master
Commissioners
Mark Silberman, Esq.
March 13, 2026
page 2

different from the Previously-Proposed Office Building that the Commission approved three years ago. The Developer is mistaken; a lot has changed.

First, as demonstrated below, the Newly-Proposed Building is taller, bulkier and heavier than the Previously-Proposed Office Building. Equally as important, the Commission is in possession of reports from reputable geotechnical and structural engineers, as well as a plaster preservation expert, all of whom have concluded that, if the Newly-Proposed Building were to be constructed, Merchant's House would suffer severe, irreversible damage. In particular, if the Newly-Proposed Building were to be built: (i) much of Merchant's House's 1832 Original Historic Plaster on the first, second and third floors "**will**" -- not might or could, but "**will**" -- be destroyed (ANA Report, 03/12/2026 at 4, ¶¶3, 5 Ex. 3); and (ii) Merchant's House will sustain severe damage to its exterior masonry (*Id.* at ¶2). Indeed, Atkinson-Noland Associates ("ANA"), an engineering firm with a specialty in plaster preservation, concluded that the taller, bulkier, heavier Newly-Proposed Building is likely to cause even more damage than ANA predicated in 2024 when evaluating the potential impacts on Merchant's House caused by the Developer's smaller Previously-Proposed Building (*Id.* at 3, 4-5).

Second, WJE, a national engineering firm, has concluded that construction of the Newly-Proposed Building could "result in significant damage to Merchant's House, and potentially structurally compromise the structure" (WJE 12/08/2023 Report at 3, Ex. 4).¹ ANA reached the same conclusion, observing that "structural compromise ... continues to be a risk" of construction of the Newly-Proposed Building (ANA Report, 03/12/2026 at 4, ¶4, Ex. 3). In other words, in addition to the certain damage threatened to the Original Historic Plaster, there is a real risk of structural compromise at Merchant's House if the New Application were to be granted.

Third, we have heard from the Developer's representatives that Donald Friedman of Old Structures is apparently prepared to opine that the Newly-Proposed Building allegedly poses no risk to Merchant's House; however, Mr. Friedman has not seen the geotechnical studies by Mueser Rutledge Consulting Engineers ("MRCE") or WJE. Nor has Mr. Friedman seen any of the *three* plaster studies prepared by ANA, including its most recent analysis in 2026. Thus, while we have all of the respect in the world for Mr. Friedman and his firm, his ultimate opinion must be regarded as preliminary and subject to further evaluation after reviewing the reports prepared by the engineers with the greatest familiarity with Merchant's House – WJE, ANA and MRCE.

Fourth, a secret passageway ("Secret Passageway"), previously unknown to the WJE, ANA or MRCE (and we suspect, Mr. Friedman) was discovered inside the West Wall of Merchant's House, traversing the Second, First and Parlor Floors. ANA has confirmed that the Secret Passageway cuts through the Merchant's House framing, rendering its structure, which is already

¹The WJE Report in 2021 focused on the Previously-Proposed Office Building; however, insofar as the Newly-Proposed Building is taller, bulkier and ultimately heavier than its predecessor, the analysis, if anything, understates the horrific impacts that would be experienced by Merchant's House.

Hon. Angie Master
Commissioners
Mark Silberman, Esq.
March 13, 2026
page 3

teetering on an 1832 rubble foundation, even less stable, creating additional risks of damage to, among other historic features, the Original Historic Plaster (ANA Report 03/12/2026 at 5, Ex. 3).

Lastly, the Secret Passageway, having been carefully evaluated by the Merchant's House historian, and experts from around the country, has been identified as an Underground Railroad Site (Underground Railroad Analysis, Ex. 5). We recognize that a footnote to the 1981 Interior Designation Report for Merchant's House suggests that the Secret Passageway was supposedly created to allow for repair of pocket doors on the First Floor (the "Pocket Door Theory"). The Pocket Door Theory, however, as evidenced by the Commission's responses to a recent FOIL request, was not thoroughly researched, but rather appears to have been the product of speculation by a doctoral candidate -- a paper which was then mistakenly adopted, at the time, by people who obviously never traversed the Secret Passageway. I personally went to the bottom of the Secret Passageway, and, as shown below, there is no possible way that it was created to service the First Floor Pocket Doors; indeed, anyone who enters the Secret Passageway would consider the Pocket Door Theory to be laughably false.

Discovery of the Secret Passageway makes Merchant's House the only publicly-accessible, intact Underground Railroad Site left in Manhattan. Given the risks of damage to Merchant's House, including the prospect of structural compromise, the New Application should be denied. Instead, the Commission should urge the Developer to: (i) consider constructing a much smaller building; and (ii) work *with* Merchant's House and its engineers, rather than trying to circumvent their efforts to preserve Merchant's House, as the Developer seeks to mislead the Commission into approval of a modification to the District that could destroy one of the City's most important historic properties.

Brief Background on the Property Site

The Property Site at 27 East 4th Street is improved by a one-story garage, with a roll-up gate housing a storage facility for hotdog vendor carts (the "Garage"). A review of the Designation Report for the Historic District confirms that the Garage is a non-contributing building that has no particular style, no historic features, and otherwise contributes absolutely nothing to the neighborhood (NoHo Historic District Extension Report at 74-75, Ex. 6). The architect for the Garage, Herman Kron, about whom little is known other than that he worked alone, was in the business of designing one- to two-story garages and lunch rooms (*Id.* at 115). Despite having absolutely no architectural, historical or cultural significance, the District Map confirms that the Commission went out of its way to single out the non-contributing, non-descript, one-story, hotdog storage Garage for inclusion in the District Extension (Map, Ex. 7). Why would the Commission do that? Because the Developer had just purchased the Property Site months earlier, and apparently the Commission was concerned that the Developer might attempt to construct a disproportionately large building that endangered Merchant's House. In other words, the primary stakeholder here, based upon the Commission's precedent, is not the Developer; it's Merchant's House.

Hon. Angie Master
Commissioners
Mark Silberman, Esq.
March 13, 2026
page 4

Brief History of Merchant's House

In contrast to the historical, architectural and cultural *insignificance* of the Garage, Merchant's House is among the most heralded historic properties in New York. It is an individually-designated New York City landmark (exterior and interior), a National Historic Landmark and is listed on the National Register of Historic Places. Merchant's House was the first building designated a landmark in Manhattan after the Landmarks Law was enacted in 1965, and was the first residential landmark designated in all of New York City. The Museum is fully preserved, and includes all original furnishings and finishes, including the Original Historic Plaster. In every conceivable respect, Merchant's House provides visitors with insights into early 19th Century New York City living -- an experience unavailable just about anywhere else in the world.

The Secret Passageway is located beneath a built-in chest of drawers located in a passthrough closet between the two bedrooms once occupied by Seabury and Liza Tredwell. *See* Photographs, Ex. 8. To access the Secret Passageway, the bottom right drawer to the built-in dresser is removed, revealing a 2' x 2' hatch. *See* Photographs of Hatch, Ex. 9. The Secret Passageway is an exceptionally narrow, no-frills channel featuring a series of offset rungs comprising a makeshift ladder that descends approximately 18', from the Second Floor, to the First Floor and then to the entry level floor ("Entry Level Floor"). The original plans for Merchant's House confirm that the Secret Passageway led to an area on the Entry Level Floor concealed by a partition wall. According to reports (referenced below), the Secret Passageway may have proceeded further, all the way to the cellar of Merchant's House through an as of yet undiscovered exit.

As referenced above, the 1981 Interior Designation Report for Merchant's House suggests that the Secret Passageway was created for the purpose of maintaining the pocket doors on the First Floor (Pocket Door Theory, previously defined); however, having been inside the Secret Passageway (all the way to the bottom), I know that the Pocket Door Theory is absurd. *First*, there would be no purpose to creating a Secret Passageway that traverses past the First Floor (where the Pocket Doors are located) all the way to the Entry Level Floor and then to the cellar. *Second*, one could not possibly reach the Pocket Doors from the Secret Passageway, as they are well beyond reach and partially obscured with wood framing. *Third*, if the Secret Passageway had been created for the purpose of maintaining the Pocket Doors, the builder would certainly have created a place to stand or sit while working; instead, anyone repairing the Pocket Doors, assuming that they could be reached would have to suspend himself or herself from the offset rungs of the ladder, while straining to reach the tracking with the other. Given the meticulous manner in which the builder designed and constructed the rest of Merchant's House, with its extraordinary plaster, chandeliers, and other details, the notion that he would have created a supposed maintenance shaft that renders it impossible to perform any actual maintenance work borders on absurd.

In contrast to the absurdity of the Pocket Door Theory, the evidence in support of a finding that the Secret Passageway comprises a previously-undiscovered Underground Railroad Site is truly overwhelming. It is completely beyond dispute that the builder who created Merchant's House and

Hon. Angie Master
Commissioners
Mark Silberman, Esq.
March 13, 2026
page 5

the Secret Passageway, Joseph Brewster, was an ardent and devout Abolitionist, who was part of a secret society that attempted to purchase the west coast of Africa for the purpose of obstructing the slave trade (Underground Railroad Analysis at 3, Ex. 5). Brewster was also a member of three Abolitionist churches; and, in one of them, Brewster approved construction of a false floor, ostensibly to hide Freedom Seekers (*Id.* at 4). If that weren't enough, Brewster descended from a family of Abolitionists (*id.*), signed anti-slavery petitions filed with Congress (*id.* at 5), and funded anti-slavery missions (*Id.*).

Aside from Brewster's history, the particular construction of the Secret Passageway provides further evidence of its status as an Underground Railroad Site. Specifically, architectural historians have confirmed that the Secret Passageway is entirely uncharacteristic of 19th Century architecture and design. Indeed, no other 19th Century row house in New York City appears to have a similar feature (Underground Railroad Analysis at 7). As explained by Patrick W. Ciccone, co-author with Charles Lockwood of *Bricks and Brownstone: The New York Rowhouse*:

Thus, and most critically, the hidden passageway in the Merchants' House is a *sui generis* architectural feature that is completely atypical of the generic row house of the 1830s. No other houses of this era have a similar concealed passageway; it is not a feature of any normal row house plan.

Id. Ciccone concludes in dramatic fashion that there is:

no other conclusion that is plausible except the most astonishing one: that this passageway, which survives largely intact on the second floor and parlor level, was intended as a space to hide freedom-seekers in the early days of the Underground Railroad in New York City.

*Id.*²

²That this Underground Railroad Site was discovered at all constitutes nothing short of a preservation miracle. Underground Railroad sites were illegal in the 19th Century. And those individuals who harbored Freedom Seekers were subject to beatings, arrest, incarceration and sometimes death. Once discovered, Underground Railroad sites were often sacked, which is precisely what occurred when the landmarked Hopper-Gibbons House was outed as an Underground Railroad Site in 1863. Thus, Underground Railroad sites had to be concealed, thereby making them almost impossible to find centuries later. The only reason that the Underground Railroad Site at Merchant's House was available for discovery nearly 200 years after it was created is that the Merchant's House building was individually designated inside and out; had Merchant's House not been protected from development, the interior passageway comprising the Underground Railroad Site would never have been found. For this reason, it is entirely likely that Merchant's House will be the last newly-discovered intact shelter point of the Underground Railroad ever discovered in New York City.

Hon. Angie Master
Commissioners
Mark Silberman, Esq.
March 13, 2026
page 6

Notably, Merchant's House historians and Mr. Ciccone are not the first to determine that the Secret Passageway comprises an Underground Railroad Site. A review of the Commission's own archives, obtained through a FOIL request, confirms that the evidence establishing Merchant's House as an African American Heritage site is further supported:

- "Old Merchant's House Aims for Bicentennial Opening," *Our Town*, June 28, 1974 ("What was the purpose of the secret hiding place? Although various theories have been advanced, it is believed the family used it to hide runaway slaves in the Underground Railroad era") (Ex. 10).
- "Old Merchant's House Aided," *Grant from National Preservation Fund* (date, unknown) (A trap door to a cellar with access to the East River reflects that the Secret Passageway was "used as part of the Underground Railway") (Ex. 11).
- "A Tour of the Old Merchant's House," Richard Bowman (Cooper Union) ("A TRAPDOOR in the floor of the hallway reveals a laddered passage between the walls leading to a tunnel in the cellar to the East River, then at 1st Avenue ... to aid slaves escaping in the Underground Railway") (Ex. 12).³

It is against this background that the Developer's various proposals should now be considered.

Developer's First Proposal – the Proposed Hotel

The Applicant's Proposed Hotel, filed in or about 2014, would have comprised an eight-story building; however, it required a zoning change, triggering a ULURP review and resulting in analyses by City Council, its associated committees, the Community Board and the Manhattan Borough President. In September 2018, the City Council, by a vote of 42-3, rejected the Proposed Hotel (City Council Transcript, Ex. 1). Antecedent to the City Council's rejection of the Proposed Hotel, it was also rejected by the Manhattan Borough President, the Community Board, the City Council Committee on Land Use, and the City Council Subcommittee on Zoning and Franchises. The

³While the Interior Designation Report references the Pocket Door Theory, the only so-called "evidence" in its support is a footnote to a doctoral student's thesis, in which he wrote simply that "[his] research has found no evidence to reinforce" the notion that the Secret Passageway comprised a stop on the Underground Railroad (Ex. 13 at n.36). In other words, the Commission seems to have adopted a finding based upon the inadequate researching skills of a university student, who never entered the Secret Passageway and thus could not possibly have known its bonafides. To be clear – the evidence assembled by professional researchers, Underground Railroad experts and architectural historians trumps the amateurish leanings of a student who apparently decided that, because *he* couldn't find evidence, it must not exist.

Hon. Angie Master
Commissioners
Mark Silberman, Esq.
March 13, 2026
page 7

Subcommittee on Zoning and Franchises and Committee on Land Use both expressed concern that the Proposed Hotel would pose “a risk ... to a very unique landmark” (Subcommittee Transcript at 6, Ex. 2; Committee Transcript at 8, Ex. 15). And the City Council adopted their findings (City Council Transcript, Ex. 1).

Developer’s Second Proposal – The Previously-Proposed Office Building

In or about 2021, the Developer returned to the Commission -- this time, with a proposal that did not require a zoning change, thereby bypassing City Council. And the Developer’s strategy worked; on December 12, 2023, the Commission, at a Public Meeting, approved the Previously-Proposed Office Building -- a seven-story structure with a 20' setback on the top floor -- but subject to, among other things, preparation of a plaster study. Prior to voting at the December Public Meeting, one of the Commissioners asked the Developer’s design team whether Merchant’s House’s engineers had formed an opinion with respect to the application for approval of the Previously-Proposed Office Building. In response, the Developer’s design team misled the Commission, by falsely asserting that Merchant’s House’s engineers had no opinion on the Previously-Proposed Office Building; in fact, Merchant’s House’s engineers had, by that point, submitted dozens of reports to the Commission objecting to the Previously-Proposed Office Building (as well as the Proposed Hotel) as unsafe. The larger point, however, is that none of the other Commissioners or members of staff spoke up to identify the reports that had been submitted; thus, no one at the Commission seemed to have been aware of the reports we filed.

Whether this was the product of a technical snafu, miscommunication or some other mishap, it is plain that the decision to grant approval of the Previously-Proposed Office Building should not be considered as relevant precedent for the New Application, since the Commissioners were not in possession of the reports confirming that the Developer’s Previously-Proposed Office Building posed a danger to Merchant’s House. Plainly, the Commissioners were interested in the perspectives of the Merchant’s House design team. Those perspectives should absolutely be considered in the context of the Developer’s New Application.

Furthermore, the Commission’s approval of the Previously-Proposed Office Building was made subject to the preparation of a plaster study; however, Merchant’s House had already submitted two previous plaster studies (Previous Plaster Studies, Ex. 16). And, in the attached reports, the Previous Plaster Study shows that construction of the Previously-Proposed Office Building, had it gone forward, would have destroyed much of the Original Historic Plaster in Merchant’s House, particularly on the first three floors. As such and for all of the foregoing reasons, the previous approval should be regarded as completely immaterial to the New Application.

The Developer’s Newly-Proposed Building

The Developer now seeks to construct a nine-story building (*i.e.*, two stories higher than the

Hon. Angie Master
Commissioners
Mark Silberman, Esq.
March 13, 2026
page 8

Previously-Proposed Office Building) that extends deeper into the rear yard, and without a setback on the top floor. ANA confirmed that, while the Newly-Proposed Building is taller, heavier and bulkier, “[t]he foundation system of the newly proposed building appears to be identical to that of the building proposed in 2023” (ANA Report, 03/12/2026 at 3, Ex. 3).

Based upon the analyses of MRCE and WJE, construction of the Newly-Proposed Building would result in soil settlement to depths of between ¼" to 1.2" (MRCE 02/27/2026 Report, Ex. 17 and WJE 09/13/2021 Report, Ex. 18 at 2). And even at just ¼" of soil settlement, much the 1832 Original Historic Plaster on First, Second and Third Floors of Merchant’s House would not survive (ANA 03/12/2026 Report at 4, Ex. 3). As the degree of soil compression continues to increase, the extent of damage to the Original Historic Plaster increases as well (*Id.*). Worse, the existence of the Underground Railroad Site renders the Original Historic Plaster even more vulnerable because, in order to construct the in-built Secret Passageway, the builder was required to cut through the Merchant’s House framing on three floors, which further weakens its structural integrity. In this regard, ANA explained:

I was also recently made aware of a hidden “shaft” at the west wall, directly adjacent to the proposed construction. The shaft measures about 2 feet square with an internal ladder and runs continuously from the second floor down to the basement. The previously unknown shaft was not incorporated into prior analyses, but by interrupting floor framing at both the 1st and 2nd floors, the shaft causes stress concentrations that will likely increase movement-related damage in these areas.

See ANA 03/12/2026 Report, Ex. 3 at p. 5.

Additional Problems with the Newly-Proposed Building

Over the years, WJE has raised a series of additional concerns with respect to constructing a substantially taller, bulkier and heavier building adjacent to Merchant’s House. WJE’s reports in this regard are annexed as Ex. 19. Among the concerns raised by WJE and unresolved by the Developer’s design team include:

- the disparity in building heights will precipitate snow drift accumulation on Merchant’s House’s slate roof below, creating additional stresses on Merchant’s House, as well as potential water-infiltration issues – a chronic problem at Merchant’s House;
- Merchant’s House has a chimney on its roof that cannot be exhausted upward because it would emit exhaust into and against an adjacent taller building, which is impermissible under the Building Code; consequently, the Developer must obtain

permission from the Parks Department, which owns the Merchant's House building, to access the Merchant's House boiler and run its exhaust laterally into the Newly-Proposed Building and upward to over 100' to its roof; this would require: (i) cutting through a stonewall in the Merchant's House basement; (ii) connecting with Merchant's House's boiler; (iii) installing exhaust pipes in Merchant's House; (iv) running them through the Newly-Proposed Building; and (v) and installing fans to push the air up and through to the roof; this, in turn, would likely require easements, licenses, maintenance contracts, etc., none of which, to our knowledge, has been obtained;

- the Developer's design team still has not conducted a full geotechnical analysis to determine soil settlement and compression; instead, the Developer has provided a foundation deflection analysis, which doesn't measure soil compression, but rather determines how much the mat foundation will bend under the weight of the Newly-Proposed Building;
- the site safety plan to be deployed during construction includes multiple deficiencies that include: (i) failure to account for next steps after vibration and crack monitors exceed permissible thresholds; and (ii) failure to arrange for tying down equipment and tools suspended over the top of the Merchant's House original slate roof, which would crack and sustain damage were anything to fall on top of it.

This listing of issues is not intended to be exhaustive. We respectfully urge you to review the attached reports from WJE (attached cumulatively as Ex. 14).⁴

Merchant's House Has Been Excluded from the Evaluation by Donald Friedman

As set forth above, we have all of the respect in the world for Donald Friedman as a structural engineer. We are, however, concerned that he has been obtaining information from, and interacting exclusively with, the Developer and its design team. As reflected in WJE's myriad reports, the Developer's team has made submissions and representations that have not aged well. As the primary stakeholder in this dispute, Merchant's House and its concerns must be considered seriously, not only by the Commission, but also by its designated expert. That has not happened.

Mr. Friedman is going to submit an oral report on Tuesday; we have no idea what he intends to say, other than a second-hand comment made by the Developer's design representative that Mr. Friedman is supposedly prepared to "bless" the Newly-Proposed Building. We filed a FOIL request

⁴The 2026 WJE report has been delayed because the "Friedman Attachments" (defined hereinafter) were not provided by the Commission until last night.

Hon. Angie Master
Commissioners
Mark Silberman, Esq.
March 13, 2026
page 10

to obtain the communications between Mr. Friedman and the Commission and between Mr. Friedman and the Developer. In response, we received a single letter that was apparently sent from Mr. Friedman to the Commission; however, the documents referenced in that letter were *not* provided to us (the “Friedman Attachments”). The Friedman Attachments apparently comprise additional studies performed by the Developer’s team – studies upon which Mr. Friedman is relying but which are not available online. Only after I complained to the Commission’s General Counsel about the missing Friedman Attachments did I receive copies yesterday evening. The engineers and consultants comprising the Merchant’s House design team had absolutely no realistic opportunity to evaluate these studies. Thus, Mr. Friedman will be testifying orally with respect to matters disclosed only to the Developer, based upon reports and studies of which we were deprived until less than 24 hours before our opposition testimony was due. Respectfully, the decision to limit Mr. Friedman’s participation to an oral report, based upon studies and reports of which we were deprived until just before our opposition is due constitutes a clear violation of due process.

We will do the best we can to address and respond to Mr. Friedman’s testimony at the Public Hearing on Tuesday, but we trust that you recognize the rank unfairness associated with depriving us of the information and documentation we need in order to prepare for it.

Excavation and Construction Adjacent to Historic Structures, Even When Vetted by the Department of Buildings and the Commission, Still Poses Serious Risk to City Landmarks

Lastly, we are constrained to emphasize that damage caused to historic buildings due to excavation and construction conducted at adjacent properties has become far too common an occurrence in New York City. The following projects, all of which were vetted and approved by the Department of Buildings (DOB) and two of which were approved by the Commission, are representative of the potential harm that could befall Merchant’s House if the New Application were to be granted:

Work at 14-16 Fifth Avenue Caused Damage to Adjacent Historic Property at 10 Fifth Avenue (February 2023)

- Construction and excavation work at 14-16 Fifth Avenue, located within the Greenwich Village Historic District, was approved by a 6-5 vote of the Commission, as well as by the DOB, over the objections of neighborhood residents and the Greenwich Village Society for Historic Preservation.
- The DOB later determined that the approved foundation work at 14-16 Fifth Avenue had caused severe damage to 10 Fifth Avenue, requiring it to be vacated on an emergency basis.

Hon. Angie Master
Commissioners
Mark Silberman, Esq.
March 13, 2026
page 11

- According to the applicant on that project (Madison Realty Capital), “the construction at 16 Fifth Avenue [was] conducted in full compliance with all required Department of Buildings and Landmarks Preservation permits ...” Thus, the work was, according to the applicant, performed in full accordance with DOB and Commission approvals, and yet, the adjacent historic building still suffered structural compromise.
- 10 Fifth Avenue was constructed in 1848 and thus, just as with Merchant’s House, was likely built on a rubble foundation, which was customary during early-mid 19th Century construction.

Work at Tory Burch Soho Store (151 Mercer Street) Caused Damage to the Adjacent Landmark Building at 153 Mercer Street (2013)

- This project was to engage in excavation and construction at 151 Mercer Street, which is directly adjacent to 153 Mercer Street, both of which such buildings fall within the jurisdiction of the Commission. Thus, the Commission and DOB must have approved the plans and project. And yet (again), the adjacent landmark building was destabilized. According to the ensuing civil complaint, the foundation of 153 Mercer Street shifted by a full half-inch. By the time the DOB issued a stop-work order, the damage was already done.

Damage Caused by Excavation and Construction at 65 Franklin Street in Tribeca Required Demolition of the Adjacent Building at 59 Franklin Street (2023)

- 65 Franklin Street/360 Broadway, an empty parking lot, was scheduled to be the site of a residential apartment building, but was placed under a stop-work order by the DOB. Excavation and construction caused the neighboring building, 59 Franklin/358 Broadway, to crumble, crack and lean while the residents were still living there. 59 Franklin Street was later abandoned and demolished.

Excavation work at 644 East 14th Street Results in a Vacate Order at 642 East 14th Street (2023)

- A full vacate order was issued by the DOB after excavation at 644 East 14th Street destabilized the adjacent building at 642 East 14th Street, constructed in 1900. Notably, there is no allegation that the excavation at 644 was performed inconsistently with the plans approved by the DOB.

The foregoing illustrates that even when precautions are taken, and even when applicants

Hon. Angie Master
Commissioners
Mark Silberman, Esq.
March 13, 2026
page 12

perform their construction projects in accordance with DOB and Commission requirements and specifications, significant damage to adjacent landmark buildings constitutes a substantial and identifiable risk. Here, the reports by MRCE, WJE and ANA confirm that, even under the best of circumstances, Merchant's House will -- not might or could, but will -- sustain massive damage to its interior (including the Original (1832) Historic Plaster) and the building's exterior masonry. Worse, two highly respected national engineering firms have made clear that the proposed adjacent construction would place Merchant's House at risk of structural compromise.

The City's Obligation to Protect and Preserve Merchant's House, and Make it Available to the Public

Section 18-111 of the New York City Administrative Code requires the City to protect and preserve all real property gifts it receives. ("Gifts of real [] property ... shall be forever properly protected, preserved and arranged for public use and enjoyment"). Merchant's House was gifted to the City of New York. As such, New York City law requires its preservation and protection. Thus, this isn't a situation in which Merchant's House is merely asking for, but has no legal right to, legal protection and preservation; the City is legally obligated to ensure that Merchant's House survives and endures just as it does today.

Furthermore, §18-111 requires that gifted property be "arranged for public use and enjoyment." However, as reflected in prior submissions, if the adjacent construction were to proceed, Merchant's House, even if it were to somehow survive the adjacent construction, would have to be closed for minimum of two years while work is ongoing. Under those circumstances, Merchant's House, in violation of §18-111, would *not* be "arranged for public use and enjoyment."⁵

We respectfully urge the Commission, on the strongest possible terms, to delay further consideration of the New Application until further studies can be conducted and Mr. Friedman has the opportunity to confer with the Merchant's House engineers and other members of its design

⁵The cost of preparing Merchant's House for the adjacent construction and arranging for alternate locations for its collection and its staff has been calculated at in excess of \$5 Million.

Hon. Angie Master
Commissioners
Mark Silberman, Esq.
March 13, 2026
page 13

team. And following such review, we trust and expect that the Commission will preserve and protect Merchant's House, ensure its enduring legacy to the City and deny the New Application.

Respectfully submitted,
Michael S. Hiller
Michael S. Hiller

Attachment/Enclosure
MSH:me

c: Deputy Mayor Leila Borzog
U.S. Congressman Dan Goldman
Jumaane Williams, Public Advocate
Tricia Shimamura, Parks Department Commissioner
Manhattan Borough President Brad Hoylman-Sigal
City Council Member Harvey Epstein
City Council Member Christopher Marte
City Council Member Natasha Williams
City Council Member Gale Brewer
State Senator Brian Kavanagh
State Assemblymember Deborah Glick
Giuletta Fiore, Exec. Dir., Historic House Trust
Community Board 2
Andrew Berman, GVSHP
Margaret "Pi" Gardiner, Exec. Dir. Merchant's House
Arthur Goldstein, Esq.