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August 12, 2019

Via Email (scarroll@lpc.nyc.gov)

Sarah Carroll, Chair of the NYC LPC
New York City Landmarks Preservation Commission
One Center Street, 9th Floor
David N. Dinkins Manhattan Municipal Building
New York, NY 10007

Re: LPC-19-40687
New York Public Library - 476 Fifth Avenue

Dear Ms. Carroll:

We represent the Committee to Save the New York Public Library (“CSNYPL”), Citizens Defending Libraries (“CDL”) and their more than 20,000 members (collectively, the “Coalition”) who are dedicated to the cause of protecting New York City’s treasured libraries, including, in particular, the Main Branch of the New York Public Library at 476 Fifth Avenue in Manhattan (“Main Branch”). We write in opposition to the application (“Application”) by the administration at the New York Public Library (the “Applicant”) for a certificate of appropriateness (“CofA”), which, if granted, would permit the Applicant to, among other things: (i) add a vertical circulation core adjacent to the landmarked South Court consisting of an enclosed stair, vestibule, and twin elevator bank, requiring new openings cut into the walls of every floor, including, especially, those of the majestic North-South Gallery; (ii) convert certain courtyard windows into doors; (iii) add an asymmetrical doorway entrance to Gottesman Hall; and (iv) reconfigure the gates to the service court on 40th Street (collectively, “Proposed Work”).

EXECUTIVE SUMMARY

For the reasons set forth below, the Application is premature and, in any event, must be denied. *First*, under the provisions of a certain 1978 Agreement (“1978 Agreement”) (Ex. 1) between the New York State Department of Parks and Recreation (“State Parks”), which includes the State Historic Preservation Office (“SHPO”), the Applicant cannot make any changes to the structure of, or effect improvements to, the Main Branch without prior approval of State Parks. And, as of this writing, SHPO has not provided its consent to the Proposed Work contemplated by the

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Application. We recognize that, thus far, SHPO has suggested that its consent is not required; however, SHPO's position merely reflects a lack of institutional knowledge of the 1978 Agreement, which apparently, SHPO's current leadership is not aware of. Because SHPO has not provided its consent to the Application, the Proposed Work by the Applicant cannot be performed, rendering any CofA premature.

Second, as shown below, the Proposed Work includes, in particular, a twin-elevator bank abutting the landmarked South Court and the non-designated, but equally-as-important North-South Gallery directly adjacent to one already-existing larger elevator, resulting in a redundancy that the Applicant has never explained or justified. A closer examination of the Application and the circumstances surrounding its preparation confirms that the requested CofA is designed to streamline the Applicant's catering business for large special events and receptions (weddings, bar mitzvahs, corporate parties, etc.) that have become the new priority at the Main Branch ("Reception Hall Business"). See the Applicant's Special Events Brochure (Ex. 2). However, as reflected below, the Applicant's Reception Hall Business, which caters to the wealthy and privileged (*id.*) at the expense of public access to this publicly-owned building sited in a public park, violates: (i) a certain Agreement of Consolidation, dated May 23, 1895, entered into between the three trusts that established the Applicant more than 120 years ago ("Consolidation Agreement") (Ex. 3); (ii) a certain lease between the City of New York and the Applicant, entered into in 1897 (the "Lease") (Ex. 4); (iii) the City Charter (Ex. 5); (iv) a certain Library Construction and Enabling Act of 1897; and (v) the public trust doctrine, which limits use of park spaces to "park uses." Accordingly, the requested CofA would constitute clear violation of law, empowering the Commission under §25-307(b)(3) of the Landmarks Law to deny the Application.

Third, the proposed work, which, we emphasize, is designed solely to enhance an illegal Reception Hall Business in the iconic Main Branch, would destroy architectural and cultural resources (both those which are protected by designation and those certain interiors which have not yet been recognized but which are nevertheless uniquely important spaces), critical to maintaining the integrity of this designated landmark. And the affected interior spaces, although not yet designated, have been the subject of three Requests for Evaluation ("RFEs"), the first of which was filed nearly six (6) years ago ("First RFE"), and as to which, the Commission has not yet taken action (First RFE, Ex. 6). Thus, the Research Department of the Commission has implemented a virtual pocket veto with respect to important cultural and architectural resources, preventing their preservation. Regardless, in the absence of a compelling justification, the Commission should reject the Application as a needless demolition and renovation that would result in permanent disfigurement of the Main Branch.

For these and the reasons set forth below, we respectfully request that the Application be denied or at least deferred pending SHPO's evaluation.

1. The Proposed Work Contemplated by the Application Requires an Approval from SHPO That, in Violation of the 1978 Agreement, Hasn't Even Been Requested Yet

Section 7 of the 1978 Agreement between State Parks, the City and the Applicant states:

The Applicants [City and Applicant herein] hereby agree to maintain and use said property [the Main Branch] in accordance with standards established by [State] Parks and further agrees to make no changes in the structure or improvement of said premises or additions thereto without the prior approval of [State] Parks.

Ex. 1, §7.

On July 8, 2019, we asked SHPO, which is a division of State Parks, to evaluate the Application. We did not reference the 1978 Agreement in our request, instead arguing that the Applicant unlawfully segmented its Master Plan by filing the Application (which consists of purportedly privately-funded work) separately from an earlier application that included interdependent sidewalk work (which *is* publicly-funded) so as to avoid more rigorous SHPO review of the entire Master Plan, and the Application, in particular. SHPO responded that it had already reviewed the sidewalk work and that its review of the Application is supposedly unnecessary because no public funding would be required to complete the Proposed Work therein. Leaving aside the fact that SHPO mistakenly disregarded the Applicant's segmentation of its Master Plan -- a tactic heavily disfavored by the Courts in New York -- as is clear from the 1978 Agreement, the obligation to obtain SHPO's approval is not conditioned upon the existence of public funding. All that is required to trigger the obligation to obtain SHPO approval is for the work to constitute either: (i) a change in the structure; or (ii) an improvement in the Main Branch. Plainly, the Proposed Work would meet both triggers. Thus, the Application is entirely dependent upon an approval that the Applicant hasn't even requested, much less obtained. As such, the Application is premature and should be deferred pending SHPO's review or, in the alternative, denied without prejudice.

2. The Proposed Work Would Violate an Assortment of Agreements, a Trust, and New York State and City Law

The Proposed Work -- including, in particular, the addition of a twin elevator bank ("Redundant Elevator Bank") -- serves to benefit the Applicant's Reception Hall Business rather than the educational and scholarly needs of the New York Public Library ("NYPL"). Indeed, as the Applicant explained during the July 9th Public Hearing, the purpose of adding the Redundant Elevator Bank is to provide the public with elevator service so that the existing elevator abutting the South Court -- which purportedly makes for a "great service elevator" as it is the "only elevator that goes down to the loading dock" -- can be used to deliver food, and other goods, ostensibly for special events in the Schwarzman Building of the Main Branch, including, in particular, Astor Hall, the

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Celeste Bartos Forum, the Edna Barnes Salomon Room, the McGraw Rotunda, the Wachenheim Trustees Room, and the Celeste Auditorium.¹ *See also* the Applicant's Special Events Brochure (Ex. 2). However, as reflected below, the NYPL was created and funded to provide a public benefit (*i.e.*, the world's greatest free public library system) to all citizens of New York and visitors from all over the world. It was not established to offer high-end catering and special event planning services to the wealthy and elite in order to line the pockets of the Applicant's executives. Yet, this is precisely what the Main Branch is used for.²

Worse still, the Reception Hall Business is being run entirely at the expense of public access to a publicly-owned building sited in a public park insofar as a substantial portion of the Schwarzman Building is regularly dedicated to private special events for those wealthy enough to rent the space rather than to the library's exhibition and collection needs. *See* the Applicant's Special Events Brochure (Ex. 2). As reflected below, such use of the Main Branch is impermissible under: (i) the Consolidation Agreement (Ex. 3); (ii) the Lease (Ex. 4); (iii) the City Charter (Ex. 5); (iv) the Library Construction and Enabling Act of 1897 (Ex. 12); and (v) the public trust doctrine. Accordingly, the requested CofA would constitute a clear violation of law, empowering the Commission to deny the Application under §25-307(b)(3) of the Landmarks Law.

a. The Consolidation Agreement Created the NYPL for the Purpose of Carrying on a Free Public Library in New York City for the Benefit of the Public

Prior to entering into the Consolidation Agreement in May 1895, three corporate entities known as "The Trustees of the Astor Library," "The Trustees of the Lenox Library," and "The Tilden Trust," respectively (collectively, the "Three Library Companies"), were separately incorporated and

¹See July 9th LPC Public Hearing at 2:26:28 - 2:27:22, <https://www.youtube.com/watch?v=zA9V4OPXcxw>.

²See Myelle Lansat, *Here's how much it costs to get married at 9 of the most glamorous wedding venues in New York City*, BUSINESS INSIDER (Jul. 21, 2018), <https://www.businessinsider.com/popular-new-york-wedding-venues-cost-2018-6#the-foundry-9000-15000-8> (stating that the cost to rent the Main Branch for a wedding begins at \$60,000); LinkedIn Profile of Emily Neidhardt Esposito, Director Of Special Events at The New York Public Library, <https://www.linkedin.com/in/emily-neidhardt-esposito-9811b098> (noting that the NYPL generates "4 million dollars in event revenue ... annually"); Robin Pogrebin, *Library Reveals President's Salary*, ARTSBEAT: NEW YORK TIMES BLOG (May 22, 2014), <https://artsbeat.blogs.nytimes.com/2014/05/22/library-reveals-presidents-salary/> (providing that the President of the Applicant, Anthony M. Marx, was paid \$781,000 during his first full year as President); Serge F. Kovalski, *New York Library Officials' Pay? Shhh*, THE NEW YORK TIMES (Nov. 19, 2006), <https://www.nytimes.com/2006/11/19/nyregion/19library.html> (noting that the salaries of the Applicant's President and other high-ranking officers had significantly increased from the salaries of their predecessors beginning in or about 2005).

“organized as library companies for the purpose of carrying on libraries in the City and County of New York” (Consolidation Agreement, Fourth Recital) (Ex. 3). The Three Library Companies were to be consolidated “in such form that the benefits of the three institutions might be more widely disseminated among the people” (Bulletin of the New York Public Library at 10, Ex. 7). As a condition of consolidation:

[t]he said new corporation shall establish and maintain a free public library and reading-room in the City of New York, with such branches as may be deemed advisable, and shall continue and promote the several objects and purposes set forth in the respective acts of incorporation of “The Trustees of the Astor Library,” “The Trustees of the Lenox Library,” and “The Tilden Trust.”

(Ex. 3). As set forth in the Acts of Incorporation for each of the Three Library Companies, the objects and purposes thereof include:

- “to establish and maintain a free library and reading room in the city of New York” (Act of Incorporation of the Tilden Trust, Ex. 8);
- “to render a public benefit to the City of New York and to contribute to the advancement of useful knowledge and the general good of society” (Bulletin of the New York Public Library at 3, Ex. 7);
- to erect and maintain “a building suitable for a public library” (Act of Incorporation of the Astor Library, Ex. 9; Act of Incorporation of the Lenox Library, Ex. 10) (emphasis added);
- to purchase “books, maps, charts, models, drawings, paintings, engravings, casts, statues, furniture, and other things appertaining to a library for general use” (Act of Incorporation of the Astor Library, Ex. 9; *see also* Act of Incorporation of the Lenox Library, Ex. 10) (emphasis added);
- to invest in a fund for: (a) “paying the value of the site of the building,” (b) “maintaining and gradually increasing the said library, and defraying the necessary expenses of taking care of the same,” and (c) “the accommodation of persons consulting the library” (Act of Incorporation of the Astor Library, Ex. 9; Act of Incorporation of the Lenox Library, Ex. 10);
- to use of any surplus funds “in procuring public lectures to be delivered in connection with the library, upon useful subjects of literature, philosophy, science, history, and the fine arts, or in promoting in any other mode the objects of the institution as above expressed” (Act of Incorporation of the

Astor Library, Ex. 9; Act of Incorporation of the Lenox Library, Ex. 10)
(emphasis added)

(collectively, the “Objects and Purposes”). Thus, upon consolidation of the Three Library Companies into a single corporation -- *i.e.*, the NYPL, each of the several Objects and Purposes set forth in each of their respective acts of incorporation was carried over into the NYPL, to be observed and maintained by its Board of Trustees (“Board”) (Consolidation Agreement, Paragraph Second, Ex. 3).³ None of these Objects and Purposes includes maintenance of a private reception hall business - particularly one that comes at the expense of public access to the NYPL’s research collection.

b. The NYPL’s First Board of Trustees Enlisted the Assistance of the City of New York on the Ground that a Free Public Library System Would Provide a Public Benefit to the People of the City of New York

Although receiving substantial endowments from the Lenox, Tilden, and Astor families for the establishment of the NYPL, the first Board appointed for the NYPL argued that such endowments were insufficient to create and maintain “a library of the first rank” (Board of Trustees’ Address to the NYC Mayor at 127, Ex. 11). The Board thus asked the City of New York for approval of legislation that would permit the City to grant to the NYPL: (i) land upon which to erect its library building; and (ii) the funds necessary to construct such a building (*Id.* at 132). In its address to the Hon. William L. Strong (then-Mayor of New York City), the Board of Trustees argued that the City had a duty to provide “adequate support for a great Public Library” (*id.* at 127), which aims at the “circulation of books for home reading ... in addition to supplying the needs of scholars” so that “its benefits are brought by means of many stations within reasonable reach of all” (*Id.* at 128). Thus, the focus of the use of space was as a free public library, not a private reception hall.

Touting the benefits of a free public *library* system, the Board provided that:

[A] popular public library, bringing sound literature within the reach of every man's home, is in a very real sense a part of the educational system of the State. Education ought not to stop with the public school, nor even with the high school. It is necessary also to provide the higher school which a well-equipped popular library can alone afford. Moreover the State has a profound interest in aiding the circulation of ideas that are not ephemeral. The best influence of a popular press must largely depend upon its having within reach a complete storehouse of scientific, economic and historical facts, with

³Reference to these Objects and Purposes appears in the Consolidation Agreement, the Lease, the City Charter, and the Library Construction and Enabling Act of 1897.

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which to correct the crudeness of hasty judgments of great social and national movements (*Id.* at 129) (emphasis added).

In response to the Board's plea for financial help, the State Legislature passed a law in May 1896 authorizing the predecessor of State Parks to enter into a contract with the NYPL for the use and occupation of the land currently occupied by the NYPL, "for establishing and maintaining a free public library and reading room and carrying out the objects and purposes of said corporation and said contract may provide that such use and occupation may continue so long as the [NYPL] shall maintain such free library and reading room upon said land" (Bulletin of the New York Public Library at 20, Ex. 7) (emphasis added). The "objects and purposes of said corporation" referenced therein are those set forth on pp. 5-6 herein, and do not include a private reception hall business.

The City Charter was thereafter amended to allow the City to enter into a contract with the NYPL to use the land currently occupied by the NYPL "for establishing and maintaining thereon a free public library and reading room, and for carrying out the objects and purposes of said corporation in accordance with the provisions of the [Consolidation Agreement]" (City Charter Amendment at 137, Ex. 5) (emphasis added). The "objects and purposes of said corporation" referenced therein are those set forth on pp. 5-6 herein, and, again, do not include a private reception hall business.

On May 19, 1897, the Governor signed the Library Construction and Enabling Act of 1897, providing for the construction of a library building on the land currently occupied by the NYPL and for the occupation thereof by the NYPL, *inter alia*, "for carrying out the objects and purposes of said corporation in accordance with the [Consolidation Agreement], and the several acts incorporating the [Three Library Companies]" (Ex.12 at 141) (emphasis added). The "objects and purposes of said corporation" referenced therein are those set forth on pp. 5-6 herein, and, again, do not include a private reception hall business.

On December 8, 1897, the NYPL entered into the Lease for the NYPL with the City, for "so long as the [NYPL] shall use and occupy such building for the purpose of maintaining therein a public library and reading room and carrying on the objects and purposes of the said corporation, as provided by its [Consolidation Agreement, and the several acts incorporating the Three Library Companies]" (Ex. 4) (emphasis added). The "objects and purposes of said corporation" referenced therein are those set forth on pp. 5-6 herein, and, again, do not include a private reception hall business.

As demonstrated *supra*, the Consolidation Agreement (incorporating therein the several acts of incorporation of the Three Library Companies), the Lease, the City Charter, and the Library Construction and Enabling Act of 1897 (collectively, "NYPL's Governing Documents") each require the Applicant to maintain the NYPL as a free public library and to carry out its Objects and Purposes, none of which contemplate the use of the Main Branch as a catering hall frequented by the wealthy and powerful. Furthermore, the Lease was entered into (and the enabling legislation thereto was

enacted) *only after* the Board of Trustees represented to the City, in its Address to Mayor Strong, its conviction that the City's support was instrumental to erecting and maintaining a world-renowned *free public library system that would benefit persons of all classes and walks of life* (see Board of Trustees' Address to the NYC Mayor, Ex. 11). For these reasons, the work contemplated in the Application -- which serves to benefit the Applicant's Reception Hall Business rather than the Objects and Purposes necessary to maintaining a free public library of "first rank" -- violates the NYPL's Governing Documents and should be rejected by the Commission under §25-307(b)(3) of the Landmarks Law.

c. The Application Further Violates the Public Trust Doctrine and Should be Rejected by the Commission on this Basis As Well

"Only the state legislature has the power to alienate parkland (or other lands held in the public trust) for purposes other than those for which they have been designated." *Avella v. City of New York*, 29 N.Y.3d 425, 431 (2017). In light of this principle, also known as the Public Trust Doctrine, "a proposed use of parkland [must] fall[] within the scope of legislative authorization once granted." *Id.* Here, the New York State Legislature plainly authorized occupation of a portion of Bryant Park by NYPL for the sole purposes of carrying on a free public library as required under the Consolidation Agreement and effectuating the Objects and Purposes incorporated by reference therein (Library Construction and Enabling Act of 1897, Ex. 12). Insofar as the Legislature authorized the use of parkland for a library and not a private catering hall, the Proposed Work, were it to be performed, would violate the Public Trust Doctrine, as well as the Lease, the City Charter, and the Library Construction and Enabling Act of 1897. Consequently, the Application must be denied.

3. The Proposed Work Would Needlessly Disfigure the Main Branch, and Irreversibly Damage Cultural and Architectural Features

As the Application a) is incomplete, b) would threaten the existing construction of historically significant interior spaces, and c) would frustrate the conditions of a previous Commission approval, the Application does not satisfy the requirements of the New York City Landmarks Law, and must be denied.

a. The Application Is Incomplete

The Applicant has provided drawings that can only be characterized as schematic. The submitted documents are, not only devoid of information regarding the material, color, and texture of the proposal, but no details of the proposed doors, hardware, casings or mouldings have been provided. Nor, has any information been provided illustrating how the proposed new construction would meet the landmark building facade. These details are critical in determining that the impact the proposed modern construction would have on the aesthetic character of the landmark eastern facade of the South Court. Without this information the public is deprived of its right to view and

comment on the substance of this Application, and the Commission cannot perform its statutorily mandated review under §25-307 (b)(2) of the Landmarks Law. Therefore, the Application must be rejected as incomplete.

b. The Proposed Work Would Threaten the Existing Construction of Historically Significant Interior Spaces

The Applicant's design documents propose construction that would permanently alter two significant interior spaces which are the subject (*inter alia*) of three open RFEs: the North-South Gallery and the Sue and Edgar Wachenheim III Gallery, both of which are historically significant. Therefore, as reflected below, the Commission should not consider the instant application until it has reviewed the open RFEs.

In particular, on March 28, 2013, Simeon Bankoff, Executive Director of The Historic District Council submitted the First RFE to the Commission requesting that interior landmark status be conferred on 13 interior rooms of the Main Branch of the Library (Ex. 6) -- the Rose Main Reading Room; Bill Blass Public Catalogue Room; Miriam and Ira D. Wallace Art & Architecture Room; Brook Russell Astor Reading Room for Rare Books and Manuscripts; Edna B. Salomon Room; 42nd Street Staircases; Sue and Edgar Wachenheim III Trustees Room; North-South Gallery, First Floor; Gottesman Exhibition Hall; Sue and Edgar Wachenheim III Gallery; DeWitt Wallace Periodicals Room; Lionel Pincus and Princess Firyal Map Division; and Celeste Bartos Forum.

When the Commission did not respond, Charles D. Warren President of The Committee to Save the New York Public Library, submitted a second RFE in April of 2017 ("Second RFE"). In a letter dated June 21, 2017, the Commission responded to Mr. Warren's Second RFE, acknowledging its receipt (Ex. 13). However, the Commission chose to review the significance of only two of the proposed thirteen rooms (the Rose Main Reading Room, and the Bill Blass Public Catalogue Room), holding a public hearing of the matter on July 18, 2017. Interior Landmark designation was conferred upon both rooms on August 8, 2018. However, the Commission did not act at that time upon either of the First or Second RFEs to the extent of the other 11 rooms, including the North-South Gallery and the Sue and Edgar Wachenheim III Gallery. Therefore, on April 3, 2019, Mr. Bankoff submitted a third RFE for evaluation of the of the remaining 11 interior spaces ("Third RFE") (Ex. 14) (collectively, the "Three RFEs"). At this time, the Commission has yet to act upon any of the Three RFEs (aside from designating just two of the 13 proposed spaces).

Impact to the North-South Gallery

At this time, the Applicant proposes to remove an existing internal stairway, and the women's and men's lavatories currently abutting the southern portion of the western North-South Gallery wall, replacing those spaces with a newly enlarged stair, and elevator lobby, and an elevator shaft containing two new elevator cars. This work would be particularly destructive to this landmark because, the walls of the Astor Hall entry foyer and the North-South Gallery are of a rare type of

construction. The precise cutting, carving and fitting together of large stone blocks to create a load bearing wall with a rusticated finish, a technique known as *stereotomy*, although common in ancient times, is rare in early 20th century interior construction. Disturbing this interior construction would result in a significant change to the existing wall. Even with the best protection and restoration efforts, portions of the existing wall would need to be removed and replaced. Matching of the existing stone and its finish would be close to impossible. Furthermore, the proposed widening of the existing Men's Lavatory doorway to create an adequate entry to the proposed elevator lobby would directly alter the existing wall. Accordingly, it is imperative that this aspect of the Application be rejected.

The Wachenheim Gallery

The Applicant's current submission indicates that a walkway proposed in its July 9th submission, permitting access from the First Floor Mezzanine to an Office, has been removed from the current submission.⁴ Yet the Applicant does not provide information on the use of this now inaccessible room. This begs the question: How is access to this space to be provided? As the spaces adjacent to the eastern and northern walls of this space are open to below, and the southern wall is shared by the proposed new elevator shaft, it appears that access must be provided by significantly altering the room directly below (the Wachenheim Gallery – one of the rooms referred to the Commission for evaluation which has not been addressed).

As the Three RFEs are still open for these two (and other) important interior spaces, and the proposed construction would materially impact both rooms, the Commission should not act upon this Application until such time as a determination is made regarding the architectural, cultural and historical significance of the rooms.

c. The Proposed Alteration Would Frustrate the Conditions of a Previous Commission Approval

Since 1967, the Main Branch of the Library has enjoyed landmark status under National, New York State and New York City designations. In 1965 the Main Branch Library was designated as a National Historic Landmark ("NHL"), in 1966 it was placed on the National Register of Historic Places, and in 1967 the Commission designated the Library as a Landmark. The eastern wall of the Southern Court, as an exterior wall of the original Main Branch Library building, holds the same three landmark designations.

In 2001, the Commission approved the construction of a three-story "freestanding" modern building, designed by the architectural firm Davis Brody Bond ("DBB"), within what was then the

⁴ Compare, "Proposed First Floor Mezzanine Plan - 7/09 Proposal" with "Proposed First Floor Mezzanine Plan" – South Court: Proposed Circulation, at p. 6 of Applicant's Follow-up Submission, August 13, 2019.

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open Southern Courtyard. A critical element of The Commission's approval of that design was the construction of an opening measuring approximately 35'-0" by 11'-6" allowing public viewing of the full height of the nearly 90-foot tall landmark facade. The constructed opening contains a freestanding stair from the Celeste Auditorium to the first floor of the DBB addition, and a six-foot wide bridge connecting the first floor of the addition to the first floor of main library building. The Applicant's July 9th submission proposes to eliminate this opening entirely, extending the first floor of the infill building to the extent of the landmark eastern facade. This would prevent a full viewing of the original classical library facade. The Commission directed the Applicant to study alternate designs that would preserve viewing of the full facade. The Applicant's current submission responds with a token gesture, proposing two paltry 4'-2" wide holes in the proposed first floor slab, all but assuring that no one but the most dedicated preservationist with detailed knowledge of the Main Branch and its various designations, would ever take the time to look through. In short, the 4'-2" holes do not preserve the visual identity of the precious landmark or the public's ability to experience it. Accordingly, this aspect of the Application should be denied as well.

Very truly yours,



Michael S. Hiller
Fatima V. Afia