

Dear Commissioners of the Philadelphia Historical Commission,

Please find attached material that we hope you will take into your consideration as you evaluate the Administration's request to remove the Christopher Columbus Statue located at Marconi Plaza. We understand that the attached material is voluminous but given the importance of the Columbus Statue to our Community and the history of our City and Country, we respectfully request your attention to the following:

**Exhibit A:** Correspondence between Counsel for Friends of Marconi Plaza and Counsel for the City of Philadelphia concerning the postponement of the Historical Commission hearing.

**Exhibit B:** Statement of George Bochetto, Esquire concerning Fairmont Park Commission's jurisdiction.

**Exhibit C:** Letter and evidence related to serious conflict of interest concerning Historical Commission and Art Commission's counsel.

**Exhibit D:** Philadelphia's biased public survey that treats the removal of the Statue as a forgone conclusion.

**Exhibit E:** Statement of Carol L. Delaney, Christopher Columbus Expert, Emerita Professor, Stanford University.

**Exhibit F:** Letters from Francis Recchuiti, Esq, legal counsel to the Grand Lodge of Pennsylvania Sons and Daughters of Italy, to Mayor James Kenney.

**Exhibit G:** NBC New York Article: "Controversial Columbus Statue Will Stay, City Says"

**Exhibit H:** Observer Article: "New York City to Keep Columbus Statue, Build Monument Honoring Indigenous People"

**Exhibit I:** CNN Article: "Cuomo, de Blasio don't want to see Christopher Columbus statue removed or NYC's Columbus Square renamed"

**Exhibit J:** Court Ordered Stipulation concerning treatment of Columbus Statue.

**Exhibit K:** Unanswered subpoenas sent in an effort to prepare for Art Commission and Historical Commission hearings; Administration's response to subpoenas.

**Exhibit L:** Motion for Preliminary Injunction and accompanying exhibits.

**Exhibit M:** Response to City that the publicly advertised policy addressing the removal of statues is applicable.

**Exhibit N:** Historical Commission Nomination/Designation Documents.

**From:** George Bochetto [gbochetto@bochettoandlantz.com](mailto:gbochetto@bochettoandlantz.com) 

**Subject:** RE: Columbus Statue

**Date:** July 14, 2020 at 5:50 PM

**To:** Leonard Reuter [Leonard.Reuter@phila.gov](mailto:Leonard.Reuter@phila.gov), Andrew Richman [Andrew.Richman@phila.gov](mailto:Andrew.Richman@phila.gov), Danielle Walsh [Danielle.Walsh@phila.gov](mailto:Danielle.Walsh@phila.gov)

**Cc:** Maggy White [Maggy.White@phila.gov](mailto:Maggy.White@phila.gov), Matthew Minsky [mminsky@bochettoandlantz.com](mailto:mminsky@bochettoandlantz.com), George Bochetto [gbochetto@bochettoandlantz.com](mailto:gbochetto@bochettoandlantz.com)

GB

Respectfully, both of your positions do not hold up to legal analysis.

First, 14-1004 (1) (h) clearly requires any that object to be designated as historic must be "...part of or related to a square, park, or other distinctive area that should be preserved as historical..." Thus, to designate the Columbus Statue in question as "Historic" necessarily involved its location at Marconi Plaza. To remove it from that location removes a central criterion of its designation as Historic in the first place, and therefore necessarily implicates all of the notice provisions related to de-certification.

Second, your reference to Opinion 96-6 is tantamount to maintaining that the very attorney's office which has a conflict is permitted to self-judge the issue, and exempt itself, by issuing a protective opinion. That is nonsense and has no force of authority.

My request for a postponement until compliance is had stands, so please make this reply a part of the record.

---

**From:** Leonard Reuter <[Leonard.Reuter@Phila.gov](mailto:Leonard.Reuter@Phila.gov)>

**Sent:** Tuesday, July 14, 2020 4:55 PM

**To:** George Bochetto <[gbochetto@bochettoandlantz.com](mailto:gbochetto@bochettoandlantz.com)>; Andrew Richman <[Andrew.Richman@phila.gov](mailto:Andrew.Richman@phila.gov)>; Danielle Walsh <[Danielle.Walsh@phila.gov](mailto:Danielle.Walsh@phila.gov)>

**Cc:** Maggy White <[Maggy.White@Phila.gov](mailto:Maggy.White@Phila.gov)>; Matthew Minsky <[mminsky@bochettoandlantz.com](mailto:mminsky@bochettoandlantz.com)>

**Subject:** RE: Columbus Statue

Mr. Bochetto,

Firstly, be advised that I and my colleague Maggy White, have been separated from any Law Department attorneys handling the actual requests before the PHC. That is why I have copied you, Mr. Richman, and Ms. Walsh on my communications. I am not advising the Administration on the presentation of their request to the PHC, beyond providing procedural information as I just did a few minutes ago—which I sent to all of you for the very purpose of avoiding ex parte communications. I advise the PHC, not the Administration insofar as this matter is concerned and I further invite you to read Solicitor Opinion 96-6, which directly addresses the issue of the Law Department representation of both Boards and Commissions and city agencies that appear before them.

As previously indicated, and as announced on the PHC website, the City has requested that the PHC consider a request to remove the Columbus Statue ("Statue") from Marconi Plaza. As such, it is not a request to rescind the designation and remove the object from the Register of Historic Places. If the City were to submit such a request to rescind the designation, then we will review the request and make appropriate adjustments, if necessary, to the scheduling of the meeting. At present, however, there is no such request before the PHC that I have been made aware of.

Bochetto A

Contrary to your assertions, all materials relating to the designation of the Statue have been available online since July 9, 2020. Here is the link:  
<https://www.phila.gov/media/20200709151259/Columbus-Statue-Designation-Files.pdf> . That document constitutes the entire record of the nomination and designation of the Statue. I would be happy to explain why the documents are not available in our offices for the public to review in hard copy form at present.

The PHC is fully compliant with all applicable laws and regulations relating to the holding of a Special Meeting and there is no basis for the PHC to cancel the meeting; however, your request will be forwarded to the PHC, which may consider your request at the July 24 hearing.

Yours,  
Leonard F. Reuter  
Senior Attorney

Sent from [Mail](#) for Windows 10

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**From:** [George Bochetto](#)  
**Sent:** Tuesday, July 14, 2020 4:02 PM  
**To:** [Leonard Reuter](#); [Andrew Richman](#); [Danielle Walsh](#)  
**Cc:** [Maggy White](#); [Matthew Minsky](#); [George Bochetto](#)  
**Subject:** RE: Columbus Statue

**External Email Notice. This email comes from outside of City government. Do not click on links or open attachments unless you recognize the sender.**

Dear Mr. Reuter---Regarding your email to me of July 10<sup>th</sup>, 2020, this email is to formally request that the Historic Commission ("HC") postpone the scheduled July 24, 2020 "Special Meeting," because the manner and timing of such scheduling does not comply with existing law or the Rules and Regulations of the Historic Commission, and because the process has already been contaminated with blatant conflicts of interests.

Among other things, the law requires that the HC follow the same procedures when altering the re-designating or the re- location of an historic object as was followed when the object and its location were originally designated. ( See14-1004(5) of The Philadelphia Code) As such the HC must comply with all of the notice and reporting procedures set forth in 14-1004 (g) and (2)(a) and (c), by, among other things, sending 30 days advance notice to the owner of the property,

and 60 days advance notice to each building owner, site, or object within the historic district (here, Marconi Plaza). During that 60 day period, the Planning Commission must pursuant to 14-1004 (4) review and comment upon the proposed action. None of that has happened, and no meeting of the HC can occur until it does.

Further, under Rule 4.8, the HC is required to provide public access to all application and materials, including all those applications and materials that were originally relied upon to designate the Columbus Statue at Marconi Plaza as historically significant at such location. Pursuant to Rule 5, those materials would have had to been voluminous, given all of the criteria the Statue must have been shown to meet when originally certified. Despite repeated requests, and even the issuance of a subpoena, none of those documents have been made available.

Moreover, failure to abide by these requirements will also jeopardize the City's entitlement to have a HC, since the Certified Local Government Program (CLGP), will regard such failures as a breach. (See Certified Local Government Program: Guidelines and Procedures for Pennsylvania Communities.) Without CLGP certification, the City will not be in compliance with the ordinance that created the HC ("Historic Preservation Ordinance", dated August 22, 2012) and its sanctioning by the Pennsylvania Historic and Museum Commission. Thus, any HC action that would violate these provisions will constitute a nullity.

I also wish to point out the inherent conflict of interest you have by, on the one hand, purporting to represent the HC---which has an independent mission statement and procedures to PRESERVE those objects and sites that have been historically designated as significant---while on the other hand at the same time being employed by the Solicitor's Office which reports directly to Mayor Kenney. The Mayor has made his disdain for the Columbus Statue painfully public, and has even ordered the Art Director of the City of Philadelphia to instruct the Art Commission to have it torn down. There is no way you can faithfully serve both masters.

All in all, the manner the HC has chosen to proceed is patently illegal, contrary to its own regulations, and rife with conflicts of interest. We will insist that all these matters be placed on the record for the Members of the HC to consider, since the continued illegality of these proceedings will be appealed to the courts, which such appeals shall seek federal 1983 Civil Rights damages and attorney's fees. We will also appeal to all regulatory bodies having oversight and jurisdiction over the HC.

Please therefore advise me immediately if the HC will postpone the illegal "Special Meeting" scheduled for July 24, 2020.

---

**From:** Leonard Reuter <[Leonard.Reuter@Phila.gov](mailto:Leonard.Reuter@Phila.gov)>

**Sent:** Friday, July 10, 2020 10:52 AM

**To:** George Bochetto <[gbochetto@bochettoandlantz.com](mailto:gbochetto@bochettoandlantz.com)>; Andrew Richman <[Andrew.Richman@phila.gov](mailto:Andrew.Richman@phila.gov)>; Danielle Walsh <[Danielle.Walsh@phila.gov](mailto:Danielle.Walsh@phila.gov)>

**Cc:** Maggy White <[Maggy.White@Phila.gov](mailto:Maggy.White@Phila.gov)>

**Subject:** RE: Columbus Statue

Please be advised that the Chair of the Philadelphia Historical Commission ("PHC") formally announced that a Special Meeting of the PHC will be held on July 24, 2020, commencing at 9:00 AM. Further details will be posted on the PHC website shortly.



Yours,  
Leonard F. Reuter  
Senior Attorney

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**From:** [George Bochetto](#)  
**Sent:** Monday, July 6, 2020 4:13 PM  
**To:** [Leonard Reuter](#)  
**Cc:** [Andrew Richman](#); [Danielle Walsh](#); [Maggy White](#)  
**Subject:** RE: Columbus Statue

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I acknowledge your email clarifying your earlier correspondence.

It is of utmost importance that I am notified of any "Special Meeting" so that I can have meaningful participation and input. Because this case concerns a matter of such public importance, and also because the role and manner of PHC is directly before the Court, every effort must be made to assure the public and the Court that all manner of due process and established procedures will be observed to the fullest. Any effort to sweep some kind of result through or past the PHC without observing all formalities will only lead to additional litigation and the additional erosion of public confidence in the officials charged with the responsibility of protecting historically designated monuments and statues.

Please let me hear from you as soon as possible concerning any such meetings. Thank you.



**George Bochetto**  
**Attorney At Law**  
1524 Locust Street  
Philadelphia, PA 19102  
(215) 735-3900  
[gbochetto@bochettoandlentz.com](mailto:gbochetto@bochettoandlentz.com)

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**From:** Leonard Reuter [mailto:[Leonard.Reuter@Phila.gov](mailto:Leonard.Reuter@Phila.gov)]  
**Sent:** Friday, July 03, 2020 12:26 PM

**Sent:** Friday, July 03, 2020 12:20 PM

**To:** [gbochetto@bochettoandlantz.com](mailto:gbochetto@bochettoandlantz.com)

**Cc:** Andrew Richman <[Andrew.Richman@phila.gov](mailto:Andrew.Richman@phila.gov)>; Danielle Walsh <[Danielle.Walsh@phila.gov](mailto:Danielle.Walsh@phila.gov)>; Maggy White <[Maggy.White@Phila.gov](mailto:Maggy.White@Phila.gov)>

**Subject:** RE: Columbus Statue

Mr. Bochetto,

Correcting my previous response, which indicated that a request related to the Columbus Statue was "anticipated": I have since learned that on June 25<sup>th</sup>, the Historical Commission's Chair received a request to hold a Special Meeting to consider an application to remove the statue from Marconi Plaza. I was not made aware of this request until today. Both the Executive Director of the Historical Commission, and the Chair have been away, and the Chair has not yet made a formal announcement about the matter, though that will be forthcoming shortly.

Yours,  
Leonard

Sent from [Mail](#) for Windows 10

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**From:** [Leonard Reuter](#)

**Sent:** Thursday, July 2, 2020 10:22 AM

**To:** [gbochetto@bochettoandlantz.com](mailto:gbochetto@bochettoandlantz.com)

**Cc:** [Andrew Richman](#); [Danielle Walsh](#)

**Subject:** RE: Columbus Statue

Mr. Bochetto,

Updating yesterday's letter, the attorney who is representing the Administration in this matter, and who must be copied on any communications with the Historical Commission, is Danielle Walsh, copied here. You may also copy Andrew Richman, also copied here. I am attaching the same response I sent last night to this message and again, emphasizing that Diana Cortes will not be the contact for the Administration going forward.

Yours,  
Leonard

Sent from [Mail](#) for Windows 10

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---

**From:** Leonard Reuter

**Sent:** Wednesday, July 1, 2020 9:44:53 PM

**To:** [gbochetto@bochettoandlentz.com](mailto:gbochetto@bochettoandlentz.com) <[gbochetto@bochettoandlentz.com](mailto:gbochetto@bochettoandlentz.com)>

**Cc:** Diana Cortes <[Diana.Cortes@Phila.gov](mailto:Diana.Cortes@Phila.gov)>; Marcel Pratt <[Marcel.Pratt@Phila.gov](mailto:Marcel.Pratt@Phila.gov)>; Jon Farnham <[Jon.Farnham@phila.gov](mailto:Jon.Farnham@phila.gov)>; Robert Thomas <[rthomas@campbellthomas.com](mailto:rthomas@campbellthomas.com)>; Maggy White <[Maggy.White@Phila.gov](mailto:Maggy.White@Phila.gov)>

**Subject:** Columbus Statue

Mr. Bochetto,

Please see the attached letter in response to your communication to the Philadelphia Historical Commission's members.

Yours,  
Leonard

Sent from [Mail](#) for Windows 10

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## STATEMENT ON FAIRMOUNT PARK COMMISSION

For the record, I would like to state that Fairmount Park Commission, which was improperly disestablished by the City government in 2008, has jurisdiction over whether the Christopher Columbus Statue may be removed from Marconi Plaza. First, the Fairmount Park Commission is a state-enacted body with exclusive powers over all areas of Fairmount Park; which, pursuant to Section 15-201 of the Philadelphia Code includes Marconi Plaza. The City did not have the power to dissolve the Fairmount Park Commission in 2008 since a City's government cannot override State legislature. This is a simple precept of preemption is well established in United State law.

In order for a City government to disestablish a state-enacted commission like the Fairmount Park Commission, the State legislature would need to draft a law that grants the City permission to do such a thing. To date, that has not occurred. Despite the City's allegation that the General Assembly's First Class City Rule Act of 1949 granted them the authority to dissolve the Fairmount Park Commission, it is clear that it did not. The City Rule Act of 1949 specifies the city may govern itself "to the full extent that the General Assembly may legislate in reference thereto." And, in the Parks Act of 1867, the General Assembly made it clear that the Fairmount Park Commission has exclusive powers and a protected appointment procedure to ensure that the Commission would not become a branch of City government; able to make hasty and biased changes to Philadelphia public space under a single Administration.

Section 5 of Act of March 26, 1867, P.L. 547, No. 525 (often referred to as the Parks Act of 1867) states, "As soon as the said [Fairmount Park] Commissioners shall have fully organized, they shall have the care and management of Fairmount park[ . . . ] and all plans and expenditures for the improvement and maintenance of the same, shall be under their control, subject to such appropriations as councils may, from time to time, make, as aforesaid."

The Act of April 14, 1868, P.L. 1083, No. 1020, then states "The said park commissioners shall have the power to govern, manage, lay out, plant and ornament the said Fairmount Park, and to maintain the same in good order and repair, and to construct all proper bridges, buildings, railways and other improvements, therein, and to repress all disorders therein under the provisions hereinafter contained."



The City's local regulation that attempts to dissolve the Fairmount Park Commission "is in direct and irreconcilable conflict with a state enactment." *Fross v. County of Allegheny*, 610 Pa. 421, 438 n.12 (2011). In *Fross v. County of Allegheny*, the Supreme Court of Pennsylvania held that "A local ordinance may . . . be preempted if it is in direct and irreconcilable conflict with a state enactment" and "a local ordinance is invalid if it stands as an obstacle to the execution of the full purposes and objectives of the General Assembly, as expressed in a state law."

In the Parks Act of 1867 and supplementary State legislation, it is obvious that the Park grounds are subject to the regulation and control of the Commission and its Commissioners. The City should have petitioned the State legislature to grant it permission to disestablish the Commission and self-govern the Fairmont Park. However, the City did not do that. Instead, the City took it upon itself to disestablish the Commission.

Based on the language of the Parks Act of 1867, it is clear that the purpose of the Fairmont Park Commission is to, first and foremost, “maintain[ the Park] forever as an open public place and park, for the health and enjoyment of the people of said city, and the preservation of the purity of the water supply of the City of Philadelphia,” but also to ensure that the Fairmount Park Commission does not become a branch of the Mayor’s administration.<sup>1</sup> For instance, the Parks Act of 1867 goes as far as to stipulate how the citizen commissioners should be appointed – none of whom should be appointed by the Mayor or any other city official. Section 2 the Parks Act of 1867 states that “together with ten citizens of said city, who shall be appointed for five years, **five of them by the district court, and five of them by the court of common pleas** of said city”.

Despite the plain language of the Parks Act of 1867, the Fairmont Park Commission was subsumed by the City’s Parks & Recreation Department in 2008 without the approval of State legislation.

Moreover, even if the City had received State approval to do such a thing, the Parks & Recreation Department is also tasked with holding a hearing concerning the fate of the Statue. Again, another procedural step the City is ignoring.

By: George Bochetto  
George Bochetto, Esquire

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<sup>1</sup> Section 1 of Act of Mar. 26, 1867, P.L. 547, No. 525.



**George Bochetto**  
*Attorney at Law*  
gbochetto@bochettoandlentz.com

George Bochetto<sup>†^</sup>  
Gavin P. Lentz\*  
Jeffrey W. Ogren\*  
David P. Heim\*  
Vincent van Laar\*  
Bryan R. Lentz\*  
John A. O'Connell\*  
Peter R. Bryant\*  
Anton Kaminsky\*  
Danielle Childs  
Kiersty DeGroot\*\*

Albert M. Belmont, III\*  
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**bochettoandlentz.com**

\* Admitted to the New Jersey Bar  
† Admitted to the New York Bar  
• Admitted to the the Virginia Bar  
^ Admitted to the D.C. Bar

PRACTICE DEDICATED  
TO LITIGATION AND  
NEGOTIATION MATTERS

July 15, 2020

**Via Email: [leonard.reuter@phila.gov](mailto:leonard.reuter@phila.gov)**  
**[Andrew.richman@phila.gov](mailto:Andrew.richman@phila.gov)**

Leonard Reuter, Esq.  
Andrew Richman, Esq.

**Via Email: [Claudia.becker@phila.gov](mailto:Claudia.becker@phila.gov)**  
Claudia M. Becker, Esq.

**Via Email: [marcel.pratt@phila.gov](mailto:marcel.pratt@phila.gov)**  
**[Danielle.Walsh@phila.gov](mailto:Danielle.Walsh@phila.gov)**  
Marcel Pratt, City Solicitor  
Danielle Walsh, Esq.

**Re: Joseph Mirarchi and Friends of Marconi Plaza v. City of Philadelphia, et al.**  
**Docket No.: June Term, 2020; No. 000741**

Dear Counsel:

I am writing concerning the above-referenced matter inquiring about each of your respective roles as Counsel. I understand that Messrs. Reuter and Richman represent the Historical Commission, Ms. Becker represents the Art Commission, and Mr. Pratt and Ms. Walsh represent the City and the Mayor, even though all counsel are employed by the City and work for the Office of City Solicitor.

So that my clients – and the public at large – can more fully understand your respective roles in this process, I ask that each of you immediately make disclosures to me as follows:

1. The extent each of you have communicated, in writing or verbally, with one another concerning the Columbus Statue in any way whatsoever;

2. The extent each of you – or the Art Commission or Historical Commission board members or their respective staffs -- have communicated directly with the Mayor, the Managing Director, or any individual in the Mayor's Administration concerning the Columbus Statue in any way whatsoever.

**BOCHETTO & LENTZ, P.C.**

Honorable Mayor James Kenney

Marcel S. Pratt, Esquire

July 15, 2020

Page 2 of 2

3. Provide a log of all such communications, which includes the names of the individuals involved in all communications, the nature of each communication (whether it was in writing or verbal), the date and time of each communication, a description of the subject matter, and whether there is a claim of attorney-client privilege or some other privilege concerning the communication.

4. Produce all written communications identified.

5. State whether each of your case files are located on the City's network sever(s), and if so, the extent to which each of you are able to access eachother's case files on the City's server, and whether any of you or other members of the Mayor's Administration has accessed eachother's electronic case files.

5. State whether each of you are able to access eachother's paper files, and the extent to which each of you have accessed eachother's paper files or whether any members of the Mayor's Administration has accessed such paper files.

Depending on the answers and documents provided in response to these questions, there maybe follow-up questions and I am hereby reserving the right to do so. I urge you to comply with this request, not only to increase transparency, but also because I believe due process demands compliance.

Given the fact that the hearings before the Art Commission and Historical Commission are scheduled next week, I would ask that you provide your respective responses to this letter no later than close of business, Friday, July 17, 2020.

Thank you for your attention to this matter.

Sincerely,

**BOCHETTO & LENTZ, P.C.**

By: *George Bochetto*  
George Bochetto, Esquire



Matthew Minsky &lt;mminsky@bochettoandlentz.com&gt;

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**Friends of Marconi, et al. v. City of Philadelphia, et al. - Subpoena**

4 messages

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**Matthew Minsky** <mminsky@bochettoandlentz.com>  
To: claudia.becker@phila.gov  
Cc: George Bochetto <gbochetto@bochettoandlentz.com>

Thu, Jul 9, 2020 at 5:12 PM

Hello Claudia,

Will you accept service of a subpoena on behalf of the Art Commission via e-mail?

Best,  
Matthew Minsky

---

**Claudia Becker** <Claudia.Becker@phila.gov>  
To: Matthew Minsky <mminsky@bochettoandlentz.com>  
Cc: George Bochetto <gbochetto@bochettoandlentz.com>

Thu, Jul 9, 2020 at 5:34 PM

Yes, I'll accept service on behalf of the Art Commission, and due to COVID, it may be provided via email.

Claudia M. Becker

Senior Attorney, Real Estate & Development Unit

City of Philadelphia Law Department

One Parkway Building

[1515 Arch Street](#), 17<sup>th</sup> Floor

TEL: 215-683-5059

FAX: 215-683-5069

EMAIL: [claudia.becker@phila.gov](mailto:claudia.becker@phila.gov)

---

**From:** Matthew Minsky <mminsky@bochettoandlentz.com>  
**Sent:** Thursday, July 9, 2020 5:12 PM  
**To:** Claudia Becker <Claudia.Becker@Phila.gov>  
**Cc:** George Bochetto <gbochetto@bochettoandlentz.com>  
**Subject:** Friends of Marconi, et al. v. City of Philadelphia, et al. - Subpoena



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**Matthew Minsky** <mminsky@bochettoandlentz.com>  
To: Claudia Becker <Claudia.Becker@phila.gov>  
Cc: George Bochetto <gbochetto@bochettoandlentz.com>

Fri, Jul 10, 2020 at 7:38 AM

Great, please find the subpoena attached. Thank you.

[Quoted text hidden]

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 **Art Commission\_Subpoena\_Request-for-Attendance.pdf**  
331K

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**Matthew Minsky** <mminsky@bochettoandlentz.com>  
To: Claudia Becker <Claudia.Becker@phila.gov>  
Cc: George Bochetto <gbochetto@bochettoandlentz.com>

Mon, Jul 13, 2020 at 3:08 PM

Hello Claudia,

I would just like to confirm that a Records Custodian of the Philadelphia Art Commission will be made available for a deposition tomorrow at 3:00 p.m. at the offices of Bochetto & Lentz, P.C. The office address is 1524 Locust Street, Philadelphia, PA 19102. Thank you.

[Quoted text hidden]



Matthew Minsky &lt;mminsky@bochettoandlentz.com&gt;

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**Friends of Marconi, et al. v. City of Philadelphia, et al. - Subpoena**

4 messages

**Matthew Minsky** <mminsky@bochettoandlentz.com>

Fri, Jul 10, 2020 at 2:30 PM

To: leonard.reuter@phila.gov

Cc: Andrew.Richman@phila.gov, George Bochetto &lt;gbochetto@bochettoandlentz.com&gt;

Hello Leonard,

Will you accept service of a subpoena on behalf of the Philadelphia Historical Commission via e-mail?

Best regards,  
Matthew Minsky

---

**Leonard Reuter** <Leonard.Reuter@phila.gov>

Fri, Jul 10, 2020 at 2:31 PM

To: Matthew Minsky &lt;mminsky@bochettoandlentz.com&gt;

Cc: Andrew Richman &lt;Andrew.Richman@phila.gov&gt;, George Bochetto &lt;gbochetto@bochettoandlentz.com&gt;

Yes.

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**From:** [Matthew Minsky](#)**Sent:** Friday, July 10, 2020 2:30 PM**To:** [Leonard Reuter](#)**Cc:** [Andrew Richman](#); [George Bochetto](#)**Subject:** Friends of Marconi, et al. v. City of Philadelphia, et al. - Subpoena

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[Quoted text hidden]

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**Matthew Minsky** <mminsky@bochettoandlentz.com>

Fri, Jul 10, 2020 at 2:46 PM

To: Leonard Reuter <Leonard.Reuter@phila.gov>

Cc: Andrew Richman <Andrew.Richman@phila.gov>, George Bochetto <gbochetto@bochettoandlentz.com>

Great, please find the subpoena attached. Thank you.

[Quoted text hidden]



**Philadelphia Historical Commission\_Subpoena\_Request-for-Attendance.pdf**

785K

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**Matthew Minsky** <mminsky@bochettoandlentz.com>

Mon, Jul 13, 2020 at 3:07 PM

To: Leonard Reuter <Leonard.Reuter@phila.gov>

Cc: Andrew Richman <Andrew.Richman@phila.gov>, George Bochetto <gbochetto@bochettoandlentz.com>

Hello Leonard,

I would just like to confirm that a Records Custodian of the Philadelphia Historical Commission will be made available for a deposition tomorrow at 3:00 p.m. at the offices of Bochetto & Lentz, P.C. The office address is 1524 Locust Street, Philadelphia, PA 19102. Thank you.

[Quoted text hidden]



Matthew Minsky &lt;mminsky@bochettoandlentz.com&gt;

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**Re: Friends of Marconi, et al. v. City of Philadelphia, et al. - Subpoena**

1 message

**Sheldon Kivell** <Sheldon.Kivell@phila.gov>

Mon, Jul 13, 2020 at 5:37 PM

To: "gbochetto@bochettoandlentz.com" &lt;gbochetto@bochettoandlentz.com&gt;

Cc: "mminsky@bochettoandlentz.com" &lt;mminsky@bochettoandlentz.com&gt;

Mr. Bochetto,

Please see the attached correspondence regarding the subpoenas you have sent in connection with the above captioned matter. Should you wish to discuss this, please contact me by email. If you wish to talk by telephone, let me know and I can provide you with my cell phone and we can set up a time to talk.

Yours Truly,

Sheldon Kivell

Senior Attorney

City of Philadelphia Law Department

1515 Arch Street, 14<sup>th</sup> Floor

Philadelphia, PA 19102




215-683-5364 (p)

215-683-5398 (f)

[Sheldon.kivell@phila.gov](mailto:Sheldon.kivell@phila.gov)

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**4 attachments**

-  **7-13-20 corr to bochetto re supoenas.pdf**  
65K
-  **Art Commission\_Subpoena\_Request-for-Attendance.pdf**  
279K
-  **Philadelphia Historical Commission\_Subpoena\_Request-for-Attendance2305843009290440934.pdf**  
718K



**Dept. Parks & Rec.\_Subpoena\_Request-for-Attendance.pdf**

445K



# CITY OF PHILADELPHIA

LAW DEPARTMENT  
One Parkway  
1515 Arch Street  
Philadelphia, PA 19102

Marcel S. Pratt,  
City Solicitor

Sheldon Kivell  
Senior Attorney  
215-683-5364  
215-683-5398 Fax

July 13, 2020

## SENT VIA EMAIL ONLY

George Bochetto, Esquire  
Bochetto & Lentz  
1525 Locust Street  
Philadelphia, PA 19103  
[gbochetto@bochettoandlentz.com](mailto:gbochetto@bochettoandlentz.com)

**Re: Subpoenas WithCaption: Friends of Marconi Plaza, et. al v. City of Philadelphia, et al.  
CCP June Term, 2020; No. 00741**

Dear Mr. Bochetto,

The City of Philadelphia Law Department is in receipt of the enclosed subpoenas directed to the Philadelphia Art Commission, the Philadelphia Historical Commission and the Philadelphia Department of Parks and Recreation, in connection with the above captioned matter. The subpoenas were all sent less than one week ago and have a return date of tomorrow, July 14, 2020.

Without waiving more formal and detailed objections to the subpoenas, as well as defects in service, this letter is written to advise you of objections to the subpoenas in their entirety and none of the witnesses requested will be appearing tomorrow, nor will the documents requested be produced.

At the outset, there has been no complaint or writ of summons filed in connection with this matter. Accordingly, it is unknown whether discovery requests or subpoenas are appropriate or permitted. Further, even if, discovery is to be permitted, at least some of the discovery sought should properly be through notices of deposition, interrogatories or requests for production of documents. The subpoenas collectively call for the production of 3 witnesses and 150 categories of documents with multiple subparts, all within 3 business days of issuance during a pandemic. This is simply not reasonable or possible. Moreover, even if the subpoenas were deemed procedurally proper, many of the requests are unduly burdensome, irrelevant, harassing, not reasonably calculated to lead to admissible evidence or protected by privilege.

Should these issues be presented to the Court, the City of Philadelphia Law Department reserves the right to respond with further and formal objections to any of the enumerated items requested. We remain available for further discussion in good faith effort to resolve this dispute.

Very truly yours,

/s/ Sheldon Kivell

Sheldon Kivell

Senior Attorney

Enclosures (3)

## Submit Your Thoughts on the Future of the Christopher Columbus Statue in Marconi Plaza

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Like many communities across the country, Philadelphia is in the midst of a broad reckoning about the legacy of systemic racism and oppression in this country. Part of that reckoning is putting a spotlight on what historical figures deserve to be commemorated in our public spaces.

In the late 1800s, Christopher Columbus became a symbol of Italian communities' contributions to U.S. history. But since that time, scholars and historians have uncovered first-hand documentation establishing that his arrival in the Americas marked the beginning of the displacement and genocide of Indigenous people.

There must be a way forward that allows Philadelphians to celebrate their heritage and culture, while respecting the histories and circumstances of others that come from different backgrounds.

On July 22, the City will ask the Philadelphia Art Commission to approve removal of the statue from Marconi Plaza. Prior to making its presentation to the Commission, the City will allow for public input through written submissions.

**All submissions are due by July 21.**

**Please complete the form below to share your thoughts on the Christopher Columbus statue in Marconi Plaza.**

**What does the statue of Christopher Columbus in Marconi Plaza mean to you? \***

**How does the statue of Christopher Columbus represent Philadelphia's or America's past, present, and future? \***

**Is there a private location—indoors or outdoors—that would be suitable for the statue? \***

**Given the chance to re-envision public art for Marconi Plaza today that would unite Philadelphians, what would you imagine? \***

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## Your information

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**What is your ZIP code? (optional)**

**How old are you? (optional)**

**What is your race? (optional)**

- ☐ African American
- ☐ Asian/Pacific Islander
- ☐ White
- ☐ Hispanic or Latinx
- ☐ Native American
- ☐ Race not listed

**What is your gender? (optional)**

- ☐ Male
- ☐ Female
- ☐ Transgender, non-binary or third gender
- ☐ Gender not listed

**Submit**



I am concerned about recent attempts to desecrate, destroy and remove statues of Columbus. I spent years reading everything by and about Columbus that resulted in my acclaimed book, *Columbus and the Quest for Jerusalem*. Most people know little about the man except that “in 1492 he sailed the ocean blue” but they blame him for things he did not do. He was friendly with the natives especially the chief Guacanagari. When the Santa Maria went aground he had to leave 39 men on the island while he returned to Spain to get a rescue ship. He left very strict instructions (I have seen them) that the men not go raping and marauding and to honor Guacanagari to whom they owed so much. He took six natives back with him and said more wanted to go. All were baptized and baptized people cannot be enslaved. Two remained at court and another became Columbus’s godson who accompanied him on other voyages. He continually asked Queen Isabella to send more priests to teach and baptize the natives but few were sent. When Columbus returned he found that all of the men he had left behind were dead. He did not blame the chief but believed him when he said that the men had gone to a neighboring village and did the dastardly deeds. Those natives then came and killed them. Much of the time Columbus was away sailing looking for the Grand Khan of China. There he hoped to set up a trading post like Marco Polo, the money from which was to finance a crusade to take Jerusalem back from the Muslims before the end of the world. Jerusalem had to be in Christian hands so that Christ could return and save all believers which is why he wanted to have the natives baptized. He had even figured out how many years were left and felt he had a mission. People need to read his works. When he returned to Spain the second time he became a lay Franciscan monk, perhaps in remorse for what his men had done, and is said to have worn the robes for the rest of his life! Before people continue to desecrate his name, they need to learn a lot more about the man.

Sincerely,  
Carol Delaney  
Emerita Professor, Stanford University

## COLUMBUS, APOCALYPTIC, AND JERUSALEM



Columbus has been dead for more than five hundred years, but he does not rest in peace. Heated debates about his legacy that began to coalesce around the Quincentennial commemorating his landfall continue to the present, and every year protests against him mar a holiday weekend in October. Like a fallen angel who was proposed for canonization in the nineteenth century, he has crashed to earth in the late twentieth and early twenty-first centuries. Where once he was celebrated for the discovery of a new world, now he is blamed for all the calamities that befell that world. The "presentist" perspective that dominates the contemporary view, even among some academics, holds him responsible for consequences he did not intend, expect, or endorse. Judging Columbus from a contemporary perspective rather than from the values and practices of his own time misjudges his motivations and his accomplishment.

Because Columbus has been such an important figure in the collective imagination of Americans, what we make of him affects both how we view our history and imagine our future. In what follows, I wish, first, to disentangle Columbus's motivations from the accusations that have been brought against him and then to trace briefly the transformations of the apocalyptic scenario and the place of Jerusalem that figured so centrally in his quest. To distance ourselves from his religious views obscures how deeply influential they have been, and continue to be, in our national and political consciousness.

Can we even say that Columbus "discovered" a new world when there were already millions of people living here? Can we say he discovered "America" when he reached only islands in the Bahamas and the Caribbean and did not know he had found a different continent—a fourth part of the world—when he

landed on the north coast of South America? Columbus did not know it was a new world he had found; he died believing he had reached the periphery of Asia. What he did discover was a new way to get there—not "by land, by which way it is customary to go, but by the route to the West, by which route we do not know for certain that anyone previously has passed" (*Diario*, p. 19).

Columbus set forth on his voyage with the intention to deliver letters to the Grand Khan from Queen Isabella and King Ferdinand and to set up a trading post to trade for the gold and spices he had read about in Marco Polo's book. The stated purpose of that trade was to obtain enough gold to finance a crusade to retake Jerusalem from the Muslims as a prerequisite to rebuilding the temple for Christ's return before the end of the world. Because events of the "fourteenth and fifteenth centuries had heightened expectations of an imminent, decisive confrontation between good and evil, thus encouraging apocalyptic beliefs . . . [about] the approaching end of the world,"<sup>1</sup> his project was seen as eminently worthwhile by his contemporaries.

Columbus did not intend to supplant the native peoples with Europeans or steal their land; later, faced with rebellion, he capitulated to the settlers' demands, and Isabella eventually approved land grants to them. He surely did not intend to commit genocide, of which he has been accused. He wanted to enlist the khan and his people on his side, not to destroy them. Nor was his intention to obtain slaves; there was no possibility of enslaving the people in the civilized, luxurious world of the Grand Khan. When he met the native people, he thought that they were attractive and intelligent and because they had no false *sectas*, that they could easily become Christian: indeed, he thought they were already natural Christians. "I believe that in the world there are no better people or a better land. They love their neighbors as themselves, and they have the sweetest speech in the world; and [they are] gentle and are always laughing" (*Diario*, p. 281).

Later when he proposed sending some of the natives back to Spain as slaves, he distinguished between the friendly ones he knew and the warlike people called *cambales* or *Caribes* who were "idolators" said to eat human flesh. People who waged war against Christians or contravened the law of nature by such primitive, inhuman practices as cannibalism could be enslaved according to papal policy at the time. Thus Columbus thought it "could not be anything but well" to take them to Spain, where they would lose that habit and thereby save their souls, and he specifically requested that they be better treated than other slaves.

This is not to deny that the distinction between the different groups of natives may have been blurred in some instances and some non-Caribs were sent to Spain as slaves.<sup>2</sup> Slavery under any circumstances is deplorable. But Columbus was doing nothing new or different from what was common and legitimate practice in Europe, and people in the "new world" were enslaving their own neighbors before he arrived. Nor should we forget that long after Columbus's death, Las Casas, who belatedly came to the defense of the Indians, proposed that blacks be imported from Africa in their stead.

There is also no question about the terrible devastation and depopulation that was visited upon the native people due to disease and slaughter. Yet atrocities often occurred when Columbus was not even there—for example, at Navidad—or was on board ship when his men disobeyed his explicit orders and went on rampages of which he continually complained. Today, however, he is held responsible while the names of those who committed the terrible deeds have been forgotten. In addition to the ravages of disease and the carnage of conquest on the bodies of the native people, which occurred to a much greater extent with the conquistadors, was the conquest of native souls and the imperious and often forceful conversion to Christianity. Recall, however, that Columbus repeatedly asked for friars who would learn the native language and instruct the natives about the religion rather than assume they had become Christian simply by the act of baptism. For that very purpose, he also left money in his will.

Columbus was neither an angel nor a monster; he was a man of his time, and his ideas and goals were formed in that context. An extraordinarily talented navigator and seaman, he was ill prepared to manage an unruly colony and was often disgusted by the behavior of his men. Deeply devout, he fervently believed in the Christian mission and felt he had an important role to play.

Situating Columbus within a Christian apocalyptic scenario helps to broaden the debate about him and relocate some of the responsibility for the consequences of the momentous encounter between Europeans and the native peoples of America. But it also forces us to take a closer look at the very beliefs that motivated and sustained him, precisely because the millennial, apocalyptic scenario that stirred Columbus and his contemporaries did not die with him. It persists today, not only in America and among Christians, but is held in slightly different versions by some Jews and Muslims. The imperialistic pretensions of Christianity and Islam, the exclusivity of Judaism, and the beliefs of all three monotheistic, Abrahamic religions cannot be among the

CAROL LOWERY DELANEY

124 Blackstone Blvd. Providence, RI 02906 (401)383-3488

[cdelaney@stanford.edu](mailto:cdelaney@stanford.edu)

## EDUCATION

University of Chicago, Chicago, IL. Cultural Anthropology  
 Ph.D., August 1984. Dissertation: Seed and Soil: Symbols of Procreation-  
 Creation of  
 a World (An Example from Turkey). Winner of Marc Perry Galler Prize for most  
 distinguished dissertation in the Division of the Social Sciences, 1985.  
 M.A. 1978, Thesis: Freud and the Father: Systematic Distortion in Psychoanalytic  
 Theory and Practice  
 Harvard University, The Divinity School, Cambridge, MA M.T.S., 1976, Religion  
 and Psychology  
 Boston University, Boston, MA A.B., 1962, Philosophy  
 Simmons College, Boston, MA. Attended 1958-60.

## FELLOWSHIPS (Research)

2004 NEH, John Carter Brown Library, Brown University, Providence, R.I.  
 [2004-5] 2002 & Undergraduate Education Grant (Provost's Office), Summer grant  
 to supervise 2001 undergraduates helping with research for a book.  
 1999 IIS, summer research, Turkey  
 1998 Invited Participant, Wenner-Gren Conference, Mallorca, Spain [10 days,  
 Spring]  
 1996-97 Fellow, Center for Advanced Study in the Behavioral Sciences  
  
 1995 Ford Foundation [Stanford] travel/research in Europe [Summer]  
  
 1992-93 Harvard University, Research Fellowship on Gender and Religion,  
 Divinity School  
 1992-93 American Association of University Women (alternate)  
  
 1990 Joseph J. Malone Faculty Fellowship - study trip to Iraq and United Arab  
 Emirates [March]  
 1990 Ford Foundation Initiative for Undergraduate Education in a Global Context  
 [Spring]  
 1990 IIS Hewlett Fund [Spring ]  
  
 1989-90 Stanford Humanities Center, Fellow  
  
 1986 Institute for Intercultural Studies (Turkey) [Summer]  
  
 1984-85 Fulbright Advanced Research Fellowship (Belgium)  
  
 1981-82 Fulbright-Hays Dissertation Fellowship (Turkey)  
  
 1981-82 NSF Dissertation Grant  
  
 1980-81 American Research Institute in Turkey 1979-80 Fulbright Cultural  
 Exchange Scholar (Turkey) 1975 American Schools of  
 Oriental Research Travel Grant Summer (Turkey)

## FELLOWSHIPS (STUDY)

1978-79 University of Chicago: NDEA-Title VI 1976-78 University of Chicago:  
Tuition Fellowships 1973-75 Harvard University: Tuition Fellowships  
1973-75 Leopold Schepp Foundation, Stipend

## POSITIONS

Invited Research Scholar, John Carter Brown Library, at Brown University, 2005 -  
Research Scholar, Department of Religious Studies, Brown University, 2008  
Invited to teach at the University of Oslo, Norway. 2006. Declined due to my move  
to Providence.

Visiting Professor, Department of Religious Studies, Brown University, 1/2006-  
6/2008

Associate Professor, Department of Anthropology, Stanford University, Stanford,  
CA. 1995-2005 Assistant Professor, Department of Anthropology, Stanford  
University, Stanford, CA. 1987-95. Research Fellow, Divinity School, Harvard  
University, 1992-9

Visiting Professor, Stanford-in-Berlin, Spring Quarter, 1992

Assistant Director, Center for the Study of World Religions, Harvard University,  
Cambridge, MA, August 1985-August 1987.

Lecturer in Anthropology, Harvard Divinity School. Courses cross-listed with the  
Department of Anthropology, Harvard University, Cambridge, MA, January  
1986-August 1987.

Visiting Professor, University Professors Program, Boston University, 1986-87.  
Facilitator, Women's Caucus, Harvard Divinity School. 1986-87.

## BOOKS

Columbus and the Quest for Jerusalem Free Press/Simon and Schuster,  
September, 2011.

Investigating Culture: An Experiential Introduction to Anthropology. Blackwell  
Publishers.

December 2003 in UK; January 2004 in US. Second, revised edition, with  
Deborah Kaspin, Spring, 2011.

Tohum ve Toprak (2001) Turkish translation, of The Seed and the Soil, with new  
introductory essay. Istanbul: Iletisim Yayinlari. Second printing, 2009.

Abraham on Trial: The Social Legacy of Biblical Myth. (1998) Princeton:  
Princeton University Press. Finalist for National Jewish Book Award [category:  
Scholarship];

also a special mention for Victor Turner Prize of the Society for Humanistic  
Anthropology. Published in paperback, Fall 2000. Also, inspiration for an opera of  
the same title, see below.

Naturalizing Power: Essays in Feminist Cultural Analysis (1995) edited with Sylvia  
Yanagisako and with extensive introduction and one of the essays. New  
York: Routledge Press.

The Seed and The Soil: Gender and Cosmology in Turkish Village Society.

Berkeley: University of California Press. December 1991.

#### Artistic Works Inspired by Abraham on Trial

AAbraham on Trial,@ an opera composed by Andrew Lovett, World Premier, England, May, 2005

AThe Akedah Triptych,@ paintings by Maureen Drdak in her exhibition, Ex Voto, held at The Philip and Muriel Berman Museum of Art at Ursinus College, PA, 91/04-10/31/04.

#### ARTICLES (and other publications)

"Columbus and the Quest for Jerusalem," in Portolan, June 2013.

"The hajj: its meaning for Turkish Muslims," in Islam in Practice, ed, Gabriele Marranci, Routledge, forthcoming.

"The Point of No Return," in a Festschrift for Signe Howell, Norway. Forthcoming.

"Theories of Conception/Paternity," in Encyclopedia of Human Sexuality, ed.

Andrew Lyons, Wiley-Blackwell, forthcoming.

"The Violence of the Abrahamic Religions." In Religion, Fundamentalism and Violence: An Interdisciplinary Dialogue, ed. Andrew L. Gluck, Univ. Of Scranton Press, 2010

AColumbus=s Ultimate Goal: Jerusalem.@ In Comparative Studies in Society and History. April 2006.

"Sacrificial Heroics: The Story of Abraham in the Justification of War." In The Just War and Jihad:

Violence in Judaism, Christianity, and Islam, edited by R. Joseph Hoffman. NY: Prometheus Press, 2006.

ATurk Toplumunda Sacin Anlami,@ in Sac Kitabi, Emine Gursoy-Naskali (ed), Kirmiz Yayincilik, Istanbul 2004.

AGender and Anthropology.@ Encyclopedia Britannica. 2003.

AWhy Do We Have to Read Freud?@ In Teaching Freud in Religious Studies.

Diane Jonte-Pace (ed.), Oxford University Press. 2002 "Cutting the Ties that Bind: The Sacrifice of Abraham and Patriarchal Kinship." In Relative Values:

Reconfiguring Kinship Studies (2002) Sarah Franklin and Susan McKinnon (eds.) Duke University Press.

"Making Babies in a Turkish Village." In A World of Babies, Alma Gottlieb and Judy DeLoache (eds), Cambridge University Press. May 2000.

"The Rise and Demise of Village Life in Turkey." In Bilanco 1923-1999: Turkiye Cumhuriyeti'nin 75 yilina toplu bakis." Uluslararası Kongresi. Istanbul: Turkiye Ekonomik ve Toplumsal Tarih Vakfi, Summer 1999 "Sobre la naturalitzacio d'un poder <<no terranal>>: la teoria de la procreacio en termes de la llavor i la terra."

In Antropologia del parentiu: La diversitat cultural de les relacions familiars.

Xavier Roige, Adela Garcia, Mireia Mascarell (eds). Barcelona: Icaria

Antropologia, 1999 "Abraham and the Seeds of Patriarchy." In A Feminist Companion to Genesis, edited by Athalya Brenner, E. J. Brill, 1998.

"Father State (Devlet Baba), Motherland (Anavatan) and the Birth of Modern Turkey. In Naturalizing Power, see above, 1995.

"Untangling the Meanings of Hair in Turkish Society". Anthropological Quarterly, 67(4): 15972, 1994. Reprinted [with some changes] in Off With Her Head: The



Denial of Women's Identity in Myth, Religion and Culture. (eds.) Howard Eilberg-Schwartz and Wendy Doniger. Berkeley: University of California Press, 1995.

"Traditional Modes of Authority and Cooperation: Effects on Turkish Village Economy". In Culture and Economy: Changes in Turkish Villages, (ed.) Paul Stirling. Cambridge, ENG: Eothen Press, Fall 1993.

"The Hajj: Sacred and Secular" American Ethnologist. August 1990. "Participant-Observation: The Razor's Edge", in Dialectical Anthropology, Vol 3 (3) 1989.

"Mortal Flow: Menstruation in Turkish Village Society." In Blood Magic: Explorations in the Anthropology of Menstruation. Thomas Buckley and Alma Gottlieb (eds). Berkeley: University of California Press, 1988.

"Seeds of Honor, Fields of Shame", in Honor and Shame and the Unity of the Mediterranean, edited by David Gilmore. Special volume #22, American Anthropological Assoc., 1987. "Symbols of Procreation: Implications for Educators and Population Planners." First International Conference on Turkic Studies, Bloomington IN, May 1983. In Turkic Culture: Continuity and Change, edited by Sabri M. Akural. Bloomington: Indiana Turkish Studies, #6, 1987.

"The Meaning of Paternity and the Virgin Birth Debate", Man, 21:3, September 1986.

"The Legacy of Abraham." In Beyond Androcentrism: New Essays on Women and Religion, edited by Rita Gross, Atlanta: Scholars Press, 1977.

Reviews and Comments:

Review of "Dying for the Motherland: Orthodox Christianity and the Invention of 'Isaac' as a Military Hero," in Nationalism, War, Sacrifice, Library of Social Sciences, forthcoming Film Review: A Coffee Futures@ directed by Zeynep Devrim Gürsel. American Anthropologist, vol. 113, no. 3, September, 2011.

Book Review: Conceiving Persons: Ethnographies of Procreation, Fertility and Growth. Peter Loizos and Patrick Heady (eds.). Ethnos 65 (3), 2000, pps. 425-429.

Book Review: The First Father. Abraham: The Psychology and Culture of a Spiritual Revolutionary, by Henry H. Abramovitch. In American Ethnologist, 23(1); February 1996. Comments in: Women's Earliest Records from Ancient Egypt and Western Asia. Barbara S.

Lesko (editor), Brown University Judaic Studies, #166, Scholars Press, 1989.

"Profile: Adil Ozdemir, the First Turk at the Center." Bulletin, Center for the Study of World Religions. Harvard University Jubilee Issue, Fall 1985.

Letters to the Editor:

New York Times: [there are more but will not add them here.. Already too many!]

35. January 3, 2013, re: The Unspeakable Truth about Rape in India 34.

November 8, 2012, re: Obama's Victory, and the Day After

33. August 8, 2012, re: Money on Campaigns

32. Sept. 11, 2011, re: Reflections on 9/11

31. June 1, 2011, re: Immigrants in Europe

30. April 7, 2011, re: G.O.P. on Health Care

29. January 15, 2011, re: Timid on Gun Control

28. September 14, 2010, re: Obama calls for Religious Tolerance 27. April 6, 2010, re: How the Church is Confronting a Crisis



26. October 13, 2009, re: Other Voices on Obama=s Nobel Peace Prize  
 25. September 4, 2008, re: From Bush to McCain: the Handoff 24. February, 17, 2008, re: Head Scarves in Turkey  
 23. October 5, 2007, re: Angry Voices: Torture, Iraq, the Veto 22. July 17, 2007, re: tycoons of the new Gilded Age  
 21. April 15, 2007, re: family: love is more than DNA 20. January 19, 2007, re: the cost of the Iraq War  
 19. December 6, 2006, re: smoking and pregnancy  
 18. October 5, 2006, re: Killings in an Amish School.  
 17. February 20, 2006, re: American justice, abuse of Afghan detainees  
 16. December 1, 2005, re: grotesque weapon used in this war 15. October 28, 2004, re: Iraq, the Campaign Minefield 14. June 16, 2004, re: Justices and >Under God=  
 13. April 15, 2004, re: war games, Condoleezza Rice 12. February 3, 2004, re: headscarves in France  
 11. October 6, 2003 re: weapons of mass destruction in Iraq.  
 10. November 14, 2001 re: plane crash in New York. 9. November 17, 2000 re: the Bush/Gore vote.  
 8. September 3, 2000 re: Lieberman and religion in politics.  
 7. July 20, 2000 re: Freud, SUVs and highways as war zones.  
 6. January 3 or 4, 1997, re: flights over the Grand Canyon 5. January 26, 1995, re: the brunt of welfare cuts 4. August, 2, 1994 re: Aillegitimacy@ and single mothers  
 3. December 10, 1993 re: welfare  
 2. December 30, 1991 re: plan to dispose of our nuclear weapons 1. July 23, 1991 re: the Clarence Thomas nomination  
 Providence Journal  
 1. April 4, 2010, re: Vatican self-salvation  
 2. August 3, 2009 re: Blackstone Blvd: beauty defiled every day  
 Harvard Magazine  
 1. January-February, 2010, re: overproduction of PhDs  
 San Francisco Chronicle  
 1. August 2002 re: abductions/murder of children 2. November 17, 1993 re: guns in the schools  
 Miscellaneous:  
 Op-ed piece, "The Christmas day Europeans put roots in the New World," Providence Journal, December 24, 2011 NPR invited speaker on ATalk of the Nation@ about welfare 2/95 Expert witness at attempted murder trial involving Turks - San Jose, 2/94

## INVITED LECTURES

About my book, Tohum ve Toprak (Turkish translation of The Seed and the Soil,), Karaman University, Turkey, May 2013.

"At the Boundaries of the Body, the House, the Village and the Nation," at British Institute of Archaeology in Ankara, June 5, 2013.

Several different lectures on my book, Columbus and the Quest for Jerusalem: Washington, DC Map Society, October 11, 2012, forthcoming; for the Knights of

Columbus celebrating Columbus Day, 2012, in DC; Trinity College, Hartford, Ct. And Library, Simsbury, CT. November, 2012.

Center for Medieval and Renaissance Studies," UCLA, January 18, 2012 John Carter Brown Library, October 18, 2011 New York Map Society, New York Public Library, October 15, 2011 AThe Story of Abraham: Foundation for Unity or Strife in Judaism, Christianity, and Islam,@ US Naval Academy, Annapolis, March 30-31, 2006.

The Social Legacy of Abraham=s Sacrifice,@ Keynote Speaker at the first conference of the Assisi Foundation, AThe Archetype of Sacrifice: Illusion or Tranformation?@ Portland, OR, October 28-30, 2005 Keynote Speaker at Norway=s Centennial Conference: AChildhoods 2005: Children and Youth in Emerging and Transforming Societies.@ June 29-July 3, 2005 (had to decline due to move).

The Religious Framing of the AEnterprise of the Indies,@ John Carter Brown Library, Brown University, January 19, 2005.

AAbraham, The Family, and The Law.@ Presenter, Legal Theory Workshop, Columbia University Law School, New York. April 4, 2005

Abraham and the Seeds of Patriarchy,@ Creighton University, Kripe Center for the Study of Religion and Society, April 15, 2004

Turkish Notions of Sex, Gender, Procreation, and Kinship.@ Invited Presenter and Consultant to Research Group conducting research on Turkish immigrants who are adopting children or using NRT. Institut fur Europaische Ethnologie, Humboldt Universitat - Berlin. December 12-16, 2004.

ASacrificial Heroics: The Story of Abraham and the Justification for War@ at conference on

AJust War and Jihad: The Defense of Violence in Judaism, Christianity, and Islam@ sponsored by The Committee for the Scientific Examination of Religion.@ Cornell University, Nov 5-6, 2004.

ASibling Faiths, Sibling Rivalries: The Legacy of Abraham@ University of California, Santa Barbara, January 22, 2003.

AAbraham on Trial: The Social Legacy of Biblical Myth@ Edmonds Community College, Lynnwood, WA. October 23, 2002

APatriarchal Violence and the Story of Abraham@ Public Lecture Series at Santa Clara University. April 18, 2002 [Spent entire day there and gave lectures in two classes, spoke at a lunch meeting, and participated in afternoon discussion group.]

"Abraham on Trial: The Binding of Isaac in Jewish, Christian, and Muslim Tradition." The 2001David Weintraub Lecture. Congregation Kol Emeth, Palo Alto. November 4, 2001.

"Abraham's Sacrifice." Lay Theology Institute, Palo Alto. January 24, 2000.

ASacrifice of Abraham.@ Humanist Society, Feb. 7, 1999 and Jewish Community Center, 4/99.

"Engendered Hair: The sexual and gendered meanings of hair in Turkish Society." Symposium on the Meanings, Uses, and Distinctions made about Hair in Turkish Culture. Marmara University, Istanbul, Turkey, December 8-9, 1997.

"Cutting the Ties that Bind: The Sacrifice of Abraham." University of California, San Diego, October 13, 1997.

"The Sacrifice of Abraham: A Feminist Perspective." The Goodspeed Lecture,

Denison University, Granville, OH. October 9, 1997.

"Anthropological Approaches to the Story of Abraham@ University of Oslo, Norway, June 1997.

"The Presence and Absence of Fathers in the Welfare Debate." The Fourth Annual Maxine Van de Wetering Endowed Lecture, University of Montana, March 27, 1997.

AAbraham and the Seeds of Patriarchy.@ University Lecture, Harvard Divinity School, April 1993.

AOn the Meaning of Hair: An Example from Turkey.@ Middle East Center, Harvard University, December, 1992.

AFather-State, Motherland, and the Birth of Turkey: Gender and the Rhetoric of Nationalism.@

for Colloquium on AThe State and the Construction of Citizenship,@ University of California, San Diego, February 27, 1992.

AGod, the State, and the Nation: The Gendered Politics of Representation in Turkey.@ Gustave E.

Von Grunebaum Center for Near Eastern Studies, UCLA, January 11, 1992.

AIIntroduction to Turkish Culture: Breaking Some Stereotypes,@ for The Second Southern California Teacher=s Workshop of the Assembly of Turkish-American Associations, Long Beach, February 8, 1992.

Invited Lectureship. University of Oslo, Norway [Series of lectures in Dept. of Anthropology and Dept. of Theology], and University of Bergen [Dept. of Anthropology] May 1990

Graduation Speaker, West Valley College, Saratoga, CA June 8, 1990

Keynote Speaker: AContemporary Turkey@ Conference for High School Teachers sponsored by the Middle East Center, University of California at Berkeley and World Affairs Center, October 6, 1990

AReligion and Reproduction: Reconstructing Anthropological Domains.@ Dept. of Anthropology and Center for Middle East Studies, University of California, Berkeley, April 18, 1989. AComing Into Being - A New Perspective on Religion and Reproduction.@ University Professors Program, Boston University, February 1989.

ATowards a Reconstruction of the Anthropological Domains of Religion and Reproduction.@

University of California, Davis [co-sponsored by Dept. of Anthropology and Women=s Studies] January 27, 1989.

ASex: The Conception of Gender in Islam.@ Stanford Alumni College, August 10, 1988.

#### PAPERS AND CONFERENCES

AColumbus and the Quest for Jerusalem,@ Society for the History of Discoveries, Portland, ME, Sept. 2011.

Invited Speaker, conference on teaching of religion, Creighton University, Omaha, NB,

November 2008; declined due to prior commitment.

ALife and Works: Interconnections.@ Religious Studies Dept., Brown University, December

14, 2005

AOriginal Stories: Genesis and the Anthropological Imagination,@ AAA,  
December 2, 2005 ATurkish Migrants and Pilgrimage@ at Brown University=s  
Working Group on Anthropology  
and Population. April 2002

"Anthropology and Gender." For panel "Culture and Knowledge: How Social  
Scientists

Discovered Women" at conference "Jesuit Humanism: Faith, Reason and Culture,"  
at Santa Clara University, May 5, 2001.

"Anthropology and Gender." For panel "Culture and Knowledge: How Social  
Scientists Discovered Women" at conference "Jesuit Humanism: Faith, Reason  
and Culture," at Santa Clara University, May 5, 2001.

"The Rise and Demise of Village Life." International Conference on the History of  
the Turkish

Republic: A Reassessment. Sponsored by: Turkish Academy of Sciences,  
Turkish Social Sciences Association, Turkish Economic and Social History  
Foundation. Ankara, Turkey, December 1998 "Reflections on Faith Tourism"  
Bogazici University, Applied Tourism Center, Istanbul, Turkey, December, 1998  
Invited contributor to Chicago Project on Gender, Sexuality, and Public Policy,  
1995-96.

"Is the Akedah a Model of Faith?" for Invited panel at the SBL (Society for Biblical  
Literature), Philadelphia, November 1995 "Abraham and Sacrifice" for Invited  
panel at the AAR (American Academy of Religion), Chicago, November, 1994.  
Discussant, Invited Panel (Association for Medical Anthropology) on "Gender,  
Health and Healing in the Middle East," AAA, Atlanta, 1994.

AOn Naturalizing Unearthly Power: the Seed-Soil Theory of Procreation.@  
International Seminar on AModels of Procreation and Concepts of the  
Person.@Barcelona, Spain, Sept. 29- Oct. 4, 1994.

"Abraham and the Seeds of Patriarchy," Invited paper for Society for Biblical  
Literature, Leuven, Belgium, August, 1994 Invited Participant: Workshop on  
"Cultural Encounters in the New Europe", Vienna, June, 1994. "Theories of  
Procreation: A cultural approach." Invited Speaker at Conference 'Conceiving  
Pregnancy/Creating Mothers.' University of Virginia, April 1993.

"Gendered Metaphors of Nationalist Discourse", Invited Panel (AES and SCA) in  
honor of David Schneider, San Francisco, December 1992.

"Tangled Meanings: Sex, Religion and Women's Heads." American Academy of  
Religion, New Orleans, November 18, 1991.

Invited Respondent by the Society for the Scientific Study of the Bible, on The  
Savage in Judaism: The Anthropology of Israelite Religion and Ancient Judaism,  
by Howard Eilberg-Schwartz, New Orleans, November 16, 1991.

Invited Discussant at American Sociological Association meetings on  
panel "Women and Islam", August, 1991.

"Traditional Modes of Authority and Cooperation: Effects on the Economy" invited  
participant to conference on "Culture and Economy: Changes in Turkish Villages."  
SOAS, The University of London, May, 1990.

"Untangling the Meanings of Hair in Turkish Society", for panel co-organized with  
Howard Eilberg-Schwartz, "Organ-izing the Body: The Politics and Poetics of the

Human Subject", American Ethnological Society, Atlanta, April, 1990.

"Loyalties in the Field: Realignment of Self" on panel "Shifting Boundaries of Self and Other." Panel I organized for Middle East Studies Association, (MESA), Los Angeles, November 5, 1989.

Invited Respondent/commentator at conference on "Women in the Ancient Near East", Brown University, Providence, November, 1987.

"Participant-Observation: The Razor's Edge." For panel on suffering and compassion, AAA, Chicago, November, 1987.

SSRC-ACLS workshop on Movement and Exchange in Muslim Societies, Institute for Advanced Studies, Princeton, September, 1987.

"The Theory of Procreation and the Creation of Families and Households." Prepared for conference on Turkish Family and Domestic Organization, New York, April, 1987.

"Religion and Reproduction: Transforming the Categories,@ University of Rochester, February, 1987.

AThe Hajj: Sacred and Secular", first presented at MESA meetings, Boston, November, 1986. "Cultural Aspects of Dis-ease among Turkish Immigrants in Brussels." Medical Anthropology Seminar at Katholieke Universiteit te Leuven, February, 1985.

AMonogenesis and Monotheism: Gender in Cosmological Context.@ The New School for Social Research, New York, May 1985.

AVirgin Birth, Once Again - It's a Matter of Conception.@ Yale University, New Haven, April 1985.

AGenesis and Gender.@ University of Colorado, Boulder. February, 1984.

AHonor and Shame and their Usefulness for Describing or Circumscribing Cultures of the Mediterranean.@ University of Kent-Canterbury, England, June 1985.

"Fields to Sow, Power to Reap." Presented at the Central States Anthropological Association Meetings, Cleveland, OH, April, 1983.

University Lectures

Faculty Lecturer, Suitcase Seminar to Turkey, Stanford Alumni Association, June 2010, May 2007, 2006, 2002, 2000, 1998 Lecture, CASA 1, AAnthropological

Approaches to Genesis@ February 2004 Lecture, ASignificance of the Near East for the West@, February 2004 AGenesis as Myth@ Opening Lecture in SLE, September 2002

ABeyond the Genius Myth,@ Stanford AThink Again@ tour, Participated on panel in Chicago and San Francisco, Stanford. 2002.

"What Matters to Me and Why," Memorial Church, February 14, 2001

AAbraham on Trial" as part of Celebration of Herstory, Memorial Church, April 18, 1999

Paper presented at International Conference on the Welfare State, IIS, Stanford, May 10-12, 1999 1994-95 "Myths We Live By." Plenary Lecture, SLE, October.

"Genesis" Anthro. CIV track, November

"Origin Myths and Identity." Anthro. CIV track, May. 1993-94 "Origin Myths and Identity." Anthro. CIV track, May.

"Myths We Live By". Plenary Lecture, SLE, October. "Genesis" Anthro. CIV track, November.

1991-92 "Genesis" for Anthro. course 'World Views and Encounters' January.

"Myths We Live By" - Plenary Lecture, SLE, October.

AGendered Metaphors of the Gulf War@ Stanford University and Foothill College, January 1991. AA New Look at an Old Classic: Gender in Aristotle=s Generation of Animals.@ Stanford Alumni College, August 10, 1990.

1990-91 "Qur'an: The Living Word in the Muslim World", Invited lecture in Great Works.

January 9.

Eight Lectures on gender, science and religion for the Philosophy and Religion CIV track, Oct.Nov.

"Creation Myths and the Contemporary World", Invited Lecture, Structured Liberal Education (SLE), October 9.

AWhy Study Creation Myths?" Opening Lecture in Great Works, Sept. 27

"Anthropology as Major" - One of three speakers at Freshman Orientation for Social Sciences, Sept.

1989-90 Faculty Seminar/Feminist Studies: "Nationalism vs. Gender in the Middle East" Nov.16. "Myth and Monotheism" Invited Lecture in Structured Liberal Education, (SLE), Oct. 10.

AQur'an: The Living Word in the Muslim World", invited closing lecture for Great Works (a Western Culture track). December 6.

1988-89 "Myth and Monotheism" invited opening lecture for Structured Liberal Education (SLE). September 28.

UNIVERSITY SERVICE - Stanford

Chair, Committee for Reappointment of Sarah Jain, Fall 2003 Speaker, Workshop, Undergraduate Research, April 2003

Speaker, FroSoCo, AWhy [even techie] students need a course in world religions@, April 2003 Admissions Committee, CASA Winter 2003 Committee to Review Undergraduate Majors, 2002

Judicial Panel, 2001-03.

Speaker, AFundamentalism Observed@ - panel discussion and organized film series, Fall 2001 Board Member, Continuing Studies Program, 1999- 2002.

External Examiner, Ph.D. dissertation defense, Brandeis University, June 2001.

Member, Search Committee, Department of Cultural and Social Anthropology, 2000-01.

Appointed Barbara Voss and Michael Wilcox.

Selection Committee for the Iris F. Litt, M.D. Fund. Dec. 2000-Jan. 2001.

Chair, Curriculum Committee, Department of Cultural and Social Anthropology, 2001. Member, Judicial Board, Stanford University, 2000Advisory Committee, MLA, Continuing Studies, Stanford University, 1998

Chair, Admissions Committee, Department of Cultural and Social Anthropology, 2000. Chair, Search Committee, Department of Cultural and Social Anthropology. Appointed Matthew Kohrman, 1998-99.

Member, Search Committee, Islam Search, Department of History, 1998-99.

Appointed Ahmad Dallal Organizational Committee, "Close Encounters: Ethnographic Perspectives on Global Issues" to celebrate the 50th Anniversary of

Humanities and Sciences. April 9-10, 1999. Chair of Panel: "Encountering Others"

Introduced Keynote Speaker, Clifford Geertz

Chair, Search Committee, Department of Anthropology, 1997-98 Committee

Member, Introduction to the Humanities Committee Member, Program in

Continuing Studies Selection Committee, Littlefield Fellowships (IIS), March 1998

Human Subjects Review Panel (non-medical research) 1994-96.

Fulbright Screening Committee (Stanford) 1993, 1994, 1995, 1998, 2000, 2002.

Humanities Center Selection Committee, Fall 1994.

Sponsor, Fulbright Visiting Scholar, Dr. Emel Dogramaci [from Turkey], 1994-5.

University Service - Outside

External Reviewer for GTU (Graduate Theological Union) program in the Cultural

and Historical Study of Religions, March 1999 Organized Symposium on Medical

Anthropology for the Bay Area Anthropology

Group, Spring 1998

External Examiner, Ph.D. Dissertation Defense, Theology and Anthropology,

University of Oslo, Norway, 1997.

Tenure review, Department of Anthropology, Boston University, 1997.

Reviewer for Granting Agencies: National Institutes of Health [and Mental Health],

National Science Foundation, Social Science and Humanities Research Council of

Canada, and several British granting agencies.

Organization and Editorial Work

Board Member, Society for Humanistic Anthropology, 2003-2006 Board Member,

Kolor [journal of migration studies] Belgium, 2002-2006 Board Member, MERIB

[Migration and Ethnicity Research Institute] Brussels, Belgium, 2000 Reviewed

articles for peer-reviewed journals, e.g. American Ethnologist, American

Anthropologist, Anthropological Quarterly, Contemporary Studies in Society and

History, Current Anthropology, Cnws [Leiden], Man, Ethos, Economic and Cultural

Change, Journal for the History of Ideas, Culture, Medicine, and Psychiatry.

Reviewed long book-length manuscripts for University of California Press; St.

Martin's Press, University of Chicago Press, University of Texas Press.

Member, Advisory Board, Annual Review of Anthropology, March 1999.

Chair, Selection Committee, Elsie Clews Parsons Prize, American Ethnological

Society. 3/99. Councillor, American Ethnological Society, 1997-2001.

Anthropology Editor, Religious Studies Review, 1992-96.

Member, Advisory Board, new series in Religious Studies, Penn State Press, 1994

-.

## RESEARCH EXPERIENCE

2011 Portugal, visit to Lisbon and Porto Santo re: Columbus

2010 Revisit to Amy@ village in Turkey; re: the Aafterlife of fieldwork.@

2008 Genoa - visits to museums, archives related to Columbus

2005 Spain - visits to museums, monasteries, archives, and other sites related to Columbus

2003 AThe Transatlantic Crossing of Columbus=s Millennial Vision@

Invited Scholar at the John Carter Brown Library (Providence, RI, Summer)

2000 &

1999 "Tourism, Western Civilization and Turkish Identity" (Turkey, summer)

1995 Course Research on The Multicultural City in Europe (Europe, summer).

1991-92 Attended murder trial (3 weeks); interviewed judge, attorneys, jury, psychiatrists, interpreter, minister and members of the family. California

Interviewed ministers, rabbis, imams and lay people about the story of Abraham.

1986 Revisit to village where Ph.D. fieldwork was conducted (Turkey, summer).

1984-85 Cultural aspects of health problems among Turkish immigrants. Belgium, affiliated with Katholieke Universiteit te Leuven.

1980-82 Dissertation research in a central Anatolian village, Turkey. Subjects: procreation, gender, kinship, religion.

1977 Melos, Cyclades, Greece. Subject: material and design analysis of artifacts from site of Phylakopi. Sponsored by the British School of Archaeology, directed by Colin Renfrew (summer).

1975 Ankara and Can Hasan, Turkey. Subject: study of pottery from site of Can Hasan.

Sponsored by the British Institute of Archaeology, directed by David and Elizabeth French, summer.

1975 Documentation of contemporary interpretations and uses of the story of Abraham in Harran and Urfa, Turkey. Supported by a Zion Travel Grant from the American Schools of Oriental Research.

**COURSES TAUGHT**

Investigating Culture (Freshman Seminar) Sex, Blood, Kinship, and Nation (undergraduate) Sex, Blood and Representation - (graduate seminar)

Millennial Fever

History of Anthropological Theory - graduate required course Fundamentalism in Modern Society Cultures/Ideas/Values (CIV) Fall quarter: Origins Religion - undergraduate and graduate Feminist Studies 101 The Multicultural City in Europe Creation/Procreation: A Comparative Study Symbolic Anthropology - undergraduate and graduate seminar Issues in the Ethnography of the Middle East Person, Gender and Family in Welfare Policy Gender and Social Theory Pre-field Seminar Post Field Seminar First Year Paper - required graduate seminar Dissertation Writer's Seminar Individually Designed Directed Readings

At Stanford in Berlin:

Investigating Culture in Berlin: An Introduction to Anthropology Berlin: Turkey's Third Largest City

For Continuing Studies Abraham on Trial

Gender and Family in Welfare Policy

At Brown University

Investigating Culture - undergraduate seminar

Anthropological Approaches to the Study of Religion - graduate seminar

Fundamentalism in the Modern World

**PROFESSIONAL MEMBERSHIPS:**

[These are in the past, I keep up only a few now that I am retired] American Anthropological Association Royal Anthropological Institute American Ethnological Society Society for Cultural Anthropology Society for Humanistic Anthropology American Academy of Religion Middle East Studies Association Turkish Studies Association Society of Feminist Anthropologists MERGA (Middle East Research Group in Anthropology) AMEWS



| (Association of Middle East Women Scholars)

LAW OFFICES  
**VANGROSSI & RECCHUITI**  
319 SWEEDE STREET  
NORRISTOWN, PENNSYLVANIA 19401-4601  
TELEPHONE (610) 278-4200  
FAX (610) 278-4306

July 2, 2020

Via Email and First Class Mail

The Honorable James Francis Kenney  
Mayor of City of Philadelphia  
City Hall, Office 215  
Philadelphia, PA 19107

Re: Christopher Columbus Monument

Dear Mayor Kenney:

Please be advised that I am legal counsel to the **Grand Lodge of Pennsylvania, Sons and Daughters of Italy** and I have been directed by its Grand Council to contact you and explain the importance of Columbus Day and the Christopher Columbus Monument in Philadelphia to Americans of Italian descent and to propose a solution to what should not be a problem to the Columbus Statue in Marconi Plaza in South Philadelphia.

Our Organization is the oldest and largest statewide membership group of men and women and their spouses of Italian heritage in the Commonwealth of Pennsylvania numbering 61 Lodges statewide. We have been part of Columbus Day celebrations from the beginning of our history as immigrants in Pennsylvania, and especially Philadelphia where there has been a Proclamation Ceremony at City Hall on the Friday before Columbus Day followed by the parade on Sunday on South Broad Street since 1993.

The year prior, the City of Philadelphia celebrated the Quincentennial with the parade taking place on the Benjamin Franklin Parkway with Luciano Pavarotti serving as the Grand Marshall. Before that, the parade took place on Chestnut Street with the reviewing stand being directly across the street from Independence Hall. Prior to that, it was on South Broad Street. Since its return in 1993, the parade has concluded at Marconi Plaza and the important political figures in Philadelphia and Pennsylvania have been present. Among those important attendees at the City Hall Proclamation Ceremony and parade was you.

As I am sure you have heard before, in World War II, the largest ethnic group sustaining casualties, including deaths, was the Italian American, even while some relatives were being interned and their property seized similar to the Japanese



Page 2  
July 2, 2020

Americans. No matter what, "American" has always been the guiding word of our ethnic group. As you are also aware, Italians along with Jews, African Americans, Asian Americans and Native Americans have also been the victims of lynchings and other disgusting indignities in this Country.

We as a group have risen above these injustices and have worked to take our place in this great Country and are part of the land of the free and home of the brave. We are mothers and fathers; butchers, bartenders and bricklayers; police, politicians and plasterers; transit workers, technical support and teachers; merchants and doctors, etc.

The Columbus Day Celebration and the activities surrounding it are part of our rallying cry to continue as worthwhile and proud Americans. You have recently been advised again of the history of the Columbus Monument and its ultimate unobtrusive placement in South Philadelphia in Marconi Plaza surrounded by a high iron railing fence. On Columbus Day, until I was 75 years old, I was part of a group that laid a wreath at its base with accompanying remarks; and present were the Italian Consul, Lodge members, the public, local Government officials, and television and newspaper reporters.

By now, you should realize how important this monument is to our Italian American culture which is older than what occurred there a few weeks ago. While I believe you were sincere in covering it to protect Columbus, without realizing it, you have humiliated the Italian American population of this great Commonwealth. This action was taken in response to a mob with no ties to Philadelphia protesting about what we don't know. Philadelphia which has had four consecutive African American Police Commissioners; people of color School Board Superintendents; and before you, two prominent Mayors; makes no sense of this mob action, especially since they are now including a shot at our heritage, Americans of Italian descent, and the Columbus Statue.

When we assembled for the parade, our peaceful assembly, The Columbus Parade Committee paid a fee to the City to help cover cleanup and police assistance. We follow the rules and try to conduct ourselves as law abiding members of the community. We are not outside paid agitators who attract looters, arsonists and attack the police. We didn't ask for a confrontation with these misguided miscreants.

After deliberation, our Grand Council recognized the possibility of putting a police guard on the statue might inflame these "protesters". Our solution to this problem which we now present is quite simple and face saving. A couple of years ago, the Historical Commission designated this Christopher Columbus Statue as an Historical Monument in its present location. The Grand Lodge of Pennsylvania will pay for the installation and perpetual maintenance of a security system properly designed and engineered with alarms, cameras and connections to the nearest two police precincts.



Page 3  
July 2, 2020

This would include warning signs and video equipment so that the identity, apprehension and conviction of trespassers, destroyers and pillagers could be guaranteed with police intervention after being alerted.

The Art Commission has no place in considering this matter. It should not be involved for reasons that have been set forth by others. Bullies should not be appeased. These rioters have built nothing. We are the residents and taxpayers. The Christopher Columbus Statue is more important to the Italian American community than the Statues of Rocky and Rizzo combined. Our community needs to keep this Columbus Statue visible and in place. It is very important to us and we're willing to pay for its protection.

Please be good enough to respond to the Grand Lodge Office at 1518 Walnut Street, Suite 1415, Philadelphia, PA 19102, Phone - 215-592-1713 or to the undersigned at 610-279-4200 - my office being at 319 Swede Street, Norristown, PA 19401 so this can be implemented.

Columbus Day is three months away. God willing and pandemic diminished, we can continue this tradition of proudly parading. Thank you for recognizing that we make this proposal in good faith with no media grandstanding. We deserve the respect that we have given you.

Very sincerely,

**GRAND COUNCIL OF  
THE GRAND LODGE OF PENNSYLVANIA**

BY: Francis Recchuiti  
FRANCIS RECCHUITI, Legal Counsel

FR:bp

LAW OFFICES  
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310 SWEDE STREET  
NORRISTOWN, PENNSYLVANIA 19401-4801  
TELEPHONE (610) 270-4200  
FAX (610) 270-4300

July 13, 2020

Via Email and First Class Mail

The Honorable James Francis Kenney  
Mayor of City of Philadelphia  
City Hall, Office 215  
Philadelphia, PA 19107

Re: Christopher Columbus Monument

Dear Mayor Kenney:

You should recall that I previously wrote to you by letter dated July 2, 2020 on behalf of the Grand Lodge of Pennsylvania, Sons and Daughters of Italy, another copy of that letter is attached. By this time, a response to either the Grand Lodge Office or the undersigned should have been made.

While we recognize that you have had to deal with a number of "unforeseen incidents involving protests and pandemic", it would have been appreciated if you had responded.

You could tell us that (a) the City is not considering the proposal that we made; or (b) that the City will have a functionary contact us in order to explore this matter further; or (c) the City would have the appropriate person contact us in order to implement the suggestion, thus resolving the entire issue.

As previously indicated, we have not sought publicity nor have we threatened damage or injury to City property in order to get your attention. Since members of our Grand Council are residents and taxpayers of the City, and I have to report to them as to your response, would you or some member of your administration be good enough to favor us with a reply.

Very sincerely,

**GRAND COUNCIL OF  
THE GRAND LODGE OF PENNSYLVANIA**

BY:   
FRANCIS RECCHUITI, Legal Counsel

FR:bp  
Enc.  
Copy: Marcel S. Pratt, Esquire

BREAKING

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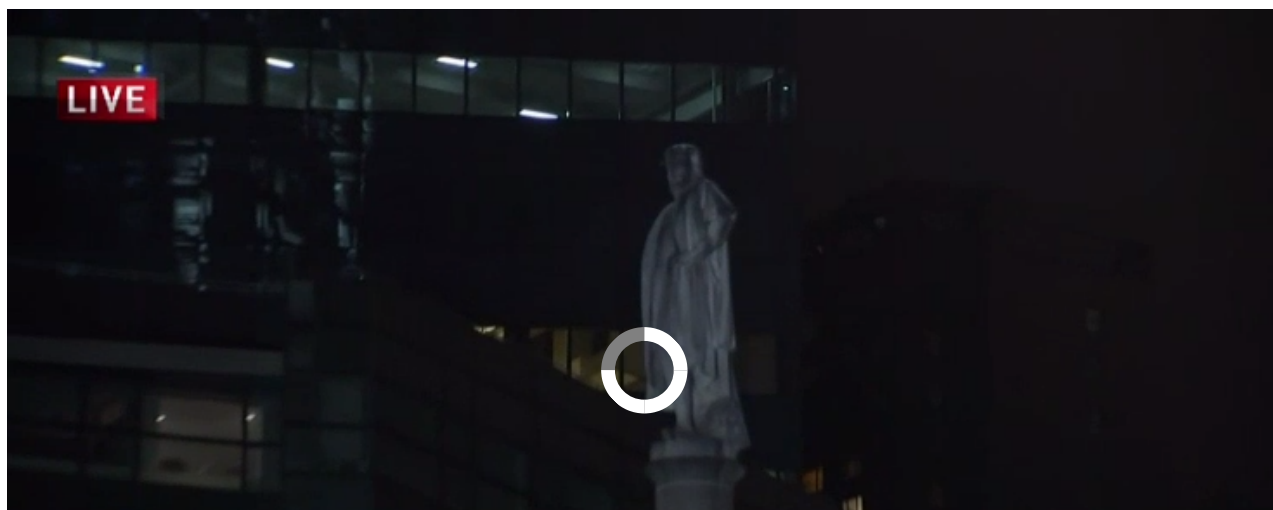
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NEW YORK

## Controversial Columbus Statue Will Stay, City Says

Published January 11, 2018 • Updated on January 12, 2018 at 8:12 am



0:19 / 1:38

A city commission has decided to keep a controversial statue of... [Read more](#)

### What to Know

- 1 Controversy swirled around a Christopher Columbus statue and other monuments in New York in the wake of protests last summer
- 2 De Blasio formed a commission to review the statues and monuments to controversial figures, among them a doctor who experimented on slaves

Bochetto G

3 In general, the commission recommended keeping monuments but building plaques and new monuments to add historical context

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A city commission has decided to keep a controversial statue of Christopher Columbus that towers over Columbus Circle, officials announced Thursday.

The statue of Columbus will stay but informational plaques about the explorer's life will be added and a monument to indigenous people will be built nearby, officials said.

Critics of Columbus and the statue honoring him said the Italian explorer was a murderous colonizer who exploited Native Americans and others, while those defending Columbus accused critics of attempting to hastily whitewash history.

1:02

## NYC Mayoral Hopeful Defends Christopher Columbus Monument

2:01

## Leaders Call for Central Park Statue to Come Down

Harlem leaders and residents have demanded for years that the statue of Dr. J. Marion Sims, considered the father of modern gynecology, be taken... [Read more](#)

In a statement, Mayor de Blasio said [thousands of New Yorkers got involved in the process](#) after he ordered a commission -- The Mayoral Advisory Commission on City Art, Monuments and Markers -- to conduct a 90-day review of "symbols of hate" on city property, including the statue of Columbus.

3:26

## Protests Over Brooklyn Street Names

In a statement announcing the decision, de Blasio appeared to strike a balance, saying "reckoning with our collective histories is a complicated undertaking with no easy solution."

"Our approach will focus on adding detail and nuance to -- instead of removing entirely -- the representations of these histories," de Blasio's statement said. "And we'll be taking a hard look at who has been left out and seeing where we can add new work to ensure our public spaces reflect the diversity and values of our great city."



2:32

## Congressman Offers to Move Columbus Monument to Staten Island

The statue was part of a nationwide debate about controversial statues that followed clashes in Charlottesville, Virginia, over a monument honoring Robert E. Lee. [Some monuments were defaced](#) -- and one of Columbus in Yonkers [was beheaded](#) -- over the summer. Meanwhile, Columbus Day parade-goers [showed their support](#) for the monuments to the explorer.

1:32

## Calls in New York to Remove Confederate Memorials

Steps are being taken to remove Confederate memorials and symbols that are still standing. Katherine Creag reports.

2:11

## Columbus Statue Statue Fight Heats Up

In a 40-page report (read in full below), the commission made recommendations on specific actions for four monuments and markers on city property, including the Columbus Circle statue.

The commission recommended moving [the controversial statue of J. Marion Sims](#), currently in Central Park, to Greenwood Cemetery in Brooklyn. The commission suggested taking steps to explain the legacy of Sims, who is considered the father of modern gynecology but who has been condemned for experimenting on enslaved black women without anesthesia. City Hall sources told NBC 4 New York that out of the thousands of surveys and responses submitted to the commission, not one asked to keep the statue of Sims.

The monument also recommended keeping the Broadway "Canyon of Heroes" plaque to Philippe Petain, a World War I hero later convicted of treason for heading the collaborationist Vichy government in Nazi-occupied France during World War II. The commission says the city should keep the plaque and all other markers in place but "explore opportunities to add context such as wayfinding, on-site signage, and historical information about the people for whom parades were held."

### Local

**46 MINS AGO**

Water Leaking Into Lincoln Tunnel Unnerves Commuters

**1 HOUR AGO**

FDNY Responds to Collapse at 4-Story Building in Manhattan

A fourth monument, that of Theodore Roosevelt at the American Museum of Natural History, was also weighed in on by the commission, which suggested keeping the monument in place and partnering with the museum to provide additional context on-site through signage and education programming. Critics have said the monument, which

depicts a heroic Roosevelt on horseback towering over Native American and African people, as depicting a racial hierarchy.

Read the full report here:

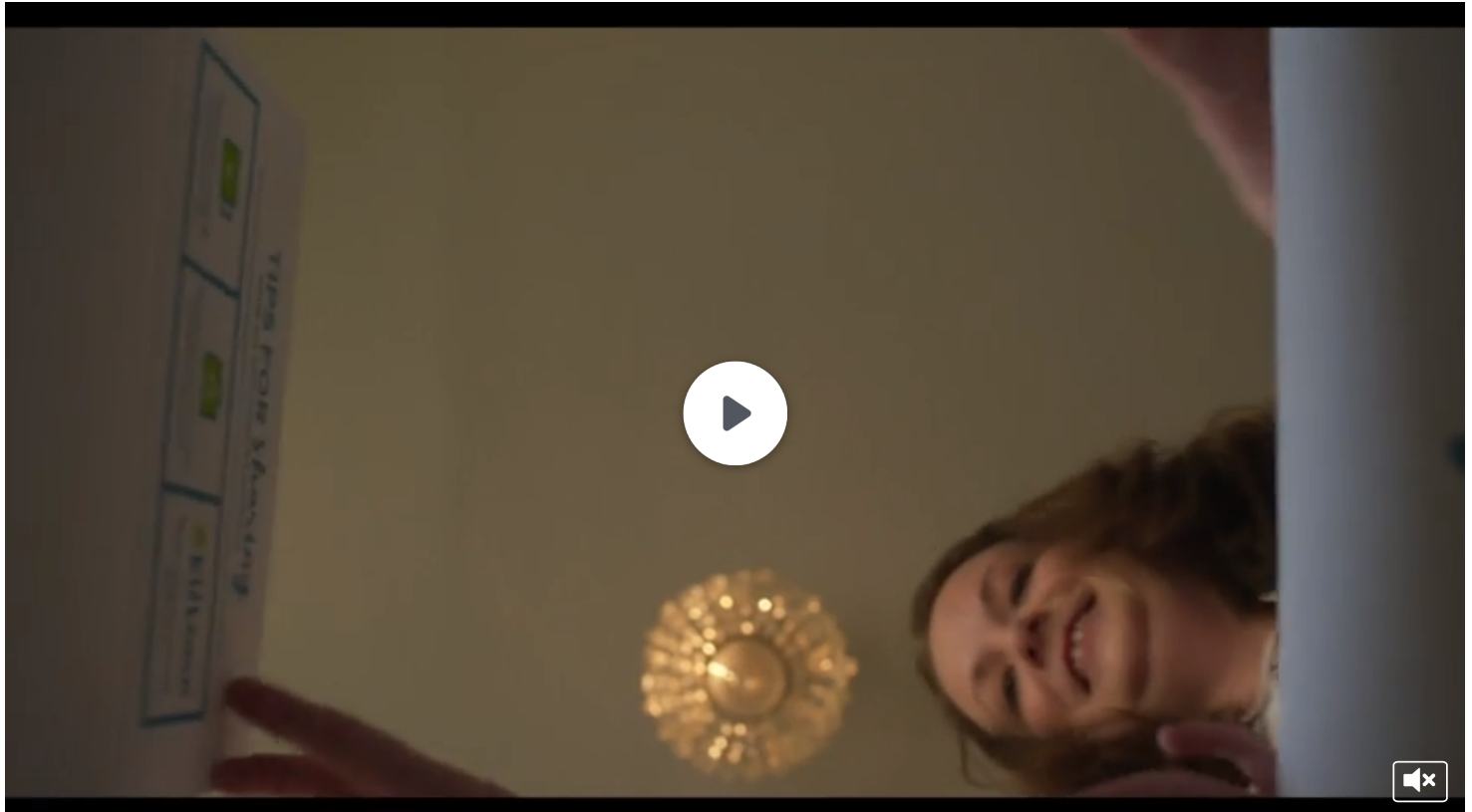
DV.load("https://www.documentcloud.org/documents/4347464-Mayoral-Advisory-Commission-on-City-Art.js", { width: 600, height: 400, sidebar: false, pdf: false, container: "#DV-viewer-4347464-Mayoral-Advisory-Commission-on-City-Art" });

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## Which Travel Card Has The Most Valuable Miles?

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# New York City to Keep Columbus Statue, Build Monument Honoring Indigenous People

By [Madina Toure](#) · 01/12/18 11:48am



The monument to Christopher Columbus in Columbus Circle on the Upper West Side.  
DeAgostini/Getty Images

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The city also plans to commission a new monument honoring Indigenous peoples. A location has yet to be determined.

Columbus is known for discovering the Americas while sailing for Asia but was later known for aggressive moves to colonize and oppress natives.

Last year, de Blasio set up a commission to review the city's statues and monuments amid violence stemming from a white nationalist rally in Charlottesville, Va.

"Thousands of New Yorkers got involved in this process, and there's been an important conversation going on across the city," de Blasio said in a statement. "Reckoning with our collective histories is a complicated undertaking with no easy solution. Our

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historical context, including the legacy of non-consensual medical experimentation on black women and women of color in general that Sims has come to represent.

The additional steps include adding informational plaques—both to the relocated statue and existing pedestal—commissioning new artwork with public input that touches on issues raised by Sims’ legacy and partnering with a community organization to encourage public discussions on the history of non-consensual medical experimentation on people of color, particularly women.

Concerns with the statue center on the fact that Sims experimented on African slaves without their consent, or any anesthesia, throughout his career. At a rally in August calling for the removal of Sims’ statue,

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looking into commissioning a new artwork in the vicinity.

With respect to the Canyon of Heroes/Henry Phillipe Pétain plaque on Broadway in Lower Manhattan, de Blasio said the city will keep all markers memorializing ticker-tape parades in place and weigh opportunities to add context, such as way-finding, onsite signage and historical information about the people for whom parades were held.

The Downtown Alliance has also partnered with the Museum of the City of New York to research more detailed biographical information on the individuals with markers along Broadway and will make the information accessible through an app and web page.

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**Filed Under:** Politics, New York Politics, Bill De Blasio, News, Melissa Mark-Viverito, Racism, White Nationalists, Charlottesville Violence, Native American

**SEE ALSO:** As Trump Support Fades, Joe Arpaio Picks Up Baton

### **ALSO FROM THE WEB**

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# Cuomo, de Blasio don't want to see Christopher Columbus statue removed or NYC's Columbus Circle renamed

By Alec Snyder, CNN

🕒 Updated 9:48 PM ET, Fri June 12, 2020



CNN

US

● LIVE TV



The statue of Christopher Columbus at Columbus Circle in New York City on June 12, 2020.

**(CNN)** — As municipalities across the United States [revisit](#) the naming and display of monuments honoring people with histories of racism and violence toward minorities, the Christopher Columbus statue and Columbus Circle in New York City have come under fire for commemorating the man often credited with "discovering" America.

A [petition](#) has started on change.org asking for the renaming of the circle and the removal of the statue "from public view," but recent comments from New York City Mayor Bill de Blasio and Gov. Andrew Cuomo suggest that neither the statue, nor the name of the circle, is going anywhere.

Cuomo said at a press conference Thursday that he felt the statue of Columbus, who originally hailed from Italy, was an important symbol for Italian Americans.

"The Christopher Columbus statue represents in some ways the Italian American legacy in the country, and the Italian American contribution in this country," he said. "I understand the feelings about Christopher Columbus and some of his acts which nobody would support, but the statue has come to represent and signify appreciation for the Italian American contribution to New York so for that reason I support it."

De Blasio said Friday he would stick by the January 2018 decision the Mayoral Advisory Commission on City Art, Monuments and Markers. A majority of commission members "advocated for keeping the Columbus statue and fostering public dialogue," according to the commission's [report](#).



# Covid-19

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## Columbus under the microscope

Students in the United States are taught that Columbus discovered the Americas, sailing across the Atlantic in his three ships: The Niña, Pinta and Santa Maria. The Italian explorer is even celebrated every October during a federal holiday named after him. However, many [historians agree](#) that Columbus wasn't the first person, nor the first European, to discover the "New World." Indigenous people had been living in the Americas for centuries before Columbus' arrival.



US

LIVE TV



Dozens of cities and states -- such as Minnesota, Alaska, Vermont and Oregon -- have already replaced Columbus Day with Indigenous People's Day.

Now, in response to the nationwide protests and conversation surrounding racial inequality, people have been [tearing down Columbus statues](#).

In Houston, a Columbus statue was vandalized overnight Thursday, left stained with red paint and with a sign reading, "rip the head from your oppressor," CNN affiliate [KTRK](#) reported. CNN affiliate [WHDH](#) reported a beheaded Columbus statue in Boston early Wednesday morning and a destroyed statue in Richmond, Virginia, on Tuesday night.

Earlier Thursday afternoon, a statue of Columbus was removed from Farnham Park in Camden, New Jersey, city spokesman Vincent Basara confirmed to CNN.

Indigenous people had inhabited the New World long before Columbus arrived in 1492. [History.com](#) says he enslaved many of them and treated them with extreme violence and brutality.

Columbus and his men also brought diseases such as smallpox, measles and influenza to the island of Hispaniola. In 1492, there were an estimated 250,000 indigenous people in Hispaniola, but by 1517, only 14,000 remained, [according to the Oklahoma Medical Research Foundation](#).

## Indigenous and Italian American communities respond

In an emailed statement to CNN, Betty Lyons, the executive director for the American Indian Law Alliance, pinned Columbus as the center point for "centuries of racism and dehumanizing of indigenous peoples" in the United States.

"Until the larger society confronts those oppressions head-on, and realizes that the symbols of that oppression go far beyond the Confederate flag, peace will not come to the land," Lyons wrote. "Until then, Cuomo, as does [President Donald] Trump, continues to have his knee on our necks."

The National Italian Americans Foundation issued a [statement](#) Friday expressing its belief that vandalizing and removing any statues of Columbus is "culturally insensitive and divisive."

Anita Bevacqua McBride, the NIAF's vice chair for cultural affairs, told CNN over the phone that the NIAF is not discriminating "against any other group."

"We stand with those who are facing this disenfranchisement now and groups that feel marginalized, [that] are victims of racism and injustice," she said. "And we support the right to peacefully protest. But we don't support the vandalizing and destruction of Columbus statues."

When asked if the statue was worth revisiting due to changing historical views on Columbus, McBride suggested the same should be done with Founding Fathers of the United States if the focus remains on their positive qualities and not their slaveholding.

"We have always supported there being an Indigenous People's Day or statue," she said. "But the country continues to evolve in how it celebrates characters. That's not the issue. We're talking about removal, construction, complete elimination. That is an affront to the tens to twenty millions of Italian Americans whose heritage is from these massive waves of immigrants who overcome discrimination to scrape [money] and contribute to making [the statues] possible."

*CORRECTION: This story has been updated to correct the day a statue of Columbus was removed from Farnham Park in Camden, New Jersey.*

*CNN's Alicia Lee, Taylor Romine, Brian Vitagliano and Sheena Jones contributed to this story.*



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<b>JOSEPH MIRARCHI</b>	:	COURT OF COMMON PLEAS
1808 JACKSON STREET	:	PHILADELPHIA COUNTY
PHILADELPHIA, PA 19145	:	Trial Division
	:	
Plaintiff	:	
v.	:	
	:	
<b>CITY OF PHILADELPHIA</b>	:	NO. 200600741
1515 ARCH STREET	:	
PHILADELPHIA, PA 19102	:	
	:	
and	:	
	:	
<b>MAYOR JAMES KENNEY</b>	:	
C/O CITY OF PHILADELPHIA	:	
1515 ARCH STREET	:	HONORABLE PAULA PATRICK
PHILADELPHIA, PA 19102	:	
	:	
Defendants.	:	
	:	

AND NOW, this 18<sup>th</sup> day of June, 2020, the parties, by and through their undersigned counsel, hereby stipulate and agree as follows, subject to entry of this Stipulation as an Order of the Court:

1. The Philadelphia Art Commission will determine the possible removal of the Columbus Statue currently located at Marconi Plaza, 2800 South Broad Street, Philadelphia, Pennsylvania (the “Statute”), through a public process as soon as practicable under the law. Consistent with its prior plan, the City presently has no intention to and will not remove, damage, or alter the Statue, until such time as the Art Commission determines whether the Statue should be removed, or, if sooner, upon Court Order.

2. The parties shall continue to abide by all Philadelphia Home Rule Charter and all other applicable laws and regulations.

3. The City will reasonably protect the Statue pending a decision by the Art Commission. Accordingly, the City has constructed a wooden box that encompasses the entirety of the Statue. At the request of Plaintiffs' Counsel, the City will negotiate in good faith with Plaintiff's Counsel in developing a plan within the next ten (10) days to possibly modify the boxing apparatus.



Bochetto i

4. The City has posted the following message on the box: *"The Christopher Columbus statue has been a source of controversy in Philadelphia and across our country. Many are calling for the removal of the statue. The City understands their concerns and will be initiating a process for the Art Commission to review the statue, its location and its appropriateness in a public park. We are committed to listening to all and moving forward in the best way to heal our deep divides. The boxing is to preserve the statue while the Art Commission process is followed. No decision has been made on whether the City will remove the statue."*

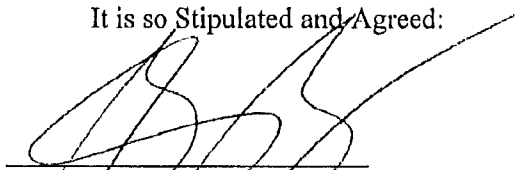
5. The City intends to allow for lawful First Amendment expression in the plaza, with reasonable time, place, and manner restrictions.

6. Counsel each represent that they have obtained the consent of their respective clients and other interested persons that they represent to enter this Stipulation. No party has prevailed and shall bear their own costs.


7. After receipt and execution by counsel for all parties, this Stipulation shall be submitted to the Court of Common Pleas of Philadelphia County for final approval and entry as an Order.

8. No injunction has issued in this matter. This Court will not retain jurisdiction.

It is so Stipulated and Agreed:

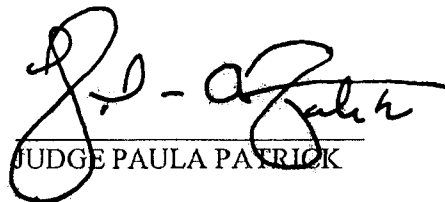


George Bochetto, Esquire  
1524 Locust Street  
Philadelphia, PA 19102  
Attorney for Plaintiff



Marcel Pratt, Esquire  
1515 Arch Street, 17th Floor  
Philadelphia, PA 19102  
Attorney for Defendants

It is so ORDERED, this 18<sup>th</sup> day of June, 2020.



JUDGE PAULA PATRICK

20060957



Commonwealth of Pennsylvania  
County of Philadelphia

In the matter of:

COURT OF COMMON PLEAS

\_\_\_\_\_  
(Plaintiff)

\_\_\_\_\_  
(Demandante)

\_\_\_\_\_, Term, 20\_\_\_\_

vs.

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

\_\_\_\_\_  
(Defendant)

\_\_\_\_\_  
(Demandado)

## Subpoena

To: \_\_\_\_\_  
(Name of Witness) (Nombre del Testigo)

1. YOU ARE ORDERED BY THE COURT TO COME TO *(El tribunal le ordena que venga a)*  
\_\_\_\_\_, AT PHILADELPHIA, PENNSYLVANIA ON *(en Filadelfia,*  
*Pennsylvania)* \_\_\_\_\_, AT *(alas)* \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M., TO TESTIFY  
ON BEHALF OF *(para atestiguar a favor de)* \_\_\_\_\_ IN THE ABOVE CASE,  
AND TO REMAIN UNTIL EXCUSED *(en el caso arriba mencionado y permanecer hasta que le autoricen irse).*

2. AND BRING WITH YOU THE FOLLOWING *(Y traer con usted lo siguiente):*

### NOTICE

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

### AVISO

Si usted falla en comparecer o producir los documentos o cosas requeridas por esta cita, usted estara sujeto a las sanciones autorizadas por la regla 234.5 de las reglas de procedimiento civil de Pensilvania, incluyendo pero no limitado a los costos, remuneracion de abogados y encarcelamiento.

INQUIRIES CONCERNING THIS SUBPOENA SHOULD BE ADDRESSED TO  
*(Las preguntas que tenga acerca de esta Citacion deben ser dirigidas a):* ISSUED BY:

\_\_\_\_\_  
(Attorney)

\_\_\_\_\_  
(Abogado/Abogada)

ADDRESS *(Direccion)* \_\_\_\_\_

TELEPHONE NO. *(No. de Telefono)* \_\_\_\_\_

ATTORNEY *(Abogado ID #)* \_\_\_\_\_

BY THE COURT *(Por El Tribunal)*

ERIC FEDER

DIRECTOR, OFFICE OF JUDICIAL RECORDS

PRO \_\_\_\_\_  
(Clerk) (Escribano)

Bochetto K.1

---

<b>FRIENDS OF MARCONI PLAZA,</b>	:	
<b>ET AL.</b>	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
<i>Plaintiffs.</i>	:	TRIAL DIVISION
v.	:	
	:	JUNE TERM, 2020
<b>CITY OF PHILADELPHIA,</b>	:	
<b>ET AL.</b>	:	NO. 000741
	:	
<i>Defendants.</i>	:	HONORABLE PAULA PATRICK
	:	

---

**SUBPOENA TO PRODUCE DOCUMENTS AND INFORMATION IN A CIVIL ACTION**

Pursuant to the foregoing subpoena, a records custodian of the Philadelphia Historical Commission shall appear to provide sworn testimony via deposition either in person or via an acceptable video conferencing alternative in place due to the COVID-19 restrictions. Said deposition will be a videotaped deposition. Said deposition shall take place on **TUESDAY, JULY 14, 2020** at **THREE** o'clock at **BOCHETTO & LENTZ, P.C., 1524 Locust Street, Philadelphia, Pennsylvania 19102.**

In the event that videoconferencing is elected, such election shall be made in writing to the attention of **GEORGE BOCHETTO, ESQUIRE** immediately upon receipt of this Subpoena and Notice. The court reporting firm will provide the necessary equipment to participate, if the deponent does not have the technological means to do so. All information necessary for the shipment of the necessary equipment to the deponent shall be provided to the aforementioned at the time of the written election.

In the event that the deponent provides all responsive documents to the noticing attorney in an acceptable and accessible form within 48 hours prior to the scheduled deposition, appearance in person or via videoconferencing will be unnecessary.

Pursuant to the applicable Pennsylvania Rules of Civil Procedure, the deponent is directed to bring to the deposition or provide beforehand, as previously indicated, all documents set forth in the following Requests for Production. All written descriptions or explanations shall be accompanied with a sworn Verification from the individual providing such information.

These requests are considered ongoing and the deponent shall be required to supplement what has or will be provided in the event that any new information or materials are obtained past the date of the deposition.

## **REQUESTS FOR PRODUCTION**

### **I. DEFINITIONS**

Unless otherwise clearly indicated, the following words, as used herein, shall have the meaning shown:

1.     “Commission” when used herein shall mean the Philadelphia Historical Commission
2.     “Mayor” when used herein shall mean the Mayor of Philadelphia, James Francis Kenney
3.     “Communications” when used herein shall mean any form of transmitting information from one person to another, including but not limited to electronic formats. If in verbal form, it shall be so identified and described providing the participants in the communication, the time, date and place of the communication and the substance of what was verbally exchanged.
4.     “Documentation” when used herein shall mean any written relay of information in any form or medium.



5. “Native Form” when used herein shall mean in an electronic format with all metadata preserved an intact for review.

6. “Christopher Columbus statue” when used herein shall mean the statue of Christopher Columbus located at 2700 South Broad Street, Philadelphia, Pennsylvania.

## **II. REQUESTS FOR THE PRODUCTION OF DOCUMENTS & INFORMATION**

1. A list of the dates of all meetings of the Commission from January 1, 2016 to present.

2. Copies of all meeting agendas for any and all meetings that have taken place from January 1, 2016 to present.

3. Copies of all meeting minutes for any meetings that have taken place from January 1, 2016 to present.

4. Copies of all “draft” meeting minutes and requested changes/edits for meetings that have taken place from January 1, 2016 to present.

5. Copies of all proposals or applications, formal or otherwise, submitted to the Commission from the office of the mayor, office of the managing director, the Art Commission, Department of Parks and Recreation, the Public Art Director, the Chief Cultural Officer, or anyone acting within those offices or on their behalf from January 1, 2016 to June 15, 2020.

6. All submissions and/or applications to the Commission for any statue or any sculptures to be designated historic from January 1, 2016 to present.

7. A complete listing of all sculptures and/or statues considered or evaluated by the Commission for historic designation from January 1, 2016 to present.

8. Provide a full description, policies, procedures and/or protocols detailing how sculptures and/or statues are reviewed by the Commission for designation “historic” per § 5.2 Rules and Regulations of the Historic Commission, citing § 14-2007(5) of the Philadelphia Code.

9. Provide all documentation, emails, electronic documents, files, correspondence or other things maintained and compiled by the Commission pertaining to the Christopher Columbus statue located at 2700 S. Broad Street.

a. Please also provide a description on when the Commission first began to maintain any information on the Christopher Columbus statue and why.

b. To the extent that the Commission has no responsive information to the foregoing request, please provide an explanation as to why the Commission has no such information.

10. Provide any and all materials related to the nomination and application for the Christopher Columbus statue to be designated “historic” by the Commission.

11. Provide the Commission’s entire file and documents related to its evaluation of any nomination and/or application for the Christopher Columbus statue to be deemed “historic” by the Commission.

12. Provide all internal communications of the Commission and its members regarding the application and nomination for the Christopher Columbus statue to be designated “historic.”

13. The Historic Commission’s Rules and Regulations at § 5.2 Criteria for Designation provides as follows:

5.2 Criteria for Designation

Section 14-2007(5) of the Philadelphia Code provides that the Commission may designate a building, structure, site, object, public interior portion of a building or structure, or district for preservation if it:

- a. Has significant character, interest or value as part of the development, heritage, or cultural characteristics of the City, Commonwealth, or Nation or is associated with the life of a person significant in the past; or,
- b. Is associated with an event of importance to the history of the City, Commonwealth, or Nation; or,
- c. Reflects the environment in an era characterized by a distinctive architectural style; or,
- d. Embodies distinguishing characteristics of an architectural style or engineering specimen; or,
- e. Is the work of a designer, architect, landscape architect or designer, or engineer whose work has significantly influenced the historical, architectural, economic, social, or cultural development of the City, Commonwealth, or Nation; or,
- f. Contains elements of design, detail, materials, or craftsmanship which represent a significant innovation; or,
- g. Is part of or related to a square, park, or other distinctive area which should be preserved according to an historic, cultural, or architectural motif; or,
- h. Owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community, or City; or,
- i. Has yielded, or may be likely to yield, information important in pre-history or history; or,
- j. Exemplifies the cultural, political, social, or historical heritage of the community.

- a. Please indicate which criteria the Christopher Columbus statue met for the Commission to designate it as “historic” on March 10, 2017.
- b. Please provide all documentation compiled by the Commission or provided to the Commission that supported the “historic” designation on March 10, 2017.
- c. Please describe the Commission’s rationale and/or reasoning to deem the Christopher Columbus statue “historic” on March 10, 2017.
- d. Please provide a list of the members of the Commission that supported the application to designate the Christopher Columbus statue as “historic” on March 10, 2017.
- e. Please provide any and all documentation submitted by any other office, agency and/or department of the City in opposition to application to have the Christopher Columbus statue deemed “historic” in 2017.

14. Provide all information compiled, obtained or provided to the Commission regarding the Christopher Columbus statue since March 10, 2017.

a. For all such information please indicate the following:

- i. The source of the information
- ii. The date such information was provided
- iii. Whether the information was available on or before March 10, 2017
- iv. Why such information was not provided or considered by the Commission on or before March 10, 2017
- v. How any such information impacts the “historic” designation of the Christopher Columbus statute and why
- vi. All independent research performed by or on behalf of the Commission to determine the veracity or reliability of any such information

15. Please provide all documentation on how the Commission determines whether it or any of its members has a Conflict of Interest in evaluating any application submitted for its review.

a. Please indicate and provide all documentation to indicate that any such evaluation was done regarding any application made to the Commission regarding the Christopher Columbus statue since March 10, 2017.

16. Please provide any and all communications of the Commission regarding whether any other City department, agency or body has a Conflict of Interest regarding any application pertaining to the Christopher Columbus statue.

17. Please provide all documentation compiled, maintained, obtained or submitted to the Commission explaining and/or reconciling the Mayor's ongoing participation and honoring of Christopher Columbus annually versus any present contrary application to remove the "historic" designation of the Christopher Columbus statue.

18. Please provide all materials obtained, submitted or compiled by the Committee on Historic Designation regarding the Christopher Columbus statue.

19. Please provide all materials obtained, submitted or compiled by the Architectural Committee regarding the Christopher Columbus statue.

20. Please provide all materials obtained, submitted or compiled by the Committee on Financial Hardship regarding the Christopher Columbus statue.

21. Please indicate any and all Ad Hoc Committees created by the Commission to evaluate and/or examine any aspect pertaining to the Christopher Columbus statue.

a. For any such Ad Hoc Committee please provide the following:

- i. All information compiled, submitted and/or obtained
- ii. The members of any such Committee
- iii. The purpose for the creation of any such Committee
- iv. The date(s) any such Committee was created and/or in existence

22. Provide copies of any applications submitted to the Commission by the mayor's office, the office of the managing director of the City, the Art Commission, and/or the Department of Parks and Recreation from January 1, 2016 to present.

23. Please indicate all statues designated as "historic" by the Commission from January 1, 2016 to present.

24. Please provide copies of all applications submitted and/or evaluated by the Commission for the rescission of a “historic” designation for any statue from January 1, 2016 to present.

25. Please provide any and all authority available for the Commission and/or any other City governing body to be excused from complying with the Commission’s rules and regulations regarding the rescission process as set forth at § 5.14(b)(3) and §5 of the Historic Commission’s Rules and Regulations.

26. Provide copies of any and all communications between the Commission and the Department of Licenses and Inspections, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and in their native form.

27. Provide copies of any and all communications between the Commission and the Office of the Mayor, or anyone acting on his behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and in their native form.

28. Provide copies of any and all communications between the Commission and the Office of the Managing Director, or anyone acting on his behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

29. Provide copies of any and all communications between the Commission and the City’s Public Art Director, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

30. Provide copies of any and all communications between the Commission and the city's Chief Cultural Officer, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

31. Provide copies of any and all communications between the Commission and the city's Art Commission, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

32. Provide copies of any and all communications between the Commission and the city's Department of Parks and Recreation, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

33. Provide copies of any and all communications between the Commission and the Fairmont Park Commission, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

34. Provide copies of any and all communications between the Commission and the Philadelphia Police Commissioner and the Philadelphia Police Department, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

35. Provide copies of any and all reports pertaining to the inspection of the structural integrity and/or stability of the Christopher Columbus statue located at 2700 S. Broad Street.

36. Provide any and all documentation pertaining to the condition of the Christopher Columbus statue located at 2700 S. Broad Street.

37. Provide any and all documentation, communication and/or description of any verbal communications indicating whether or not the Christopher Columbus statue located at 2700 S. Broad Street posed a public safety risk.

- a. For any such communications the following shall be detailed: Who was involved in the communication, When the communication took place, What precipitated the communication, Who directed that the communication take place and the Method of the communication (eg. Phone call, text message, etc)

38. Please identify any and all statues evaluated by the Commission on the basis of public safety from January 1, 2016 to June 15, 2020.

- a. Provide any and all documentation pertaining to any such evaluation.

39. Please provide all legislation, codes, ordinance or other laws that enable the Commission to evaluate public safety risks.

40. Please indicate which members of the Commission have specified training, experience and/or expertise in the field of public safety.

- a. Please provide a full Curriculum Vitae (CV) of any and all members identified and indicate which aspect of their CV supports the Commission's basis.

41. Please provide all legislation, codes, ordinance or other laws that enable the Art Commission to hold jurisdiction over statues that have been granted "Historic" status by the Philadelphia Historical Commission.

42. Identify any and all statues or other sculptures the Commission has directed or recommended be removed from public spaces from January 1, 2016 to June 15, 2020.



- a. For all identified statues or sculptures, please provide all documentation pertaining to said direction and/or recommendation.
- b. For all identified statues or sculptures, please provide a full description of the basis for said direction or recommendation.
- c. If there were no such directions or recommendations made by the Commission for the timeframe specified, please indicate “NONE.”

43. Please provide any and all anti-discrimination policies in place and/or required to be followed by the Commission and the Commission members in executing their duties and responsibilities.

44. Please provide any and all liability insurance policies in place for the members of the Commission in the event that it is determined that they engaged in discriminatory acts in performing their duties and responsibilities.

- a. If the members of the Commission are required to maintain their own personal liability policies for any such acts, please indicate that and provide any proof of such insurance that was required to be provided to the Commission.

45. Please provide all documentation maintained, researched and/or compiled by the Commission or on its behalf regarding the history of the Christopher Columbus statue located at 2700 S. Broad Street.

46. Please provide all documentation maintained, researched and/or compiled by the Commission or on its behalf regarding the origins of Columbus Day becoming a national Holiday in the United States of America.

47. Please provide all communications in the possession of the Commission detailing its input for the online survey launched and currently being maintained by the City of Philadelphia regarding the Christopher Columbus statue located at 2700 S. Broad Street.

48. Please provide all documentation indicating that only input from confirmed residents of the City and compiled via the online survey mentioned in item 32 will be accepted and deemed admitted at any hearing(s) regarding the Christopher Columbus statue located at 2700 S. Broad Street.

49. Please provide all documentation in the possession of the Commission regarding the cultural importance of the Christopher Columbus statue located at 2700 S. Broad Street to any residents or group of residents of the city.

50. Please provide any information compiled by the Commission or on its behalf indicating whether the Christopher Columbus statue located at 2700 S. Broad Street has any cultural significance to any residents of the city.

51. Please provide all support that would allow the Commission to subvert or ignore the cultural significance of the Christopher Columbus statue located at 2700 S. Broad Street to residents or group of residents in the city.

52. Please provide all protocols, policies and/or procedures in place for the Commission to weigh the cultural significance of the Christopher Columbus statue located at 2700 S. Broad Street to residents or group of residents of the City versus other interests.

53. Please provide all information that supports the Commission's involvement in the decision making on the status of the Christopher Columbus statue located at 2700 S. Broad Street.

54. Please provide any and all documentation that fully describes the mission and purpose of the Commission.

55. Please provide any and all explanations on how the removal of the “historic” designation for the Christopher Columbus statue meets the Commission’s mission and/or purpose.

56. Please provide the following:

- a. Copies of all text messages received by any member of the Commission from the Mayor or anyone acting on his behalf from May 1, 2020 to present.
- b. Copies of all emails received by any member of the Commission from the Mayor or anyone acting on his behalf from May 1, 2020 to present.
- c. Copies of any memos, notes or other written communication between any member of the Commission and the Mayor or anyone acting on his behalf from May 1, 2020 to present.
- d. Detailed descriptions of any and all phone calls between any member of the Commission and the Mayor or anyone acting on his behalf from May 1, 2020 to present.
- e. All call logs indicated phone/cell calls and text messaging between any member of the Commission and the Mayor or anyone acting on his behalf from May 1, 2020 to present.
- f. The cell phone numbers of the member of the Commission and their cell phone carriers along with an executed authorization to obtain their cell phone call/text message history

57. Please identify any and all experts that the Commission has consulted with and/or retained regarding the Christopher Columbus statue located at 2700 S. Broad Street, and for any such expert please provide the following:

- a. A copy of their current Curriculum Vitae

- b. A copy of their retainer agreement/fee schedule
- c. Their full testimonial history, including case names and venues. This shall also include deposition testimony
- d. Copies of all reports issued
- e. Copies of the expert's entire file, including all emails exchanged and/or documentation submitted

Respectfully,

**BOCHETTO & LENTZ, P.C.**

By: George Bochetto  
George Bochetto, Esquire



Commonwealth of Pennsylvania  
County of Philadelphia

In the matter of:

COURT OF COMMON PLEAS

\_\_\_\_\_  
(Plaintiff)

\_\_\_\_\_  
(Demandante)

\_\_\_\_\_, Term, 20\_\_\_\_

vs.

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

\_\_\_\_\_  
(Defendant)

\_\_\_\_\_  
(Demandado)

## Subpoena

To: \_\_\_\_\_  
(Name of Witness) (Nombre del Testigo)

1. YOU ARE ORDERED BY THE COURT TO COME TO *(El tribunal le ordena que venga a)* \_\_\_\_\_, AT PHILADELPHIA, PENNSYLVANIA ON *(en Filadelfia, Pennsylvania)* \_\_\_\_\_, AT *(alas)* \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M., TO TESTIFY ON BEHALF OF *(para atestiguar a favor de)* \_\_\_\_\_ IN THE ABOVE CASE, AND TO REMAIN UNTIL EXCUSED *(en el caso arriba mencionado y permanecer hasta que le autoricen irse)*.

2. AND BRING WITH YOU THE FOLLOWING *(Y traer con usted lo siguiente)*:

### NOTICE

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

### AVISO

Si usted falla en comparecer o producir los documentos o cosas requeridas por esta cita, usted estara sujeto a las sanciones autorizadas por la regla 234.5 de las reglas de procedimiento civil de Pensilvania, incluyendo pero no limitado a los costos, remuneracion de abogados y encarcelamiento.

INQUIRIES CONCERNING THIS SUBPOENA SHOULD BE ADDRESSED TO  
*(Las preguntas que tenga acerca de esta Citacion deben ser dirigidas a):* ISSUED BY:

\_\_\_\_\_  
(Attorney)

\_\_\_\_\_  
(Abogado/Abogada)

ADDRESS *(Direccion)* \_\_\_\_\_

TELEPHONE NO. *(No. de Telefono)* \_\_\_\_\_

ATTORNEY *(Abogado ID #)* \_\_\_\_\_

BY THE COURT *(Por El Tribunal)*

ERIC FEDER

DIRECTOR, OFFICE OF JUDICIAL RECORDS

PRO \_\_\_\_\_  
(Clerk) (Escribano)

Bochetto K.2

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<b>FRIENDS OF MARCONI PLAZA,</b>	:	
<b>ET AL.</b>	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
<i>Plaintiffs.</i>	:	TRIAL DIVISION
v.	:	
	:	JUNE TERM, 2020
<b>CITY OF PHILADELPHIA,</b>	:	
<b>ET AL.</b>	:	NO. 000741
	:	
<i>Defendants.</i>	:	HONORABLE PAULA PATRICK

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**SUBPOENA TO PRODUCE DOCUMENTS AND INFORMATION IN A CIVIL ACTION**

Pursuant to the foregoing subpoena, a records custodian of the Philadelphia Arts Commission shall appear to provide sworn testimony via deposition either in person or via an acceptable video conferencing alternative in place due to the COVID-19 restrictions. Said deposition will be a videotaped deposition. Said deposition shall take place on **TUESDAY, JULY 14, 2020** at **THREE** o'clock at **1524 Locust Street, Philadelphia, Pennsylvania 19102**.

In the event that videoconferencing is elected, such election shall be made in writing to the attention of **GEORGE BOCHETTO, ESQUIRE** immediately upon receipt of this Subpoena and Notice. The court reporting firm will provide the necessary equipment to participate, if the deponent does not have the technological means to do so. All information necessary for the shipment of the necessary equipment to the deponent shall be provided to the aforementioned at the time of the written election.

In the event that the deponent provides all responsive documents to the noticing attorney in an acceptable and accessible form within 48 hours prior to the scheduled deposition, appearance in person or via videoconferencing will be unnecessary.

Pursuant to the applicable Pennsylvania Rules of Civil Procedure, the deponent is directed to bring to the deposition or provide beforehand, as previously indicated, all documents set forth in the following Requests for Production. All written descriptions or explanations shall be accompanied with a sworn Verification from the individual providing such information.

## **REQUESTS FOR PRODUCTION**

### **I. DEFINITIONS**

Unless otherwise clearly indicated, the following words, as used herein, shall have the meaning shown:

1. “Commission” when used herein shall mean the Philadelphia Art Commission
2. “Mayor” when used herein shall mean the Mayor of Philadelphia, James Francis Kenney
3. “Communications” when used herein shall mean any form of transmitting information from one person to another, including but not limited to electronic formats. If in verbal form, it shall be so identified and described providing the participants in the communication, the time, date and place of the communication and the substance of what was verbally exchanged.
4. “Documentation” when used herein shall mean any written relay of information in any form or medium.
5. “Native Form” when used herein shall mean in an electronic format with all metadata preserved an intact for review.
6. “Christopher Columbus statue” when used herein shall mean the statue of Christopher Columbus located at 2700 South Broad Street, Philadelphia, Pennsylvania.

## **II. REQUESTS FOR THE PRODUCTION OF DOCUMENTS**

1. A list of the dates of all meetings of the Commission from January 1, 2016 to present.
2. Copies of all meeting agendas for any and all meetings that have taken place from January 1, 2016 to present.
3. Copies of all meeting minutes for any meetings that have taken place from January 1, 2016 to present.
4. Copies of all “draft” meeting minutes and requested changes/edits for meetings that have taken place from January 1, 2016 to present.
5. Copies of all proposals, formal or otherwise, submitted to the Commission from the office of the mayor, office of the managing director, the Historical Commission, Department of Parks and Recreation, the Public Art Director, the Chief Cultural Officer, or anyone acting within those offices or on their behalf from January 1, 2016 to June 15, 2020.
6. All submissions to the Office of Arts, Culture and the Creative Economy made by the Commission for the conservation/preservation/maintenance of any sculptures or other items from January 1, 2016 to present.
7. A complete listing of all sculptures and/or statues considered or evaluated by the Commission for conservation/preservation/maintenance from January 1, 2016 to present.
8. Provide a full description, policies, procedures and/or protocols detailing how sculptures and/or statues are reviewed by the Commission for conservation/preservation/maintenance.



9. Provide all documentation, emails, electronic documents, files, correspondence or other things maintained and compiled by the Commission pertaining to the Christopher Columbus statue located at 2700 S. Broad Street.

- a. Please also provide a description on when the Commission first began to maintain any information on the Christopher Columbus statue and why.
- b. To the extent that the Commission has no responsive information to the foregoing request, please provide an explanation as to why the Commission has no such information.

10. Provide copies of any and all communications between the Commission and the Department of Licenses and Inspections, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and in their native form.

11. Provide copies of any and all communications between the Commission and the Office of the Mayor, or anyone acting on his behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and in their native form.

12. Provide copies of any and all communications between the Commission and the Office of the Managing Director, or anyone acting on his behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

13. Provide copies of any and all communications between the Commission and the City's Public Art Director, or anyone acting on their behalf, regarding the Christopher Columbus

statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

14. Provide copies of any and all communications between the Commission and the city's Chief Cultural Officer, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

15. Provide copies of any and all communications between the Commission and the city's Historical Commission, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

16. Provide copies of any and all communications between the Commission and the city's Department of Parks and Recreation, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

17. Provide copies of any and all communications between the Commission and the Fairmont Park Commission, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

18. Provide copies of any and all communications between the Commission and the Philadelphia Police Commissioner and the Philadelphia Police Department, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

19. Provide copies of any and all reports pertaining to the inspection of the structural integrity and/or stability of the Christopher Columbus statue located at 2700 S. Broad Street.

20. Provide any and all documentation pertaining to the condition of the Christopher Columbus statue located at 2700 S. Broad Street.

21. Provide any and all reports developed by the Commission and submitted to the Commission of Public Property regarding the condition of City monuments along with all recommendations for their care and maintenance from January 1, 2016 to present.

a. If the Christopher Columbus statue located at 2700 S. Broad Street is not included in said reports, please provide a detailed explanation as to the reason why it was omitted.

22. Provide any and all documentation, communication and/or description of any verbal communications indicating whether or not the Christopher Columbus statue located at 2700 S. Broad Street posed a public safety risk.

a. For any such communications the following shall be detailed: Who was involved in the communication, When the communication took place, What precipitated the communication, Who directed that the communication take place and the Method of the communication (e.g. Phone call, text message, etc.)

23. Please identify any and all statues evaluated by the Commission on the basis of public safety from January 1, 2016 to June 15, 2020.

a. Provide any and all documentation pertaining to any such evaluation.

24. Please provide all legislation, codes, ordinance or other laws that enable the Commission to evaluate public safety risks.

25. Please indicate which members of the Commission have specified training, experience and/or expertise in the field of public safety.

- a. Please provide a full Curriculum Vitae (CV) of any and all members identified and indicate which aspect of their CV supports the Commission's basis.

26. Please provide all legislation, codes, ordinance or other laws that enable the Commission to hold jurisdiction over statues that have been granted "Historic" status by the Philadelphia Historical Commission.

27. Identify any and all statues or other sculptures the Commission has directed or recommended be removed from public spaces from January 1, 2016 to June 15, 2020.

- a. For all identified statues or sculptures, please provide all documentation pertaining to said direction and/or recommendation.
- b. For all identified statues or sculptures, please provide a full description of the basis for said direction or recommendation.
- c. If there were no such directions or recommendations made by the Commission for the timeframe specified, please indicate "NONE."

28. Please provide any and all anti-discrimination policies in place and/or required to be followed by the Commission and the Commission members in executing their duties and responsibilities.

29. Please provide any and all liability insurance policies in place for the members of the Commission in the event that it is determined that they engaged in discriminatory acts in performing their duties and responsibilities.

- a. If the members of the Commission are required to maintain their own personal liability policies for any such acts, please indicate that and provide any proof of such insurance that was required to be provided to the Commission.

30. Please provide all documentation maintained, researched and/or compiled by the Commission or on its behalf regarding the history of the Christopher Columbus statue located at 2700 S. Broad Street.

31. Please provide all documentation maintained, researched and/or compiled by the Commission or on its behalf regarding the origins of Columbus Day becoming a national Holiday in the United States of America.

32. Please provide all communications in the possession of the Commission detailing its input for the online survey launched and currently being maintained by the City of Philadelphia regarding the Christopher Columbus statue located at 2700 S. Broad Street.

33. Please provide all documentation indicating that only input from confirmed residents of the City and compiled via the online survey mentioned in item 32 will be accepted and deemed admitted at any hearing(s) regarding the Christopher Columbus statue located at 2700 S. Broad Street.

34. Please provide all documentation in the possession of the Commission regarding the cultural importance of the Christopher Columbus statue located at 2700 S. Broad Street to any residents or group of residents of the city.

35. Please provide any information compiled by the Commission or on its behalf indicating whether the Christopher Columbus statue located at 2700 S. Broad Street has any cultural significance to any residents of the city.

36. Please provide all support that would allow the Commission to subvert or ignore the cultural significance of the Christopher Columbus statue located at 2700 S. Broad Street to residents or group of residents in the city.

37. Please provide all protocols, policies and/or procedures in place for the Commission to weigh the cultural significance of the Christopher Columbus statue located at 2700 S. Broad Street to residents or group of residents of the City versus other interests.

38. Please provide all information that supports the Commission's involvement in the decision making on the status of the Christopher Columbus statue located at 2700 S. Broad Street.

39. The Commission defines its purpose via its website as follows:

"It ensures that development in Philadelphia is beautiful, orderly, and appropriate so that the City is a desirable place to live, visit and do business."

- a. Please provide all documentation regarding development of the 2700 S. Broad Street location presently in place or being considered.
- b. Please provide all documentation from January 16, 2016 to June 15, 2020, regarding the beauty or lack of beauty of the Christopher Columbus statue located at 2700 S. Broad Street.
- c. Please provide all documentation from January 16, 2016 to June 15, 2020, regarding how the Christopher Columbus statue located at 2700 S. Broad Street in anyway impacted any "orderly" development.
- d. Please provide all documentation from January 16, 2016 to June 15, 2020, regarding how the Christopher Columbus statue located at 2700 S. Broad Street in anyway impacted any "appropriate" development.

- e. Please provide all documentation from January 16, 2016 to June 15, 2020, regarding how the Christopher Columbus statue located at 2700 S. Broad Street in anyway impacted the “City being a desirable place to live.”
  - f. Please provide all documentation from January 16, 2016 to June 15, 2020, regarding how the Christopher Columbus statue located at 2700 S. Broad Street in anyway impacted the “City being a desirable place to... visit.”
  - g. Please provide all documentation from January 16, 2016 to June 15, 2020, regarding how the Christopher Columbus statue located at 2700 S. Broad Street in anyway impacted the “City being a desirable place to...do business.”
40. Please provide the following:
- a. Copies of all text messages received by any member of the Commission from the Mayor or anyone acting on his behalf from May 1, 2020 to present.
  - b. Copies of all emails received by any member of the Commission from the Mayor or anyone acting on his behalf from May 1, 2020 to present.
  - c. Copies of any memos, notes or other written communication between any member of the Commission and the Mayor or anyone acting on his behalf from May 1, 2020 to present.
  - d. Detailed descriptions of any and all phone calls between any member of the Commission and the Mayor or anyone acting on his behalf from May 1, 2020 to present.
  - e. All call logs indicated phone/cell calls and text messaging between any member of the Commission and the Mayor or anyone acting on his behalf from May 1, 2020 to present.

- f. The cell phone numbers of the member of the Commission and their cell phone carriers along with an executed authorization to obtain their cell phone call/text message history

41. Please identify any and all experts that the Commission has consulted with and/or retained regarding the Christopher Columbus statue located at 2700 S. Broad Street, and for any such expert please provide the following:

- a. A copy of their current Curriculum Vitae
- b. A copy of their retainer agreement/fee schedule
- c. Their full testimonial history, including case names and venues. This shall also include deposition testimony
- d. Copies of all reports issued
- e. Copies of the expert's entire file, including all emails exchanged and/or documentation submitted

Respectfully,

**BOCHETTO & LENTZ, P.C.**

By: George Bochetto  
George Bochetto, Esquire





Commonwealth of Pennsylvania  
County of Philadelphia

In the matter of:

COURT OF COMMON PLEAS

\_\_\_\_\_  
(Plaintiff)

\_\_\_\_\_  
(Demandante)

\_\_\_\_\_, Term, 20\_\_\_\_

vs.

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

\_\_\_\_\_  
(Defendant)

\_\_\_\_\_  
(Demandado)

## Subpoena

To: \_\_\_\_\_  
(Name of Witness) (Nombre del Testigo)

1. YOU ARE ORDERED BY THE COURT TO COME TO *(El tribunal le ordena que venga a)*  
\_\_\_\_\_, AT PHILADELPHIA, PENNSYLVANIA ON *(en Filadelfia,*  
*Pennsylvania)* \_\_\_\_\_, AT *(alas)* \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M., TO TESTIFY  
ON BEHALF OF *(para atestiguar a favor de)* \_\_\_\_\_ IN THE ABOVE CASE,  
AND TO REMAIN UNTIL EXCUSED *(en el caso arriba mencionado y permanecer hasta que le autoricen irse).*

2. AND BRING WITH YOU THE FOLLOWING *(Y traer con usted lo siguiente):*

### NOTICE

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

### AVISO

Si usted falla en comparecer o producir los documentos o cosas requeridas por esta cita, usted estara sujeto a las sanciones autorizadas por la regla 234.5 de las reglas de procedimiento civil de Pensilvania, incluyendo pero no limitado a los costos, remuneracion de abogados y encarcelamiento.

INQUIRIES CONCERNING THIS SUBPOENA SHOULD BE ADDRESSED TO  
*(Las preguntas que tenga acerca de esta Citacion deben ser dirigidas a):* ISSUED BY:

\_\_\_\_\_  
(Attorney)

\_\_\_\_\_  
(Abogado/Abogada)

ADDRESS *(Direccion)* \_\_\_\_\_

TELEPHONE NO. *(No. de Telefono)* \_\_\_\_\_

ATTORNEY *(Abogado ID #)* \_\_\_\_\_

BY THE COURT *(Por El Tribunal)*

ERIC FEDER

DIRECTOR, OFFICE OF JUDICIAL RECORDS

PRO \_\_\_\_\_  
(Clerk) (Escribano)

Bochetto K.3

<b>FRIENDS OF MARCONI PLAZA,</b>	:	
<b>ET AL.</b>	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
<i>Plaintiffs.</i>	:	TRIAL DIVISION
v.	:	
	:	JUNE TERM, 2020
<b>CITY OF PHILADELPHIA,</b>	:	
<b>ET AL.</b>	:	NO. 000741
	:	
<i>Defendants.</i>	:	HONORABLE PAULA PATRICK
	:	

**SUBPOENA TO PRODUCE DOCUMENTS AND INFORMATION IN A CIVIL ACTION**

Pursuant to the foregoing subpoena, a records custodian of the Philadelphia Department of Parks and Recreation shall appear to provide sworn testimony via deposition either in person or via an acceptable video conferencing alternative in place due to the COVID-19 restrictions. Said deposition will be a videotaped deposition. Said deposition shall take place on **TUESDAY, JULY 14, 2020** at **THREE** o'clock at **BOCHETTO & LENTZ, P.C., 1524 Locust Street, Philadelphia, Pennsylvania 19102.**

In the event that videoconferencing is elected, such election shall be made in writing to the attention of **GEORGE BOCHETTO, ESQUIRE** immediately upon receipt of this Subpoena and Notice. The court reporting firm will provide the necessary equipment to participate, if the deponent does not have the technological means to do so. All information necessary for the shipment of the necessary equipment to the deponent shall be provided to the aforementioned at the time of the written election.

In the event that the deponent provides all responsive documents to the noticing attorney in an acceptable and accessible form within 48 hours prior to the scheduled deposition, appearance in person or via videoconferencing will be unnecessary.

Pursuant to the applicable Pennsylvania Rules of Civil Procedure, the deponent is directed to bring to the deposition or provide beforehand, as previously indicated, all documents set forth in the following Requests for Production. All written descriptions or explanations shall be accompanied with a sworn Verification from the individual providing such information.

These requests are considered ongoing and the deponent shall be required to supplement what has or will be provided in the event that any new information or materials are obtained past the date of the deposition.

## **REQUESTS FOR PRODUCTION**

### **I. DEFINITIONS**

Unless otherwise clearly indicated, the following words, as used herein, shall have the meaning shown:

1. “Department” shall mean the Philadelphia Department of Parks and Recreation
2. “Mayor” when used herein shall mean the Mayor of Philadelphia, James Francis Kenney
3. “Communications” when used herein shall mean any form of transmitting information from one person to another, including but not limited to electronic formats. If in verbal form, it shall be so identified and described providing the participants in the communication, the time, date and place of the communication and the substance of what was verbally exchanged.
4. “Documentation” when used herein shall mean any written relay of information in any form or medium.
5. “Native Form” when used herein shall mean in an electronic format with all metadata preserved an intact for review.

6. “Christopher Columbus statue” when used herein shall mean the statue of Christopher Columbus located at 2700 South Broad Street, Philadelphia, Pennsylvania.

## **II. REQUESTS**

1. A list of the dates of all meetings of the Department from January 1, 2016 to present.

2. Copies of all meeting agendas for any and all meetings that have taken place from January 1, 2016 to present.

3. Copies of all meeting minutes for any meetings that have taken place from January 1, 2016 to present.

4. Copies of all “draft” meeting minutes and requested changes/edits for meetings that have taken place from January 1, 2016 to present.

5. Copies of all proposals or applications, formal or otherwise, submitted to the Department from the office of the mayor, office of the managing director, the Art Commission, the Historical Commission, the Public Art Director, the Chief Cultural Officer, or anyone acting within those offices or on their behalf from January 1, 2016 to June 15, 2020.

6. All submissions and/or applications to the Department for any statue or any sculptures to be designated historic from January 1, 2016 to present.

7. A complete listing of all sculptures and/or statues considered or evaluated by the Department for historic designation from January 1, 2016 to present.

8. Provide a full description, policies, procedures and/or protocols detailing how sculptures and/or statues are reviewed by the Department.

9. Provide all documentation, emails, electronic documents, files, correspondence or other things maintained and compiled by the Department pertaining to the Christopher Columbus statue located at 2700 S. Broad Street.

- a. Please also provide a description on when the Commission first began to maintain any information on the Christopher Columbus statue and why.
- b. To the extent that the Commission has no responsive information to the foregoing request, please provide an explanation as to why the Commission has no such information.

10. The online mission statement of the Department of Parks and Recreation sets forth as follows:

*The residents of Philadelphia own a treasure of facilities and resources they have entrusted to Philadelphia Parks and Recreation to manage democratically, equitably and sustainably. Parks and Recreation activates and stewards those treasures with programs and services that contribute to the wellness and prosperity for all.*

With regard to the mission statement, please set forth the following:

- a. All documentation that indicates the residents of South Philadelphia are not included within the meaning of the phrase “the residents of Philadelphia.”
- b. All documentation regarding the Christopher Columbus statue that includes or excludes said statue as a “treasure.”
- c. How the removal of the Christopher Columbus statue would fulfill the Department’s mission statement.
- d. How the removal of the Christopher Columbus statue would “democratically” account for the cultural significance ascribed to the statue by residents or groups of residents of the City.
- e. How the removal of the Christopher Columbus statue would “equitably” account for the cultural significance ascribed to the statue by residents or groups of residents of the City.

- f. How removal of the Christopher Columbus statue would fulfill the Department's obligation to "sustainably" manage the City's resources and/or treasures
- g. Provide all programs the Department has had in place since January 1, 2016 to "steward" the wellness and prosperity of the Christopher Columbus statue and the residents of Philadelphia who view the statue as holding cultural significance.

11. The "values" of the Department are set forth as follows:

#### Values

**Equity:** "Access for all:" We provide accessible, affordable experiences and spaces for all Philadelphians.

**Engagement:** We engage with residents and each other and prioritize partnerships, stewardship, and responsive customer service.

**Experiences:** We ensure that our spaces and facilities provide residents with fulfilling and relevant experiences that enrich their lives.

**Environment:** We protect, preserve, and improve our urban and natural resources to benefit the mental and physical health of our communities.

**Empowerment:** We empower our staff through leadership and development so they can empower our communities.

**Ever-evolving:** We adapt and innovate, in order to remain relevant for our changing city.

**Excellence:** We always go above and beyond, measuring our performance toward continual improvement.

**Enjoyment:** Our work brings us joy because it brings others joy.

With regard to the Department's values please provide the following:

- a. All documentation and/or explanations on how removal of the Christopher Columbus statue would meet the Department's value of "Equity."
- b. All documentation and/or explanations on how removal of the Christopher Columbus statue would meet the Department's value of "Engagement."

- c. All documentation and/or explanations on how removal of the Christopher Columbus statue would meet the Department's value of "Experiences."
- d. All documentation and/or explanations on how removal of the Christopher Columbus statue would meet the Department's value of "Environment."
- e. All documentation and/or explanations on how removal of the Christopher Columbus statue would meet the Department's value of "Empowerment."
- f. All documentation and/or explanations on how removal of the Christopher Columbus statue would meet the Department's value of "Ever-evolving."
- g. All documentation and/or explanations on how removal of the Christopher Columbus statue would meet the Department's value of "Excellence."
- h. All documentation and/or explanations on how removal of the Christopher Columbus statue would meet the Department's value of "Enjoyment."

12. Provide any and all materials related to the nomination and application for the Christopher Columbus statute to be designated "historic" by the Historical Commission.

13. Provide the Department's entire file and documents related to its involvement of any nomination and/or application for the Christopher Columbus statue to be deemed "historic" by the Historical Commission.

14. Provide all internal communications of the Department and its members regarding the Christopher Columbus statue from January 1, 2016 to present.

15. Provide all information compiled, obtained or provided to the Department regarding the Christopher Columbus statue since March 10, 2017.

- a. For all such information please indicate the following:
  - i. The source of the information

- ii. The date such information was provided
- iii. Whether the information was available on or before March 10, 2017
- iv. All independent research performed by or on behalf of the Commission to determine the veracity or reliability of any such information

16. Please provide all documentation on how the Department determines whether it or any of its members has a Conflict of Interest in executing its duties, mission and purpose.

- a. Please indicate and provide all documentation to indicate that any such evaluation was done regarding any evaluation by the Department regarding the Christopher Columbus statue from January 1, 2016 to present.

17. Please provide any and all communications of the Department regarding whether any other City department, agency or body has a Conflict of Interest regarding any application pertaining to the Christopher Columbus statue.

18. Please provide all documentation compiled, maintained, obtained or submitted to the Department explaining and/or reconciling the Mayor's ongoing participation and honoring of Christopher Columbus annually versus any present contrary application to remove the "historic" designation of the Christopher Columbus statue.

19. Please provide all materials obtained, submitted or compiled by the Department regarding the Christopher Columbus statue.

20. Provide copies of any applications submitted to the Commission by the mayor's office, the office of the managing director of the City, the Art Commission, and/or the Department of Parks and Recreation from January 1, 2016 to present.



21. Please indicate all statues the Department has recommended or directed removal from January 1, 2016 to present.

For any such removals, please provide the following:

- a. All procedures, protocols, rules and regulations followed by the Department regarding removal
- b. Input/authorization received from any other source, department or commission for the removal
- c. All documentation regarding the removal, including but not limited to, all explanations as to why removal was necessary

22. Provide copies of any and all communications between the Department and the Department of Licenses and Inspections, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and in their native form.

23. Provide copies of any and all communications between the Department and the Office of the Mayor, or anyone acting on his behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and in their native form.

24. Provide copies of any and all communications between the Department and the Office of the Managing Director, or anyone acting on his behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

25. Provide copies of any and all communications between the Department and the City's Public Art Director, or anyone acting on their behalf, regarding the Christopher Columbus

statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

26. Provide copies of any and all communications between the Department and the city's Chief Cultural Officer, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

27. Provide copies of any and all communications between the Department and the city's Art Commission, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

28. Provide copies of any and all communications between the Department and the city's Historical Commission, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

29. Provide copies of any and all communications between the Department and the Philadelphia Police Commissioner and the Philadelphia Police Department, or anyone acting on their behalf, regarding the Christopher Columbus statue located at 2700 S. Broad Street. All said communications shall be provided in hard copy and their native form.

30. Provide copies of any and all reports pertaining to the inspection of the structural integrity and/or stability of the Christopher Columbus statue located at 2700 S. Broad Street.

31. Provide any and all documentation pertaining to the condition of the Christopher Columbus statue located at 2700 S. Broad Street.

32. Provide any and all documentation, communication and/or description of any verbal communications indicating whether or not the Christopher Columbus statue located at 2700 S. Broad Street posed a public safety risk.

- a. For any such communications the following shall be detailed: Who was involved in the communication, When the communication took place, What precipitated the communication, Who directed that the communication take place and the Method of the communication (eg. Phone call, text message, etc)

33. Please identify any and all statues evaluated by the Department on the basis of public safety from January 1, 2016 to June 15, 2020.

- a. Provide any and all documentation pertaining to any such evaluation.

34. Please provide all legislation, codes, ordinance or other laws that enable the Department to evaluate public safety risks.

35. Please indicate which members of the Commission have specified training, experience and/or expertise in the field of public safety.

- a. Please provide a full Curriculum Vitae (CV) of any and all members identified and indicate which aspect of their CV supports the Commission's basis.

36. Please provide all legislation, codes, ordinance or other laws that enable the Art Commission to hold jurisdiction over statues that have been granted "Historic" status by the Philadelphia Historical Commission.

37. Identify any and all statues or other sculptures the Department has directed or recommended be removed from public spaces from January 1, 2016 to June 15, 2020.

- a. For all identified statues or sculptures, please provide all documentation pertaining to said direction and/or recommendation.

- b. For all identified statues or sculptures, please provide a full description of the basis for said direction or recommendation.
- c. If there were no such directions or recommendations made by the Commission for the timeframe specified, please indicate “NONE.”

38. Please provide any and all anti-discrimination policies in place and/or required to be followed by the Commission and the Commission members in executing their duties and responsibilities.

39. Please provide any and all liability insurance policies in place for the members of the Commission in the event that it is determined that they engaged in discriminatory acts in performing their duties and responsibilities.

- a. If the members of the Commission are required to maintain their own personal liability policies for any such acts, please indicate that and provide any proof of such insurance that was required to be provided to the Commission.

40. Please provide all documentation maintained, researched and/or compiled by the Department or on its behalf regarding the history of the Christopher Columbus statue located at 2700 S. Broad Street.

41. Please provide all documentation maintained, researched and/or compiled by the Department or on its behalf regarding the origins of Columbus Day becoming a national Holiday in the United States of America.

42. Please provide all communications in the possession of the Department detailing its input for the online survey launched and currently being maintained by the City of Philadelphia regarding the Christopher Columbus statue located at 2700 S. Broad Street.

43. Please provide all documentation indicating that only input from confirmed residents of the City and compiled via the online survey mentioned in item 42 will be accepted and deemed admitted at any hearing(s) regarding the Christopher Columbus statue located at 2700 S. Broad Street.

44. Please provide all documentation in the possession of the Department regarding the cultural importance of the Christopher Columbus statue located at 2700 S. Broad Street to any residents or group of residents of the city.

45. Please provide any information compiled by the Department or on its behalf indicating whether the Christopher Columbus statue located at 2700 S. Broad Street has any cultural significance to any residents of the city.

46. Please provide all support that would allow the Department to subvert or ignore the cultural significance of the Christopher Columbus statue located at 2700 S. Broad Street to residents or group of residents in the city.

47. Please provide all protocols, policies and/or procedures in place for the Department to weigh the cultural significance of the Christopher Columbus statue located at 2700 S. Broad Street to residents or group of residents of the City versus other interests.

48. Please provide all information that supports the Department's involvement in the decision making on the status of the Christopher Columbus statue located at 2700 S. Broad Street.

49. Please provide any and all documentation regarding the Department's activities and involvement with the area of 2700 S. Broad Street (a/k/a Marconi Plaza) from January 1, 2016 to present.

50. Please identify any and all issues, problems and/or concerns held by the Department regarding the area of 2700 S. Broad Street (a/k/a Marconi Plaza) from January 1, 2016 to present.

51. Please provide the following:

- a. Copies of all text messages received by any member of the Department from the Mayor or anyone acting on his behalf from May 1, 2020 to present.
- b. Copies of all emails received by any member of the Department from the Mayor or anyone acting on his behalf from May 1, 2020 to present.
- c. Copies of any memos, notes or other written communication between any member of the Department and the Mayor or anyone acting on his behalf from May 1, 2020 to present.
- d. Detailed descriptions of any and all phone calls between any member of the Department and the Mayor or anyone acting on his behalf from May 1, 2020 to present.
- e. All call logs indicated phone/cell calls and text messaging between any member of the Department and the Mayor or anyone acting on his behalf from May 1, 2020 to present.
- f. The cell phone numbers of the member of the Department and their cell phone carriers along with an executed authorization to obtain their cell phone call/text message history

52. Please identify any and all experts that the Department has consulted with and/or retained regarding the Christopher Columbus statue located at 2700 S. Broad Street, and for any such expert please provide the following:

- a. A copy of their current Curriculum Vitae
- b. A copy of their retainer agreement/fee schedule

- c. Their full testimonial history, including case names and venues. This shall also include deposition testimony
- d. Copies of all reports issued
- e. Copies of the expert's entire file, including all emails exchanged and/or documentation submitted

Respectfully,

**BOCHETTO & LENTZ, P.C.**

By: George Bochetto  
George Bochetto, Esquire



# CITY OF PHILADELPHIA

LAW DEPARTMENT  
One Parkway  
1515 Arch Street  
Philadelphia, PA 19102

Marcel S. Pratt,  
City Solicitor

Sheldon Kivell  
Senior Attorney  
215-683-5364  
215-683-5398 Fax

July 13, 2020

## SENT VIA EMAIL ONLY

George Bochetto, Esquire  
Bochetto & Lentz  
1525 Locust Street  
Philadelphia, PA 19103  
[gbochetto@bochettoandlentz.com](mailto:gbochetto@bochettoandlentz.com)

**Re: Subpoenas WithCaption: Friends of Marconi Plaza, et. al v. City of Philadelphia, et al.  
CCP June Term, 2020; No. 00741**

Dear Mr. Bochetto,

The City of Philadelphia Law Department is in receipt of the enclosed subpoenas directed to the Philadelphia Art Commission, the Philadelphia Historical Commission and the Philadelphia Department of Parks and Recreation, in connection with the above captioned matter. The subpoenas were all sent less than one week ago and have a return date of tomorrow, July 14, 2020.

Without waiving more formal and detailed objections to the subpoenas, as well as defects in service, this letter is written to advise you of objections to the subpoenas in their entirety and none of the witnesses requested will be appearing tomorrow, nor will the documents requested be produced.

At the outset, there has been no complaint or writ of summons filed in connection with this matter. Accordingly, it is unknown whether discovery requests or subpoenas are appropriate or permitted. Further, even if, discovery is to be permitted, at least some of the discovery sought should properly be through notices of deposition, interrogatories or requests for production of documents. The subpoenas collectively call for the production of 3 witnesses and 150 categories of documents with multiple subparts, all within 3 business days of issuance during a pandemic. This is simply not reasonable or possible. Moreover, even if the subpoenas were deemed procedurally proper, many of the requests are unduly burdensome, irrelevant, harassing, not reasonably calculated to lead to admissible evidence or protected by privilege.





Should these issues be presented to the Court, the City of Philadelphia Law Department reserves the right to respond with further and formal objections to any of the enumerated items requested. We remain available for further discussion in good faith effort to resolve this dispute.

Very truly yours,

/s/ Sheldon Kivell

Sheldon Kivell

Senior Attorney

Enclosures (3)

# PHILADELPHIA COURT OF COMMON PLEAS

## PETITION/MOTION COVER SHEET

FOR COURT USE ONLY	
ASSIGNED TO JUDGE:	ANSWER/RESPONSE DATE:
<i>Do not send Judge courtesy copy of Petition/Motion/Answer/Response.          Status may be obtained online at <a href="http://courts.phila.gov">http://courts.phila.gov</a></i>	

MIRARCHI VS CITY OF PHILADELPHIA ETAL

**CONTROL NUMBER:**  
20070218  
**(RESPONDING PARTIES MUST INCLUDE THIS  
NUMBER ON ALL FILINGS)**

June Term, 2020  
*Month Year*  
 No. 00741

Name of Filing Party:  
JOSEPH MIRARCHI-PET

**INDICATE NATURE OF DOCUMENT FILED:**

- ☐ Petition (*Attach Rule to Show Cause*)    ☒ Motion  
☐ Answer to Petition                  ☐ Response to Motion

**Has another petition/motion been decided in this case?** ☐ Yes ☒ No

Is another petition/motion pending? ☐ Yes ☒ No

*If the answer to either question is yes, you must identify the judge(s):*

TYPE OF PETITION/MOTION (see list on reverse side)		PETITION/MOTION CODE (see list on reverse side) PRINJ
PRELIMINARY INJUNCTION		
ANSWER / RESPONSE FILED TO (Please insert the title of the corresponding petition/motion to which you are responding):		
<b>I. CASE PROGRAM</b>  OTHER PROGRAM  Court Type: <u>PETITIONS</u> Case Type: <u>MISCELLANEOUS PETITION</u>		<b>II. PARTIES</b> ( <i>required for proof of service</i> ) (Name, address and <b>telephone number</b> of all counsel of record and unrepresented parties. Attach a stamped addressed envelope for each attorney of record and unrepresented party.)  GEORGE BOCHETTO BOCHETTO & LENTZ, P.C. 1524 LOCUST STREET , PHILADELPHIA PA 19102 MICHAEL W PFAUTZ PHILADELPHIA LAW DEPARTMENT 1515 ARCH ST 15TH FLOOR , PHILADELPHIA PA 19102
<b>III. OTHER</b>		

By filing this document and signing below, the moving party certifies that this motion, petition, answer or response along with all documents filed, will be served upon all counsel and unrepresented parties as required by rules of Court (see P.A. R.C.P. 206.6, Note to 208.2(a), and 440). Furthermore, moving party verifies that the answers made herein are true and correct and understands that sanctions may be imposed for inaccurate or incomplete answers.

(Attorney Signature/Unrepresented Party)

July 2, 2020  
(Date)

GEORGE BOCHETTO

---

*(Print Name)* *(Attorney I.D. No.)*

**The Petition, Motion and Answer or Response, if any, will be forwarded to the Court after the Answer/Response Date. No extension of the Answer/Response Date will be granted even if the parties so stipulate.**

<b>FRIENDS OF MARCONI PLAZA, et al.</b>	:	COURT OF COMMON PLEAS PHILADELPHIA COUNTY
<i>Plaintiffs.</i>	:	
v.	:	
<b>CITY OF PHILADELPHIA and MAYOR JAMES KENNEY</b>	:	JUNE TERM 2020 No. 000741
<i>Defendants.</i>	:	HONORABLE PAULA PATRICK
	:	

**RULE TO SHOW CAUSE AND  
SPECIAL INJUNCTION ORDER**

**AND NOW** on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, upon consideration of the Plaintiffs' Second Amended Motion for a Special and Preliminary Injunction ("Motion");

**IT IS ORDERED** that Defendants show cause before this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 2020 at \_\_\_\_\_ A.M./P.M. in Courtroom \_\_\_\_\_, or as soon thereafter as counsel can be heard, why a Preliminary Injunction providing the relief sought in the accompanying Motion should not be entered; and

**IT IS FURTHER ORDERED** that Defendants are hereby enjoined from proceeding with any hearing before the Art Commission or otherwise taking any act designed at destroying, altering or otherwise disposing of the Columbus Statue pending ruling by the Court on Plaintiffs' request for a preliminary injunction;

**IT IS FURTHER ORDERED** that Defendants shall install a see through, plexi-glass encasing such that the public may continue to view the Columbus Statue pending the final outcome of the process to determine whether the Statue will be removed;

**IT IS FURTHER ORDERED** that Plaintiffs shall cause a copy of this Rule and Special Injunction Order, along with a copy of the Motion and accompanying papers, to be served upon Defendants at least five (5) days before the day of the hearing.

**BY THE COURT:**

---

**HONORABLE PAULA PATRICK**

**FRIENDS OF MARCONI  
PLAZA, et al.**

*Plaintiffs.*

v.

**CITY OF PHILADELPHIA  
and  
MAYOR JAMES KENNEY**

*Defendants.*

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

JUNE TERM 2020  
No. 000741

HONORABLE PAULA PATRICK

**ORDER**

**AND NOW**, this \_\_\_\_ day of \_\_\_\_\_, 2020, upon consideration of  
Plaintiffs' Second Amended Motion for Special and Preliminary Injunction, it is hereby

**ORDERED:**

1. An injunction is necessary to prevent immediate and irreparable harm to Plaintiffs that cannot be adequately compensated by damages;
2. Greater injury will result from refusing this injunction than from granting it, and an injunction will not substantially harm other interested parties in the proceeding;
3. A preliminary injunction will properly restore the Plaintiffs and Defendants to their status as it existed immediately before the alleged wrongful conduct;
4. Plaintiffs are likely to prevail on the merits;
5. The instant injunction is reasonably suited to abate the offending activity; and
6. An injunction will not adversely affect the public interest.

It is therefore hereby **ORDERED** that the Second Amended Motion for Preliminary Injunctive Relief is **GRANTED**. Neither the City of Philadelphia nor Mayor James Kenney shall in anyway alter, remove, or destroy the Christopher Columbus Statue located at 2800 South

Broad Street, Philadelphia, until all due process under the applicable laws and regulations are fully complied with, including:

1. The Acts of the General Assembly establishing the Fairmount Park Commission, pertinent parts of which are referenced in **Exhibit “B”** to the Second Amended Motion;
2. The City of Philadelphia Policy Regarding Removal, Relocation and Deaccession of Publicly Displayed Artwork, attached to the Second Amended Motion as **Exhibit “I”**;
3. The pertinent provisions of the Philadelphia Home Rule Charter (the “Charter”), attached to the Second Amended Motion as **Exhibit “L”**;
4. The pertinent provisions of the Philadelphia Code (the “Code”), attached to the Second Amended Motion as **Exhibit “M”**; and
5. The pertinent provisions of the Regulations of the Philadelphia Art Commission (the “Regulations”), attached to the Second Amended Motion as **Exhibit “N.”**

It is further hereby **ORDERED** that the City shall not take action to alter, remove or destroy the Columbus Statue unless and until the City files an application with the Court certifying all the foregoing due process requirements were fully complied with and the Court enters an Order dissolving this Injunction.

**BY THE COURT:**

HONORABLE PAULA PATRICK

**BOCHETTO & LENTZ, P.C.**  
By: George Bochetto, Esquire  
Attorney I.D. #27783  
1524 Locust Street  
Philadelphia, PA 19102  
215.735.3900  
[gbochetto@bochettoandlentz.com](mailto:gbochetto@bochettoandlentz.com)

*Attorney for Plaintiffs*

**FRIENDS OF MARCONI PLAZA:**  
**RICH CEDRONE**  
**JOSEPH Q. MIRARCHI**

*Plaintiffs,*

v.

**CITY OF PHILADELPHIA**  
**MAYOR JAMES KENNEY**

*Defendants.*

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

JULY TERM 2020

No. 000741

HONORABLE PAULA PATRICK

**PLAINTIFFS' SECOND AMENDED MOTION  
FOR SPECIAL AND PRELIMINARY INJUNCTION**

Plaintiffs, Friends of Marconi Plaza, Rich Cedrone, and Joseph Q. Mirarchi (collectively, "Plaintiffs") respectfully submit this Second Amended Motion for Special and Preliminary Injunctive relief pursuant to Pennsylvania case law and the Pennsylvania Rule of Civil Procedure 1531, and in support thereof allege as follows:

1. Plaintiff, Friends of Marconi Plaza is incorporated in Pennsylvania and maintains its headquarters at 1100 Bigler Street, Philadelphia, Pennsylvania 19148.
2. Plaintiff, Rich Cedrone, is an individual and citizen of the City of Philadelphia, with a residential address of 2736 South Iseminger Street, Philadelphia, Pennsylvania 19148. Mr. Cedrone is also the President of the Friends of Marconi Plaza.

3. Plaintiff, Joseph Q. Mirarchi, is an individual and citizen of the City of Philadelphia with a residential address of 1808 Jackson Street, Philadelphia, Pennsylvania 19145.

4. Defendant, City of Philadelphia, is a municipality existing under the laws of the Commonwealth of Pennsylvania, with a business address of 1515 Arch Street, Philadelphia, Pennsylvania 19102.

5. Defendant, Mayor James Kenney, is the Mayor of the City of Philadelphia. He maintains an office at Philadelphia City Hall, Room 215, Philadelphia, Pennsylvania 19102.

6. There is a statue of Christopher Columbus (“Columbus Statue” or “Statue”) currently located at 2800 South Broad Street, Philadelphia, Pennsylvania 19145.

7. The Statue was first erected on Belmont Avenue and presented to the City of Philadelphia by Italian American citizens as part of Philadelphia’s 1876 centennial expedition and believed to be the work of artist Emmanuele Caroni.

8. The Statue was moved to its current location in 1982.

9. On March 3, 2017, the Statue was designated an *historic object* and was listed on the Philadelphia Register of Historic Places. *See* Interiors, Objects, Structures, and Sites, attached hereto as **Exhibit “A.”**

10. On June 14, 2020, Martina White, Member of the 170th Legislative District, sent a letter to Mayor Kenney stating the interest of Fairmount Park Commission to preserve the historic Columbus Statue. *See* Martina White Letter, attached hereto as **Exhibit “B.”**

11. The Letter also highlights the statutory right of the Fairmount Park Commission to make the “ultimate decision” with regard to “tearing down artwork in the Park.” *Id.* at 3.



12. Upon information and belief, Fairmount Park Commission has significant interest in preserving the Columbus Statue in accordance with the donation contract and applicable statutes. *Id.*

13. In 2008, the City of Philadelphia improperly disestablished the Fairmount Park Commission; which is a state-enacted body with exclusive powers over the Fairmount Park.

14. The Fairmount Park Commission has state-authorized authority to control park-related activity.<sup>1</sup>

15. The Fairmount Park Commission was subsumed by the Parks & Recreation Department without the approval of the State Legislature.

16. Pursuant to State legislation, the Fairmount Park Commission should have a say over whether the Columbus Statue may be removed from Marconi Plaza.

17. On June 23, 2020, Plaintiffs' counsel sent a letter to President Judge Idee C. Fox requesting that she convene a conference of all interested parties to review the process by which the Fairmount Park Commission can be reconstituted in accordance with the Parks Act of 1867. *See* Letter to President Judge Fox, attached hereto as **Exhibit "C."**

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<sup>1</sup> *See* Section 5 of Act of Mar. 26, 1867, P.L. 547, No. 525 ("As soon as the said Commissioners shall have fully organized, they shall have the care and management of Fairmount park, on both banks of the River Schuylkill; and all plans and expenditures for the improvement and maintenance of the same, shall be under their control, subject to such appropriations as councils may, from time to time, make, as aforesaid."); *see generally* Act of Apr. 14, 1868, P.L. 1083, No. 1020 ("The said park commissioners shall have the power to govern, manage, lay out, plant and ornament the said Fairmount Park, and to maintain the same in good order and repair, and to construct all proper bridges, buildings, railways and other improvements, therein, and to repress all disorders therein under the provisions hereinafter contained."); *see also* Act of Apr. 21, 1869, P.L. 1194, No. 1189; *see also* Act of Jan. 27, 1870, P.L. 93, No. 70; *see also* Act of Mar. 15, 1871, P.L. 363, No. 338. The above-listed State legislation all detail the regulation and control that the Commission has over the Park. Therefore, pursuant to *Nutter v. Dougherty*, 938 A.2d 401, 404 (Pa. 2007), "all ordinances touching the topic of exclusive control [shall] fade away" since it is clear that the State's intent was for the Commission to control and regulate Fairmount Park.

18. Upon information and belief, the Kenney Administration intended to demolish and/or move the Columbus Statue between 1:00 a.m. and 3:00 a.m. on June 15, 2020, under cover of night, as it did in early June 2020 with the Statue of Mayor Frank Rizzo.

19. At 9:30 p.m. on June 14, 2020, Judge Marlene F. Lachman held an emergency hearing to address the matter. *See* June 14<sup>th</sup> Emergency Hearing Transcript, attached hereto as **Exhibit “D.”**

20. Following the emergency hearing, at 10:10 p.m., counsel for Plaintiffs consulted with City Solicitor of Philadelphia, Marcel Pratt, Esq., who assured Plaintiffs’ counsel that the Statue would not be removed that evening or early the next morning.

21. Plaintiffs filed an emergency petition with the Court at 10:59 p.m. on June 14, 2020, to ensure that the Kenney Administration’s planned removal of the historic Columbus Statue was halted.

22. At 2:00 p.m. on June 15, 2020, Judge Paula Patrick held an emergency hearing with Plaintiffs’ Counsel and City Solicitor Marcel Pratt, Esq. to address the City’s failure to abide by the Philadelphia Code and Philadelphia Home Rule Charter. *See* June 15<sup>th</sup> Emergency Hearing Transcript, attached hereto as **Exhibit “E.”**

23. During the emergency hearing, the parties agreed to enter a stipulated Order addressing the manner in which the City may proceed to determine the fate of the Statue. *Id.* The parties agreed to transcribe the agreement for the Court to enter as an Order. *Id.*

24. On June 17, 2020, counsel for each party executed a Stipulation that detailed how the Defendants would protect the Statue and how Defendants would proceed in determining whether the Statue would be removed. *See* Executed Stipulation, attached hereto as **Exhibit “F.”**

25. On June 18, 2020, the Court entered the Stipulation as an Order. *Id.*

26. The Order specifically states, “[t]he parties shall continue to abide by all Philadelphia Home Rule Charter and all other applicable laws and regulations.” *Id.* at 1.

27. The Order also stipulates, “the City has constructed a wooden box that encompasses the entirety of the Statue. At the request of Plaintiffs’ Counsel, the City will negotiate in good faith with Plaintiff’s Counsel in developing a plan within the next ten (10) days to possibly modify the boxing apparatus.” *Id.*

28. Plaintiffs’ Counsel attempted to engage in good faith negotiations with the City to replace the top half of the box with a transparent casing.

29. The City responded on June 24, 2020, stating “[t]he current boxing apparatus appropriately serves the stipulated goal...” and refused to engage in any negotiations concerning the alteration of the wooden enclosing. *See* City’s Response Letter to Altering Statue’s Boxing, attached hereto as **Exhibit “G”**.

30. On June 25<sup>th</sup>, 2020, Plaintiffs’ counsel sent a demand letter to City Solicitor Marcel Pratt, requesting a written assurance that “the City will follow all applicable procedures and processes for removal of historic statues, including, but not limited to, the review and approval of the Philadelphia Historical Commission.” *See* June 25<sup>th</sup> Letter, attached hereto as **Exhibit “H.”**

31. The June 25<sup>th</sup> Letter reminded the City of the Court Order and the applicable City policy for removing statues. *Id.*; *See City of Philadelphia Policy Regarding Removal, Relocation and Deaccession of Publicly Displayed Artwork*, attached hereto as **Exhibit “I.”**

32. The public policy, posted to the City’s website, enumerates a seven-step process by which the Kenney Administration must abide by **before any** publicly displayed city artwork may be removed.

33. The first step stipulates that the Public Art Director is to set forth a Proposal to initiate the process “**after** assessment by the Public Art Division of the Office of Arts, Culture and the Creative Economy . . . of the condition status of the artwork and evaluation of the artwork in relation to the . . . grounds for removal. The Proposal shall include a determination of whether the Artwork should be relocated, stored, loaned or deaccessioned.” *Id.*

34. The public has yet to be informed of any such assessment by the Public Art Division of the Office of Arts, Culture and the Creative Economy or presented with any Proposal detailing its determination.

35. Step two of the policy requires that the Public Art Division “notify in writing the artist, if living, or one or more members of the family of the artist, if known and readily contacted, of the reason for removal and shall provide the artist or family member(s) with 30 days to respond to the proposal.” *Id.*

36. Notably, step three indicates that “[i]n the case of a proposal to remove a work of art due to public protest, a public hearing will be held **prior to further action on the proposal.**” *Id.* In other words, the Public Art Director’s Proposal may not go forward until a public hearing has taken place. *Id.*

37. Step four states that “[a]fter the period of notice, and after any adjustment made to the proposal based on input received, the Public Art Division shall present the proposal to the Department of Parks and Recreation, in the case of artwork in the custody of that Department, or to the Department of Public Property, in the case of artwork in the custody of that Department, for the respective department’s approval.” *Id.*

38. Then, in accordance with step five, only “[u]pon approval by the relevant department, the Public Art Division shall present the proposal to the City’s Art Commission for approval.”<sup>2</sup> *Id.*

39. In response to the June 25<sup>th</sup> Letter, on June 30, 2020, the City stated that it did not intend to comply with its own policy -- which the City claimed was “ineffective” -- and that it would not abide by the Regulations of the Philadelphia Art Commission. *See* June 30<sup>th</sup> Response, attached hereto as **Exhibit “J.”**

40. Based on the City’s correspondence with Plaintiffs’ counsel, and statements made publicly (and in private) by the Kenney Administration, it has become clear that the City does not intend to abiding by the Stipulation and Order nor the applicable laws and regulations in its effort to remove the Columbus Statue.<sup>3</sup>

41. By operation of law and this Court’s June 18, 2020 Order, the City must also abide by the processes and procedures set forth in the Philadelphia Home Rule Charter (the “Charter”), Philadelphia Code (the “Code”) and the Regulations of the Philadelphia Art Commission (the “Regulations”).<sup>4</sup>

42. The Charter states, “[t]he Art Commission shall . . . [a]pprove the removal, relocation or alteration of any existing work of art in the possession of the City.” *Section 4-606 of the Philadelphia Home Rule Charter.*

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<sup>2</sup> Step six and seven may also become relevant at a later point in time.

<sup>3</sup> Mayor Kenney has tainted the Philadelphia Art Commission’s review process by sending the Public Art Director a thinly veiled letter stating that there is only one appropriate decision to make with regard to the Columbus Statue. *See* Letter from Mayor Kenney to Public Art Director, attached hereto as **Exhibit “K.”**

<sup>4</sup> The relevant excerpts of the Charter, the Code, and Regulations are attached hereto as **Exhibits “L,” “M,” and “N,”** respectively.

43. The Code, however, provides that the Philadelphia Historical Commission (“PHC”) must also approve the removal of the Statue.<sup>5</sup> The City concedes the PHC has authority in this regard, but the City refuses to confirm whether it will abide by that authority. *See* June 30<sup>th</sup> Response, attached hereto as **Exhibit “J”** (“As you noted in your letter, the Philadelphia Historical Commission indeed has the power to review and act upon all applications for permits to alter or demolish historic buildings, structures, sites, or objects; however, that is an entirely separate determination from that of the Art Commission.”).<sup>6</sup>

41. Without the approval of the PHC, the Art Commission does not have jurisdiction to decide the Statue’s fate.

42. The PHC has the power to “[r]eview and act upon all applications for building permits to alter or demolish historic buildings, structures, sites, or objects.”<sup>7</sup> The Philadelphia Code further specifies that “[u]nless a building permit is first obtained from L&I, no person<sup>8</sup> shall alter or demolish a historic building, structure, site, or object.”<sup>9</sup> However, “[b]efore L&I may issue such a building permit, L&I shall forward the building permit application to the Historical Commission for its review.”<sup>10</sup>

43. Furthermore, “[a]t the time that a building permit application is filed with [the Department of Licenses and Inspections] for alteration, demolition or construction subject to the

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<sup>5</sup> Phila. Code § 14-1003(2)(e); § 14-1005(1)-(2).

<sup>6</sup> Upon consultation with Paul Steinke, Executive Director of the Preservation Alliance for Greater Philadelphia, he confirmed “[y]ou’re right that the Historical Commission will have to take up any proposal to alter or relocate this statue.” *See* Paul Steinke E-Mail, attached hereto as **Exhibit “O.”**

<sup>7</sup> Phila. Code § 14-1003(2)(e).

<sup>8</sup> Philadelphia Code defines the word “person” to include “individuals, firms, corporations, associations, and any other similar entities, including governmental agencies.” Phila. Code § 14-201(9).

<sup>9</sup> Phila. Code § 14-1005(1).

<sup>10</sup> *Id.*

Historical Commission's review, the applicant shall submit to the Historical Commission the plans and specifications of the proposed work, including the plans and specifications for any construction proposed after demolition and such other information as the Historical Commission may reasonably require to exercise its duties and responsibilities under this Chapter 14-1000.”<sup>11</sup>

44. Finally, “[n]o building permit shall be issued for the demolition of a historic building, structure, site, or object, or of a building, structure, site, or object located within a historic district that contributes, in the Historical Commission's opinion, to the character of the district, unless the Historical Commission finds that issuance of the building permit is necessary in the public interest, or unless the Historical Commission finds that the building, structure, site, or object cannot be used for any purpose for which it is or may be reasonably adapted.”<sup>12</sup>

45. Section 5.2.1.8 of the Regulations of the Philadelphia Art Commission also makes it clear that the PHC **must first** make its determination as to whether the Statue should be removed **before** the Art Commission may make any such decision. *See* Section 5.2.1.8 of the Regulations of the Philadelphia Art Commission (“When projects must also be reviewed by the Historical Commission, the Commission of Parks and Recreation, or the Zoning Board of Adjustment, the [Art] Commission will not make its decision until approvals have been obtained from the other reviewing entities.”).

46. Section 5 of the Regulations of the Philadelphia Art Commission is pertinent to this matter because it governs “construction or alteration of a structure or landscape on municipal property or to be paid for wholly or in part from the City treasury.” *See* Section 2.5 of the Regulations of the Philadelphia Art Commission.

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<sup>11</sup> Phila. Code § 14-1005(5)(a).

<sup>12</sup> Phila. Code § 14-1005(6)(d).

47. The Philadelphia Code defines Structure as: “(a) A work made up of interdependent and interrelated parts in a definite pattern of organization constructed by man and affixed to real property, including a public interior portion of a structure. (b) For all other purposes: Any type or form of construction above the ground.”<sup>13</sup> This definition clearly encompasses the Columbus Statue.

48. Finally, the treatment of the Columbus Statue is also subject to a dedication and donation agreement between the donors and the City of Philadelphia. A Right-to-Know request is presently pending before the Department of Public Property, Parks & Recreation, Philadelphia Historical Commission, and the Office of Arts, Culture and the Creative Economy in an effort to locate the original agreement.

49. On June 30<sup>th</sup>, 2020, the City informed Plaintiffs’ counsel that it is asserting “its right to an additional 30 calendar days to review the request.” *See* Right-To-Know Request Response, attached hereto as **Exhibit “P.”**

50. Nonetheless, such donor and dedication agreement define the ongoing rights of the donors and the City of Philadelphia regarding the future protection, maintenance, and removal of the statue.

51. Many times, such donor agreements prohibit removal without public hearing and an opportunity for the donors to recover the Statue.

52. Plaintiffs reserve the right to amend this Petition when the donor agreement for the Columbus Statue is provided.

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<sup>13</sup> Phila. Code § 14-203(323).



## REQUEST FOR SPECIAL AND PRELIMINARY INJUNCTION

53. Unilateral removal of the Statue without abiding by all applicable laws and regulations, and a studied review of the donor and dedication agreement, will create irreparable harm and may create civil unrest.

54. This Court should grant a special injunction to maintain the *status quo* until such time as it can conduct a hearing on a preliminary injunction to determine the respective rights and obligations of the parties, so the public can be assured that appropriate safeguards have been taken concerning any action regarding the Statue.

55. To issue a preliminary injunction, the Plaintiffs must satisfy the following requirements:

- a. An injunction is necessary to prevent immediate and irreparable harm that cannot be adequately compensated by damages;
- b. Greater injury will result from refusing an injunction than from granting it, and an injunction will not substantially harm other interested parties in the proceedings;
- c. A preliminary injunction will properly restore the parties to their status as it existed immediately before the alleged wrongful conduct;
- d. The moving party is likely to prevail on the merits;
- e. The injunction is reasonably suited to abate the offending activity; and
- f. A preliminary injunction will not adversely affect the public interest.

*Summit Towne Centre, Inc. v. Show of Rocky Mount, Inc.*, 573 Pa. 637, 646-47 (2003)

(internal citations omitted); Pa. R.C.P. § 1531(a).

56. An injunction is necessary in this matter to prevent the immediate and irreparable harm that the City will cause by demolishing and/or removing the historic Statue. The demolition and/or removal of such a historic and unique Statue cannot properly be compensated by damages.

57. Greater injury will result if this injunction is not granted since the Statue will be destroyed and/or hastily removed and, an injunction of this nature will not *substantially* harm the City or other interested parties. The Statue has been in its current location since 1982 and should be permitted to remain at least until a hearing can be conducted with this Court or an agency that has jurisdiction.

58. The Statue has been in this location since 1982 and by granting this injunction, the Court will restore the parties to *status quo* as it existed for the past four decades.

59. Plaintiffs are likely to prevail on the merits because a demolition and/or hasty removal of the Statue is likely against the terms of the donation contract, and categorically against the Philadelphia Home Rule Charter, the Philadelphia Code, the Regulations of the Philadelphia Art Commission, and the City of Philadelphia Policy Regarding Removal, Relocation and Deaccession of Publicly Displayed Artwork.

60. By granting this injunction, the Court will abate the offending activity.

61. If a special and preliminary injunction is **not** granted, public interest will be seriously affected since many South Philadelphia residents have been guarding the Statue around-the-clock and its removal will almost certainly incite civil unrest. Thus, if this Court grants the present injunction and allows the Statue to stand until a hearing can be conducted on the merits, public interest will not be adversely affected.

62. The facts here overwhelmingly satisfy the requirements for this Court to grant a special and preliminary injunction.

**WHEREFORE**, Plaintiffs respectfully request this Honorable Court to enter an Order in the form attached, granting a special and preliminary injunction to enjoin the City of Philadelphia from demolishing and/or removing the Christopher Columbus Statue without the City fully and completely following all policies, laws and regulations.

Respectfully submitted,

**BOCHETTO & LENTZ, P.C.**

*/s/ George Bochetto*

Dated July 2, 2020

By: \_\_\_\_\_  
George Bochetto, Esquire

*Attorney for Plaintiffs*

### **CERTIFICATE OF SERVICE**

I, George Bochetto, Esquire, hereby certify that on this date, July 2, 2020, a true and correct copy of the foregoing Second Amended Motion for Special and Preliminary Injunction and supporting Memorandum of Law was served upon all interested counsel/parties by way of the Court's E-filing System.

**BOCHETTO & LENTZ**

*/s/ George Bochetto*

---

George Bochetto, Esquire  
*Attorney for Plaintiffs*

**BOCHETTO & LENTZ, P.C.**  
By: George Bochetto, Esquire  
Attorney I.D. #27783  
1524 Locust Street  
Philadelphia, PA 19102  
215.735.3900  
[gbochetto@bochettoandlentz.com](mailto:gbochetto@bochettoandlentz.com)

*Attorney for Plaintiffs*

**FRIENDS OF MARCONI PLAZA:**  
**RICH CEDRONE**  
**JOSEPH Q. MIRARCHI**

*Plaintiffs,*

v.

**CITY OF PHILADELPHIA**  
**MAYOR JAMES KENNEY**

*Defendants.*

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

JULY TERM 2020

No. 000741

HONORABLE PAULA PATRICK

**PLAINTIFFS' MEMORANDUM OF LAW  
SUPPORTING SECOND AMENDED MOTION  
FOR SPECIAL AND PRELIMINARY INJUNCTION**

Plaintiffs, Friends of Marconi Plaza, Rich Cedrone, and Joseph Q. Mirarchi (collectively, "Plaintiffs") respectfully submit this Memorandum of Law Supporting Second Amended Motion for Special and Preliminary Injunctive relief pursuant to Pennsylvania case law and the Pennsylvania Rule of Civil Procedure 1531:

**MATTER BEFORE THE COURT**

Plaintiffs' Second Amended Motion for Special and Preliminary Injunction is currently before the Court.

## **QUESTIONS PRESENTED**

1. Whether the Court should grant a special injunction pursuant to Pa.R.C.P. 1531 enjoining the Defendants from proceeding to remove the Columbus Statue in Marconi Plaza while disregarding the laws and regulations governing the removal of such statues, and further ordering the Defendants to include a see-through plexi-glass barrier that enables the public to continue to view the Columbus Statue until a determination is made whether to remove the Statue?

**Suggested Answer: Yes.**

2. Whether the Court should grant a preliminary injunction pursuant to Pa.R.C.P. 1531 enjoining the Defendants from altering, destroying or removing the Columbus Statue in Marconi Plaza until the City files an application certifying all due process under the applicable laws and regulations are fully complied with?

**Suggested Answer: Yes.**

## **STATEMENT OF PROCEDURAL AND FACTUAL BACKGROUND**

Plaintiffs hereby incorporate the procedural and facts set forth in the Second Amended Motion for Special and Preliminary Injunction as though fully set forth herein.

## **ARGUMENT**

The unilateral removal of the Columbus Statue without abiding by all applicable laws and regulations, and a studied review of the donor and dedication agreement, will create irreparable harm and may create civil unrest. This Court should grant a special injunction to maintain the *status quo* until such time as it can conduct a hearing on a preliminary injunction to determine the respective rights and obligations of the parties, so the public can be assured that appropriate safeguards have been taken concerning any action regarding the Statue.

To issue a preliminary injunction, the Plaintiffs must satisfy the following requirements:

- a. An injunction is necessary to prevent immediate and irreparable harm that cannot be adequately compensated by damages;
- b. Greater injury will result from refusing an injunction than from granting it, and an injunction will not substantially harm other interested parties in the proceedings;
- c. A preliminary injunction will properly restore the parties to their status as it existed immediately before the alleged wrongful conduct;
- d. The moving party is likely to prevail on the merits;
- e. The injunction is reasonably suited to abate the offending activity; and
- f. A preliminary injunction will not adversely affect the public interest.

*Summit Towne Centre, Inc. v. Show of Rocky Mount, Inc.*, 573 Pa. 637, 646-47 (2003)

(internal citations omitted); Pa. R.C.P. § 1531(a).

An injunction is necessary in this matter to prevent the immediate and irreparable harm that the City will cause by demolishing and/or removing the historic Statue without applying with the applicable laws and regulations articulated in the accompanying Motion. The demolition and/or removal of such a historic and unique Statue cannot properly be compensated by damages.

Greater injury will result if this injunction is not granted since the Statue will be destroyed and/or hastily removed and, an injunction of this nature will not *substantially* harm the City or other interested parties. The Statue has been in its current location since 1982 and should be permitted to remain at least until a hearing can be conducted with this Court or an agency that has jurisdiction. The Statue has been in this location since 1982 and by granting this injunction, the Court will restore the parties to *status quo* as it existed for the past four decades.

Plaintiffs are likely to prevail on the merits because a demolition and/or hasty removal of the Statue is likely against the terms of the donation contract, and categorically against the Philadelphia Home Rule Charter, the Philadelphia Code, the Regulations of the Philadelphia Art Commission, and the City of Philadelphia Policy Regarding Removal, Relocation and Deaccession of Publicly Displayed Artwork.

By granting this injunction, the Court will abate the offending activity. If a special and preliminary injunction is ***not*** granted, public interest will be seriously affected since many South Philadelphia residents have been guarding the Statue around-the-clock and its removal will almost certainly incite civil unrest. Thus, if this Court grants the present injunction and allows the Statue to stand until a hearing can be conducted on the merits, public interest will not be adversely affected.

The facts here overwhelmingly satisfy the requirements for this Court to grant a special and preliminary injunction.

### **CONCLUSION**

Plaintiffs respectfully request this Honorable Court to enter an Order in the form attached, granting a special and preliminary injunction to enjoin the City of Philadelphia from demolishing and/or removing the Christopher Columbus Statue without the City fully and completely following all policies, laws and regulations a due process hearing.

Respectfully submitted,

**BOCHETTO & LENTZ, P.C.**

*/s/ George Bochetto*

Dated July 2, 2020

By: \_\_\_\_\_  
George Bochetto, Esquire

*Attorney for Plaintiffs*



**VERIFICATION**

I, George Bochetto, Esquire, verify that the statements made in the foregoing Second Amended Motion for Special and Preliminary Injunction, to the best of my knowledge, are true and correct. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: July 2, 2020

*/s/ George Bochetto*

\_\_\_\_\_  
George Bochetto, Esquire

**FILED**

02 JUL 2020 02:16 pm

**Civil Administration**

F. HEWITT

# **EXHIBIT A**

**INTERIORS, OBJECTS, STRUCTURES, AND SITES**  
**LISTED ON THE PHILADELPHIA REGISTER OF HISTORIC PLACES**  
**PHILADELPHIA HISTORICAL COMMISSION**  
**AS OF SEPTEMBER 20, 2019**

Interior	Address	Designation Date
City Council Chambers, Room 400, City Hall	1400 John F. Kennedy Blvd	11/12/2010
Public Spaces in the Family Court Building	1801 Vine Street	5/13/2011
Grand Court, Wanamaker Building	1301-25 Chestnut Street	7/13/2018
30 <sup>th</sup> Street Station interiors	1 N. 30 <sup>th</sup> Street	4/12/2019

Object	Address	Designation Date
Dream Garden, Curtis Center	170 S. Independence Mall West	11/30/1998
Founders Memorial Bell	1 S. Broad Street	6/14/2000
PA Railroad War Memorial, 30 <sup>th</sup> Street Sta.	1 N. 30 <sup>th</sup> Street	9/12/2001
Wanamaker Eagle Statue	1301-25 Chestnut Street	9/12/2001
Dickens and Little Nell Statute, Clark Park	4301 Chester Avenue	10/12/2001
WPA Murals, Family Court	1801 Vine Street	5/13/2011
Swann Memorial Fountain	215 N. 19 <sup>th</sup> Street	6/29/1971
Washington Fountain	2500 Spring Garden Street	6/29/1971
Horse Trough	615 S. Washington Square	2/23/1971
Horse Trough	315 S. 9 <sup>th</sup> Street	2/23/1971
Horse Trough	300 Bainbridge Street	2/23/1971
Horse Trough	147 N. 2 <sup>nd</sup> Street	12/12/2003
Horse Trough	312 Arch Street	12/12/2003
Angelic Exaltation of St. Joseph mural	321 Willings Alley	12/12/2014
Frescos in St. Augustine's	246-60 N. 4 <sup>th</sup> Street	7/10/2015
Costaggini paintings in St. Augustine Church	246-60 N. 4 <sup>th</sup> Street	4/8/2016
Christopher Columbus Statue	2700 S Broad St	3/10/2017

Structure	Approximate Location	Designation Date
Thomas Mill Bridge over Wissahickon	Thomas Mill Road	5/28/1957
Frankford Avenue Bridge over Pennypack	8350 Frankford Avenue	6/30/1970
Strawberry Mansion Bridge	1 Strawberry Mansion Drive	9/7/1978
Walnut Lane Bridge over Lincoln Drive	500 W. Walnut Lane	3/1/1979
University Avenue Bridge	1000 University Avenue	7/14/1993
Wissahickon Memorial Bridge	4200 Henry Avenue	10/12/2001
Benjamin Franklin Bridge over Delaware	200 N. 5 <sup>th</sup> Street	12/12/2003
Walnut Lane Bridge over Wissahickon	900 W. Walnut Lane	8/9/2008

Site	Location	Designation Date
African Friends to Harmony Burial Ground	4111-23 Chestnut Street	11/9/2018
Holme-Crispin Park and burial ground	2854 and 2870 Willits Rd	3/9/2018
Sacks Playground	400 Washington Avenue	3/10/2017
Byberry Township Public Burial Ground	10751 and 10725 Knights Rd	1/13/2017
Bethel Burying Ground, a.k.a. Weccacoe Playground	405-25 Queen Street	6/14/2013
Penn Treaty Park	1301 Beach St	3/9/2012
Hertz Lot	300 N Chris Columbus Blvd	8/26/1987
Byberry Burial Ground	Adjacent to 14700 Townsend Rd and Benjamin Rush State Park	10/9/2015

# **EXHIBIT B**

June 14, 2020

City Hall, Office 215  
Philadelphia, Pa 19107  
[James.Kenney@phila.gov](mailto:James.Kenney@phila.gov)

Re: Fairmount Park Commission

Dear Mayor Kenney,

I understand that the City of Philadelphia has made a unilateral determination, without consultation with the Fairmount Park Commission, which it has reportedly subsumed into its structure,<sup>1</sup> to destroy or remove artwork in Fairmount Park (Park). A number of Commonwealth statutes from the mid-1800s established the Fairmount Park Commission and set the bounds of its authority. Setting aside, for a moment, the First Amendment implications and other issues associated with destroying/removing artwork, those state statutes vest the authority to make such a decision with the Fairmount Park Commission.

While copies of all five of these statutes are enclosed, a short description of each may prove useful.

### **Act 525 of 1867**

The Act of March 26, 1867, P.L. 547, No. 525 (Act 525), created a park “to be laid out and maintained forever as an open public space and park, for the health and enjoyment of the people ... and the preservation of the purity of the water supply of the City of Philadelphia.” Section 1.

Act 525 further created the Fairmount Park Commission, composed of “[t]he mayor, the presidents of the select and common councils, commissioners of city property, the chief engineer and surveyor, and the chief engineer of the water-works of said city, together with ten citizens of said city, who shall be appointed for five years, five of them by the district court, and five of them by the court of common pleas of said city.” Section 2.

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<sup>1</sup> See <https://philadelphiaencyclopedia.org/archive/fairmount-park-commission/>.

The Commissioners were given responsibility for the care, management, improvement and maintenance of the Park. Sections 4 and 5 of Act 525.

### **Act 1020 of 1868**

Just over a year later, the General Assembly enacted the Act of April 14, 1868, P.L. 1083, No. 1020 (Act 1020). A supplement to Act 525, Act 1020 established boundaries for the Park. Section 1 of Act 1020.

In addition to other changes, Section 5 of Act 1020, entitled “Grounds Subject to Control of Commissioners; Compensation,” reiterated that the Park was, as provide in Act 525, subject to the control of the Fairmount Park Commission. More importantly for today’s conversation, however, Act 1020 vested the Fairmount Park Commission, not the City, with the authority to accept artwork for the Park. Further, it was the Commission, not the City, which had to determine whether any restrictions or conditions prescribed by the donor were “satisfactory to the commission and compatible with the purposes of said park.” Section 17 of Act 1020.

If there were any confusion about the Fairmount Park Commission’s control over the Park, Section 19 of Act 1020 provided this additional clarity:

The said park commissioners shall have the power to govern, manage, lay out, plant and ornament the said Fairmount Park, and to maintain the same in good order and repair, and to construct all proper bridges, buildings, railways and other improvements, therein, and to repress all disorders therein under the provisions hereinafter contained.

The Fairmount Park Commission was empowered to license passenger railways and various other enterprises within the park, establish rules/regulations, employ park police, and appoint a solicitor. Sections 20 – 22, 27 and 28 of Act 1020.

### **Act 1189 of 1869**

The Act of April 21, 1869, P.L. 1194, No. 1189 (Act 1189), established addition duties and responsibilities for the Fairmount Park Commission, including the care and management of other grounds appropriate for park purposes. Section 6 of Act 1189.

### **Act 70 of 1870**

The Act of January 27, 1870, P.L. 93, No. 70 (Act 70), made a number of changes concerning park juries and reports as well as repealing/reenacting provisions related to a solicitor.

### **Act 338 of 1871**

The last of what had become an annual exercise, the Act of March 15, 1871, P.L. 363, No. 338 (Act 338) empowered the Fairmount Park Commission to limit manufacturing and the sale of liquor.

## **Conclusion**

The Fairmount Park Commission was statutorily created and imbued with broad powers to manage the Park. Although the statutes are well over a century old, their vintage does not lessen their vigor. It is the Fairmount Park Commission, of which the Mayor is a member, who would make the ultimate decision about tearing down artwork in the Park.

## Enclosures

The Act of March 26, 1867, P.L. 547, No. 525.  
The Act of April 14, 1868, P.L. 1083, No. 1020.  
The Act of April 21, 1869, P.L. 1194, No. 1189.  
The Act of January 27, 1870, P.L. 93, No. 70.  
The Act of March 15, 1871, P.L. 363, No. 338.

Thank you for your consideration on this matter. If you have any questions, please feel free to contact me at [mwhite@pahousegop.com](mailto:mwhite@pahousegop.com).

Sincerely,

Representative Martina White  
170<sup>th</sup> Legislative District

CC: Brian Abernathy, Managing Director – [brian.abernathy@phila.gov](mailto:brian.abernathy@phila.gov)  
Marcel S. Pratt, Philadelphia City Solicitor – [marcel.pratt@phila.gov](mailto:marcel.pratt@phila.gov)



# **EXHIBIT C**



**George Bochetto**  
Attorney at Law  
gbochetto@bochettoandlentz.com

George Bochetto<sup>†\*</sup>  
Gavin P. Lentz<sup>\*</sup>  
Jeffrey W. Ogren<sup>\*</sup>  
David P. Heim<sup>\*</sup>  
Vincent van Laar<sup>\*</sup>  
Bryan R. Lentz<sup>\*</sup>  
John A. O'Connell<sup>\*</sup>  
Peter R. Bryant<sup>\*</sup>  
Anton Kaminsky<sup>\*</sup>  
Danielle Childs  
Kiersty DeGroote<sup>\*\*</sup>

Albert M. Belmont, III<sup>\*</sup>  
Cynthia A. Clark  
*of Counsel*

1524 Locust Street  
Philadelphia, PA 19102  
215-735-3900  
Fax: 215-735-2455

141 High Street  
Mt. Holly, NJ 08060  
856-722-9595  
Fax: 856-722-5511

[bochettoandlentz.com](http://bochettoandlentz.com)

<sup>\*</sup> Admitted to the New Jersey Bar  
<sup>†</sup> Admitted to the New York Bar  
<sup>\*</sup> Admitted to the the Virginia Bar  
<sup>^</sup> Admitted to the D.C. Bar

PRACTICE DEDICATED  
TO LITIGATION AND  
NEGOTIATION MATTERS

6/23/2020

Honorable Idee C. Fox  
President Judge  
Court of Common Pleas of Philadelphia County  
386 City Hall  
Philadelphia, PA 19107

**RE: *Request to Reconstitute Fairmont Park Commission***

Dear President Judge Idee C. Fox,

I write to you not only as a citizen of Philadelphia, but also as Counsel for Gardner A. Cadwalader, a member of the Fairmont Park Commission (the "Commission"), concerning the illegitimate disestablishment of the Commission by the City of Philadelphia in 2008. This issue, and its direct impact on the Christopher Columbus Statue located in South Philadelphia, have just now become known to me.

By way of Act of Mar. 26, 1867, P.L. 547, No. 525 ("Parks Act of 1867"), the State legislature created the Fairmont Park Commission and imbued its Commissioners with a laundry list of exclusive powers.<sup>1</sup> Oddly, in 2008, the City held a vote among Philadelphians which it claimed disestablished the Commission; then, the City proceeded to amend the Philadelphia Home Rule Charter accordingly. However, the City does not have the power to unilaterally dissolve a state-enacted Commission whereby the state statute proclaims a course of regulation and control. *See Fross v. County of Allegheny*, 610 Pa. 421, 438 n.12 (2011) ("A local ordinance may . . . be preempted if it is in direct and irreconcilable conflict with a state enactment").<sup>2</sup> In the

<sup>1</sup> See Section 5 of Act of Mar. 26, 1867, P.L. 547, No. 525 ("As soon as the said Commissioners shall have fully organized, they shall have the care and management of fairmount park, on both banks of the River Schuylkill; and all plans and expenditures for the improvement and maintenance of the same, shall be under their control, subject to such appropriations as councils may, from time to time, make, as aforesaid."); *see also* Act of Apr. 14, 1868, P.L. 1083, No. 1020; *see also* Act of Apr. 21, 1869, P.L. 1194, No. 1189; *see also* Act of Jan. 27, 1870, P.L. 93, No. 70; *see also* Act of Mar. 15, 1871, P.L. 363, No. 338.

<sup>2</sup> *See Nutter v. Dougherty*, 595 Pa. 340, 345-46 (2007) (quoting *Dep't of Licenses and Inspections, Board of License and Inspection Review v. Weber*, 394 Pa. 466 (Pa. 1959)) ("Of

Parks Act of 1867 and supplementary State legislation, it is obvious that the Park grounds are subject to the regulation and control of the Commission and its Commissioners.<sup>3</sup> The City should have petitioned the State legislature to grant it permission to disestablish the Commission and self-govern the Fairmont Park. However, the City did not do that. Instead, the City took it upon itself to disestablish the Commission.

Based on the language of the Parks Act of 1867, it is clear that the purpose of the Fairmont Park Commission is to, first and foremost, “maintain[ the Park] forever as an open public place and park, for the health and enjoyment of the people of said city, and the preservation of the purity of the water supply of the City of Philadelphia,” but also to ensure that the Park does not become a branch of the Mayor’s administration.<sup>4</sup> For instance, the Parks Act of 1867 goes as far as to stipulate how the citizen commissioners should be appointed – none of whom should be appointed by the Mayor or any other city official. *See* Section 2 of Act of Mar. 26, 1867, P.L. 547, No. 525. (“together with ten citizens of said city, who shall be appointed for five years, **five of them by the district court, and five of them by the court of common pleas** of said city”). Despite the plain language of the Parks Act of 1867, the Fairmont Park Commission was subsumed by the City’s Parks & Recreation Department in 2008 without the approval of State legislation.

Therefore, I respectfully request that Your Honor convene a conference of all interested parties to review the process by which the Commission can be reconstituted in accordance with the Parks Act of 1867. *See* Section 2 of Act of Mar. 26, 1867, P.L. 547, No. 525 (stating that membership of the Commission shall consist of “[t]he mayor, the presidents of the select and common councils, commissioners of city property, the chief engineer and surveyor, and the chief engineer of the water-works of said city, together with ten citizens of said city, who shall be appointed for five years, five of them by the district court, and five of them by the court of common pleas of said city, be and the same are hereby constituted commissioners of said park”).

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course, it is obvious that where a statute specifically declares it has planted the flag of preemption in a field, all ordinances on the subject die away as if they did not exist. It is also apparent that, even if the statute is silent on supersession, but proclaims a course of regulation and control which brooks no municipal intervention, all ordinances touching the topic of exclusive control fade away into the limbo of ‘innocuous desuetude.’”).

<sup>3</sup> *See* Act of Mar. 26, 1867, P.L. 547, No. 525; *see generally* Act of Apr. 14, 1868, P.L. 1083, No. 1020 (“The said park commissioners shall have the power to govern, manage, lay out, plant and ornament the said Fairmount Park, and to maintain the same in good order and repair, and to construct all proper bridges, buildings, railways and other improvements, therein, and to repress all disorders therein under the provisions hereinafter contained.”); *see also* Act of Apr. 21, 1869, P.L. 1194, No. 1189; *see also* Act of Jan. 27, 1870, P.L. 93, No. 70; *see also* Act of Mar. 15, 1871, P.L. 363, No. 338. The above-listed State legislation all detail the regulation and control that the Commission has over the Park. Therefore, pursuant to *Nutter v. Dougherty*, 595 Pa. 340, 345-46 (2007), “all ordinances touching the topic of exclusive control [shall] fade away” since it is clear that the State’s intent was for the Commission to control and regulate Fairmont Park.

<sup>4</sup> Section 1 of Act of Mar. 26, 1867, P.L. 547, No. 525.



**BOCHETTO & LENTZ, P.C.**

President Judge Idee C. Fox

6/23/2020

Page 3 of 4

We have already filed and obtained a Court Order preventing the City from removing the Columbus Statue until the Art Commission has made a finding concerning its fate. But, in light of the Fairmont Park Commission's state-given authority to have control over park-related activity, a final determination of whether the Columbus Statue shall be removed should not be made without the participation of the Commission.<sup>5</sup> If you would so direct, we can amend the Complaint to include a request for a mandamus on those officials whose obligation it is to reconstitute the Commission.

Respectfully,

**BOCHETTO & LENTZ, P.C.**

By: 

George Bochetto, Esquire

cc: James Kenny, Mayor of Philadelphia  
Marcel Pratt, Esq., City Solicitor  
Kathryn Ott Lovell, Commissioner of Parks & Recreation  
Margot Berg, Public Art Director  
Jonathan E. Farnham, Executive Director of the Philadelphia Historical Commission  
Lisa M. Deeley, City Commissioner of Philadelphia  
Al Schmidt, City Commissioner of Philadelphia  
Omar Sabir, City Commissioner of Philadelphia  
Mark Squilla, District 1 Council Member  
Jamie Gauthier, District 3 Council Member  
Bobby Henon, District 6 Council Member  
Cherelle Parker, District 9 Council Member  
Thomas C. McDade, III, Deputy Chief of Staff  
Melissa Long, Deputy Director, Division of Housing and Community Development  
Randy E. Hayman, Esq., Philadelphia Water Department Commissioner  
Thomas F. Marro, P.L.S., City Plans Unit  
Bridget Collins Greenwald, Commissioner of Public Property

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<sup>5</sup> "As soon as the said Commissioners shall have fully organized, they shall have the care and management of fairmount park, . . . and all plans and expenditures for the improvement and maintenance of the same, shall be under their control, subject to such appropriations as councils may, from time to time, make, as aforesaid." Section 5 of Act of Mar. 26, 1867, P.L. 547, No. 525.

**BOCHETTO & LENTZ, P.C.**

President Judge Idee C. Fox

6/23/2020

Page 4 of 4

Raed Nasser, Member of the Board of Parks and Recreation

Eleanor Sharpe, Deputy Director for Planning & Zoning; Executive Director,  
Philadelphia Planning Commission

Garlen Capita, City Planning Commission, Urban Planner

Cheryl L. Gaston, Esq., City Planning Commission, Land Use Attorney

Patrick Eiding, City Planning Commission, Community Representative

Maria Gonzalez, City Planning Commission, Community Representative

Darin L. Gatti, Chief Engineer and Surveyor, Philadelphia Streets Department

# **EXHIBIT D**

1                   IN THE COURT OF COMMON PLEAS  
2                   FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
3                   CIVIL TRIAL DIVISION

4                   - - -

5   JOSEPH MIRARCHI                   :   CV-2020-00741

6                   vs.                   :

7   CITY OF PHILADELPHIA, ET AL   :

8                   :

9                   - - -

10                  Sunday, June 14, 2020

11                  - - -

12                  Conference Call

13                  - - -

14  
15                  BEFORE:   THE HONORABLE MARLENE F. LACHMAN

16                  - - -

25

Jacqueline Froncek,  
Official Court Reporter

2

1 APPEARANCES VIA TELEPHONE:

2

3 Steve Ivy, Law Clerk

4 George Bochetto, Esquire

5 Fran Kane

6 Joseph Mirarchi

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1       (The foregoing proceeding is being conducted via  
2       conference call in conjunction with First Judicial  
3       District of Pennsylvania protocol.)

4       (Conference call began at 9:32 p.m.)

5               THE COURT: We are recording this. I have a  
6       court reporter on the phone, and I believe this technology  
7       is also recording it.

8               MR. BOCHETTO: Thank you, Your Honor.

9               THE COURT: Who else is on the phone besides  
10      my law clerk and Mr. Bochetto and the court reporter?

11              MR. BOCHETTO: I have asked Fran Kane to call  
12      in, as well, Your Honor.

13              THE COURT: I am sorry? Can you keep your  
14      voice up?

15              MR. KANE: Hello, Your Honor. My name is  
16      Fran Kane, K-A-N-E. I am the business agent for Iron  
17      Workers, Local 405, out of Philadelphia.

18              THE COURT: I am sorry, sir. A little slower  
19      and a little louder.

20              MR. KANE: Okay. I am sorry. My name is

21 Fran Kane, K-A-N-E. I am the business agent for Iron  
22 Workers, Local 405, out of Philadelphia.

23 THE COURT: Okay.

24 Mr. Bochetto, were you able to reach somebody  
25 from the city?

4

1 MR. BOCHETTO: Well, the best I can do on  
2 thirty minutes, Judge, is Mr. Kane. I would like to swear  
3 him in, and in three minutes, I can give you his  
4 testimony.

5 THE COURT: Sir, I asked you were you able to  
6 reach somebody from city?

7 MR. BOCHETTO: I was not, Your Honor. I  
8 tried Councilman Squilla, I tried Mayor Kenney, and I  
9 tried someone from the city solicitor's office.

10 THE COURT: Did you get the emergency city  
11 solicitor?

12 MR. BOCHETTO: I was unable to do so, Judge.  
13 Not in that period of time.

14 THE COURT: All right. What does Mr. Kane  
15 have to offer?

16 MR. BOCHETTO: As an offer of proof, Your  
17 Honor, he spoke with a city employee who is directly  
18 involved, who informed Mr. Kane that the statue is coming

19 down tonight between 1:00 and 3:00 in the same fashion  
20 that they did it a couple of weeks ago to the Mayor Rizzo  
21 statue.

22                   The city employee does not want his name  
23 revealed for fear of retribution. But the city employee  
24 gave the tip directly to Mr. Kane. Mr. Kane has acted  
25 upon it, and is willing to testify to it under oath.

5

1                   And I can also tell you, Your Honor, that I  
2 have now obtained pictures, because I dispatched my  
3 photographer. I have now obtained pictures from ten  
4 minutes ago of the scene at 2800 South Broad Street,  
5 Marconi Plaza, showing large groups of very angry people  
6 and a very large installation of police officers.

7                   THE COURT: Which proves what?

8                   MR. BOCHETTO: If nothing else, Judge, it  
9 proves the community is very upset about this. And unless  
10 we can calm them down, I am fearful that there could be  
11 violence or there could be personal injury because people  
12 are misunderstanding, perhaps, the lawful process here.

13                   THE COURT: Gentlemen, please identify  
14 yourself whenever you speak, because the court reporter  
15 does not have the benefit of seeing you.

16                   MR. BOCHETTO: This is Mr. Bochetto,

17 B-O-C-H-E-T-T-O. First name, George.

18 THE COURT: The people who are there are  
19 there because it is being taken down or because they are  
20 protesting Christopher Columbus?

21 MR. BOCHETTO: They are there to try to  
22 prevent municipal workers from taking it down. They are  
23 largely residents of South Philadelphia. I have several  
24 pictures, Your Honor, from ten minutes ago.

25 And I also know, because I have witnessed it,

6

1 that it is being live-streamed on certain links. The one  
2 I saw was on a Facebook link. I don't have Facebook, but  
3 my son does. It was quite apparent that they were  
4 chanting, "Don't take the statue down," and that type of  
5 thing.

6 MR. KANE: Your Honor, this is Fran Kane.

7 THE COURT: Yes, sir.

8 MR. KANE: I am a hundred feet in front of  
9 the statue. When I got down here at 6:30 acting upon that  
10 tip, there were maybe a hundred people there. The word  
11 spread, and now there is a thousand people here. I came  
12 down here because the tip I got from a city employee was  
13 that it was going to be taken down by a non-union rigging  
14 outfit. If they show on site, I plan to put a picket line

15 up.

16 THE COURT: Well, you will do what you think  
17 is right. So that is how you got involved because  
18 somebody thought your union would be concerned about it  
19 being a non-union entity that was coming n?

20 MR. KANE: Yes, Your Honor.

21 THE COURT: Let me back up. You are not  
22 representing that you know this information because some  
23 of your union members are actually assigned to do this,  
24 correct?

25 MR. KANE: That is correct.

7

1 MR. BOCHETTO: You need to swear him in.

2 THE COURT: Indeed.

3 FRAN KANE, having been duly sworn, was examined  
4 and testified as follows:

5 THE COURT: Do you have any direct  
6 information, sir, about what is planned for the  
7 Christopher Columbus statue at Marconi Plaza this evening?

8 MR. KANE: No, I do not.

9 THE COURT: So your information is all  
10 secondhand?

11 MR. KANE: Yes, Your Honor. However --

12 THE COURT: And it is information -- yes. Go

13 ahead.

14 MR. KANE: However, our union and one of our  
15 union contractors had offered to take the Frank Rizzo  
16 statue down two years before this when they were going to  
17 remove it. And because of the situation a couple weekends  
18 ago, one of our union contractors, again, reached out to  
19 the city and sent them an email saying that we will do it  
20 and do it for free. And all our advances were ignored by  
21 the city.

22 MR. KANE: Mr. Kane, you are swearing under  
23 oath that you spoke directly with a city employee who told  
24 you, of that person's knowledge, that the plan is to  
25 remove the statue tonight between 1:00 and 3:00 a.m.?

8

1 MR. KANE: That's correct. The person wasn't  
2 sure of the time. When I first heard of it, I thought it  
3 was going to be tomorrow. And that person said it would  
4 probably be overnight, just like the Frank Rizzo statue.

5 THE COURT: I understand you don't want to  
6 divulge the name of that individual, but what department  
7 do they work in?

8 MR. KANE: Again, as I told Mr. Bochetto  
9 earlier, if I divulge that information, it can be easily  
10 traced back to my union.

11 THE COURT: I beg your pardon?

12 MR. KANE: If I divulge what department this  
13 individual works in, it can easily be traced back because  
14 of my union ties.

15 THE COURT: Well, you have just gone on the  
16 record, sir, naming your union. I am missing something  
17 here.

18 MR. KANE: I believe what the witness is  
19 saying, Your Honor, is that if he discloses the  
20 department, it would be obvious who that individual in  
21 that department is because of the ties in the union.

22 THE COURT: The department has ties with the  
23 Iron Workers' Union; is that what you are saying?

24 MR. BOCHETTO: An employee, yes.

25 MR. KANE: Yes, Your Honor. A lot of city

9

1 employees are union members that came from the building  
2 trades. I don't want to make it easy for the city to give  
3 retribution.

4 THE COURT: How am I supposed to know whether  
5 this person works in a department where he or she would  
6 likely even have access to this information?

7 MR. BOCHETTO: I can respond to that, Your  
8 Honor. I think under these emergent circumstances, we

9 simply cannot give you that assurance, Your Honor. But I  
10 do wish to point out that we do have a witness who is  
11 under oath that said it. We do --

12 THE COURT: That said somebody told him. So  
13 it is still a rumor.

14 MR. BOCHETTO: Well, Your Honor, in  
15 preliminary injunction matters, it is within the Court's  
16 discretion to accept hearsay testimony and to weigh the  
17 weight. I think it is entitled to weight, Your Honor,  
18 because of the police presence there, the presence of  
19 thousands of protesters, which could get unruly.

20 And I think the public concern at this point,  
21 Judge, is whether that statue is actually coming down or  
22 not. If we can get a temporary restraining order and some  
23 kind of a hearing tomorrow morning, we can at least calm  
24 this crowd down so that there is no violence, no injuries,  
25 and the police can kind of take control of it better. I

10

1 think a simple order that says --

2 THE COURT: And the petitioner is who? Who  
3 is the petitioner in this matter, Mr. Bochetto?

4 MR. BOCHETTO: The petitioner is Joseph  
5 Mirarchi, M-I-R-A-R-C-H-I, who lives at 1808 Jackson  
6 Street, Philadelphia, Pennsylvania 19145.



7 THE COURT: And his involvement in this and  
8 his standing is predicated on just that he is a taxpayer?

9 MR. BOCHETTO: He is a taxpayer, Your Honor.  
10 He was also a member of the Italian committee that donated  
11 the Rizzo statue to the city. And I don't know if he was  
12 a member of the committee that donated the Columbus  
13 statue, but he is certainly a taxpayer and someone that  
14 has had interactions with the city on works of art that  
15 were donated to the city.

16 THE COURT: And I take it he is not available  
17 or you would have had him on this conference call?

18 MR. BOCHETTO: He is available, Your Honor.  
19 I can get him on this conference call in a matter of two  
20 minutes.

21 THE COURT: I would like to know whether or  
22 not he is involved in the donation of this statue and  
23 whether he knows anything about the issues that you raised  
24 with me when you first told me what the problem was.

25 MR. BOCHETTO: Judge, he is parked outside my

11

1 home. I live at 17th and Spruce. And I can get him on  
2 the telephone right now.

3 MR. KANE: Your Honor, I met Mr. Mirarchi  
4 down here when I got on site. That is when he contacted

5 Mr. Bochetto and he was going to try to get the  
6 injunction. I believe he is acting on information I gave  
7 him. I don't know his involvement in any of the statutes  
8 or anything like that. But I met him down on site and I  
9 told him the information I received.

10 MR. BOCHETTO: I am calling him right now on  
11 a second line and I will see if I can get him in.

12 THE COURT: Fine.

13 (Petitioner, Joseph Mirarchi, joined the  
14 conference call.)

15 THE COURT: Mr. Mirarchi?

16 MR. MIRARCHI: Yes, ma'am.

17 THE COURT: Sir, this is a recorded  
18 conference call. Your name, please?

19 MR. MIRARCHI: Joseph Mirarchi,  
20 M-I-R-A-R-C-H-I.

21 THE COURT: Mr. Bochetto, do you wish to -- I  
22 am sorry. Court reporter, would you please swear  
23 Mr. Mirarchi in?

24 JOSEPH MIRARCHI, having been duly sworn, was  
25 examined and testified as follows:

12

1 MR. BOCHETTO: Mr. Mirarchi, would you kindly  
2 state your residential address?

3 MR. MIRARCHI: 1808 Jackson street,  
4 Philadelphia, Pennsylvania 19145.  
5 MR. BOCHETTO: And how old are you?  
6 MR. MIRARCHI: 52 years old.  
7 MR. BOCHETTO: And have you ever served on a  
8 committee to donate art to the City of Philadelphia?  
9 MR. MIRARCHI: Yes.  
10 MR. BOCHETTO: And which committee was that?  
11 MR. MIRARCHI: The Frank L. Rizzo Monument  
12 Committee.  
13 MR. BOCHETTO: And was that committee party  
14 to a donation and dedication agreement?  
15 MR. MIRARCHI: Yes.  
16 MR. BOCHETTO: And did that donation and  
17 dedication agreement define certain rights and  
18 responsibilities between the donors, the artists, and the  
19 City of Philadelphia?  
20 MR. MIRARCHI: Yes.  
21 MR. BOCHETTO: Are you a concerned citizen  
22 for the Christopher Columbus statue in the City of  
23 Philadelphia?  
24 MR. MIRARCHI: Yes.  
25 MR. BOCHETTO: Do you know where it is

1 located, sir?

2 MR. MIRARCHI: The Christopher Columbus  
3 statue is presently located at Marconi Plaza, I believe  
4 the address is 2800 South Broad Street, Philadelphia,  
5 Pennsylvania 19145.

6 MR. BOCHETTO: Were you --

7 THE COURT: Mr. Mirarchi, if you could keep  
8 your voice up. It is very hard to hear you.

9 MR. MIRARCHI: Yes, Your Honor. Sorry.

10 MR. BOCHETTO: Mr. Mirarchi, were you  
11 notified at any time prior to the removal of the Frank  
12 Rizzo statue that the statue was going to be removed by  
13 the city in the middle of the night?

14 MR. MIRARCHI: No, I was not.

15 MR. BOCHETTO: Was the statue removed from  
16 the Municipal Services building in the middle of the  
17 night?

18 MR. MIRARCHI: Yes.

19 MR. BOCHETTO: When was that?

20 MR. MIRARCHI: I believe it was June 3, 2020,  
21 in the early morning hours between 1:00 and 3:00 a.m.

22 MR. BOCHETTO: Have you been down to Marconi  
23 Plaza this evening?

24 MR. MIRARCHI: Yes. I was there for several  
25 hours this afternoon between 3:00 and 6:30 p.m.

1                   MR. BOCHETTO: Mr. Mirarchi, would you kindly  
2 describe, briefly, your observations at the Marconi Plaza  
3 while you were there this evening?

4                   MR. MIRARCHI: There were large numbers of  
5 people there. There was also quite a bit of police  
6 officers stationed in the vicinity or right at the statue.  
7 Of course, there were a good number of people that were  
8 there to support the statue. There was also people there  
9 protesting the statue.

10                  MR. BOCHETTO: Sir, do you have a belief as  
11 to whether there could be a removal of that statue at any  
12 time this evening or early tomorrow morning?

13                  MR. MIRARCHI: Yes, I do.

14                  MR. BOCHETTO: What is that belief?

15                  MR. MIRARCHI: While I was present at the  
16 statue, I met the union representative from Local 405, the  
17 Iron Workers' Union. As we were discussing the matter, he  
18 explained to me how his local union received contact  
19 information or requests from the union to remove the  
20 statue. He also explained how the person that contacted  
21 him actually worked through the city -- excuse me. I am  
22 getting that confused. But there were two points of  
23 contact with the union.

24                   The union received a contact that the statue  
25 was going to be removed from a source that was to remain

15

1 anonymous out of fear of retaliation. The source works  
2 for the city of Philadelphia.

3                   MR. BOCHETTO: Do you know in what department  
4 this source works?

5                   MR. MIRARCHI: I do not. When I asked, they  
6 were concerned that that would lead to an identification  
7 of the source.

8                   MR. BOCHETTO: Was that gentleman's name from  
9 the union that you spoke to Fran Kane?

10                  MR. MIRARCHI: Yes. He is the apprentice  
11 coordinator from Local 405.

12                  MR. BOCHETTO: Your Honor, do you have any  
13 additional questions?

14                  THE COURT: Do you have any independent  
15 information about the statue, Mr. Mirarchi?

16                  MR. MIRARCHI: Independent information? In  
17 which way, Your Honor?

18                  THE COURT: About what is supposed to happen  
19 to the statue tonight?

20                  MR. MIRARCHI: Yes, I do. I did receive  
21 additional information from other sources or other people

22 that raised a concern that they were contacted about the  
23 statue saying that it was going to be removed tonight in  
24 the early hours.

25 My understanding from the independent sources

16

1 and from Mr. Kane is that they found their source that  
2 works for the city to be very credible because they have  
3 received information from that source before. And for  
4 that reason, they are confident enough to set up a picket  
5 line at the statue now until something happens.

6 The basis of the picket line is that the  
7 mayor hired a non-union company to perform the work. So  
8 the proponents of the picket line are not actually there  
9 one hundred percent on whether the statue should be  
10 removed or not, it is that the mayor is bringing non-union  
11 contractors in to remove the statue.

12 THE COURT: Mr. Mirarchi, are you aware of  
13 what happened to the Rizzo statue?

14 MR. MIRARCHI: Yes, I am, Your Honor.

15 THE COURT: Is it intact?

16 MR. MIRARCHI: We don't know, Your Honor. As  
17 of this past Friday, I actually sent a letter on behalf of  
18 the Rizzo committee and other members of the Italian  
19 American committee to demand an inspection of the statue

20 and to know of its location. We are unaware of where the  
21 statue has been transported.

22                   From the video taken of the statue being  
23 removed, Your Honor, it is quite obvious that they did not  
24 protect the statue from possible damage because they hung  
25 it without any protective clothing or materials over it to

17

1 make sure that it doesn't get banged from any type of  
2 movement with a heavy crane operation that is required  
3 with moving that statue.

4                   So we are very concerned that the statue has  
5 been damaged. In all honesty to the mayor's office, we  
6 made the request at the end of the day and haven't heard  
7 from him. So we would expect to hear from him or his  
8 office immediately tomorrow morning as it opens to allow  
9 us to inspect it.

10                   We have also pointed out that the donors  
11 contract, that we have a right to the statue being  
12 returned. So the mayor doesn't have a right or authority  
13 to damage, alter, moderate, or destroy that statue.

14                   Quite frankly, Your Honor, he has promised us  
15 an opportunity to be heard before the art commission in  
16 this matter to address moving this statue. However, he  
17 breached that promise and removed the statue in the dark



18 of the night or early morning without giving any notice to  
19 anyone.

20 MR. BOCHETTO: Mr. Mirarchi, this is --

21 THE COURT: Excuse me. Just for  
22 clarification, what you have just told me, Mr. Mirarchi,  
23 just deals with the Frank Rizzo statue, correct?

24 MR. MIRARCHI: Yes.

25 THE COURT: None of this has anything to do

18

1 with the statue of Christopher Columbus?

2 MR. MIRARCHI: That's correct, Your Honor.

3 But we believe, based on his pattern or his actual actions  
4 with regards to the Rizzo statue, that he is going to  
5 apply the same type of policy in removing the Columbus  
6 statue.

7 The basis that we understand for the removal  
8 of the Rizzo statue was that it was an emergency situation  
9 to avoid risk or injury to the public. In that regard,  
10 the timing of the removal of the statue actually doesn't  
11 confirm the need to do that.

12 We believe that he will use the same type of  
13 procedural decision making to remove the statue here and  
14 bypass all requirements of the Fairmount Parks Commission,  
15 as well as the art commission.

16 THE COURT: Is Marconi Plaza part of the  
17 Fairmount Park system?

18 MR. MIRARCHI: I can't confirm that myself,  
19 Your Honor. However, I was contacted earlier just before  
20 this conference call by Ms. White's office of the city GOP  
21 for which she has issued a cease-and-desist letter based  
22 on their lawyer's advice and recommendation, which I  
23 understand relate to the rules and policy of the Fairmount  
24 Park Commission.

25 THE COURT: I don't know who Ms. White is.

19

1 MR. MIRARCHI: I don't know her personally  
2 myself, Your Honor. She is --

3 MR. BOCHETTO: She is a state representative  
4 in the northeast district of Philadelphia, Your Honor.  
5 The statue is clearly located within the confines of the  
6 City of Philadelphia. I wanted to just point out --

7 THE COURT: Is part of the Fairmount -- I  
8 don't understand the involvement of Fairmount Park. Is  
9 Marconi Plaza part of the Fairmount Park system or not?

10 MR. BOCHETTO: I have no knowledge of that,  
11 Your Honor.

12 THE COURT: Okay.

13 MR. BOCHETTO: I was just going to ask

14 Mr. Mirarchi one other question. Did you attempt to get  
15 in touch with the mayor's office about the removal of the  
16 Christopher Columbus statue?

17 MR. MIRARCHI: I did not, because the tip  
18 itself arose this afternoon and it is Sunday afternoon. I  
19 haven't had the opportunity to communicate. I have been  
20 at the statue, and now I am involved in this phone call.

21 MR. BOCHETTO: All right. I just want the  
22 record to be clear on that one point.

23 MR. MIRARCHI: I will be happy to issue a  
24 letter tomorrow.

25 THE COURT: Mr. Mirarchi, if I understand

20

1 correctly, you were involved with the donation of the  
2 Frank Rizzo statue, but you have no personal involvement  
3 with the donation of the Christopher Columbus statue; is  
4 that correct?

5 MR. MIRARCHI: That's correct, Your Honor.  
6 Other than being a concerned citizen, it is the property  
7 of the city, and I believe I am a citizen and resident of  
8 the city.

9 If I may, Your Honor? Just to clarify  
10 another point, with regard to the Fairmount Park  
11 Commission, I understand this particular Christopher

12 Columbus statue is something that was located on the art  
13 museum's premises.

14                   And then in the mid 70's, it was moved down  
15 to Marconi Plaza. It was discovered not being cared for  
16 properly. And I believe Mayor Rizzo was in office at the  
17 time. He participated or organized the moving of that  
18 statue to the South Philadelphia location.

19                   So I don't know if that could possibly be a  
20 way that Fairmount Park could factor into this.

21                   THE COURT: That is very interesting. I am  
22 not sure what the -- or who the rightful owner of the  
23 statue is or whether the Fairmount Park Commission has any  
24 interest in it or not.

25                   MR. BOCHETTO: Your Honor, issuing this TRO

21

1 would allow us to also discover whether the Fairmount Park  
2 Commission has any interest or standing in this matter and  
3 what their position might be. If it is removed, as we are  
4 fearful of, then that would be moot, as well.

5                   THE COURT: Any other information,  
6 Mr. Bochetto?

7                   MR. BOCHETTO: No. Having taken on this  
8 assignment four hours ago, that is about as much as I  
9 have. I do want to be as candid as I can with the Court.

10 I do have pictures that were taken literally within the  
11 last hour showing a rather traumatic situation at the  
12 statue.

13 Separately, I don't have any information,  
14 Your Honor, as to whether the Fairmount Park Commission  
15 does or does not have any remaining interest in or concern  
16 about the statue.

17 Finally, Your Honor, I do not have the  
18 dedication and donation agreement, which always  
19 accompanies the dedications of these statues to the  
20 municipality. But I am sure that within very short order  
21 tomorrow morning, Your Honor, I can locate a copy of it if  
22 it still exists. I will say that. If it still exists.

23 THE COURT: I am going to terminate this call  
24 right now. And I will talk to you in a bit, Mr. Bochetto.

25 MR. BOCHETTO: Thank you very much, Your

22

1 Honor.

2 (Conference call ended at 10:08 p.m.)

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1 C E R T I F I C A T I O N

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4 I hereby certify that the proceedings and  
5 evidence are contained fully and accurately in the

6 stenographic notes taken by me upon the foregoing matter  
7 on , 2019, and that this is a correct transcript of the  
8 same.

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Jacqueline Froncek  
Court Reporter

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18 (The foregoing certification of this transcript does not  
19 apply to any reproduction of the same by any means, unless  
20 under the direct control and/or supervision of the  
21 certifying court reporter.)

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# **EXHIBIT E**



1                   IN THE COURT OF COMMON PLEAS  
2                   FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
3                   CIVIL TRIAL DIVISION

4                   MIRARCHI

5                   VS.

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                 CITY OF PHILADELPHIA, et al.

9                   - - -  
10                  Monday, June 15, 2010

11                  Philadelphia, Pennsylvania  
12                  - - -

13  
14                  B E F O R E:   THE HONORABLE PAULA A. PATRICK, J.  
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16                  - - -  
17                  Emergency Petition for Injunction Hearing  
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1 APPEARANCES:

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3 BY: GEORGE BOCHETTO, ESQUIRE.

4 1524 Locust Street

5 Philadelphia, PA 19102

6 Attorney for the Petitioner, via Zoom

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8

9 CITY OF PHILADELPHIA LAW DEPARTMENT

10 BY: MARCEL PRATT, ESQUIRE

11 Ara Tower

12 9th Floor

13 1101 Market Street

14 Philadelphia, PA 19107-2934

15 Attorney for the Respondent, via Zoom

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1 (P R O C E E D I N G S)

2 - - -

3 MR. WULKO: State your name  
4 and spell your last name for the record,  
5 please.

6 MR. BOCHETTO: Of course.  
7 Good afternoon, George Bochetto,  
8 B-O-C-H-E-T-T-O. My Bar No. is 27783.

9 MR. WULKO: Thank you, sir.  
10 Officer.

11 DEPUTY COMMISSIONER WILSON: I  
12 am deputy commissioner Dennis Wilson,  
13 Philadelphia Police Special Operations,  
14 good afternoon.

15 MR. WULKO: Were you asked to  
16 participate by any of the attorneys  
17 involved?

18 DEPUTY COMMISSIONER WILSON:  
19 Yes, I was.

20 MR. WULKO: Mr. McGrath.

21 MR. McGRATH: Sean McGrath,  
22 assistant city solicitor, the City of  
23 Philadelphia.

24 MR. WULKO: Dave, I'm just  
25 going to moot you. Just so you know

1           there will be some court staff that are  
2           participating and they'll just be in the  
3           background.

4                   MR. BOCHETTO: Is Dave one of  
5           those court staff?

6                   MR. WULKO: I'm sorry, Gabe.

7                   MR. BOCHETTO: Gabe, he's not  
8           a witness?

9                   MR. WULKO: No, sir.

10                  MR. BOCHETTO: Did I  
11           understand that Mr. Wilson, you're  
12           intending to be a witness?

13                  DEPUTY COMMISSIONER WILSON: I  
14           was asked to join the call.

15                  MR. BOCHETTO: Okay. I was  
16           just curious.

17                  MS. WALSH: Good afternoon, my  
18           name is Danielle Walsh. I'm a Deputy  
19           City Solicitor at the Philadelphia Law  
20           Department.

21                  MR. WULKO: Michael Faust,  
22           could you just identify yourself for the  
23           record?

24                  MR. FAUST: Sure. Michael  
25           Faust, also with the City of

1 Philadelphia Law Department, Assistant  
2 City Solicitor.

3 MR. WULKO: Kelly Diffily,  
4 would you mind identifying yourself for  
5 the record, please?

6 MS. DIFFILY: Sure. My name  
7 is Kelly Diffily. I'm a Senior Attorney  
8 with the Law Department's Appeal Unit.

9 MR. WULKO: I have a Leonard  
10 Reuter or Ruter, I'm sorry if I'm not  
11 pronouncing that properly. Can you  
12 identify yourself, please?

13 MR. REUTER: Yes, my name is  
14 Leonard Reuter, Senior Attorney for the  
15 Law Department. I'm just witnessing,  
16 just watching. I'm not participating.

17 MR. WULKO: Eleanor Ewing.

18 MS. EWING: Yes. I am here  
19 with the City of Philadelphia Law  
20 Department, Chief Deputy City Solicitor,  
21 Affirmative & Special Litigation Unit.

22 MR. WULKO: Thank you.

23 Diana Cortes.

24 MS. CORTES: Good afternoon,  
25 Diana Cortes, Chair, Litigation Group

1           for the City of Philadelphia Law  
2           Department.

3                   MR. WULKO:  Margot Berg, could  
4           you identify yourself, please?

5                   MS. BERG:  Good afternoon,  
6           Margot Berg.  My title is Public Art  
7           Director for the City of Philadelphia.

8                   MR. WULKO:  Then I have a  
9           telephone number of (610) 721-0006.  
10          Could you identify yourself, please?

11                  MR. CEDRONE:  Yes, hi, this is  
12          Richard Cedrone, the president of  
13          Marconi Park.

14                  MR. WULKO:  Could you spell  
15          your last name for me, Rich, please?

16                  MR. CEDRONE:  Sure,  
17          C-E-D-R-O-N-E.

18                  MR. WULKO:  Thank you.

19                   I have a telephone number of  
20          (215) 416-0882.  Could you identify  
21          yourself for us?  Is there someone that  
22          called in with the telephone number of  
23          (215) 416-0882?

24                   (No response.)

25                  MR. WULKO:  And Mr. Pratt,

1 would you identify yourself for the  
2 record, please?

3 MR. PRATT: Yes, Marcel Pratt,  
4 City Solicitor of Philadelphia.

5 MR. WULKO: Mr. Pratt, will  
6 you be conducting the argument or are  
7 you having your other counsel  
8 participating as well?

9 MR. PRATT: I will be  
10 conducting the argument.

11 MR. WULKO: I just want to  
12 make sure. If I do moot you, I just  
13 want to make sure, not you, Mr. Pratt,  
14 but the other counsel, I just want to  
15 make sure we don't have too much  
16 background noise.

17 Does anybody have any other  
18 witnesses that they were asking to  
19 participate that have not dialed in yet?

20 MS. CORTES: Steve, this is  
21 Diana Cortes. I don't have another  
22 witness but there's one additional  
23 attorney with information I'll forward  
24 to you so that they can also be  
25 included. They will be also have their

1 microphones and video muted.

2 MR. WULKO: You can forward  
3 the information. I am not certifying  
4 them or anything like that. You can  
5 just send it right to them, and then  
6 we'll get them checked in here.

7 MS. CORTES: I'll do that  
8 right now. Thank you.

9 MS. DIFFILY: Diana, I already  
10 forwarded it.

11 MS. CORTES: Okay. Thanks,  
12 Kelly.

13 MR. WULKO: Is someone using  
14 their telephone for audio maybe, maybe  
15 that telephone number is in there? I'm  
16 having a hard time letting them hanging  
17 around if they're not identified.

18 (215) 416-0882, can you  
19 identify yourself, please?

20 (No response.)

21 MR. WULKO: Mr. Pratt and  
22 Mr. Bochetto, the judge is ready. If  
23 everyone is ready, we can get started.

24 MR. BOCHETTO: We're ready.

25 MR. PRATT: Yes, ready.



1 MR. WULKO: Good afternoon,  
2 judge.

3 THE COURT: Good afternoon.

4 MR. WULKO: Your Honor, I'm  
5 sure you can see, we have many  
6 participants in this matter. Counsel  
7 for petitioner is George Bochetto.

8 Counsel for respondent from  
9 the City Law Department is Marcel Pratt,  
10 and we have your staff, some other court  
11 staff on there, the court reporter and a  
12 couple of witnesses as well.

13 But for the most part I think  
14 we're just going to deal with  
15 Mr. Bochetto and Mr. Pratt, and as we  
16 need to call witnesses. You let me know  
17 when you're ready to get started and  
18 I'll open up court.

19 THE COURT: Okay. I'm ready.

20 MR. WULKO: This Court of  
21 Common Pleas is now in session. The  
22 Honorable Paula Patrick presiding.

23 THE COURT: Mr. Bochetto, this  
24 is your petition?

25 MR. BOCHETTO: Yes, Your

1 Honor.

2 THE COURT: Go ahead.

3 MR. BOCHETTO: Your Honor,  
4 would you like a brief, and I mean very  
5 brief kind of context for how we got  
6 here at 2:00 today?

7 THE COURT: Yes, absolutely.

8 MR. BOCHETTO: Great. Thank  
9 you. Yesterday, Your Honor, a city  
10 official, a city employee, called a  
11 member of Local 405, the Riggers Union,  
12 and told them that there was a plan  
13 underway by the city to remove the  
14 Christopher Columbus statue from the  
15 Marconi Plaza. This was testified to,  
16 by the way, under oath last night.

17 They told the union official  
18 that they were going to use a nonunion  
19 rigger to remove the statue. So the  
20 union immediately established a picket  
21 line at Marconi Plaza midafternoon.

22 THE COURT: Okay.

23 Mr. Bochetto, let me just interrupt you  
24 for a minute. I wanted to say this in  
25 the beginning and it just slipped my

1 mind until just now.

2 I know that pursuant to the  
3 court staff speaking with Mr. Wulko that  
4 there were other individuals, i.e., the  
5 public wanting to actually watch this  
6 hearing and be involved. Unfortunately,  
7 we don't have the streaming capability  
8 at this point in the Philadelphia court  
9 system.

10 So pursuant to the Supreme  
11 Court Directives in Pennsylvania, as you  
12 know, we're one of the 14 states where  
13 cameras are not allowed in the  
14 courtroom. And so I didn't permit the  
15 public to be able to Zoom because the  
16 capabilities of Zoom if you're on your  
17 phone or whatever you have that are  
18 built in to take pictures and/or record  
19 from another device. So that's why the  
20 public is not a part of this hearing per  
21 se.

22 Obviously pre-COVID-19, all  
23 sides would have been able to attend the  
24 courtroom either for the statue or  
25 against the statue and they would have

1           been made aware of that.

2                       But because of the  
3           capabilities of Zoom and what  
4           regulations are as it relates to cameras  
5           in the courtroom, that's why the public  
6           otherwise has not been permitted to take  
7           part. Okay?

8                       MR. BOCHETTO: Very well, Your  
9           Honor. And if any members of the public  
10          asks me, I shall explain that to them.

11                      THE COURT: Thank you, Mr.  
12          Bochetto.

13                      MR. BOCHETTO: Getting back to  
14          where we are at 2:00 today. Once that  
15          picket-line was established, other  
16          members particularly community leaders  
17          in South Philadelphia were alerted that  
18          the mayor was intending to remove the  
19          Columbus statue between 1:00 a.m. and  
20          3:00 a.m. in the morning, much the same  
21          way that the city removed the Mayor  
22          Frank Rizzo statue two weeks prior.

23                      When I heard about it, I  
24          immediately prepared an emergency  
25          petition, Your Honor, now granted this

1 is Sunday afternoon, and I tried to set  
2 forth the very basic facts. We have  
3 since amended that petition, Your Honor,  
4 and I forwarded the amended copy to your  
5 chambers about an hour ago, I believe.

6 THE COURT: Yes.

7 MR. BOCHETTO: In any event,  
8 Judge Marlene Lachman was the emergency  
9 judge last night. She conducted several  
10 on-the-record hearings. We heard from  
11 some witnesses who talked about they  
12 knew about the plan to remove the  
13 statue. We also heard from Mr. Pratt  
14 that, to the best of his knowledge, that  
15 was simply a rumor and that there was no  
16 plan to remove the statue.

17 And at that time it was agreed  
18 by myself and Mr. Pratt on behalf of the  
19 city that until we had an opportunity to  
20 convene a hearing today that the city  
21 would not take steps to remove the  
22 statue. Although the city was quite  
23 clear in its reservation of rights that  
24 if at any time they think in their  
25 discretion that the statue should be

1 removed, they reserve the right to do  
2 that.

3 We are here today because what  
4 we'd like to do, Your Honor, is present  
5 to you a set of circumstances that I  
6 think makes sense in terms of having a  
7 court hearing concerning the legalities  
8 and the set of circumstances that are  
9 involved with the statue, and most  
10 importantly, judge, if I may just point  
11 this one thing out.

12 The statue was originally a  
13 part of Fairmount Park and was located  
14 on Belmont Avenue. It was relocated in  
15 1982 to the City of Philadelphia and  
16 Marconi Plaza, and typically with works  
17 of art, statues, that type of thing,  
18 there's what's known as a donation and  
19 maintenance agreement. We believe there  
20 was a donation and maintenance agreement  
21 between the Fairmount Park Association,  
22 which is a state agency and the City of  
23 Philadelphia, which would define among  
24 other things the rights and  
25 responsibilities of the donor and the

1 donee in terms of the location of the  
2 statue; who is going to bear the expense  
3 of maintaining the statue; what happens  
4 if one party wants to remove the statue  
5 or put it in another location? These  
6 things are all very typically spelled  
7 out carefully in a donation and  
8 maintenance agreement.

9 We had the one that was for  
10 the Mayor of Frank Rizzo statue. That's  
11 not at issue today. The donation and  
12 maintenance agreement between Fairmount  
13 Park Association and the City of  
14 Philadelphia on this Columbus statue in  
15 Marconi Plaza, we do not yet have. It  
16 exists, it's out there and, frankly, we  
17 need an opportunity to be able to source  
18 it to see exactly what it provides.

19 So one of the very key  
20 considerations that I'm going to ask  
21 Your Honor to consider this afternoon is  
22 to grant, more or less, a hiatus on any  
23 removal of that statue until we can get  
24 that document, the parties can all  
25 review it, understand it and see what

1 the respective rights and  
2 responsibilities are. Then we can have  
3 an orderly type hearing to determine who  
4 gets to do what and under what  
5 circumstances.

6 But as we stand here today  
7 neither we, the concerned citizens of  
8 the Columbus statue, nor the city can  
9 articulate what that agreement provides  
10 for what procedures were to be  
11 undertaken and that type of thing.

12 One final point, Your Honor.  
13 There is in the City Charter and the  
14 Home Rule Charter provisions that before  
15 any public statue or artwork is to be  
16 removed would narrowly, Your Honor,  
17 there is to be a hearing at the Arts  
18 Commission, an opportunity for public  
19 input and public hearings and witness  
20 testimony and expert testimony, and then  
21 the Art Commission makes a considered  
22 recommendation.

23 We certainly think, Your  
24 Honor, that even in the absence of a  
25 document, a contract between the



1 Fairmount Commission and the City of  
2 Philadelphia, which would define what  
3 the procedures are, even in the absence  
4 of that, the City Charter requires this  
5 deliberative and considered process by  
6 which the public does have the right of  
7 input. Now, on the other hand --

8 THE COURT: Counsel, I  
9 understand this, so I'm going to stop  
10 you right there. Let me just get Mr.  
11 Pratt's argument and then we'll proceed  
12 there.

13 Go ahead, Mr. Pratt.

14 MR. PRATT: Good afternoon,  
15 Your Honor. Marcel Pratt, City  
16 Solicitor of Philadelphia. I do want to  
17 start with some background facts. As  
18 you know, there is an extreme amount of  
19 unrest at Marconi Plaza. There are  
20 folks out there who have appeared with  
21 long guns, bats, other weapons. Folks  
22 have been assaulted. It's a very  
23 difficult situation for police to  
24 manage. And if we need to get it to  
25 that, that's why we have Deputy

1 Commissioner Dennis Wilson here.

2 Yesterday there was a rumor  
3 that was started that the city planned  
4 to remove the statue between 1:00 and  
5 3:00 a.m. That rumor was absolutely  
6 false. The mayor had no such plans to  
7 do that, and I represented that to Judge  
8 Lachman and Mr. Bochetto last night that  
9 as someone who talks to city leadership  
10 all the time, especially under these  
11 circumstances, there was never such a  
12 plan.

13 However, I did note that in  
14 the event of a public emergency or the  
15 need to protect public safety that the  
16 city does retain the authority to remove  
17 the statue. But on this particular  
18 petition, I want to just make a few  
19 arguments that I think should be  
20 dispositive of this issue, and then I'll  
21 also address something that Mr. Bochetto  
22 mentioned, which I think might satisfy  
23 some of these concerns.

24 THE COURT: Let me just ask  
25 you, you said that this rests solely

1           within the purview of the city to remove  
2           the statue pursuant to the unrest.

3                       What do you base that upon?

4                       MR. PRATT: That's on the  
5           mayor's authority under the mayor's  
6           emergency powers, so the mayor has the  
7           authority in the event that there is an  
8           emergency to the remove a piece of  
9           public property. So the statue belongs  
10          to the city, it's city property, and if  
11          there is a period of unrest or the mayor  
12          needs to protect public safety, the  
13          mayor can remove it.

14                      There has been discussion of  
15          the Fairmount Park Commission by  
16          Mr. Bochetto as well as in some  
17          documents he attached from state rep  
18          Martina White. I know I'm at a slight  
19          advantage being the city solicitor, but  
20          the Fairmount Park Commission no longer  
21          exists. Any power that the Fairmount  
22          Park Commission had was assumed by the  
23          Department of Parks and Rec, which is a  
24          part of the mayor's administration. So  
25          to the extent this argument is out there

1           that you need the authority of the  
2           Fairmount Park Commission, that  
3           authority now resides with the mayor.

4                   THE COURT: So let me just ask  
5           you this. I'm clear on that. So I can  
6           tell you in looking at the petitions and  
7           what I found, we have two things that  
8           are at issue here really that are  
9           important. One is when I asked you  
10          about the authority in reference to the  
11          mayor you were saying because of his  
12          executive powers, but there actually is,  
13          I found out, a city Directive 67, that  
14          was issued November the 6th of 2018,  
15          that gives the mayor this particular  
16          authority, however, pursuant to the Art  
17          Commission itself under the Home Rule  
18          Charter, Section 5-903, Subsection F,  
19          that ability still rests with the Art  
20          Commission itself.

21                   So now what has happened is  
22          that in 2018 of November, the managing  
23          director's office issued this directive  
24          really in direct contradiction to the  
25          Home Charter as it relates to the Art

1 Commission.

2 So that's really the crux of  
3 the issue here that even though the  
4 mayor is saying, listen, I have the  
5 authority and I have the power and this  
6 is creating such an unrest, under a  
7 managing director's Directive 67, does  
8 that really have the ability to  
9 circumvent or to contravene the  
10 Philadelphia Home Charter, specifically  
11 Section 5-903F?

12 MR. PRATT: So the directive  
13 is not law, it's a policy. And so with  
14 respect with the Rizzo statue, that's  
15 why the directive was suspended, and I'm  
16 bearing the lead here. I'll just start  
17 with this now. So the mayor is going to  
18 announce today, and it might have  
19 already happened, that he has the full  
20 intention to work through the Art  
21 Commission process as stated in the  
22 managing director's directive.

23 So he has an intention to make  
24 sure that there is this period of public  
25 comment in accordance to the removal

1 process, which is on page of six of the  
2 document I think that you're looking at.  
3 So that is going to happen.

4 I have a number of points that  
5 I would like to make because I don't  
6 think it would be appropriate for the  
7 Court to grant Mr. Bochetto's relief.  
8 The first being that there's still a  
9 state of unrest, so if matters do get  
10 worse or they continue, we need to  
11 preserve the mayor's right to remove  
12 that statue under his emergency  
13 authority. Because even if he has the  
14 intention to follow the process that we  
15 have outlining and go through the Art  
16 Commission that process, he still has to  
17 maintain that authority.

18 And then number two, which is  
19 what I wanted to start with, the  
20 plaintiff here has no standing. The  
21 plaintiff here has no standing.  
22 Taxpayers generally just can't bring  
23 lawsuits to challenge actions by  
24 government. There has to be a direct  
25 interest.

1                   Mr. Mirarchi was not a member  
2                   of any commission or any body that was  
3                   party to this agreement that  
4                   Mr. Bochetto said he thinks exists, and  
5                   that's the whole point of the standing  
6                   doctrine is to make sure that we're not  
7                   dealing with improper plaintiffs. I  
8                   think in the papers last night  
9                   Mr. Bochetto said that Mr. Mirarchi was  
10                  a part of the Rizzo monument committee  
11                  which has absolutely nothing to do with  
12                  this Columbus statue.

13                  And on the agreement itself,  
14                  Mr. Bochetto doesn't even know if one  
15                  exists. I think what he said was he  
16                  thinks there might be one because this  
17                  is how the city typically --

18                  THE COURT: Let me just say  
19                  this, I'm not really concerned about any  
20                  agreement at this point. What I'm  
21                  concerned about is what just raised  
22                  about the conflict between the Home Rule  
23                  Charter and the managing director's  
24                  Directive 67.

25                  And number two, the standing

1 motion, I don't know if you're aware of  
2 the application of Beaster. The section  
3 is 4098 A2nd 848, 1979. That actually  
4 lays out the standards or the  
5 requirements necessary for a taxpayer to  
6 have any standing as it relates to any  
7 governmental authority of public issues  
8 or things like that.

9 And so that being said, there  
10 is something that we must address as it  
11 relates to taxpayers, since we are all  
12 taxpayers in the City of Philadelphia  
13 and you all have issues as it relates to  
14 monuments and that kind of thing. And  
15 that actually is laid out pursuant to  
16 this case law of what those five  
17 requirements are.

18 Are you aware of those,  
19 Mr. Pratt? And if so, can you address  
20 those?

21 MR. PRATT: I don't have the  
22 five requirements in front of me, but I  
23 know the traditional standing doctrine  
24 requires that a person have a direct  
25 interest in a particular matter. It's



1 not enough to just aver that you have  
2 this general interest and how it effects  
3 the general public.

4 THE COURT: It's actually a  
5 bit more involved. There are actually  
6 five factors that really has to be met  
7 for the taxpayers to actually have  
8 standing. That's why I'm asking.

9 MR. PRATT: The point here is  
10 that there is no conflict between the  
11 managing director's directive and the  
12 Home Rule Charter. The managing  
13 director's directive is a process that  
14 you follow to comply with the charter,  
15 because it still leaves the jurisdiction  
16 with the Art Commission.

17 So what the managing  
18 director's directive says for removal  
19 process is that there's a proposal that  
20 has to be initiated to the public art  
21 director, and then that works its way  
22 through the Art Commission process. So  
23 there is no conflict to have existed  
24 since the promulgation of the policy.

25 But I think the that matter is

1 pretty close to being resolved. As I  
2 said a little bit earlier, the mayor is  
3 going to announce his intention to go  
4 through this process where there's a 90  
5 day period for public comment. I  
6 actually think that would satisfy Ms.  
7 Bochetto if that happened.

8 My only point that I wanted to  
9 make is that I don't think any agreement  
10 or any order should accept further than  
11 that because we don't what else could  
12 happen at Marconi Plaza. I think I can  
13 represent right now that it's the  
14 mayor's intention to go through the  
15 public process that I think everybody  
16 wants to see play out or at least that  
17 Mr. Bochetto wants to see play out.

18 MR. BOCHETTO: Your Honor, if  
19 I may address the standing issue. I  
20 have the Beaster case in front of me,  
21 and I am very familiar with the five  
22 standards, and I can recite them for the  
23 record if Your Honor would prefer.  
24 However, I will say this, not only is  
25 Mirarchi going to be the plaintiff, but

1 I again started this at 4:00 yesterday  
2 afternoon. I alerted Mr. Pratt's staff  
3 several hours ago that I was securing  
4 additional plaintiffs to bring this  
5 action and I have, in fact, procured two  
6 different plaintiffs.

7 One is on the line with us and  
8 is prepared to testify. His name is  
9 Rich Cedrone. He is the president of  
10 the Friends of Marconi Plaza. He's been  
11 the president for eight years. He and  
12 his members are contiguous in their  
13 residences to Marconi Plaza and he's  
14 clearly impacted by the threatened  
15 action here.

16 And there's ample case law  
17 that show that neighbors and Recognized  
18 Friends Association do have standing to  
19 challenge governmental activities.

20 Secondly, Your Honor, I have  
21 an affidavit from a Gardner Cadwalader.  
22 Mr. Cadwalader was a former member of  
23 the Fairmount Parks Commission, and he  
24 was a member until the Parks Commission  
25 was abolished. That abolition of the

1 Parks Commission was done by city  
2 ordinance, but the Fairmount Park  
3 Commission is a creature of state  
4 inspection, and every bit as much use  
5 Your Honor is correctly pointing out  
6 that the city cannot pass executive  
7 policy that would contradict the Home  
8 Rule Charter, and I agree with you and  
9 I'll address that in a moment.

10 Likewise, a city ordinance may  
11 not contradict or overrule a state  
12 statute, and that's exactly what they  
13 purported to do and, in fact, there are  
14 legislators who believe that the  
15 Fairmount Park Commission was illegally  
16 abolished and disbanded. One of whom is  
17 Martina White who has presented a letter  
18 to Mayor Kenney, who I have as an  
19 exhibit today and I have her affidavit  
20 authenticating that letter where she  
21 lays out the statutory basis for all of  
22 these sovereignty type issues that  
23 contradict completely the idea that the  
24 city could unilaterally eliminate a  
25 state park.

1                   The other thing that I will  
2                   add, Your Honor, is while Mr. Pratt  
3                   wants to point out that there has been  
4                   unrest near the Marconi Plaza, what he  
5                   has failed to address is just what that  
6                   unrest was created by. The fact of the  
7                   matter is most of the unrest was created  
8                   by the idea that a city employee told  
9                   people that they were going to remove  
10                  the Columbus statue, and that's why  
11                  people were upset and that's what  
12                  causing the unrest.

13                 And if they want to abate the  
14                 unrest, all they have to do is follow  
15                 the normal procedures laid out in the  
16                 Home Rule Charter to follow the Arts  
17                 Commission, and there will be no  
18                 protesting at the statue. And it's pure  
19                 speculation, and with all due respect to  
20                 Dennis Wilson who I know is here and is  
21                 prepared to testify that there was  
22                 unrest, it would be pure speculation on  
23                 his part as to what the motivation of  
24                 the unrest was.

25                 And I will tell you, judge,

1           that the unrest was created by Mr. Mayor  
2           Kenney's unilaterally pretending to have  
3           the authority to remove a statue in the  
4           middle of the night, and that is not the  
5           way a civilized society proceeds. That  
6           is not the way the Home Rule Charter  
7           directs us to proceed with matters of  
8           art and that type of thing. And I have  
9           the appropriate officials who have  
10          unquestioned standing to maintain this  
11          action and to address the standards that  
12          were in the Beaster case, Your Honor.

13                       One of those standards is that  
14          if we don't hear these concerned  
15          individuals, this governmental action  
16          will go unchallenged and that is a very  
17          big factor in standing, and it is indeed  
18          present here. If we don't give the  
19          Friends of the Marconi Plaza an  
20          opportunity to be heard, if we don't  
21          give a former Fairmount Park  
22          Commissioner who was illegally removed  
23          from the commission an opportunity to be  
24          heard, we do not give the Commonwealth  
25          of Pennsylvania via representative

1           Martina White the opportunity to be  
2           heard and to assert the state's  
3           interest, then just what kind of lawful  
4           procedure are we undertaking here?

5                       And finally I will say that I  
6           think it's borderline preposterous to  
7           say that the mayor can by executive  
8           order in 2018 overrule and contradict  
9           the Home Rule Charter, which specifies  
10          that he has to go through the Art  
11          Commission.

12                      As I said at the very  
13          beginning of my comments, Your Honor,  
14          what we're looking for here is not a  
15          determination of whether the Columbus  
16          statue should or should not be removed.  
17          That's not at issue today. We certainly  
18          want to do everything that we can to  
19          quell any kind of public outrage for  
20          that.

21                      But what we're here to do is  
22          to make sure that the proper procedures  
23          are followed. It should go to the Art  
24          Commission. There should be an  
25          opportunity for public input. If Mr.

1 Pratt is saying that the city's  
2 committee can do that and they're  
3 willing to put that kind of a commitment  
4 on the record here, then we can make  
5 this a very simple process, Your Honor,  
6 and we can all proceed to the Art  
7 Commission.

8 MR. PRATT: Yes, Your Honor.  
9 I can just follow up on that. I am  
10 saying that the mayor is going to put  
11 out a statement that this is going to go  
12 through the Art Commission process, and  
13 that is going to be pursuant to the  
14 managing director's Directive 67, which  
15 there is a proposal that goes to the  
16 public Art Director who is on the phone.  
17 Then it goes to the Art Commission. So  
18 that's the mayor's current posture.

19 My only point is that if  
20 something happens we can't have our  
21 hands tied. We still need the ability  
22 to go and in remove the statue if there  
23 is a threat to public safety, and we can  
24 discuss that in further detail. But I  
25 do want to go back to this point about



1 the Fairmount Park Commission.

2 We don't need to open that  
3 Pandora's box with respect to the  
4 Fairmount Park Commission. The voters  
5 of Philadelphia abolished it over 12  
6 years ago.

7 THE COURT: I'm not concerned  
8 about that. That's not the issue. I'm  
9 past the Fairmount Park Commission  
10 because it's par for the course, it has  
11 no bearing here obviously. But I really  
12 am concerned because you keep  
13 referencing this managing director's  
14 directive, you're saying it is not in  
15 contravention, and then, of course, if  
16 something happens, what the mayor has to  
17 do.

18 If you look at the managing  
19 director's Directive 67 specifically  
20 under Section B, policy on the removal  
21 of the public art, it lays out different  
22 things general requirements criteria for  
23 the removal, and one of the things, of  
24 course, is that obviously in the event  
25 of artwork number five, endangers public

1 safety but also number six, the  
2 condition of security of an artwork  
3 cannot be reasonably guaranteed. So if  
4 the mayor wants to follow the law and go  
5 to the Art Commission, obviously that's  
6 the process that should be done.

7 In the meantime, what can be  
8 reasonably understood and guaranteed is  
9 that that statue can be protected until  
10 the public or the Art Commission makes a  
11 determination. So when you're talking  
12 about the potential unrest and the  
13 unrest you've got here, then I'm sure  
14 it's because you have both sides of the  
15 issues that are directly arguing back  
16 and forth, back and forth about it.

17 I mean, we are in a civilized  
18 society, which is why we have a court  
19 system. So we can't allow anybody at  
20 the pulpit to kind of bully the  
21 governmental system as well as the  
22 courts to then try to make a  
23 determination themselves circumventing  
24 the law and the processes. In this  
25 nation we still have an orderly process,

1           it's called the law, and when the rule  
2           of law is to run out, chaos is imminent.  
3           So clearly we must follow the law. I'm  
4           sorry that there are people who don't  
5           understand that and they're willing to  
6           do things contrary to that, but one of  
7           the things that the mayor can do and  
8           should do until the Art Commission hears  
9           this is that that statue can be  
10          reasonably protected so that public  
11          safety is not at issue, and that's  
12          something that's not too difficult for  
13          the city to do.

14                   I know that because here in  
15          Philadelphia we saw the Rizzo statue,  
16          and of course, they had protection for  
17          the statue, so that was removed separate  
18          and apart from the Art Commission. But  
19          the Home Rule Charter still rules in  
20          Philadelphia, and so I as the judge  
21          can't then make the determination to  
22          tell the mayor, well, you don't have to  
23          follow the Home Charter. You can pretty  
24          much use a directive or do what you  
25          want. No, he has power to protect power

1 as force and so the powers must be  
2 checked, so that's why we're here in  
3 court because the Court then must  
4 determine if there is a conflict, which  
5 I see there is, you keep saying there  
6 isn't, but as I read this directive, it  
7 is contradicting the Home Rule Charter  
8 in some respects. And so we know the  
9 Home Rule Charter pursuant to Section  
10 5903F, the Art Commission has this  
11 authority. They have to make the  
12 decision, not even the Court, to  
13 determine whether they're going to  
14 either remove the statute or not.

15 MR. PRATT: Your Honor, if I  
16 may, the directive still sends this to  
17 the Art Commission. The directive still  
18 sends this process to the Art Commission  
19 so there isn't a conflict. That's the  
20 point that I'm trying to make, and we  
21 can call out the specific language, but  
22 if there is no conflict because the  
23 process still sends it through the Art  
24 Commission.

25 And just to go back to where I

1           tried to start was, the mayor is going  
2           to make an announcement that he is going  
3           to go through the Art Commission  
4           process. Right now there is no  
5           intention to remove the statue without  
6           going through the Art Commission  
7           process. That's a decision that the  
8           mayor made or decided to make clear very  
9           recently, so that is not going to  
10          happen.

11                       My point is that as it relates  
12          to this proceeding right now, we do not  
13          need an injunction against the immediate  
14          removal of the statue because that was  
15          never the mayor's plan. There was never  
16          a plan to take the statue without going  
17          through the Art Commission process.

18                       MR. BOCHETTO: With all due  
19          respect, Your Honor, if --

20                       MR. PRATT: And I understand  
21          Mr. Bochetto's point about the rumor  
22          from an unidentified city employee. But  
23          what I said last night to him, and I've  
24          continued to say it is that, no one is  
25          city leadership ever made the decision

1 or an order or a directive to remove  
2 that statue. That never happened.  
3 There was an ex-parte proceeding with  
4 testimony. We are available via email,  
5 phone call. No one called us to say, Is  
6 this true? No one called the city  
7 leadership to say, Is this true? So  
8 this rumor has spiraled out of control.

9 So again my point is the  
10 mayor's intention is to go through the  
11 Art Commission process. That is the  
12 intention and that announcement is going  
13 to be made shortly and we can forward  
14 that to Your Honor when that  
15 announcement gets put out later today.

16 I'm worried about an  
17 unnecessary injunction that interferes  
18 with that process because Mr. Bochetto  
19 seems to think that the mayor is trying  
20 to remove the statue now. What I'm  
21 saying is that that's not the case.  
22 That's not what the mayor is doing right  
23 now. We don't need an order that sweeps  
24 that broadly to answer these questions  
25 that are, quite frankly, irrelevant

1 right now.

2 MR. BOCHETTO: Your Honor, if  
3 I may just comment and I told this to  
4 Mr. Pratt last night. I don't for a  
5 moment doubt the sincerity or the  
6 truthfulness of what Mr. Pratt is saying  
7 about his understanding of what the  
8 mayor's intentions are.

9 And if it were not for what  
10 happened with the Rizzo statue, I would  
11 generally tend to say that if the mayor  
12 is going to make a public announcement  
13 that he's going to go through the Art  
14 Commission, okay, we should take him at  
15 his word for it.

16 The problem is, judge, we did  
17 have the Mayor Rizzo statue situation,  
18 and I did represent the Friends of the  
19 Rizzo Statue Committee. We were very  
20 concerned about what was going on there.  
21 And we were told, Your Honor, in  
22 writing, I have the letter from the  
23 managing director that they were going  
24 to go through the Art Commission, and at  
25 1:00 in the morning without

1 announcement, without notice, without  
2 any warning whatsoever, that statue was  
3 removed. And we are definitely  
4 concerned that that's exactly what's  
5 going to happen here.

6 Again, with all due respect  
7 top Mr. Pratt, I think he's a wonderful  
8 civil servant. But the mayor has  
9 certain agendas that may not be shared  
10 with Mr. Pratt, and I think that the  
11 people, given the Rizzo statue  
12 experience, are entitled to some kind of  
13 assurance that the mayor isn't going to  
14 just declare a public emergency in the  
15 middle of the night and remove that  
16 statue.

17 If you want to do it by  
18 stipulation where he couldn't do it and  
19 we only ask that he has to come back to  
20 Your Honor to seek out occasion to do  
21 it, I'm very flexible and reasonable  
22 about what we can do. I'm also very  
23 flexible and reasonable about what we  
24 can do to secure the safety of the  
25 statue in the interim. But I don't



1 think that, given where we are, we can  
2 just take it as it is.

3 MR. PRATT: Your Honor, if I  
4 can briefly respond to that.

5 THE COURT: Please.

6 MR. PRATT: Number one, we can  
7 litigate the removal of the Rizzo statue  
8 separately. Obviously that was the case  
9 where the statue was being set on fire,  
10 people were trying to topple it, this  
11 2,000 pounds of bronze. People could  
12 have literally been killed and that was  
13 a concern by the sculptor of the statue  
14 himself. So we don't have to get into  
15 the Rizzo statue.

16 But I think for purposes of  
17 today, as I said, the mayor is going to  
18 announce pretty soon that there is a  
19 plan to have this go through the Art  
20 Commission process. I don't think we  
21 need to get into some of the nuance we  
22 discussed here about the Fairmount Park  
23 Commission and whether there is a  
24 conflict with Directive 67 in the  
25 charter. This is going to go through

1 the Art Commission process. That's what  
2 the mayor wants to happen.

3 And as Mr. Bochetto said, if  
4 he and I can come to some sort of  
5 agreement where if things do get worse  
6 or if they continue down this path where  
7 we have to come back to the Court to  
8 address a public emergency, we can  
9 discuss that I think that off-line. I  
10 don't think we agree to that in the  
11 middle of the hearing, and I don't think  
12 we should take up Your Honor's time.

13 I just want to make sure that  
14 if whatever comes out of this you don't  
15 have an order that sweeps too broadly or  
16 that binds us because I think what  
17 Mr. Bochetto wants to happen generally  
18 we're very close to that, which is we're  
19 going to send this through the Art  
20 Commission process.

21 I think his concern is that if  
22 there is a decision to remove the  
23 statute for public safety reasons that  
24 there be some form or some type of  
25 notice so that his clients, who I

1 disagree have standing, because I think  
2 the Beaster case, the intention of it  
3 was to narrow the concept of liberal  
4 standing of the taxpayers so that folks  
5 can be heard. I think we can come to  
6 some sort of understanding, but I just  
7 also want to make sure that whatever  
8 order comes out of this doesn't sweep  
9 too broadly. I don't think there's a  
10 need for an junction if we can agree  
11 that the mayor is going to send this to  
12 the Art Commission process.

13 There is no need for relief or  
14 to tie up the mayor's hands if we're  
15 going to follow the Home Rule Charter,  
16 if we're going to follow the processes  
17 that we have set up to go through the  
18 Art Commission.

19 THE COURT: Well, the Court is  
20 not so much interested in tying the  
21 mayor's hands. The Court is interested  
22 to make sure that the law and the  
23 orderly process is followed. So  
24 obviously you have to start with the Art  
25 Commission and pursuant to the Home Rule

1 Charter, they have 60 days to make a  
2 determination whether they're going to  
3 rule on it or not.

4 In the meantime, if this issue  
5 is creating a public safety issue, then  
6 the city can reasonably protect the  
7 statue within that prescribed amount of  
8 time until the Art Commission is able to  
9 make that determination. I don't know  
10 why that would be difficult to do.

11 Again, we are following the  
12 law, and I know there are people out  
13 there that really want toss out the law,  
14 but we can't do that. That's just the  
15 law. That's the Home Rule Charter.  
16 That's why we have it. So obviously the  
17 Art Commission has the power and the  
18 authority over this. So once they go  
19 through their processes and make a  
20 determination, who knows, they can  
21 decide to move it in a matter of 30  
22 days. I don't know what their decisions  
23 are.

24 But I'm saying my job is to  
25 protect their integrity to make the

1 decision so that no one also interferes  
2 with that including the mayor, including  
3 the mayor.

4 So he's saying there's a  
5 threat to public safety. Listen, he can  
6 make sure that that statue is protected  
7 pending the outcome of the Art  
8 Commission. I don't know what they're  
9 going to decide. You don't know what  
10 they're going to decide, but at that  
11 point the reason why we have the process  
12 and it's orderly is because citizens can  
13 come down and make the objections or  
14 whatever and the Commission decides what  
15 it decides. That's it. That's why we  
16 have a process, and there are people  
17 that need to understand that there is a  
18 process orderly that we must follow in a  
19 civilized society whether they like it  
20 or not.

21 Now, I don't come down on  
22 either side of the issue to remove it or  
23 not. Personally I don't care either  
24 way. But the fact is, as the judge, I  
25 have to follow the law and my job is to

1 make sure that all parties that are  
2 involved on each side are following the  
3 law, and that's what I'm concerned  
4 about.

5 So that's why I'm inclined to  
6 understand Mr. Bochetto's petition even  
7 though you're saying that it's based  
8 upon a rumor. If you want, we can go  
9 through and have all of the witnesses to  
10 testify, and I'm very familiar with the  
11 Beaster case, and a citizen would have  
12 standing under those five prongs. So I  
13 can hear it with no problem. My job or  
14 my concern is not that I tie the hands  
15 of the mayor. My concern is that I want  
16 to make sure that the law is properly  
17 followed even by the mayor himself.  
18 That's all.

19 So if you want to make a  
20 stipulation that this will go  
21 immediately to the Fairmount Park  
22 Commission and they have to decide in 60  
23 pursuant to the Home Rule Charter, then  
24 we can do that. In the meantime, the  
25 city has an obligation to protect public

1 property. They have an obligation. So  
2 we can put that in a stipulation. It's  
3 not a problem. It's just that that just  
4 has to be followed. The mayor can  
5 probably get what he wants with the Art  
6 Commission. I don't know. That's not  
7 my decision.

8 My decision is to make sure  
9 that the law is followed properly.  
10 That's it. I don't have an axe to grind  
11 either way. I just want you to know  
12 that there is a very early process that  
13 must be complied with and the mayor  
14 needs to understand it and comply with  
15 it as well. We all do. It's called the  
16 Rule of Law.

17 So Mr. Pratt, if you're  
18 willing to enter into a stipulation  
19 wherein that nothing will be done until  
20 the Art Commission makes their final  
21 determination, and that the city has an  
22 obligation to protect the public  
23 property so the mayor has to ensure that  
24 that property is protected pending the  
25 outcome of the Art Commission, not even

1 the outcome of the Court but the outcome  
2 of the Art Commission.

3 If you're not willing to  
4 stipulate to that, then we'll have a  
5 full hearing. We'll put everything on  
6 the record and I will make my own  
7 decision in reference to that. It's up  
8 to you.

9 MR. PRATT: Yes, so Your  
10 Honor, I think if we want to stipulate,  
11 I think -- and again I would propose  
12 that Mr. Bochetto and I talk off-line.  
13 And the reason why I don't think we can  
14 stipulate that the mayor will protect  
15 the statue is because obviously if  
16 things get out of hand and then it's  
17 difficult for the police to manage and  
18 someones gets to the statue and does  
19 something over the course of the next  
20 however many days that it takes the Art  
21 Commission to respond, I don't want to  
22 create some type of liability on behalf  
23 of the city simply because someone got  
24 to the statue and did something.

25 THE COURT: Let me just ask



1           you, is it the city's obligation to  
2           protect public property? Is that the  
3           city's obligation?

4                     MR. PRATT: The city can  
5           protect public property to a certain  
6           extent.

7                     THE COURT: And to what extent  
8           is that based upon what rule or  
9           authority?

10                    MR. PRATT: The fact that it's  
11           what we do. When you think about city  
12           property, and the city does have a duty  
13           to protect public property, I agree with  
14           you. But what the point that I'm making  
15           is that if someone does something to the  
16           statue because the city wasn't able to  
17           protect it or there weren't enough  
18           resources to protect it, then that can  
19           create liability on behalf of the city.  
20           The city can't protect all public  
21           property at any given moment.

22                    THE COURT: But the question  
23           is not all public property. It this  
24           particular property that is allegedly  
25           the hot button of people in the area,

1 right? So we're not talking about all  
2 of the public monuments in Philadelphia.  
3 We're talking about one public monument  
4 in Philadelphia wherein according to  
5 even the managing director's directive  
6 that that can be reasonably protected.  
7 That's not unreasonable. So what I am  
8 requiring the city to do is not  
9 unreasonable and that is to protect the  
10 statue pending the outcome of the Art  
11 Commission's finding. That's it.  
12 That's not unreasonable at all.

13 So I don't know why you would  
14 think it would be but it's not, and I'm  
15 saying to you if there's going to be a  
16 stipulation, I'm saying to you that that  
17 is one thing that would have to be  
18 placed in there, that this property,  
19 this statue is going to be reasonably  
20 protected until the outcome of the Art  
21 Commission's finding. Period.

22 So if you don't want to agree  
23 to that, I don't have a problem having a  
24 hearing and I'll make my own findings  
25 and determination and, therefore, you're

1 going to have to comply with it. And  
2 obviously you know the other avenue, if  
3 you don't like it, then you appeal it  
4 that's the case.

5 I'm only saying to you that if  
6 we can reasonably resolve it by way of a  
7 stipulation inside that, I'm not asking  
8 the mayor or the city to do anything  
9 that the city could not do. I'm a  
10 citizen of Philadelphia myself and, of  
11 course, I don't want to be in a  
12 situation where my safety is at issue  
13 obviously, but the mayor's job is to  
14 make sure that the city's public  
15 monuments and things like that are  
16 protected if he has to resource his  
17 ability to do so, and he does, he does.

18 It can be reasonably protected  
19 pursuant to even the language that's  
20 been placed there. There is nothing  
21 unreasonable about that at all.

22 And we're not talking about an  
23 indefinite period of time. We are not  
24 talking about 10 years, 20 years, 30  
25 years. We're simply talking about until

1 the outcome of the Art Commission's  
2 finding.

3 Now it can be next week. I  
4 don't know, but I do know that the Home  
5 Rule Charter requires that once the  
6 complaint is submitted to their  
7 commission, they have within 60 days to  
8 decide. They can decide it next week.  
9 That's in their ability. They can  
10 decide it next week. They can decide it  
11 in two weeks. But certainly the city  
12 can reasonably protect that public  
13 property for that particular period of  
14 time, no question.

15 And I think that with the  
16 conference going on, it's probably in  
17 the city's best interest to do that  
18 because I don't want to have a situation  
19 where we're having armed citizens to do  
20 something like that and then it really  
21 could get out of hand where armed  
22 citizens are acting on behalf of their  
23 own emotions and create some type of a  
24 riot and chaos killing innocent people.  
25 Now, that's the concern that the Court

1           has.

2                       As I said, I don't care what  
3           side anybody is on as it relates to the  
4           statue. I couldn't care less. But my  
5           job is to make sure that the law is  
6           followed. We have the Home Rule Charter  
7           for a reason. We have laws for a reason  
8           and we must follow them. So if you  
9           don't want to stipulate to that, no  
10          problem. I will have a hearing and I'll  
11          make my own findings based upon the  
12          testimony.

13                     If you want, we can all get  
14          off-line. I can have you and counsel to  
15          talk secretly with Mr. Wulko I guess to  
16          facilitate and make sure that everyone  
17          else can be off-line even including the  
18          Court. If you want to come back on  
19          maybe after about 30 minutes, I don't  
20          care. Just let me know before I go into  
21          the testimony. Let me know what you  
22          want to do. If you want to talk to him  
23          and try to work out some things, yes,  
24          I'll give you the time to do that, and  
25          we'll all get off-line here.

1                   Steve is here, so he can make  
2                   sure that you guys are able to talk. If  
3                   not, then I can start now with the  
4                   hearing.

5                   MR. PRATT: I guess what makes  
6                   sense is I can talk to Mr. Bochetto  
7                   about what that looks like, and if we  
8                   disagree, then we can have a hearing and  
9                   obviously I know Your Honor has made  
10                  known how Your Honor feels about certain  
11                  issues and we'll appellate avenues  
12                  available to us if you --

13                  THE COURT: Let me clear that  
14                  up real quick because a record is being  
15                  taken down. I don't have a preconceived  
16                  idea or notion about what's happening in  
17                  terms of which side I'm going to fall  
18                  on. Listen, I asked you your argument.  
19                  Mr. Bochetto presented his, and as the  
20                  jurist my job is to follow the law, and  
21                  based upon the law I said these things  
22                  to you.

23                  And I'm saying to you that now  
24                  the testimony could perhaps change that.  
25                  I'm not so bent on what I'm saying that

1           pursuant to what the testimony, the  
2           evidence may or may not be, then I would  
3           not be inclined to say something  
4           different. I don't know. I'm only  
5           saying to resolve it quickly, we can do  
6           that, but if not, I can have a hearing  
7           and having a hearing is going to be  
8           involved because there's going to be  
9           several witnesses that are going to  
10          testify. There's going to be  
11          cross-examination. A lot of things are  
12          going to happen and we could be on here  
13          potentially for hours.

14                 And I don't mind. I get paid.  
15          That's my job. I don't want you to walk  
16          away from here thinking that I have a  
17          preconceived notion about this. As I  
18          said to you and I'll say it to anyone  
19          else, I don't come down on either side  
20          of the issue. I personally could care  
21          less about the statue, but as a judge  
22          this matter is before me, and I must  
23          follow the law regardless of what my  
24          opinion may or may not be about.

25                 I don't want you to walk away

1 thinking, oh, the judge is really  
2 against me. No, no, no. I listen to  
3 evidence. I'll make a decision. I've  
4 been a judge for 17 years. I follow the  
5 law. And we understand that if any side  
6 disagrees with what I'm saying, we do  
7 have another avenue above myself.

8 But my interest is to make  
9 sure that the law is followed and the  
10 citizen's rights in Philadelphia are  
11 protected, all citizens, not some  
12 citizens, but all citizens rights are  
13 protected. That's why I was elected to  
14 obey and defend the Constitution and its  
15 laws and that's what I will do.

16 So you can let Steve know  
17 whenever you guys want to come back in.  
18 So I'll let you step off and you can  
19 have your conversation and Steve can  
20 text me and let me know when you guys  
21 are ready to convene. Is that okay?

22 MR. BOCHETTO: Okay by me,  
23 judge.

24 THE COURT: Mr. Pratt, is that  
25 okay?



1 MR. PRATT: Yes, Your Honor.

2 That works for me.

3 MR. WULKO: Your Honor, I can  
4 make a break out room where the counsel  
5 can talk to each other and not be in  
6 this room if that's how you prefer it to  
7 have it done.

8 THE COURT: That's fine with  
9 me, but I'm saying I just want to make  
10 sure that they have their privacy, so  
11 it's up to them how they want to do it.

12  
13 MR. BOCHETTO: I was just  
14 going to suggest, Your Honor, I can give  
15 Mr. Pratt my cell number. He can call  
16 me right now and he and I can just talk  
17 on our cell phones.

18 THE COURT: Okay. And in the  
19 meantime, we'll take a recess until you  
20 gentlemen let us know about resuming the  
21 meeting. Okay?

22 MR. WULKO: Counsel, do you  
23 each have my cell phone number? If not,  
24 I can give it to you right now. Give me  
25 a shout when you're ready to resume.

1 MR. BOCHETTO: Okay.

2 MR. WULKO: It's (215)

3 459-0040.

4 MR. BOCHETTO: And my cell  
5 number is (215) 990-7376.

6 MR. WULKO: Okay. I'll look  
7 forward to a phone call or a text or  
8 something to let me know that you're  
9 ready for the judge again.

10 MR. BOCHETTO: Thank you very  
11 much.

12 Marcel, you want to give me a  
13 call in three minutes?

14 MR. PRATT: Yes, I'll do that.

15 MR. BOCHETTO: Great, thanks.

16 (Discussion held off the record.)

17 MR. WULKO: This Court of  
18 Common Pleas is now resuming. The  
19 Honorable Paula Patrick is presiding.

20 THE COURT: Counsel, have you  
21 come to an agreement?

22 MR. BOCHETTO: Good afternoon,  
23 Your Honor. Mr. Pratt and I have  
24 discussed it back and forth several  
25 times and here's what we've come up with

1 hoping that it meets Your Honor's  
2 approval.

3 Mr. Pratt and I will submit to  
4 the Court for its approval within 48  
5 hours a written stipulation, the essence  
6 of which will be as follows, Your Honor.

7 That nothing shall be done to  
8 move or remove or relocate the statue  
9 pending the processes of the Art  
10 Commission and the decision of the Art  
11 Commission.

12 In the meantime, the city will  
13 take reasonable steps to protect the  
14 statue which will include putting a box  
15 around the statue so that it cannot be  
16 damaged by one side or the other. And  
17 with the understanding that we, the  
18 Friends of Marconi Plaza, would have  
19 some input as to what the box looks  
20 like, the decorative features of the  
21 box, maybe put some plants around it,  
22 that type of thing to try to show some  
23 respect. And with the understanding, of  
24 course, that the purpose of the box is  
25 not in any way a reflection on what's

1 going to happen to the statue by the Art  
2 Commission, but it is rather being  
3 implemented to protect the safety and  
4 the integrity of the statute in as much  
5 as is impracticable for the city to  
6 station policeman 24/7 around the  
7 statue.

8 And that the city will  
9 cooperate in messaging that that's the  
10 purpose of the box and that the  
11 messaging is not to be a reflection as  
12 to what the Art Commission will or will  
13 not decide on.

14 So that's the essence of the  
15 agreement, Your Honor. I think,  
16 frankly, it can be done in a one-page  
17 stipulation. I wouldn't want to make it  
18 too prolix or too carried away. I think  
19 simple English will capture the essence  
20 of the agreement. I think Your Honor  
21 has been loud and clear about the  
22 processes that need to be respected, and  
23 I think the stipulation will reflect  
24 that.

25 THE COURT: Okay.

1                   Mr. Pratt, anything you'd like  
2                   to add?

3                   MR. PRATT: Just that, yes,  
4                   we did come to an agreement that  
5                   Mr. Bochetto has generally outlined. We  
6                   still want to work out the precise terms  
7                   of the stipulation. I agree subject to  
8                   working out the precise terms of the  
9                   stipulation.

10                  THE COURT: Okay, wonderful.  
11                  So you guys submit the stipulation  
12                  within 48 hours; is that correct?

13                  MR. BOCHETTO: Yes, Your  
14                  Honor. We'll have it hand delivered to  
15                  your chambers or if you have another  
16                  method, we'll do that. And it will be a  
17                  stipulation that both Mr. Pratt and I  
18                  have jointly crafted so that you don't  
19                  have to look at competing stipulations  
20                  and that type of thing.

21                  THE COURT: Let me just ask  
22                  Steve, Steve is it okay to drop it to my  
23                  chambers or do you want to drop it to  
24                  your or how do you want to do it?

25                  MR. WULKO: That's up Your

1 Honor. It can be electronically filed  
2 though. We can get it to Your Honor  
3 immediately upon filing.

4 THE COURT: Okay. So either  
5 way, there will be somebody at my  
6 chambers or if you want to  
7 electronically file it, Steve will get  
8 and make sure that I'll sign it. It's  
9 whatever you guys decide to do in terms  
10 of how we want to get it. If you  
11 electronically file it, I would imagine  
12 that's quicker. Is that right, Steve?

13 MR. WULKO: It would all just  
14 be according to your availability,  
15 judge. If someone is at your chambers  
16 at all at all times, then it's not a  
17 problem.

18 THE COURT: They are.

19 MR. BOCHETTO: Judge, I would  
20 only make the one further request that  
21 while we go through this process if Your  
22 Honor could retain jurisdiction if  
23 that's the term that's appropriate in  
24 state court as opposed to in federal  
25 court, that might be very helpful. I

1 don't anticipate any issues or  
2 difficulties but just as a precautionary  
3 matter.

4 THE COURT: Mr. Pratt.

5 MR. PRATT: I don't think that  
6 that's necessary if we enter into a  
7 stipulation. I mean once the Art  
8 Commission process is initiated, it's  
9 initiated and the mayor is going to do  
10 that ASAP. As I said, there's going to  
11 be a public statement about that. It's  
12 going to be posted in Marconi Plaza.  
13 I'm not sure that it's necessary at this  
14 juncture.

15 THE COURT: Okay. And I don't  
16 need to retain jurisdiction over that.  
17 If you have the stipulation and  
18 determine that stipulation are to  
19 everyone's satisfaction, I think that's  
20 sufficient. If there are any other  
21 issues, obviously counsel both are aware  
22 of what their other options may be.  
23 Okay?

24 MR. BOCHETTO: Very well, Your  
25 Honor.

1 THE COURT: Is there anything  
2 else?

3 MR. PRATT: I have nothing.

4 MR. BOCHETTO: Nothing here,  
5 Your Honor.

6 THE COURT: Thank you all,  
7 gentlemen. This hearing is now  
8 concluded. Thank you so much.

9 MR. BOCHETTO: Thank you, Your  
10 Honor.

11 MR. WULKO: Counsel, you have  
12 my cell phone number, so if you need  
13 help with getting the stipulation filed  
14 or to the judge, you let me know. Okay?

15 MR. BOCHETTO: One thing I was  
16 going to ask you for is, can we make  
17 arrangements to get a copy of the  
18 transcript?

19 MR. WULKO: Yes. Mary, can  
20 you explain to them how they can get a  
21 copy? Thank you.

22 THE COURT REPORTER: Yes,  
23 Steve, I'll explain how they can get a  
24 copy of the transcript.

25 - - -



(Hearing concluded.)

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CERTIFICATION

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the trial of the above cause, and that this copy is a correct transcript of the same.

MARY GRACE D'ALESSANDRO  
Official Court Reporter

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or supervision of the certifying reporter.)

# **EXHIBIT F**

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT  
CIVIL TRIAL DIVISION**

**JOSEPH MIRARCHI**  
1808 JACKSON STREET  
PHILADELPHIA, PA 19145

Plaintiff

v.

**CITY OF PHILADELPHIA**  
1515 ARCH STREET  
PHILADELPHIA, PA 19102

and

**MAYOR JAMES KENNEY**  
C/O CITY OF PHILADELPHIA  
1515 ARCH STREET  
PHILADELPHIA, PA 19102

Defendants.

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY  
Trial Division

NO. 200600741

HONORABLE PAULA PATRICK

**STIPULATION AND ORDER**

AND NOW, this 18<sup>th</sup> day of June, 2020, the parties, by and through their undersigned counsel, hereby stipulate and agree as follows, subject to entry of this Stipulation as an Order of the Court:

1. The Philadelphia Art Commission will determine the possible removal of the Columbus Statue currently located at Marconi Plaza, 2800 South Broad Street, Philadelphia, Pennsylvania (the "Statue"), through a public process as soon as practicable under the law. Consistent with its prior plan, the City presently has no intention to and will not remove, damage, or alter the Statue, until such time as the Art Commission determines whether the Statue should be removed, or, if sooner, upon Court Order.

2. The parties shall continue to abide by all Philadelphia Home Rule Charter and all other applicable laws and regulations.

3. The City will reasonably protect the Statue pending a decision by the Art Commission. Accordingly, the City has constructed a wooden box that encompasses the entirety of the Statue. At the request of Plaintiffs' Counsel, the City will negotiate in good faith with Plaintiff's Counsel in developing a plan within the next ten (10) days to possibly modify the boxing apparatus.

Mirarchi Vs City Of Phi-STPAP



20060074100012

Case ID: 200600741  
Control No.: 20070218

4. The City has posted the following message on the box: *"The Christopher Columbus statue has been a source of controversy in Philadelphia and across our country. Many are calling for the removal of the statue. The City understands their concerns and will be initiating a process for the Art Commission to review the statue, its location and its appropriateness in a public park. We are committed to listening to all and moving forward in the best way to heal our deep divides. The boxing is to preserve the statue while the Art Commission process is followed. No decision has been made on whether the City will remove the statue."*

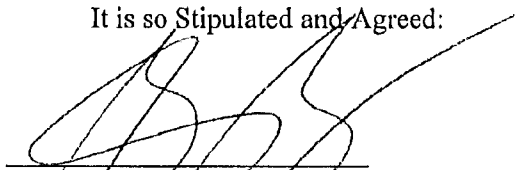
5. The City intends to allow for lawful First Amendment expression in the plaza, with reasonable time, place, and manner restrictions.


6. Counsel each represent that they have obtained the consent of their respective clients and other interested persons that they represent to enter this Stipulation. No party has prevailed and shall bear their own costs.

7. After receipt and execution by counsel for all parties, this Stipulation shall be submitted to the Court of Common Pleas of Philadelphia County for final approval and entry as an Order.

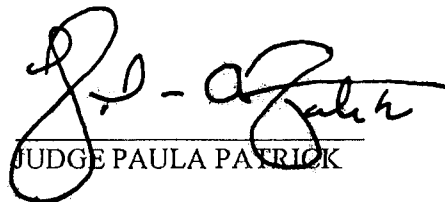
8. No injunction has issued in this matter. This Court will not retain jurisdiction.

It is so Stipulated and Agreed:

  
George Bochetto, Esquire  
1524 Locust Street  
Philadelphia, PA 19102  
Attorney for Plaintiff

  
Marcel Pratt, Esquire  
1515 Arch Street, 17th Floor  
Philadelphia, PA 19102  
Attorney for Defendants

It is so ORDERED, this 18<sup>th</sup> day of June, 2020.

  
JUDGE PAULA PATRICK

# **EXHIBIT G**



## CITY OF PHILADELPHIA

LAW DEPARTMENT  
One Parkway  
1515 Arch Street  
Philadelphia, PA 19102-1595

**MARCEL S. PRATT**  
Philadelphia City Solicitor  
(215) 683-5003  
[marcel.pratt@phila.gov](mailto:marcel.pratt@phila.gov)

June 24, 2020

**VIA EMAIL: [gbochetto@bochettoandlentz.com](mailto:gbochetto@bochettoandlentz.com)**

George Bochetto  
Bochetto & Lentz, P.C.  
1524 Locust Street  
Philadelphia, PA 19102

**Re: Mirarchi v. City of Philadelphia (Columbus Statue/Boxing Apparatus)**

Dear Mr. Bochetto:

I write to follow-up on your clients' various demands for the City of Philadelphia to replace the boxing apparatus covering the Columbus Statue at Marconi Plaza in whole or in part with "plexiglass."

In multiple conversations, I have explained the various reasons why installing plexiglass makes no sense to the City: The current boxing apparatus appropriately serves the stipulated goal of reasonably preserving the Statue while its future is determined; the City routinely covers and protects public art temporarily *without* plexiglass or clear displays (*e.g.*, during large outdoor events); the City's best use for any plexiglass is for COVID-19 mitigation and safety measures (which is why plexiglass is in high-demand); the issue will be either mooted or more appropriate to discuss *after* the Statue's future is decided, beginning with the fast-approaching July 22, 2020 Art Commission meeting; deconstructing and rebuilding the box with expensive plexiglass would be an irresponsible use of taxpayer money; and the idea generally belies all common sense under the circumstances. In light of very recent events at Marconi Plaza, which further amplify the severe threats to public safety presented by the Statue's presence, concerns about the aesthetics of the box are more trivial now than ever before.

Your clients' request was considered in good faith per the stipulation. The City will continue to focus its attention and resources on the more pressing issues of the day.

Sincerely,

Marcel S. Pratt  
Philadelphia City Solicitor

Bochetto  
June 24, 2020  
Page 2 of 2

cc: Diana Cortes, Chair, Litigation Group  
Danielle Walsh, Deputy City Solicitor, Affirmative & Special Litigation Unit  
Andrew Richman, Chief of Staff to the Solicitor



# **EXHIBIT H**



George Bochetto  
Attorney at Law  
gbochetto@bochettoandlentz.com

George Bochetto<sup>†\*</sup>  
Gavin P. Lentz\*  
Jeffrey W. Ogren\*  
David P. Heim\*  
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Bryan R. Lentz\*  
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\* Admitted to the New Jersey Bar  
† Admitted to the New York Bar  
\* Admitted to the the Virginia Bar  
^ Admitted to the D.C. Bar

PRACTICE DEDICATED  
TO LITIGATION AND  
NEGOTIATION MATTERS

June 25, 2020

Marcel S. Pratt, Esquire  
City Solicitor of Philadelphia  
1515 Arch Street, 17th Floor  
Philadelphia, PA 19102

Dear Marcel S. Pratt, Esq.,

I have your letter dated June 24, 2020, and state at the outset that the City's position on both issues you address is totally unacceptable.

First, based on Mayor Kenney's June 24, 2020 announcement concerning the removal of the Christopher Columbus Statue (the "Statue"), there is no indication that the City will comply with local laws or the Court Order in its effort to remove the Statue. As a reminder, the Court Order states that the City "shall continue to abide by all Philadelphia Home Rule Charter and all other applicable laws and regulations."

A policy publicly posted on the City's website that enumerates the process by which the Kenney Administration must be made **before any** publicly displayed city artwork may be removed.<sup>1</sup> The first step stipulates that the Public Art Director is to set forth a Proposal to initiate the process "**after** assessment by the Public Art Division of the Office of Arts, Culture and the Creative Economy . . . of the condition status of the artwork and evaluation of the artwork in relation to the . . . grounds for removal. The Proposal shall include a determination of whether the Artwork should be relocated, stored, loaned or deaccessioned."<sup>2</sup> The public has yet to be informed of any such assessment by the Public Art Division of the Office of Arts, Culture and the Creative Economy or presented with any Proposal detailing its determination.

Step two of the policy requires that the Public Art Division "notify in writing the artist, if living, or one or more members of the family of the artist, if known and readily contacted, of the reason for removal and shall provide the artist or family member(s) with 30 days to respond to

<sup>1</sup> *City of Philadelphia Policy Regarding Removal, Relocation and Deaccession of Publicly Displayed Artwork* (Jan. 7, 2015), <https://www.phila.gov/documents/policy-regarding-removal-relocation-and-deaccession-of-artwork/> (last visited Jun. 25, 2020).

<sup>2</sup> *Id.*

**BOCHETTO & LENTZ, P.C.**

Marcel S. Pratt, Esquire

June 25, 2020

Page 2 of 3

the proposal.”<sup>3</sup> To assuage any difficulty the Public Art Division may have in completing this step, the artist’s family should be easily determined and available from the City.

Notably, step three indicates that “[i]n the case of a proposal to remove a work of art due to public protest, a public hearing will be held **prior to further action on the proposal**.”<sup>4</sup> In other words, the Public Art Director’s Proposal may not go forward until a public hearing has taken place.

Step four states that “[a]fter the period of notice, and after any adjustment made to the proposal based on input received, the Public Art Division shall present the proposal to the Department of Parks and Recreation, in the case of artwork in the custody of that Department, or to the Department of Public Property, in the case of artwork in the custody of that Department, for the respective department’s approval.”<sup>5</sup>

Then, in accordance with step five, only “[u]pon approval by the relevant department, the Public Art Division shall present the proposal to the City’s Art Commission for approval.”<sup>6</sup>

Step six and seven may also become relevant at a later point in time.

Moreover, the Statue is designated as an *historic object* and listed on the Philadelphia Register of Historical Places. Therefore, pursuant to applicable law, the PHC must also approve the removal of the Statue. Without the approval of the PHC, the Art Commission does not have jurisdiction to decide the Statue’s fate.

The PHC has the power to “[r]eview and act upon all applications for building permits to alter or demolish historic buildings, structures, sites, or objects.”<sup>7</sup> Philadelphia Code further specifies that “[u]nless a building permit is first obtained from L&I, no person<sup>8</sup> shall alter or demolish a historic building, structure, site, or object.”<sup>9</sup> However, “[b]efore L&I may issue such a building permit, L&I shall forward the building permit application to the Historical Commission for its review.”<sup>10</sup>

In addition, Section 5.2.1.8 of the Regulations of the Philadelphia Art Commission states that the PHC **must first** make its determination as to whether the Statue should be removed

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> City of Philadelphia, *supra* note 1.

<sup>6</sup> *Id.*

<sup>7</sup> Phila. Code § 14-1003(2)(e).

<sup>8</sup> Philadelphia Code defines the word “person” to include “individuals, firms, corporations, associations, and any other similar entities, including governmental agencies.” Phila. Code § 14-201(9).

<sup>9</sup> Phila. Code § 14-1005(1).

<sup>10</sup> Phila. Code § 14-1005(2).

**BOCHETTO & LENTZ, P.C.**

Marcel S. Pratt, Esquire

June 25, 2020

Page 3 of 3

**before** the Art Commission may make any such decision. *See* Section 5.2.1.8 of the Regulations of the Philadelphia Art Commission (“When projects must also be reviewed by the Historical Commission, the Commission of Parks and Recreation, or the Zoning Board of Adjustment, the [Art] Commission will not make its decision until approvals have been obtained from the other reviewing entities.”).<sup>11</sup>

If the PHC does not have a seat at the table in the City’s decision to remove the historic Statue, how can the people of Philadelphia trust that the PHC has any authority and/or power to protect historical objects and structures when it appears that the Mayor’s agenda precedes all else?

It is evident that the City is acting in uncharted territory in its approach to remove the Columbus Statue. Unlike a dictatorship, the Kenney Administration must conduct itself with a tolerance for political pluralism and the Rule of Law.

Second, the processes to be followed with both the Art Commission and the Philadelphia Historical Commission (“PHC”) will take much more time than simply resolving the matter by Art Commission fiat on July 22, 2020, and therefore, modifications to the box need to be made. The City’s refusal to do so is not “negotiating in good faith” as required by the Order of Court dated June 18, 2020, and unless the City changes its position, we will move for contempt.

I request that you provide me with a written assurance by June 27<sup>th</sup>, 2020, that states the City will follow all applicable procedures and processes for removal of historic statues, including, but not limited to, the review and approval of the Philadelphia Historical Commission. If I do not receive a written assurance by the above-noted date, I will have no choice but to reconvene a hearing with the Court.

Respectfully,

**BOCHETTO & LENTZ, P.C.**

By: George Bochetto  
George Bochetto, Esquire

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<sup>11</sup> *Regulations of the Philadelphia Art Commission* (Feb. 4, 2015), <https://regulations.phila-records.com/pdfs/Art%20Commission%20Regs%2003-09-15.pdf> (last visited Jun. 25, 2020).

# **EXHIBIT I**



## **City of Philadelphia Policy Regarding Removal, Relocation and Deaccession of Publicly Displayed Artwork**

### **Definition**

*Removal of Publicly Displayed Artwork:* the removal of artwork from public display for the purpose of relocation, storage, extended loan or deaccession.

*Deaccession:* the disposition of formerly publicly displayed artwork.

### **Criteria for Removal of Publicly Displayed Art**

Publicly Displayed City Artwork may be removed from public display for one or more of the following reasons:

1. The work of art is damaged irreparably and/or repair is unfeasible or costs exceed the value of the work.
2. The work has been damaged or has deteriorated to the point that it can no longer be represented to be the original work of art.
3. The artwork has faults or inherent vices that require repeated and excessive maintenance efforts.
4. The artwork endangers public safety.
5. The condition or security of an artwork cannot be reasonably guaranteed.
6. If public protest of the artwork has occurred throughout a significant portion of a period of five years.
7. If the approved terms of the contract pursuant to which the artwork was installed have not been fulfilled.
8. Significant changes in the use, character or actual design of the site lead to a determination that there has been a sufficient change in the relationship of the artwork to the site such that removal is warranted.
9. A determination is made that the artwork is no longer suited to its location or is best suited to a new location.
10. Removal is requested by the artist.

### **Process for Removal**

1. Proposals for removal shall be initiated by the Public Art Director, after assessment by the Public Art Division of the Office of Arts, Culture and the Creative Economy, or any successor agency, of the condition and status of the artwork and evaluation of the artwork in relation to the above grounds for removal. The proposal shall include a determination of whether the Artwork should be relocated, stored, loaned or deaccessioned.
2. The Public Art Division shall notify in writing the artist, if living, or one or more members of the family of the artist, if known and readily contacted, of the reason for removal and shall provide the artist or family member(s) with 30 days to respond to the proposal.

3. In the case of a proposal to remove a work of art due to public protest, a public hearing will be held prior to further action on the proposal.
4. After the period of notice, and after any adjustment made to the proposal based on input received, the Public Art Division shall present the proposal to the Department of Parks and Recreation, in the case of artwork in the custody of that Department, or to the Department of Public Property, in the case of artwork in the custody of that Department, for the respective department's approval.
5. Upon approval by the relevant department, the Public Art Division shall present the proposal to the City's Art Commission for approval.
6. If the approved proposal is to deaccession the work of art, the Public Art Division shall, in conjunction with the Procurement Department and pursuant to subsections 6-500(d) and 8-203 of the Home Rule Charter, provide the necessary public notice of the intent to dispose of the artwork by sale or otherwise and receive bids in connection with such proposed disposal.
7. If the approved proposal includes disposal by means other than sale or trade, and the decision is made that such alternative disposal is in the best interests of the City, the Public Art Division shall provide notice to the artist and offer the artist a reasonable opportunity to recover the artwork pursuant to any agreement with the artist or pursuant to reasonable terms determined by the Public Art Director.

This policy was established in 2012, and was revised and approved by the Law Department in January, 2015.

# **EXHIBIT J**





## CITY OF PHILADELPHIA

LAW DEPARTMENT  
One Parkway  
1515 Arch Street  
Philadelphia, PA 19102-1595

**Marcel S. Pratt**  
**City Solicitor**

Danielle E. Walsh  
Deputy City Solicitor  
1515 Arch Street, 15<sup>th</sup> Floor  
Philadelphia, PA 19102  
215-686-0464 (direct)  
Danielle.Walsh@phila.gov

June 30, 2020

**VIA EMAIL: [gbochetto@bochettoandlentz.com](mailto:gbochetto@bochettoandlentz.com)**

George Bochetto, Esq.  
Bochetto & Lentz, P.C.  
1524 Locust Street  
Philadelphia, PA 19102

**RE: Mirarchi v. City of Philadelphia**

Dear Mr. Bochetto,

I am in receipt of your June 25, 2020 letter to City Solicitor Marcel Pratt. As a general matter, your letter demonstrates a severe misunderstanding of local law and government operations. I write to reiterate that the City will continue to abide by the Philadelphia Home Rule Charter and all applicable laws and regulations in its handling of the Statue and to address inaccuracies in your letter.

Your letter claims that the Mayor's Administration must follow the process suggested in the 2015 *City of Philadelphia Policy Regarding Removal, Relocation and Deaccession of Publicly Displayed Artwork*, which was created previously by the Administration's Office of Arts, Culture, and the Creative Economy. First, that document has been ineffective for almost two years. But, perhaps more importantly, that document is not a duly adopted law or regulation; rather, it is a non-binding office document that the Administration can follow or decline to follow in favor of another process that otherwise complies with *the law*.

Your letter also mistakenly claims that the Historic Commission must address removal of the Statue before the Art Commission renders its decision. Under both Philadelphia Code § 4-406(2) and the Philadelphia Art Commission Regulations, the Statue is designated as a "work of art." Accordingly, any changes or alterations to the Statue are appropriately governed by Section 8 of the Philadelphia Art Commission Regulations (entitled "Works of Art"), not Section 5 relating to City Construction Projects and Encroachments. *See* Section 8.2 of the Regulations of

the Philadelphia Art Commission, *Maintenance, Conservation and changes to works of art owned by the City*.<sup>1</sup>

As you noted in your letter, the Philadelphia Historical Commission indeed has the power to review and act upon all applications for permits to alter or demolish historic buildings, structures, sites, or objects; however, that is an entirely separate determination from that of the Art Commission.

In determining the Statue's fate, the City has taken great care to solicit feedback from the public and *not* rush through Art Commission review. Judge Patrick noted at the June 15<sup>th</sup> hearing that under the Philadelphia Home Rule Charter an emergency meeting of the Art Commission to review any proposals to alter or demolish the statue could take place within a matter of weeks. Rather than expedite that process, the City developed an online submission form to allow members of the public to express their views on the Statue prior to any proposal to the Art Commission.<sup>2</sup> To date, the City has received more public input regarding a work of art than ever before, with over 12,000 submissions received.

Finally, you contend in your letter that unless modifications to the boxing apparatus are made that the City is not negotiating in good faith. Contrary to your assertions, the City engaged in good faith negotiations with you. The City Solicitor outlined in great detail the reasoning and rationale for the construction of the boxing apparatus protecting the Statue in his June 24, 2020 letter and why your clients' demands to construct a plexiglass box were impractical. That position has not changed.

Please be advised that going forward you can direct all communications to the Law Department regarding the Columbus Statue to my attention.

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<sup>1</sup> <https://regulations.phila-records.com/pdfs/Art%20Commission%20Regs%2003-09-15.pdf>, (last visited Jun. 29, 2020).

<sup>2</sup> [https://form.jotform.com/philagov/columbus-feedback?mc\\_cid=caa2509d93&mc\\_eid=07c7b24a89](https://form.jotform.com/philagov/columbus-feedback?mc_cid=caa2509d93&mc_eid=07c7b24a89), (last visited Jun. 30, 2020).

Sincerely,

/s/ Danielle E. Walsh  
Danielle E. Walsh  
Deputy City Solicitor  
Affirmative & Special Litigation Unit

cc: Marcel S. Pratt, City Solicitor  
Diana Cortes, Chair, Litigation Group  
Valerie Robinson, Chair, Corporate and Tax Group  
Andrew Richman, Chief of Staff to the Solicitor

# **EXHIBIT K**



# CITY OF PHILADELPHIA

Office of the Mayor  
215 City Hall  
Philadelphia, PA 19107  
(215) 686-2181  
FAX (215) 686-2180

**JAMES F. KENNEY**  
Mayor

June 15, 2020

Margot Berg  
Public Art Director  
City Hall Room 116  
Philadelphia, PA 19107

*Via Email*

Dear Ms. Berg:

As steward of the largest public art collection of any American city, you know better than most that our history is consistently evolving. As more voices emerge, and new and different points of view come to light, we must reconsider how we honor individuals whose likeness has been enshrined in monuments. With that understanding, I request you initiate as soon as possible the public process through the Art Commission for the possible removal of the statue of Christopher Columbus located at Marconi Plaza on South Broad Street.

Christopher Columbus, like many historical figures, has supporters and detractors. For centuries, he has been venerated with the stories of his traversing the Atlantic and “discovering” the “New World”. However, his history is much more infamous. Mistakenly believing he had found a new route to India, Columbus enslaved indigenous people, and punished individuals who failed to meet his expected service by severing limbs, or in some cases, murder. Surely the totality of this history must be accounted for when considering whether to erect or maintain a monument to this person.

I believe that a public process, allowing for all viewpoints, especially those of indigenous people whose ancestors suffered under the rule of European settlers, to be in the best interest of the City.

Sincerely,

A handwritten signature in cursive script that reads "James F. Kenney".

James F. Kenney  
Mayor

CC: Kelly Lee, Chief Cultural Officer  
Brian Abernathy, Managing Director  
Kathryn Ott Lovell, Commissioner, Department of Parks and Recreation

# **EXHIBIT L**

**§ 4-605. Historical Commission. <sup>101</sup>**

(a) Historic Designation. The Historical Commission shall designate as historic those buildings, structures, sites, objects, and spaces, whether interior or exterior (collectively, for purposes of this section, "historic buildings") that the Commission determines are significant to the City, and shall delineate the boundaries of and designate as historic those City districts it determines are significant to the City, all pursuant to criteria and procedures set forth by the Council by ordinance.

(b) Restrictions Regarding Historic Buildings. The Commission shall have such powers with respect to review of applications for building permits to alter or demolish historic buildings and to construct buildings, structures, or objects within historic districts, and with respect to any other matters concerning the historical heritage of the physical composition of the City, as may be established by the Council by ordinance.

(c) Inventory. The Commission shall prepare and maintain a comprehensive inventory of historic buildings and districts.

(d) Recommendations. The Commission shall make recommendations concerning the use of grants, gifts, and budgetary appropriations to promote the preservation of buildings, structures, site, objects, spaces and districts of historic importance to the City.

(e) Education. The Commission shall take steps to increase public awareness of the value of architectural, cultural, and historic preservation.

Notes

<sup>101</sup> Added by approval of the voters at the election held on November 3, 2015, and certified on November 23, 2015. See Bill No. [140721](#) (approved June 16, 2015); Resolution No. [140732-A](#) (adopted June 11, 2015). See Charter subsection A-200(14) for effective date.

**§ 4-606. Art Commission. 102**

(1) The Art Commission shall:

- (a) Approve any work of art to be acquired by the City, whether by purchase, gift or otherwise and its proposed location;
  - (b) Require to be submitted to it, whenever it deems it proper, a complete model or design of any work of art to be acquired by the City;
  - (c) Approve the design and proposed location of any building, bridge and its approaches, arch, gate, fence, or other structure or fixture to be paid for, either wholly or in part, from the City Treasury or for which the City or any other public authority is to furnish a site but any such action taken by the Commission shall conform to the Physical Development Plan;
  - (d) Approve any structure or fixture to be erected by any person upon or to extend over any highway, stream, lake, square, park or other public place within the City;
  - (e) Approve the removal, relocation or alteration of any existing work of art in the possession of the City;
  - (f) Examine every two years all City monuments and works of art and make a report to the Commissioner of Public Property on their condition with recommendations for their care and maintenance.
- (2) "Work of art" shall include all paintings, mural decorations, inscriptions, stained glass, statues, reliefs, or other sculptures, monuments, fountains, arches or other structures intended for ornament or commemoration.
- (3) If the Art Commission fails to act upon any matter submitted to it within sixty days after such submission, its approval of the matter submitted shall be presumed.

**ANNOTATION**

Sources: Act of June 25, 1919, P.L. 581, Article II, Section 11.

Purposes: The functions of the Art Commission are essentially those of the Art Jury under the Charter of 1919. The functions of the Art Commission will affect at times City planning and for that reason its decisions must conform with the requirements of the Physical Development Plan of the City. The examination of the condition of City monuments and works of art is a new function and is included so that these important and expensive properties of the City shall not suffer from neglect.

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**Notes**

- 102** Renumbered from Section 5-903 by approval of the voters at the election held on November 3, 2015, and certified on November 23, 2015. See Bill No. [140721](#) (approved June 16, 2015); Resolution No. [140732-A](#) (adopted June 11, 2015). See Charter subsection A-200(14) for effective date.



# **EXHIBIT M**

**§ 14-1001. Public Policy and Purposes.**

It is hereby declared as a matter of public policy that the preservation and protection of buildings, structures, sites, objects, and districts of historic, architectural, cultural, archaeological, educational, and aesthetic merit are public necessities and are in the interests of the health, prosperity, and welfare of the people of Philadelphia. The purposes of this Chapter 14-1000 are to:

- (1) Preserve buildings, structures, sites, and objects that are important to the education, culture, traditions, and economic values of the City;
- (2) Establish historic districts to assure that the character of such districts is retained and enhanced;
- (3) Encourage the restoration and rehabilitation of buildings, structures, sites, and objects that are designated as historic or that are located within and contribute to the character of districts designated as historic without displacing elderly, long-term, and other residents living within those districts;
- (4) Afford the City, interested persons, historical societies, and organizations the opportunity to acquire or to arrange for the preservation of historic buildings, structures, sites, and objects that are designated individually or that contribute to the character of historic districts;
- (5) Strengthen the economy of the City by enhancing the City's attractiveness to tourists and by stabilizing and improving property values; and
- (6) Foster civic pride in the architectural, historical, cultural, and educational accomplishments of Philadelphia.

**(2) Powers and Duties.**

The powers and duties of the Philadelphia Historical Commission shall be as follows:

- (a) Designate as historic those buildings, structures, sites, and objects that the Historical Commission determines are significant to the City, pursuant to the criteria of § 14-1004(1);
- (b) Designate as historic those public interior portions of buildings that the Historical Commission determines are significant to the City, pursuant to the criteria of § 14-1004(1);
- (c) Delineate the boundaries of and designate as historic those districts that the Historical Commission determines are significant to the City, pursuant to the criteria of § 14-1004(1);
- (d) Prepare and maintain or cause to be prepared and maintained a comprehensive inventory of historic buildings, structures, sites, objects, and districts;
- (e) Review and act upon all applications for building permits to alter or demolish historic buildings, structures, sites, or objects, or to alter or demolish buildings, structures, sites, or objects located within historic districts, pursuant to § 14-1005;
- (f) Review and comment upon all applications for building permits to construct buildings, structures, or objects within historic districts, pursuant to § 14-1005;
- (g) Make recommendations to the Mayor and City Council concerning the use of grants, gifts, and budgetary appropriations to promote the preservation of buildings, structures, site, objects, or districts of historic importance to the City;
- (h) Make recommendations to the Mayor and City Council that the City purchase any building, structure, site, or object of historic significance where private preservation is not feasible, or that the City acquire facade easements, development rights, or any other property interest that would promote historic preservation;
- (i) Increase public awareness of the value of architectural, cultural, and historic preservation;
- (j) Adopt rules of procedure and regulations and establishing any committees deemed necessary for the conduct of its business; and
- (k) Keep minutes and records of all proceedings, including records of public meetings during which proposed historic designations are considered.

**(1) Building Permit Required.**

Unless a building permit is first obtained from L&I, no person shall alter or demolish a historic building, structure, site, or object, or alter, demolish, or construct any building, structure, site, or object within a historic district, nor alter or demolish a historic public interior portion of a building or structure, nor perform work on a building or structure that requires a building permit if such building or structure contains a historic public interior portion.

**(2) Building Permit Application Referral.**

Before L&I may issue such a building permit, L&I shall forward the building permit application to the Historical Commission for its review.

**(3) Demolition Notice.**

When a person applies for a building permit involving demolition, L&I shall post, within seven days, notice indicating that the owner has applied for a building permit to demolish the property; that the property is historic or is located within a historic district; that the application has been forwarded to the Historical Commission for review. The notice shall be posted on each street frontage of the premises with which the notice is concerned and shall be clearly visible to the public. Posting of a notice shall not be required in the event of an emergency that requires immediate action to protect the health or safety of the public. No person shall remove the notice unless the building permit is denied or the owner notifies L&I that he or she will not demolish the property.

**(5) Submission Requirements.**

(a) At the time that a building permit application is filed with L&I for alteration, demolition or construction subject to the Historical Commission's review, the applicant shall submit to the Historical Commission the plans and specifications of the proposed work, including the plans and specifications for any construction proposed after demolition and such other information as the Historical Commission may reasonably require to exercise its duties and responsibilities under this Chapter 14-1000.

(b) In any instance where there is a claim that a building, structure, site, or object cannot be used for any purpose for which it is or may be reasonably adapted, or where a building permit application for alteration, or demolition is based, in whole or in part, on financial hardship, the owner shall submit, by affidavit, the following information to the Historical Commission:

(.1) Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship, whether business or familial, if any, between the owner and the person from whom the property was purchased;

(.2) Assessed value of the land and improvements thereon according to the most recent assessment;

(.3) Financial information for the previous two years which shall include, as a minimum, annual gross income from the property, itemized operating and maintenance expenses, real estate taxes, annual debt service, annual cash flow, the amount of depreciation taken for federal income tax purposes, and other federal income tax deductions produced;

(.4) All appraisals obtained by the owner in connection with his or her purchase or financing of the property, or during his or her ownership of the property; 784

(.5) All listings of the property for sale or rent, price asked, and offers received, if any;

(.6) Any consideration by the owner as to profitable, adaptive uses for the property; and

(.7) The Historical Commission may further require the owner to conduct, at the owner's expense, evaluations or studies, as are reasonably necessary in the opinion of the Historical Commission, to determine whether the building, structure, site or object has or may have alternate uses consistent with preservation.

Notes

784 Amended, Bill No. [150264](#) (approved June 16, 2015).

**(6) Building Permit Application Review.**

**(a) Determination.**

Within 60 days after receipt by the Historical Commission of a building permit application, the Historical Commission shall determine whether or not it has any objection to the proposed alteration or demolition. Before taking any action, the Historical Commission shall afford the owner an opportunity to appear before the Historical Commission to offer any evidence the owner desires to present concerning the proposed alteration or demolition.

(.1) Where the Historical Commission has no objection, L&I shall grant the building permit subject to the requirements of any applicable provisions of The Philadelphia Code and regulations and subject to any conditions of the Historical Commission pursuant to § 14-1005(6)(c).

(.2) Where the Historical Commission has an objection, L&I shall deny the building permit.

(.3) Where the Historical Commission has determined that the purpose of this Chapter 14-1000 may best be achieved by postponing the alteration or demolition of any building, structure, site, or object subject to its review, the Historical Commission may, by resolution, defer action on a building permit application for a designated period not to exceed six months from the date of the resolution. The Historical Commission shall inform the owner in writing of the reasons for its action. Where the Historical Commission acts to postpone the proposed alteration or demolition pursuant to § 14-1005(6)(a), L&I shall defer action on the building permit application pending a final determination by the Historical Commission approving or disapproving the application.

**(b) Postponement of Determination.**

During the time that action on a building permit application is deferred, the Historical Commission shall consult with the owner, civic groups, public and private agencies, and interested parties to ascertain what may be done by the City or others to preserve the building, structure, site, or object that is the subject of the building permit application. When appropriate, the Historical Commission shall make recommendations to the Mayor and City Council.

**(c) Conditions on Approval.**

The Historical Commission may require that a building permit for the alteration or demolition of any building, structure, site, or object subject to its review be issued subject to such conditions as may reasonably advance the purposes of this Chapter 14-1000. L&I shall incorporate all such requirements of the Historical Commission into the building permit at the time of issuance. In cases where the Historical Commission, pursuant to § 14-1005(6)(a), agrees to the demolition of a historic building, structure, site, or object, or of a building, structure, site, or object located within a historic district that contributes, in the Historical Commission's opinion, to the character of the district, the Historical Commission may require that the historic building, structure, site, or object be recorded, at the owner's expense, according to the documentation standards of the Historic American Buildings Survey and the Historic American Engineering Record (HABS/HAER) for deposit with the Historical Commission.

**(d) Restrictions on Demolition.**

No building permit shall be issued for the demolition of a historic building, structure, site, or object, or of a building, structure, site, or object located within a historic district that contributes, in the Historical Commission's opinion, to the character of the district, unless the Historical Commission finds that issuance of the building permit is necessary in the public interest, or unless the Historical Commission finds that the building, structure, site, or object cannot be used for any purpose for which it is or may be reasonably adapted. In order to show that building, structure, site, or object cannot be used for any purpose for which it is or may be reasonably adapted, the owner must demonstrate that the sale of the property is impracticable, that commercial rental cannot provide a reasonable rate of return, and that other potential uses of the property are foreclosed.

**(e) Review Criteria.**

In making its determination as to the appropriateness of proposed alterations, demolition, or construction, the Historical Commission shall consider the following:

(.1) The purposes of this Chapter 14-1000;

(.2) The historical, architectural, or aesthetic significance of the building, structure, site, or object;

(.3) The effect of the proposed work on the building, structure, site, or object and its appurtenances;

(.4) The compatibility of the proposed work with the character of the historic district or with the character of its site, including the effect of the proposed work on the neighboring structures, the surroundings, and the streetscape; and

(.5) The design of the proposed work.

(.6) In addition to the above, the Historical Commission may be guided in evaluating proposals for alteration or construction by the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" or similar criteria.



(.7) In specific cases as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Chapter 14-1000 would result in unnecessary hardship so that the spirit of this Chapter 14-1000 shall be observed and substantial justice done, subject to such terms and conditions as the Historical Commission may decide, the Historical Commission shall by a majority vote grant an exemption from the requirements of Chapter 14-1000.

(.8) With respect to designated public interior portions,

(.a) the Historical Commission may grant an exemption when, owing to special consideration of the mission and financial status of a nonprofit organization, the Historical Commission determines that a literal enforcement of the provisions of this Chapter would not be in the public interest and the spirit of this Chapter will be substantially observed, subject to such terms and conditions as the Historical Commission may establish; and

(.b) the Historical Commission shall approve a building permit application for an alteration to a non-designated interior portion if the proposed alteration neither has an effect on the appearance of, nor compromises the structural integrity of, a historic public interior portion.

**(f) Jurisdiction During Consideration of Designation.**

L&I shall not issue any building permit for the demolition, alteration, or construction of any building, structure, site, or object that is being considered by the Historical Commission for designation as historic or that is located within a district being considered by the Historical Commission for designation as historic where the building permit application is filed on or after the date that notices of proposed designation have been mailed, except that L&I may issue a building permit if the Historical Commission has approved the application or has not taken final action on designation and more than 90 days have elapsed from the date the permit application was filed with the Historical Commission. Where the Historical Commission takes final action on designation within the time allotted herein, any building permit application on file with L&I shall be deemed to have been filed after the date of the Historical Commission's action for purposes of this Chapter 14-1000.

## § 14-201. Rules of Interpretation.

In the interpretation of this Zoning Code the rules and definitions of this § 14-201 (Rules of Interpretation) shall be observed and applied.

- (1) Words used or defined in one tense or form shall include other tenses and derivative forms.
- (2) Words in the singular number include the plural number, and words in the plural number include the singular number.
- (3) The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
- (4) The words "must", "shall", and "may not" are mandatory.
- (5) The words "may" and "should" are permissive.
- (6) The terms "standards", "regulations", and "requirements" are used to mandate a specific course of action that the applicant must incorporate in the project application. Compliance with standards, regulations, and requirements is mandatory. Statements of standards, regulations, and requirements are indicated by use of the terms "must", "shall", or "may not" in the rule or directive.
- (7) The term "guideline" is used for actions that are strongly encouraged to fulfill the intent of subject provision. Guidelines are indicated by use of the terms "may" or "should". Failure to meet a guideline cannot be used as a basis for the City's denial of a project application.<sup>8</sup>
- (8) The words "Philadelphia Code" mean The Philadelphia Code of the City of Philadelphia.
- (9) The word "person" includes individuals, firms, corporations, associations, and any other similar entities, including governmental agencies.
- (10) The word "City" means the City of Philadelphia.
- (11) The words "City Council" mean the City Council of Philadelphia, Pennsylvania.
- (12) The word "Commonwealth" means the Commonwealth of Pennsylvania.
- (13) In case of any difference of meaning or implication between the text of this Zoning Code and any caption or illustration, the text shall control.
- (14) Where the meaning of a restriction in this Zoning Code is ambiguous and the intent cannot be discerned through the usual rules of statutory construction, the restriction shall be construed in favor of the landowner, provided that the resulting construction does not lead to irrationality in the Zoning Code.
- (15) The term "days" shall refer to calendar days, unless otherwise stated by other provisions of the Zoning Code.<sup>9</sup>

### Notes

<sup>8</sup> Amended, Bill No. [120774-A](#) (approved January 14, 2013).

<sup>9</sup> Added, Bill No. [120774-A](#) (approved January 14, 2013).

(323) **Structure.**

- (a) As used in Chapter 14-1000 (Historic Preservation): A work made up of interdependent and interrelated parts in a definite pattern of organization constructed by man and affixed to real property, including a public interior portion of a structure.
- (b) For all other purposes: Any type or form of construction above the ground.

# **EXHIBIT N**

**REGULATIONS OF THE  
PHILADELPHIA ART COMMISSION**

884313

DEPARTMENT OF RECORDS  
2015 FEB -6 AM 11:19

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# Regulations of the Philadelphia Art Commission

## 1. DECLARATION OF AUTHORITY

### 1.1. Authority

The Commission is established by §3-100 and §3-910 of the Philadelphia Home Rule Charter and has those powers and duties set forth in §5-900, §5-903, §8-205, and §8-207 of the Philadelphia Home Rule Charter.

### 1.2. Prior Regulations Superseded

The regulations heretofore adopted by the Commission are hereby superseded.

### 1.3. Purpose

No provision of this section shall add to or detract from a power, duty, or responsibility granted to the Commission by the Philadelphia Home Rule Charter or the Philadelphia Code. In the case of any conflict between the provisions of this Subsection 1.3 and any provisions of the Philadelphia Home Rule Charter or the Philadelphia Code, the provisions of the Philadelphia Home Rule Charter or the Philadelphia Code shall govern.

1.3.1. Pursuant to the authority granted by the Charter, the Commission must approve:

1.3.1.1. Any work of art to become property of the City, whether by purchase, gift, or otherwise, and its proposed location;

1.3.1.2. The removal or relocation of, or alteration to any existing work of art in the possession of the City;

1.3.1.3. The design and proposed location of any building, bridge and its approaches, arch, gate, fence, or other structure or fixture to be paid for wholly or in part from the City treasury, or for which the City or any other public authority is to furnish a site;

1.3.1.4. Any structure or fixture to be erected by any person upon or to extend over a highway, stream, lake, square, park, or other public place.

1.3.2. The Commission has additional powers, duties and responsibilities as specified in The Philadelphia Code with regard to:

1.3.2.1. License applications for newsstands pursuant to §9-212;

1.3.2.2. Building permit applications regarding the erection or alteration of any building or other construction, including open spaces, abutting the Benjamin Franklin Parkway Area or the Independence Hall Area of the Center City ("CTR"), overlay as set forth in §14-502(8);

1.3.2.3. Zoning permit applications regarding signs in the following areas:

(a). The Convention Center Area, Center City Commercial Area, Parkway Buffer, South Street/ Head House Square Area, Vine Street Area, Washington Square, and Independence Hall Area of the CTR overlay district as set forth in §14-502(7)

(b). The Cobbs Creek Parkway, Roosevelt Boulevard Area, and

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# Regulations of the Philadelphia Art Commission

Fairmount Park Area set forth in §14-904(4) (Special Controls for Cobbs Creek, Roosevelt Boulevard, and Department of Parks and Recreation Land)

1.3.2.4. Zoning permits for public art projects in the SP-ENT, Entertainment (Special Purpose) District and public art submitted to meet the floor area bonus provisions pursuant to §14-405 and §14-702.

1.3.2.5. Certification that fine art acquired to satisfy the Percent for Art ordinance in §16-103 is fitting and appropriate to the function and location of the structure.

## 2. DEFINITIONS

- 2.1 *Center City.* The area of the City of Philadelphia bounded on the east by the Delaware River, on the west by the Schuylkill River, on the north by Spring Garden Street and on the south by South Street.
- 2.2 *Chair.* The chairperson of the Commission.
- 2.3 *Charter.* The Philadelphia Home Rule Charter.
- 2.4 *City.* The City of Philadelphia
- 2.5 *City Construction Project.* Construction or alteration of a structure or landscape on municipal property or to be paid for wholly or in part from the City treasury.
- 2.6 *Commission.* The Philadelphia Art Commission.
- 2.7 *Consent Agenda.* A grouping of routine, procedural, informational and self-explanatory non-controversial items, as determined by the Executive Director, included as part of the agenda for a meeting of the Commission.
- 2.8 *Encroachment.* Any structure or fixture erected upon or extending over any highway, stream, lake, square, park, or other public place within the City, as referenced in §5-903(1) (d) of the Charter.
- 2.9 *Director.* The Director of the Art Commission, or his or her designee.
- 2.10 *Fine Arts.* For the purposes of the City's Percent for Art program and pursuant to §16-103 of The Philadelphia Code, sculptures, monuments, bas reliefs, mosaics, frescoes, stained glass, murals and fountains which either contain sculpture, or are designed to enhance adjacent accompanying sculpture.
- 2.11 *Highway.* A public right-of-way.
- 2.12 *L&I.* The Philadelphia Department of Licenses and Inspections.
- 2.13 *Sign.* A name, identification, description, emblem, device or structure that is affixed to, printed on, projected, or represented directly or indirectly upon a building, structure, or

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DEPARTMENT OF PLANNING



# Regulations of the Philadelphia Art Commission

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parcel of land and that directs attention to a person, place, product, institution, business, organization, activity, or service. Signs shall also include any banner, pennant, placard, window sign, or temporary sign that directs attention to a person, place, product, institution, business, organization, activity or service, with the exception of national flags. (See § 14-203(276) of the Philadelphia Code).

- 2.14 *Works of Art.* Pursuant to §5-903 of the Charter, all paintings, mural decorations, inscriptions, stained glass, statues, reliefs, or other sculptures, monuments, fountains, arches or other structures intended for ornament or commemoration.

## 3. THE COMMISSION

### 3.3. Composition and Qualifications

The Commission shall consist of nine members. The composition and qualifications of the Commission are set forth in §3-910 of the Charter.

### 3.4. Officers

The members of the Commission shall select from among themselves a Chair, a vice-chairperson, and any such other officers the Commission may determine it requires.

### 3.5. Committees

The Commission shall create, maintain and refer matters for review to the following committees:

#### 3.5.1 Art and Architecture Committee

3.5.1.1. The Commission shall maintain an Art and Architecture Committee to review and provide recommendations on any work of art and City Construction Project requiring the approval of the Commission.

3.5.1.2. The Commission may act as the Art and Architecture Committee until such establishment.

3.5.1.3. The Art and Architecture Committee shall be composed of no fewer than four members, and shall meet as required to fulfill its responsibilities but not delay the Commission's timely review of the matter(s) presented.

#### 3.5.2. Sign Committee

3.5.2.1. The Commission shall maintain a Sign Committee to review the construction or alteration of any Sign requiring the approval of the Commission.

3.5.2.2. The Commission may act as the Sign Committee until such establishment.

3.5.2.3. The Sign Committee shall be composed of no fewer than four members and shall meet as required to fulfill its responsibilities but not delay the Commission's timely review of the matter(s) presented.

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DEPARTMENT OF RECORDS

# Regulations of the Philadelphia Art Commission

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3.5.3 In addition, the Commission may, by a majority present and voting, create such other standing and ad hoc committees as it deems necessary for the conduct of the Commission's work.

## 3.6. Conflict of Interest

Members of the Commission are subject to the City's ethics laws found in Chapter 20-600 of the Philadelphia Code and Article 10 of the Philadelphia Home Rule Charter, which include several restrictions and requirements on gifts, conflicts of interest, political activity, representation before the Commission and financial disclosure. These ethics laws are administered by the City's Board of Ethics.

## 4. CONDUCT OF MEETINGS

### 4.1. Meetings

- 4.1.1. The Commission shall meet monthly or as required. Special meetings may be held, as needed, upon the call of the chairperson or vice-chairperson.
- 4.1.2. The day, hour, and place of the regularly scheduled meetings of the Commission shall be posted on the Commission's website.
- 4.1.3. The Commission shall keep an annual calendar of regular meetings. The Commission shall post the annual calendar in a newspaper of general circulation once a year.
- 4.1.4. The Commission shall post notice of a special meeting on its website at least 24 hours prior to the time of the special meeting.

### 4.2. Quorum

A quorum of the Commission shall consist of five of nine members. An abstention shall not affect the presence of a quorum. A majority of the members present and constituting a quorum at the time of voting is required for any official action by the Commission.

### 4.3. Conduct of Business

- 4.3.1. The Chair, at his discretion, shall recognize Commission members who wish to comment on an agenda item during or upon conclusion of the presentation of the agenda item.
- 4.3.2. After the Commission members have had an opportunity to comment, the Chair shall recognize the presenter and then other members of the public who wish to speak to the matter under consideration. The Chair may impose reasonable time limits on public comment to avoid repetitive discussion.

### 4.4. Agendas and Minutes

- 4.4.1. The Commission shall prepare and post meeting agendas on the Commission's website at least three days in advance of each meeting.
- 4.4.2. The Director may add items to the meeting agenda at his or her discretion and prepare a Consent Agenda, to be approved by summary action of the Commission.

# Regulations of the Philadelphia Art Commission

- 4.4.3. The Director shall prepare written meeting summaries, which shall serve as the meeting minutes, indicating Commissioner members present and actions taken, which shall be approved by the Commission or its Committees, as appropriate and post such written summaries on the Commission's website.

## 5. CITY CONSTRUCTION PROJECTS and ENCROACHMENTS

### 5.1. Submission Requirements

All requests for approval of City Construction Projects and encroachments shall include the following:

5.1.1. A **cover letter** requesting Commission approval and containing:

- 5.1.1.1. A narrative description of the project, including applicable information on existing conditions of the site and functional reasons for the proposed actions as well as the proposed design;
- 5.1.1.2. Summary of the status of other required reviews and approvals, and community consultation, including date(s), time(s) and location(s) of any community engagement.
- 5.1.1.2. If a revised or follow-up submission, a description of how the project differs from the original proposal and, if applicable, a response to concerns expressed by the Committees or Commission;
- 5.1.1.3. The name, mailing address and e-mail address of the person to whom the decision should be sent and, if different, the name, phone number and e-mail address of someone who can answer questions about the application.

- 5.1.2. **Color photographs**, at least 3" x 5", showing the site and its immediate surroundings as they exist at the time of application. Photographs must be of good quality and taken at the time of application. Older photographs are only acceptable to specifically illustrate former conditions. Any submitted photograph should evidence the date on which the photograph was taken.

- 5.1.3. **Drawings** of the proposed design, drawn to scale, with all dimensions, materials and colors clearly labeled. In the case of alterations to existing structures or sites, changes should be clearly indicated. The number of drawings required to adequately describe a proposal will vary with the type and complexity of the project. A typical submission would include:

- 5.1.3.1 **Site Plan(s)** - showing the location of the site with adjacent streets and land uses labeled, the location of all existing features and improvements on the site, and proposed changes.
- 5.1.3.2 **Plan view** of the proposal.

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DEPARTMENT OF RECORDS

# Regulations of the Philadelphia Art Commission

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- 5.1.3.3. **Elevations** of the proposal - All elevations of a structure should be shown. The main façade elevation should be rendered to accurately portray proposed materials and colors unless separate rendered views are also being provided.
- 5.1.3.4. **Landscape Plan(s)** – showing existing landscaping in the project area and any proposed changes. Plants and trees must be identified by species and size.
- 5.1.3.5. **Project Budget** - showing sources of funding, particularly any City Capital funds.
- 5.1.3.6. All proposals for new construction and major additions or renovations must include a statement from the Public Art Office regarding eligibility of the project for the City's Percent for Art Program (§16-103 of the Philadelphia Code) and, for eligible projects, specifying the funding available for public art for the project.
- 5.1.4. The Director may request additional materials, as necessary to adequately explain any proposal.

## 5.2 Procedure

- 5.2.1. The Director will review the initial application to determine its compliance with the Submission Requirements set forth in Section 5.1.
- 5.2.2. Upon review of the initial application, the Director shall inform the applicant of any additional materials necessary to complete the application. The Director shall not present an incomplete application for review by the Art and Architecture Committee or the Commission.
- 5.2.3. The Director will review the complete application and determine which of the following types of review will be necessary:
  - 5.2.3.1. Proposals that have no visual impact, including flat roof replacements or interior mechanical work, may be approved by the Director, without full Commission review.
  - 5.2.3.2. Routine proposals involving changes and repairs that, in the judgment of the Director, will have minimal visual impact on their settings may receive administrative approval, whereby the Director determines that the proposal is acceptable and places it on a Consent Agenda for the Commission's next meeting.
  - 5.2.3.3. Projects that will have more than a minimal visual impact, including all new construction and most additions, must be presented by the applicant to the Commission's Art and Architecture Committee. Following the applicant's presentation, the Art and Architecture Committee shall make its recommendation to the Commission on the application. The Art

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# Regulations of the Philadelphia Art Commission

and Architecture Committee shall either recommend approval, approval with conditions, or disapproval of the application.

5.2.1.4 Proposals to be reviewed by the Art and Architecture Committee will be reviewed in two stages:

5.2.1.4.1 Concept Review - early stage design review of general siting, massing and design vocabulary. Applicants shall submit their proposals for conceptual review, including all materials required in subsection 5.1, early in the planning and design process, before applying for a permit. During conceptual review, the committee provides recommendations on the proposal, but generally does not take any final action. However, the Commission may give final approval at the concept stage if project is in Commission's view, sufficiently well developed.

5.2.1.4.2. Final Design Review – advanced stage design review of all aspects of the design, including material selection, incorporating comments made by the committee at the previous review stage. Following design review, the committee may recommend either final approval or disapproval to the Commission.

5.2.1.4.3 Pursuant to §5-903(3) of the Charter, the Commission shall act on any matter submitted to it within 60 days, after which its approval shall be presumed. A matter shall be deemed to be submitted after the Commission has received all of the submission materials required under this Section 5.

5.2.1.5 For proposals requiring presentation to the Art and Architecture Committee, the applicant must provide a total of twelve (12) copies of the submission package required by Section 5.1, collated and folded, if necessary, to 8½" x 11" at least seven calendar days prior to each meeting.

5.2.1.6 Meeting presentations may be made electronically or with presentation size boards. Material samples must be presented for Final Design Review.

5.2.1.7 To be assured a place on a meeting agenda, the cover letter must be received by the Director no later than two weeks prior to

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# Regulations of the Philadelphia Art Commission

the meeting date. All other materials must be received no later than one week before the meeting date.

## 5.2.1.8

When projects must also be reviewed by the Historical Commission, the Commission of Parks and Recreation, or the Zoning Board of Adjustment, the Commission will not make its decision until approvals have been obtained from the other reviewing entities.

## 5.3 Approval Criteria.

In determining the appropriateness of a proposed project design, the Commission, its committees, and the Director shall consider:

- 5.3.1 How well the design satisfies its intended functional program;
- 5.3.2 The visual and functional relationships of the project to its immediate surroundings and the public right of way;
- 5.3.3 Sustainability, maintainability and durability of the project;
- 5.3.4 The degree to which the massing, design elements and details of the project exhibit an overall architectural concept and create a building form that is appropriate, complete and appropriate to context;
- 5.3.5 Whether the proposed project should enhances, elevates and improves the space or area that it would occupy.

## 6. SIGNS

### 6.1. Submission Requirements

All requests for approval of signs, whether new or existing, shall include the following:

- 6.1.1. A **cover letter** requesting Commission approval and containing:
  - 6.1.1.1. A brief description of the sign(s) for which approval is sought;
  - 6.1.1.2. the name, mailing address and e-mail address of the person to whom the decision should be sent and, if different, the name, phone number and e-mail address of someone who can answer questions about the application.
- 6.1.2. **Color photographs**, at least 3" x 5", of the following views, showing the site and its immediate surroundings as they exist at the time of application.
  - 6.1.2.1. The entire building facade or site.
  - 6.1.2.2. Adjacent building or site to the right and left

# Regulations of the Philadelphia Art Commission

7.1.1.2. The exact location of the newsstand (e.g., *Southeast Corner 15th and Main Streets; in front of 1503 Main Street*)

7.1.2. Color photographs, at least 3" x 5", of the following views, showing the newsstand and its immediate surroundings as they exist at the time of application:

7.1.2.1 If the newsstand is already on the site, a photograph of each of the four sides, taken from a sufficient distance so that surrounding buildings and sidewalk are visible.

7.1.2.2. If the newsstand is not yet on site, photographs of the site from each direction showing surroundings.

7.1.3. If the newsstand is not on site, a site plan showing the proposed location and a drawing showing exactly how the newsstand will look, with a complete description of materials and colors. If the proposed newsstand is a pre-fabricated model, photographs or manufacturer's illustrations of the actual stand should be substituted for the drawings.

7.1.4. Photographs must be of good quality and taken at the time of application. Only photographs are acceptable only if needed to show former conditions. Any submitted photograph should evidence the date on which the photograph was taken.

7.1.5. A copy of the approved License Application, including the sketch showing location as approved by the Streets Department.

7.1.6 The Director may request additional information as necessary, such as color and material samples or more detailed drawings.

## 7.2. Procedure

7.2.1. Newsstand applications will reviewed by the Director.

7.2.2. The applicant will receive written notice of decision by mail.

## 7.3 Criteria for Approval

7.3.1 The location of the newsstand shall not interfere with pedestrian circulation, existing or proposed street trees and landscaping, or other street furnishings and fixtures.

7.3.2 The design of the newsstand structure shall be appropriate for its location.

## 8. WORKS OF ART

8.1 Proposals for Works of Art to be Commissioned or Purchased by any City Department, donated to the City or placed on City property.

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# Regulations of the Philadelphia Art Commission

## 8.1.1. Submission Requirements

- 8.1.1.1. A cover letter containing:
  - 8.1.1.1.1 Names and contact information for the sponsoring City Department, donor or owner of work to be placed on City property and artist(s);
  - 8.1.1.1.2. Narrative describing the site, the associated construction project, the selection process for the work of art and the work of art itself.
  - 8.1.1.1.3. Parties responsible for maintenance, and status of maintenance agreement
- 8.1.1.2. Photographs of the proposed site as it exist at the time of application. Photographs must be of good quality and taken at the time of application. Older photographs are acceptable only when needed to show former conditions. Any submitted photograph should evidence the date on which the photograph was taken.
- 8.1.1.3. For proposals associated with construction projects that are not yet complete, architectural and/or site drawings showing the area where the work of art will be placed as it will appear when complete.
- 8.1.1.4. Drawings and/or photographs of models showing the proposed work of art in its proposed location. Where possible, the actual model should be brought to the presentation meeting.
- 8.1.1.5. Drawings showing materials and colors for the proposed work of art and methods of installation on the building or site, including where necessary, engineering documents.
- 8.1.1.6. For existing works of art to be acquired, photographs of the actual work.
- 8.1.1.7. For proposals to locate works of art to be owned by others on City Property, evidence of review and approval by the City department which controls the proposed site and, if different, the department with whom the maintenance agreement will be executed.

## 8.1.2. Procedure

- 8.1.2.1. All proposals for works of art to be acquired by the City or placed on City property will be reviewed by the Art and Architecture Committee.
- 8.1.2.2. The City's Public Art Director will be responsible for requesting review of any work of art to be acquired by the City, in addition to

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# Regulations of the Philadelphia Art Commission

submitting 12 copies of the submission package required by Section 8.1 for placement on the Art and Architecture Committee's meeting agenda. In so doing, the Public Art Director shall certify that the proposal has been reviewed and endorsed by the appropriate staff, panel or committee of that office.

8.1.2.3. Proposals to locate works of art to be owned by others on City property may be submitted by the owner of the work of art or by the City department which controls the proposed site.

8.1.2.4 The Art and Architecture Committee will review proposals for all new works of art in two stages:

8.1.2.4.1 Concept Review - early stage design review of general concept and siting. The Commission may give final approval at the concept stage if the project is, in the Commission's view, sufficiently well developed.

8.1.2.4.2. Final Design Review – advanced stage design review of all aspects of the design and installation of the work of art, including materials and lighting, incorporating comments made by the committee at the previous review stage.

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## 8.2. Maintenance, Conservation and changes to works of art owned by the City.

### 8.2.1. Submission Requirements

8.2.1.1. Cover letter, submitted by the Public Art Director of the Office of Arts, Culture and Creative Economy describing the proposed action and identifying the conservator or other technician who will perform the work.

8.2.1.2. Photographs of the work of art as it exists at the time of application, showing areas, if any, that require repair. Photographs must be of good quality and taken at the time of application. Older photographs are acceptable only when needed to show former conditions. 8.2.1.3. Any submitted photograph should evidence the date on which the photograph was taken. For proposals to change or relocate an existing work of art, photographs and drawings adequate to describe the change or new location.

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### 8.2.2. Procedure

8.2.2.1. Routine proposals for maintenance and conservation may receive the Director's administrative approval and be placed on a Consent Agenda for the next Art Commission meeting.

8.2.2.2. Proposals for changes and relocation will be reviewed by the Art and Architecture Committee.

# Regulations of the Philadelphia Art Commission

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8.2.2.3. The Public Art Director is responsible for requesting Art Commission approval, submitting 12 copies of the submission package, and coordinating the meeting presentation.

## 8.3 Criteria for Approval.

In determining the appropriateness of a proposed work of art, the Commission, its Committees, and the Director shall consider, among other things:

- 8.3.1. Whether the project will significantly enhance the City's collection of public art;
- 8.3.2. Whether the project will contribute to the diversity of the City's collection by adding works in non-traditional art forms such as installation, sound, light, projection, digital or virtual media;
- 8.3.3. Public accessibility of the proposed site;
- 8.3.4. Whether the art is structurally sound and reasonably able to withstand the conditions of its placement;
- 8.3.5 Whether the proposed work of art enhances the public realm.

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# **EXHIBIT O**

From: **Paul Steinke** <[psteinke@preservationalliance.com](mailto:psteinke@preservationalliance.com)>

Date: Mon, Jun 22, 2020 at 8:35 AM

Subject: Re: 1876 Columbus Statue



Greg,

You're right that the Historical Commission will have to take up any proposal to alter or relocate this statue. It was added to the Philadelphia Register of Historic Places in 2017 on the strength of a nomination written by Celeste Morello. She's a local historian with numerous successful nominations under her belt.

The Historical Commission doesn't display past nominations and minutes prior to 2018 on their website, but they do archive them at their office at 1515 Arch. Their office is still closed and staff continues to work remotely. I suspect that will change when the city enters the Green phase.

You can request these documents from Commission staff at [preservation@phila.gov](mailto:preservation@phila.gov).

Paul Steinke

Executive Director

Preservation Alliance for Greater Philadelphia

[www.preservationalliance.com](http://www.preservationalliance.com)

# **EXHIBIT P**





**CITY OF PHILADELPHIA**

**LAW DEPARTMENT**

**One Parkway Building  
1515 Arch Street  
Philadelphia, PA 19102**

**Marcel S. Pratt  
City Solicitor**

BY EMAIL: [REDACTED]

Re: Philadelphia Historical Commission – Christopher Columbus Statue  
Request #: 8523

Dear [REDACTED]:

Thank you for writing to the City of Philadelphia (City) with your request for information. A brief description of your request(s) as well as the City's internal tracking number can be found below.

Please note at the outset that requests for records to state and local agencies in Pennsylvania are generally governed by the Commonwealth's Right to Know Law (RTKL), 65 P.S. § 67.101 et seq.

Be advised that the City hereby asserts its right to an additional 30 calendar days to review the request as provided for by the RTKL for the following reasons:

- a) Bona fide staffing limitations (in retrieving and reviewing the record(s) requested);
- b) A legal review is necessary to determine whether the record(s) is a record(s) subject to access under the RTKL;
- c) To determine if the request requires the redaction of a public record(s);
- d) The extent or nature of the request precludes a response within the required time period.

We will contact you regarding this request within 30 calendar days as required by law.

Respectfully,

A handwritten signature in blue ink, appearing to read "Bill Finn".

Jill I. Freeman  
Deputy City Solicitor  
(215) 683-5069 (fax)

Tracking #: [REDACTED] 8523

Request Summary: records relating to Christopher Columbus statue

Original Request:

**From:** [REDACTED]

**Sent:** Monday, June 22, 2020 12:08 PM

[REDACTED]  
**Subject:** Right-to-Know Request – Christopher Columbus Statue

**BOCHETTO & LENTZ, P.C.**

By: George Bochetto, Esquire

David P. Heim, Esquire

Attorney ID Nos. 27783, 84323

1524 Locust Street

Philadelphia, PA 19102

Ph: (215) 735-3900

[gbochetto@bochettoandlentz.com](mailto:gbochetto@bochettoandlentz.com)

[dheim@bochettoandlentz.com](mailto:dheim@bochettoandlentz.com)

*Attorneys for Plaintiffs*

**FRIENDS OF MARCONI PLAZA, et al.** :

Plaintiffs,

v.

**CITY OF PHILADELPHIA and**

**MAYOR JAMES KENNEY**

Defendants.

COURT OF COMMON PLEAS

PHILADELPHIA COUNTY,

PENNSYLVANIA

JUNE TERM 2020

DOCKET NO. 000741

**REPLY BRIEF OF PLAINTIFF IN SUPPORT OF  
EMERGENCY MOTION FOR SPECIAL AND PRELIMINARY INJUNCTION**

On July 10, 2020, Defendants City of Philadelphia and Mayor James Kenney filed their “Opposition to Petitioner’s Motion for Special and Preliminary Injunction.” Plaintiffs are submitting this Reply Brief addressing the legal and factual issues raised by Defendants’ Opposition.

**I. The Court Should Disregard the Suggestion That the City, At Its Whim, Can Disregard Rules and Regulations Embodied in the City’s “Policy Regarding Removal, Relocation and Deaccession of Publicly Displayed Artwork.”**

The City’s Opposition takes the position that the Policy -- which the City published to the public establishing very specific rules and standards concerning the way in which publicly displayed artwork can be removed -- is not binding. The City suggests because the document is merely a “policy” it therefore has absolute discretion in choosing to follow or disregard such rules. This position is untenable. This country is – and has always been – a nation of laws.



Allowing the City to disregard enacted policies that have been published to the public to rely upon would turn this principal on its head. The rule of law mandates the City follow the procedures it represented to the public would govern this process. The City cannot disregard such procedures, at its whim, whenever it is politically expedient to do so. That is anarchy.

The Office of Arts, Culture, and the Creative Economy (“OACCE”), a branch of the current Administration, in conjunction with the Philadelphia Law Department, have the authority to create policy, which, by nature of their administrative powers, is akin to an enforceable regulation. In *Lopata v. Commonwealth*, the Supreme Court of Pennsylvania drew the line between mere statements of “policy” and adopted, “substantive rules.” The Court stated “[a] properly adopted substantive rule establishes a standard of conduct which has the force of law. . . , [while] [a] general statement of policy, on the other hand, does not establish a ‘binding norm’ . . . [a] policy statement announces the agency’s tentative intentions for the future.” 493 A.2d 657, 660 (Pa. 1985) (citing *Pennsylvania Human Relations Comm’n v. Norristown Area School District*, 473 Pa. 334, 374 A.2d 671 (1977)(quoting *Pacific Gas and Electric Co. v. Federal Power Comm’n*, 506 F.2d 33, 41 (D.C. Cir. 1974)); see also *Dep’t of Corr. v. Pa. State Corr. Officers Ass’n*, 12 A.3d 346, 360 (Pa. 2011) (stating that “[t]hese provisions comport with the definition of a substantive regulation because they create a controlling standard of conduct [ . . . ] We note, as well, that even statutes enacted by the General Assembly may allow for the exercise of discretion by governmental actors, [ . . . ] and plainly their status as valid and binding statutes is not thereby undermined.”).

In *Lopata*, the Court was addressing whether a document, which the Unemployment Compensation Board called a “bulletin,” was merely a “statement of policy” or a binding “substantive rule.” The bulletin set forth a specific rule about how the number of weeks an

employee worked in a given year would be counted toward being eligible for benefits. The Court found that “it is clear that [the bulletin] does more than simply offer generalized guidelines, or articulate general statements of policy. Rather, the standard therein articulated is completely and unequivocally determinative of the issue of how to count a credit week which overlaps two quarters. [ . . . ] The bulletin pronouncement amounts therefore in every sense to a binding rule of law.”<sup>1</sup> *Id.*

In this action, the document at issue is titled “*City of Philadelphia Policy Regarding Removal, Relocation and Deaccession of Publicly Displayed Artwork*” (“Artwork Removal Policy”). This is **not** a general statement of policy, nor is it an announcement of OACCE’s or the Law Department’s “tentative intentions for the future.”<sup>2</sup> Rather, the document sets forth substantive “standards,” enumerating ten (10) “Criteria for Removal of Publicly Displayed Art,” while establishing a seven (7) step “Process for Removal.” The document also states that it “was established in 2012, and was revised and approved by the Law Department in January, 2015.”

Despite the City’s contention that the Artwork Removal Policy is no longer effective as of 2018, the document is still readily available on the City’s webpage accompanied by the statement that “[t]his content was last updated on August 17, 2017.”<sup>3</sup> There is no indication the rules and procedures set forth in the Artwork Removal Policy were ever revoked, contrary to what the City is currently claiming. The City cannot publicly hold out substantive standards and

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<sup>1</sup> While the bulletin in *Lopata* did not end up having controlling effect because it contradicted state employment law, the Artwork Removal Policy does not contradict any City or State law.

<sup>2</sup> See Artwork Removal Policy, attached hereto as Exhibit “A.”

<sup>3</sup> *City of Philadelphia Policy Regarding Removal, Relocation and Deaccession of Publicly Displayed Artwork* (January 7, 2015), <https://www.phila.gov/media/20170817210615/COP-Deaccessioning-policy-final.pdf> (last visited July 15, 2020).

a process for those standards to be applied only to rescind these rules, apparently in private, for reasons of political expediency.

The City further claims the Artwork Removal Policy is just an office document. But that is clearly not the case. “Office documents” are not published to the public as substantive rules and procedure. Indeed, the Artwork Removal Policy is presently published on the City’s webpage, under the “Publications & Forms” tab, which is a section of the City’s webpage dedicated to communicating news, regulations, laws, orders and the like to the public. In addition, even though the City alleges it is just an office document, the City also claims that on June 24, 2020, the Managing Director of Philadelphia “ordered the OACCE to create a [new] process for the Statue” that is more convenient for the current Administration’s agenda. Defs.’ Opp. Br. 16. The City’s position is duplicitous. On one hand, the City says the Artwork Removal Policy has no binding effect, was revoked and is simply an “office document, while on the other, the City acknowledges that the Managing Director requested OACCE to enact new procedures to supersede the existing process.

The City cannot make-up a new process at the direction of a City official because the existing process is perceived to be too onerous. The Artwork Removal Policy has stood as the standards and process by which the City must abide to remove publicly displayed art since 2012 until the abrupt (and illegal) removal of the Rizzo Statue in early-June and now the attempted removal of the Christopher Columbus Statue at Marconi Plaza. The City must be enjoined from continuing with the Art Commission hearing on July 22, 2020 and the Philadelphia Historical Commission hearing on July 24, 2020 because the City is dodging the very standards and procedures that were put in place to prevent such a hurried, rush to judgment.

The Christopher Columbus Statue at Marconi Plaza has been at its current location since 1976 and a part of the Philadelphia community since 1876. The City's race to remove the long-standing, historic Statue is contrary to the rule of law and cannot withstand judicial scrutiny. When public officials seek to bend the will of the law to fit their own political agenda, the court system is the branch of government that must intervene. The City's effort to remove the Columbus Statue without complying with the law must be enjoined.<sup>4</sup>

## **II. CONCLUSION**

Plaintiffs respectfully request this Court enjoin the Defendants from continuing with the Art Commission and Historical Commission hearings next week, and require that the City follow all "applicable laws and regulations" as the Stipulation demands.<sup>5</sup>

Respectfully submitted,

**BOCHETTO & LENTZ, P.C.**

*/s/ George Bochetto*

Dated: July 15, 2020

By: \_\_\_\_\_  
George Bochetto, Esquire  
David P. Heim, Esquire

*Attorneys for Plaintiffs*

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<sup>4</sup> Even the City's public comment forum is written in a way that suggests the fate of the Statue is a forgone conclusion, going so far as seeking public recommendations of what should be installed in its place. *See* Public Comment Forum, attached hereto as Exhibit "B."

<sup>5</sup> *See* Stipulation & Order, attached hereto as Exhibit "C."

**CERTIFICATE OF SERVICE**

I, George Bochetto, Esq. hereby certify that a true and correct copy of the within *Reply Brief of Plaintiff in Support of Emergency Motion for Special and Preliminary Injunction* was forwarded to all counsel of record via ECF notification and electronic mail on this 15<sup>th</sup> day of July, 2020.

**BOCHETTO & LENTZ, P.C.**

By: /s/ George Bochetto  
George Bochetto, Esq.

# **EXHIBIT A**



## **City of Philadelphia Policy Regarding Removal, Relocation and Deaccession of Publicly Displayed Artwork**

### **Definition**

*Removal of Publicly Displayed Artwork:* the removal of artwork from public display for the purpose of relocation, storage, extended loan or deaccession.

*Deaccession:* the disposition of formerly publicly displayed artwork.

### **Criteria for Removal of Publicly Displayed Art**

Publicly Displayed City Artwork may be removed from public display for one or more of the following reasons:

1. The work of art is damaged irreparably and/or repair is unfeasible or costs exceed the value of the work.
2. The work has been damaged or has deteriorated to the point that it can no longer be represented to be the original work of art.
3. The artwork has faults or inherent vices that require repeated and excessive maintenance efforts.
4. The artwork endangers public safety.
5. The condition or security of an artwork cannot be reasonably guaranteed.
6. If public protest of the artwork has occurred throughout a significant portion of a period of five years.
7. If the approved terms of the contract pursuant to which the artwork was installed have not been fulfilled.
8. Significant changes in the use, character or actual design of the site lead to a determination that there has been a sufficient change in the relationship of the artwork to the site such that removal is warranted.
9. A determination is made that the artwork is no longer suited to its location or is best suited to a new location.
10. Removal is requested by the artist.

### **Process for Removal**

1. Proposals for removal shall be initiated by the Public Art Director, after assessment by the Public Art Division of the Office of Arts, Culture and the Creative Economy, or any successor agency, of the condition and status of the artwork and evaluation of the artwork in relation to the above grounds for removal. The proposal shall include a determination of whether the Artwork should be relocated, stored, loaned or deaccessioned.
2. The Public Art Division shall notify in writing the artist, if living, or one or more members of the family of the artist, if known and readily contacted, of the reason for removal and shall provide the artist or family member(s) with 30 days to respond to the proposal.

3. In the case of a proposal to remove a work of art due to public protest, a public hearing will be held prior to further action on the proposal.
4. After the period of notice, and after any adjustment made to the proposal based on input received, the Public Art Division shall present the proposal to the Department of Parks and Recreation, in the case of artwork in the custody of that Department, or to the Department of Public Property, in the case of artwork in the custody of that Department, for the respective department's approval.
5. Upon approval by the relevant department, the Public Art Division shall present the proposal to the City's Art Commission for approval.
6. If the approved proposal is to deaccession the work of art, the Public Art Division shall, in conjunction with the Procurement Department and pursuant to subsections 6-500(d) and 8-203 of the Home Rule Charter, provide the necessary public notice of the intent to dispose of the artwork by sale or otherwise and receive bids in connection with such proposed disposal.
7. If the approved proposal includes disposal by means other than sale or trade, and the decision is made that such alternative disposal is in the best interests of the City, the Public Art Division shall provide notice to the artist and offer the artist a reasonable opportunity to recover the artwork pursuant to any agreement with the artist or pursuant to reasonable terms determined by the Public Art Director.

This policy was established in 2012, and was revised and approved by the Law Department in January, 2015.



## **EXHIBIT B**

## Submit Your Thoughts on the Future of the Christopher Columbus Statue in Marconi Plaza

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Like many communities across the country, Philadelphia is in the midst of a broad reckoning about the legacy of systemic racism and oppression in this country. Part of that reckoning is putting a spotlight on what historical figures deserve to be commemorated in our public spaces.

In the late 1800s, Christopher Columbus became a symbol of Italian communities' contributions to U.S. history. But since that time, scholars and historians have uncovered first-hand documentation establishing that his arrival in the Americas marked the beginning of the displacement and genocide of Indigenous people.

There must be a way forward that allows Philadelphians to celebrate their heritage and culture, while respecting the histories and circumstances of others that come from different backgrounds.

On July 22, the City will ask the Philadelphia Art Commission to approve removal of the statue from Marconi Plaza. Prior to making its presentation to the Commission, the City will allow for public input through written submissions.

**All submissions are due by July 21.**

**Please complete the form below to share your thoughts on the Christopher Columbus statue in Marconi Plaza.**

**What does the statue of Christopher Columbus in Marconi Plaza mean to you? \***

**How does the statue of Christopher Columbus represent Philadelphia's or America's past, present, and future? \***

**Is there a private location—indoors or outdoors—that would be suitable for the statue? \***

**Given the chance to re-envision public art for Marconi Plaza today that would unite Philadelphians, what would you imagine? \***

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## Your information

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**What is your ZIP code? (optional)**

**How old are you? (optional)**

**What is your race? (optional)**

- ☐ African American
- ☐ Asian/Pacific Islander
- ☐ White
- ☐ Hispanic or Latinx
- ☐ Native American
- ☐ Race not listed

**What is your gender? (optional)**

- ☐ Male
- ☐ Female
- ☐ Transgender, non-binary or third gender
- ☐ Gender not listed

**Submit**

# **EXHIBIT C**

20060074100012

4. The City has posted the following message on the box: *"The Christopher Columbus statue has been a source of controversy in Philadelphia and across our country. Many are calling for the removal of the statue. The City understands their concerns and will be initiating a process for the Art Commission to review the statue, its location and its appropriateness in a public park. We are committed to listening to all and moving forward in the best way to heal our deep divides. The boxing is to preserve the statue while the Art Commission process is followed. No decision has been made on whether the City will remove the statue."*

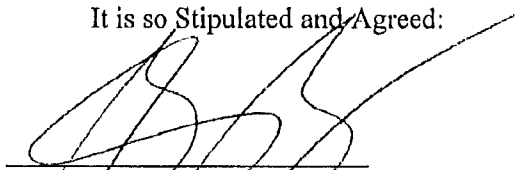
5. The City intends to allow for lawful First Amendment expression in the plaza, with reasonable time, place, and manner restrictions.


6. Counsel each represent that they have obtained the consent of their respective clients and other interested persons that they represent to enter this Stipulation. No party has prevailed and shall bear their own costs.

7. After receipt and execution by counsel for all parties, this Stipulation shall be submitted to the Court of Common Pleas of Philadelphia County for final approval and entry as an Order.

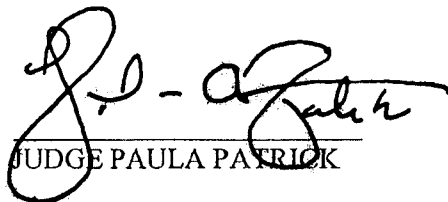
8. No injunction has issued in this matter. This Court will not retain jurisdiction.

It is so Stipulated and Agreed:

  
George Bochetto, Esquire  
1524 Locust Street  
Philadelphia, PA 19102  
Attorney for Plaintiff

  
Marcel Pratt, Esquire  
1515 Arch Street, 17th Floor  
Philadelphia, PA 19102  
Attorney for Defendants

It is so ORDERED, this 18<sup>th</sup> day of June, 2020.

  
JUDGE PAULA PATRICK

20060957

**NOMINATION OF HISTORIC BUILDING, STRUCTURE, SITE, OR OBJECT**  
**PHILADELPHIA REGISTER OF HISTORIC PLACES**  
**PHILADELPHIA HISTORICAL COMMISSION**

SUBMIT ALL ATTACHED MATERIALS ON PAPER AND IN ELECTRONIC FORM ON CD (MS WORD FORMAT)

**1. ADDRESS OF HISTORIC RESOURCE** (must comply with an Office of Property Assessment address)

Street address: 2700 block (west side) South Broad Street

Postal code: 19145

Councilmanic District: Second

**2. NAME OF HISTORIC RESOURCE**

Historic Name: Christopher Columbus Statue

Common Name: same

**3. TYPE OF HISTORIC RESOURCE**

☐ Building

☐ Structure

☐ Site

☒ Object

**4. PROPERTY INFORMATION**

Condition: ☐ excellent ☒ good ☐ fair ☐ poor ☐ ruins

Occupancy: ☐ occupied ☐ vacant ☐ under construction ☐ unknown n/a

Current use: Decorative: situated in Marconi Park

**5. BOUNDARY DESCRIPTION**

Please attach a plot plan and written description of the boundary.

**6. DESCRIPTION**

Please attach a description of the historic resource and supplement with current photographs.

**7. SIGNIFICANCE**

Please attach the Statement of Significance.

Period of Significance (from year to year): from c.1775 to present

Date(s) of construction and/or alteration: 1872-1876

Architect, engineer, and/or designer: unknown sculptor

Builder, contractor, and/or artisan: n/a

Original owner: City of Philadelphia

Other significant persons: Christopher Columbus

**CRITERIA FOR DESIGNATION:**

The historic resource satisfies the following criteria for designation (check all that apply):

- ☒ (a) Has significant character, interest or value as part of the development, heritage or cultural characteristics of the City, Commonwealth or Nation or is associated with the life of a person significant in the past; or,
- ☒ (b) Is associated with an event of importance to the history of the City, Commonwealth or Nation; or,
- ☐ (c) Reflects the environment in an era characterized by a distinctive architectural style; or,
- ☐ (d) Embodies distinguishing characteristics of an architectural style or engineering specimen; or,
- ☐ (e) Is the work of a designer, architect, landscape architect or designer, or engineer whose work has significantly influenced the historical, architectural, economic, social, or cultural development of the City, Commonwealth or Nation; or,
- ☐ (f) Contains elements of design, detail, materials or craftsmanship which represent a significant innovation; or,
- ☐ (g) Is part of or related to a square, park or other distinctive area which should be preserved according to an historic, cultural or architectural motif; or,
- ☐ (h) Owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community or City; or,
- ☐ (i) Has yielded, or may be likely to yield, information important in pre-history or history; or
- ☐ (j) Exemplifies the cultural, political, economic, social or historical heritage of the community.

**8. MAJOR BIBLIOGRAPHICAL REFERENCES**

Please attach a bibliography.

**9. NOMINATOR**

Name with Title Celeste A. Morello, MS, MA Email none  
Organization none Date Sept., 2016  
Street Address \_\_\_\_\_ Telephone \_\_\_\_\_  
City, State, and Postal Code \_\_\_\_\_  
Nominator ☐ is ☒ is not the property owner.

**PHC USE ONLY**

Date of Receipt: 20 October 2016 (revised)

☒ Correct-Complete ☐ Incorrect-Incomplete

Date: 7 December 2016

Date of Notice Issuance: 16 December 2016

Property Owner at Time of Notice

Name: Philadelphia Parks & Recreation

Address: 1515 Arch Street, 10th Floor

City: Philadelphia

State: PA Postal Code: 19102

Date(s) Reviewed by the Committee on Historic Designation: 15 February 2017

Date(s) Reviewed by the Historical Commission: 10 March 2017

Date of Final Action: 10 March 2017

☒ Designated ☐ Rejected



## 5. Boundary Description:

The aerial view of Marconi Plaza below shows the location of the Christopher Columbus statue: on the west side of the 2700 block of South Broad Street, central to the area enclosed by pathways, in front of a paved (not sodded) area, off Broad Street.

The statue and pedestal are situated upon grass, with a modern iron fence decorated with iron silhouettes of Columbus' three ships. The nomination concerns only the sculpted marble objects dedicated in 1876, not the site, nor appurtenances.

Philadelphia DOR | ParcelExplorer

(Source: Obtained at City Archives)

Contact | PhilaDox | Help | Print

Overview Map



Map Options Tools

Legend

Public Features

- ☒ Parcels
- ☒ Curblines
- ☒ Parks
- ☒ Water
- ☐ Easements
- ☒ Transparels
- ☒ Rights of Way

Roads

- ☒ Highways
- ☒ Arterials
- ☒ Streets

Satellite Imagery

- ☒ Aerial Photo

Parcel Types

- ☐ Residential
- ☐ Hotels and Apartments

Document Search

Historic Maps



MARCONI PARK

Present site of Columbus Statue nominated herein.



6. Description:

Executed in a dull, whitish "durable Italian marble,"<sup>1</sup> the Columbus statue and its two stage pedestal stand twenty-two(22) feet in height. The statue represents the navigator in the Neo-classical Style reminiscent of Classical Greek or First Century Roman monumental sculpture to honor deceased notables. Here, Columbus stands in the **contrapposto** pose (like those from antiquity) assuming the naturalness, with a naturalistic flow in the drapery of his contemporary garb. His right hand rests on a globe while his left hand holds a map; an anchor is at his right side near his foot. These are his attributes to identify him, while the bas reliefs and inscriptions carved into the pedestal further define his great achievement of discovering new lands in this hemisphere on "October 12, 1492."

The pedestal appears two-staged with niches for decoration in any of its octagonal sides. (Refer to recent images by nominator attached.) Ribbioned garland wreaths adorn the smaller sides with bas reliefs of the coats-of-arms of the United States and Italy, one of Columbus' ships and crossed anchors are at eye level. (Lower stage). In the stage directly below the statue are the inscriptions: "Presented to the City of Philadelphia by the Italian Societies." (east side) Then, on the (west) back of the statue:

"Dedicated October 12, 1876 by the Christopher  
Columbus Monument Association on the Anniversary  
of the Landing of Christopher Columbus October  
12, 1492."

This statue and pedestal seem intact from the 1876 dedication with nothing affixed subsequent to its relocation to Marconi Park. This nomination only seeks certification of the objects dedicated in 1876 at West Fairmount Park to correlate to another inscription on the statue: "In Commemoration of the First Century of American Independence."

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Fairmount Park Art Association, **Sculpture of a City: Philadelphia's Treasures in Bronze & Stone**. New York: Walker Pub. Co., 1974, p. 90. Refer to cited pages in "Appendix II."  
Hereafter, this source will be referred as "FPAA."



Recent photograph of Columbus statue and pedestal at Marconi Park where it has been since 1976, one hundred years after its original placement on the grounds at West Fairmount Park.

The pedestal is 12 feet; the statue, 10 feet, totalling 22 feet in height.

The statue was presumably carved in Italy using Italian marble.

The sculptor is unknown.



Columbus Hall today on the 700 block of South Eighth St. was where the Columbus Monument Association formed in 1872, mostly with congregants from (nearby) St. Mary Magdalen de Pazzi Church. Most in this Association shared the same ancestral origins as Columbus in Liguria, Italy.

Columbus Hall was founded in 1867 for the mutual beneficial societies in the Italian American community in Philadelphia.





Views of podium of  
Columbus Statue:

(Top left) Southwest

(Top right) West side

(Left) Northeast

Note addition of slab  
at bottom of front of  
statue, facing Broad.

Iron out-lines of ships  
at top right image.

7. Statement of Significance:

This nomination of the Christopher Columbus statue, formerly part of the Centennial Exhibition (or "Exposition") in West Fairmount Park merits certification under criteria (a) and (b) of the Preservation Code for the national significance of the subject and the event in which this statue made its debut.

Christopher Columbus (1451?-1506) is an integral part of the history of the United States and of this hemisphere, as the commander of a naval crew who introduced western European civilization to undiscovered lands. To patriots in the cause for independence from Great Britain, Columbus embodied the spirit and qualities of bravery and forging ahead despite challenges. Thus, the word, **Columbia**, the feminine version of Columbus, is synonymous with the "United States of America" and "Columbian" monuments in statuary, painting and bas reliefs carry a tradition of honoring the explorer all over the nation.

In Philadelphia, a statue of Columbus was reported as early as 1782; then an obelisk travelled around the former colonies with tributes carved into the stone for the 1792 celebration. What is most significant about the instant nomination is that the Columbus statue was part of the Centennial Exhibition held in Philadelphia in 1876. Privately-funded by a group with ancestral origins to the same region in Italy as Columbus, these Italian Americans here commissioned this statue as a "gift" to the city and for it to be placed in West Fairmount Park's grounds during the six month-long event to celebrate our nation's one hundred years.

The Centennial Exhibition, however, was more than an event. On display were the latest in scientific innovations that showcased American ingenuity in inventions such as the telephone, typewriter, sewing machine and other conveniences lacking in the other thirty-

seven nations' exhibitions. Along with the technological and mechanical wonders of the time on display were cultural goods that identified each country. Art had a major role at this event. "The Centennial Exposition serves as a key to the next period"<sup>2</sup> in architecture, painting and in sculpture. The Columbus statue herein exemplified the movement from Neoclassicism (still in vogue), to Eclecticism (or the Eclectic Style) that would also be seen in Europe by the twentieth century. Architectural styles and interior decoration would also change by what was shown at the Centennial.

To the average American, however, the Centennial Exhibition evoked patriotism in how our young country stood in competition with the much older, established nations of the world who had the great pasts and cultures borne over centuries. It was fitting then, for this statue of Columbus to be part of the Centennial for he connected our country to the values of a developed civilization as he inspired our Founding Fathers to break from Great Britain for independence to create an American culture and heritage.

The Columbus Monument Association formed in 1872 was comprised mostly of those in Philadelphia's Italian American community whose settlement brought the founding of the first Italian national<sup>3</sup> Roman Catholic church in the United States, St. Mary Magdalen de Pazzi. This parish church began in 1852 by St. John Neumann, the first male saint in the U.S. The church building,<sup>4</sup> designed by E.F. Durang, was the scene for the Columbus Day celebration in 1892, carrying on the "Columbus Day" (or "Discovery Day") tradition from the presidency of George Washington in 1792.

This nomination is limited to only the sculpted marble **objects** dedicated in 1876 now situated in Marconi Park in South Philadelphia.

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<sup>2</sup>Brown, M., American Art. NY: Abrams, 1979, p. 269. Refer also to FPAA, op. cit., p. 91 on John Sartain's quoted observation.

<sup>3</sup>A "national" church was one where the foreign language of the congregants was spoken in sermons, confessions and during ministries.

<sup>4</sup>The building is on the Philadelphia Register and an official historical marker was approved and placed by undersigned in 1994.



# The Christopher Columbus Statue...

(a) Has significant character, interest or value as part of the development, heritage or cultural characteristics of the City, Commonwealth or Nation or is associated with the life of a person significant in the past.

The Oxford English Dictionary defines **Columbian** as "the poetic name for America (f. Columbus its discoverer). Of or belonging to America or (esp.) the United States."<sup>5</sup> The American Heritage Dictionary likewise offers this meaning for **Columbia** as "A feminine personification of the United States," with its origin: "After Christopher Columbus."<sup>6</sup> These words arose sometime in the early 1770s in the former colonies where the seeds for independence from Great Britain were slowly being sown, and by only a few. Thereafter, the words, "Christopher Columbus," "Columbian" and "Columbia," with more variations would become frequently used in early publications as well as in other scenarios.

At which precise time or year that Columbus' name had become symbolic with the birth of the United States is unclear, but by the time of the Revolution, the explorer and his integrity were aligned to the patriots. At least by 1775, a ship called, "Columbus" was used against the British at sea for about one year. In the diary of French officer and ally, Jean Baptiste A. de Verger, he noted a statue of Columbus in Independence Hall in 1782 during the War.<sup>7</sup> By the 1780s, the socio-political group, the Tammany Society had adapted an associated name, "Columbian Order" as a way of expressing its patriotism for severance from Britain. This group would sponsor the creation of one of the first monuments to

<sup>5</sup> Oxford English Dictionary. Oxford, GB: The Clarendon Press, 1978.

<sup>6</sup> AHD, Second College Edition. Boston, Houghton Mifflin Co., 1985.

<sup>7</sup> "Pennsylvania Gazette", Nov. 11, 1775, June 26, 1776, Oct. 16, 1776. Bedini, S.A.(Ed.), **The Christopher Columbus Encyclopedia**. NY: Simon & Schuster, 1992.

THIS MONUMENT  
WAS ERECTED BY THE  
TAMMANY SOCIETY,

OR  
COLUMBIAN ORDER,  
OCTOBER XII, M,DCC,XCII,

TO COMMEMORATE  
THE IVth COLUMBIAN CENTURY:  
AN  
INTERESTING AND ILLUSTRIOUS  
Æ R A.

On the upper part of the Obelisk is seen the arms of Genoa, supported by the beak of a prone eagle.

The second side or front of the monument shews the first landing of Columbus. He is represented in a state of adoration; his followers prostrate around him, and a group of American natives at a distance. Historical truth is attended to, and the inscription on the pedestal is as follows:

SACRED  
to the  
MEMORY

of  
CHRISTOPHER COLUMBUS,  
THE DISCOVERER

of  
A NEW WORLD,  
October 12, 1492.

Above, the arms of Europe and America are blended, and supported as on the right side of the monument.

The third or left side exhibits the splendid reception of Columbus by the court of Spain, on his first return from America. He is seated on the right hand of Ferdinand, and his illustrious patroness, Isabella. A map of the newly discovered countries, with some of their peculiar productions lying at his feet, distinguish the interesting scene. Above, the prone eagle supports the arms of Isabella, and on the pedestal is the following inscription:

Like the Christopher Columbus Statue, this monument erected in 1792 projects the essence of Columbus in the heritage of the United States.

General Advertiser (Philadelphia, Pennsylvania) • 10-20-1792 • Page

COLUMBUS  
WAS BORN AT GENOA

1447:

WAS RECEIVED BY THE COURT OF SPAIN  
IN TRIUMPH,

1493:

WAS PUT IN CHAINS BY ITS ORDER,  
September, 1500;

DIED AT VALLADOLID,  
May 20, 1506.

The last scene exhibited on the rear or fourth side of the obelisk, strongly contrasts with the one just described; Columbus is seen in his chamber-pensive and neglected. The chains with which he had been cruelly loaded hang against its bare walls, on which is seen written, "The ingratitude of Kings." To cheer his declining moments, the genius of Liberty appears before him: the glory which surrounds him, seems to illuminate his solitary habitation. The emblems of despotism and superstition are crushed beneath her feet; and to intimate the gratitude and respect of posterity, she points to a monument, sacred to his memory, reared by the Columbian Order. On the pedestal, Nature is seen caressing her various progeny; her rawny offspring seem to mourn over the urn of Columbus.

The upper part of the obelisk is embellished as on the other sides. But the eagle, as an emblem of civil government, is seen no longer prone, or loaded with the decorations of heraldry, she soars in an open sky, grasping in her talons a scroll, inscribed,

THE RIGHTS OF MAN.

Columbus: A moveable black marble obelisk. Recorded observations of this stated the obelisk to be four-sided and fourteen feet high. It travelled throughout the former colonies on the first "Columbus Day" celebrated in the new nation, in 1792. (Refer to page 10 for copies of inscribed words and commentary by printers.)

A day designated to honor Christopher Columbus paralleled the sentiment still felt from the years opposing the mother-country: "This day demands of us to celebrate the exertions of an individual who, by his success began a revolution..." ("Claypoole's Daily Advertiser," October 17, 1792). Attached in Appendix 1 are several accounts of how Columbus was regarded by Americans from Salem, Massachusetts to Richmond, Virginia, consistently. Moreover, the Diaries and Papers of George Washington offer more on Columbus as a subject of admiration and popularity prior to and during his tenure as our first president. "Mr. Barlow's" poem, "The Vision of Columbus," (1788) and playwright Thomas Morton's "Columbus; or a World Discovered" (from the 1797 entry)<sup>8</sup> continued the esteem held by those of neither the same ethnicity nor same faith as the majority at that time.

Yet, the subject and character of Columbus seemed embedded into the culture of the United States, especially in the planning of the new capitol in Washington, the District of **Columbia**.<sup>9</sup> Such acknowledgement by name, destined Columbus to be permanently part of the nation's heritage. Later, with the construction of the Capitol building, "Columbia" would be represented in fresco, oils, marble and visually accepted as with no other nation but ours. "Columbian Doors" of bronze led into the Capitol where a female goddess-like "Columbia" draped in stars-and-stripes fabric formed our mythology.<sup>10</sup> She would be seen through the Civil War in political posters as the strength and pride and spirit upon which the nation grew.

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<sup>8</sup>Diaries of Geo. Washington. Vol. 6 in the Papers of George Washington, Charlottesville: Univ. Press of Virginia, 1979. Feb., 1797. Letter to Chevalier la Luzerne, May 28, 1788. LOC, 1741-1799.

<sup>9</sup>"District of Columbia" was named in 1791, authorized by President Washington.

<sup>10</sup>See Kennon, D. (Ed.), **The United States Capitol**. Athens: Ohio U. Press, 2000, p. 190; 263 on Brumidi and Vanderlyn's art works.



The unification of Italy in about 1871 initiated another dimension in how Columbus was part of our American heritage. The attaining of lands from the Spanish Bourbons, Austrians, pope and others created the new republic of Italy, with its own flag, coat-of-arms (on the Columbus statue) and leadership. Prior to Italy's united status, Italian Americans played a very minor role in promoting Columbus, as he seemed so much of a "Revolution" entity than an ethnic one. By the years of revolt in Europe from the 1860s to the 1871 date, however, Columbus became aligned with a nationality of foreign origin rather than representing the ideals that had inspired patriots during the American Revolution. This is what occurred when the instant Columbus statue was executed, then dedicated at the Centennial Exhibition in 1876.

Previous monuments honoring Columbus in Baltimore (an obelisk from 1792) and in Boston (1849),<sup>11</sup> along with the various art at the Capitol neutralized the explorer, making him "American," and using the Latin form of his name, not the "Colon" (Spanish) or "Colombo" (Italian) to emphasize Columbus' universal identity. By the 1876 Centennial, with Genoa now part of Italy (it was in the Kingdom of Sardinia), Columbus suddenly identified as "Italian." In contrast to what the Tammany Order's obelisk inscribed, in casting Columbus as "Italian," the post-unification "Columbus" denied his use of the Spanish language and that he was buried in Spain. Thence, the explorer assumed an "Italian" relationship while in Mexico, Central and South America and in the Caribbean, Columbus retains his "Spanishness" for a majority in this part of the world.

This, though, may be the future history of Columbus in America's heritage: where the Spanish language brought to this hemisphere by Columbus and his successors with the culture, may enhance and preserve his position as part of our past. Thus, in every century of the United States' history, a new, refreshed view is taken on Christopher Columbus as he remains significant in our heritage.

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<sup>11</sup> Refer to summarized tributes to Columbus on "Columbus Monuments," on-line.



Image of statue  
as it appeared  
in West Fairmount  
Park for the Cen-  
tennial Exhibition  
in 1876.

(Free Library,  
Print Collection.)

Compare this pose  
with the statues on  
pages 16 and 17--  
all Classical.

The Christopher Columbus Statue:

(b) is associated with an **event** of importance to the history of the City, Commonwealth or Nation.

The idea for a "World Exposition" to celebrate our independence from Great Britain in 1776 was proposed in 1866 to then-Mayor Morton McMichael by a Professor John Campbell from Indiana. Preparations to raise funds were made subsequently, with some national financial blocks, such as the Depression of 1873, somewhat slowing the flow of money needed to construct buildings, renovate West Fairmount Park to accommodate, perhaps millions of visitors and to present an impressive "International Exhibition of Arts, Manufactures, and Products of the Soil and Mine" to the world. Thirty-seven countries participated with new innovations or with products that identified with the workmanship of each nation. The event would open by May 10, 1876 and close six months later. It was better known as "The Centennial Exhibition."

In 1872, a group of Italian Americans in Philadelphia then formed the "Columbus Monument Association" to have a statue of the great navigator presented to the City as a gift. Its planning had included the principals of the Centennial Exhibition, a Mr. Charles S. Keyser "Who has long been identified with the work (Columbus statue)"<sup>12</sup> and others inside of the Art Gallery near Memorial Hall; and a Mr. Schwarzmans who determined the location for the statue on the Centennial's grounds.<sup>13</sup> Juliani attributes the idea for this status to Agostino Lagomarsino (1830-1906) who was also from the same area as Columbus and settled in Philadelphia.<sup>13</sup> Lagomarsino was a known philanthropist and civic leader in the city. His involvement with other prominent Italian Americans long invested in city affairs and business led to the coordinated design and planning of the Columbus statue.<sup>14</sup>

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<sup>12</sup>McCabe, Jas., *The Illustrated History of the Centennial Exhibition*. Phila.: National Pub. Co., 1876, p. 753.

<sup>13</sup>FPAA, op. cit., p. 90.

<sup>14</sup>Juliani, Richard, *Building Little Italy*. Univeristy Park: Penn State University Press, 1998, p. 275.



The Centennial Exhibition was the first great "World's Fair" in the United States from which other fairs, such as the "Columbian Exposition" in Chicago (1893) were based. On the grounds of West Fairmount Park, 167 buildings were erected in various architectural styles to raise the awe in professional designers and the public alike. Dotting the grounds were statues, some of animals and others exemplifying the current and more advanced trends in art. Thus, there were works by sculptors trained in Rome and in Florence since the 1850s and those highly affected by Realism in emotional capturings that were quite the opposite from the instant Columbus statue's Neoclassicism. (See Bach, page in Appendix II.)

Much has been written on the Centennial's effects on commerce. Philadelphia's John Wanamaker became one of America's retail giants from his experience in 1875 as the Centennial's Chairman of the Board of Finance. But he saw more in the Centennial relevant to the instant nomination: "It (Centennial) was the cornerstone upon which manufacturers everywhere rebuilt their business to new fabrics, new fashions...taught them from the exhibits of the nations of the world."<sup>15</sup> Of course, Wanamaker noticed the art at the event. "The Art Galleries were at all times the most crowded part of the fair," said portraitist John Sartain.<sup>16</sup> True, beautiful things at the Centennial outnumbered and surpassed in viewers the unattractive metals in technology.

The Columbus statue was very visible at the Centennial, near the exquisite "Bartholdi Fountain" at the intersection of Belmont and Fountain Avenues.<sup>17</sup> In fact, there were many similarities between these works as well as Bartholdi's more famous sculpture, the "Statue of Liberty." Both bore Neoclassicism, a style still favored, but fading as sculptors met the challenges of Eclectism,

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<sup>15</sup>Wanamaker, John, "The Evolution of Mercantile Business," in U.S. & Dry Goods Reporter, Nov. 18, 1876, p. 4.

<sup>16</sup>FPAA, op. cit., p. 91.

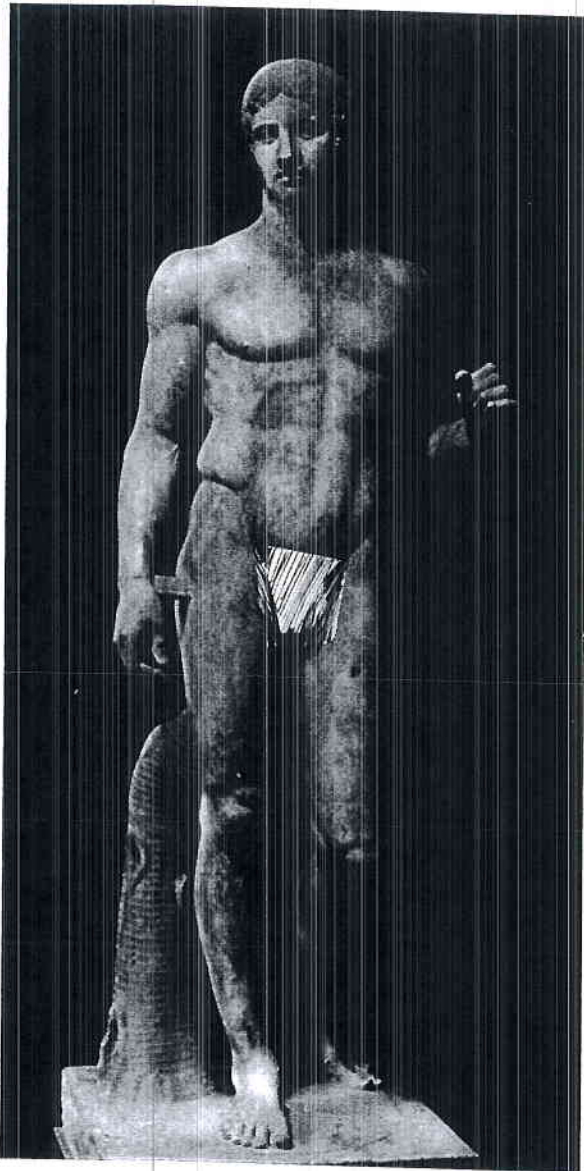
<sup>17</sup>McCabe, op. cit., p. 753; FPAA, p. 90.

Philadelphia's Columbus statue is an example of **monumental** statuary, in the tradition of these images from the Golden Ages of Greece (Fifth Century B.C. on left) and of Rome in the First Century A.D. (below)

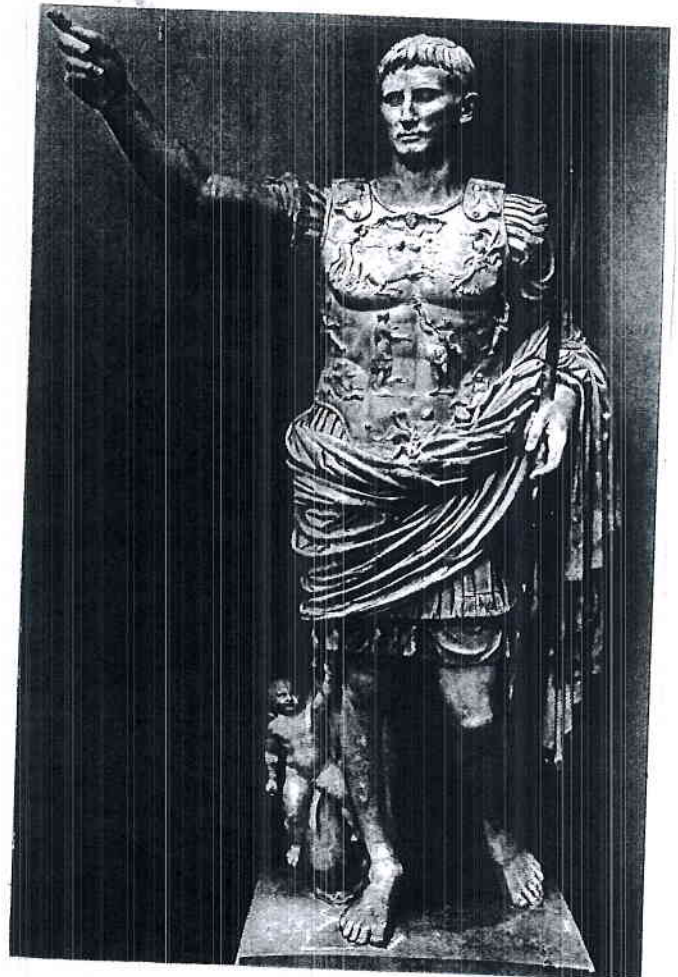
These works show the forward gaze, the pose assuming a naturalistic stance defined as the **contrapposto**, with one leg stepping forward, leaving the other to bear weight.

These and other statues were executed to memorialize the subjects, notables and heroes.

This classic pose would be revived in art during the Renaissance, later for centuries.

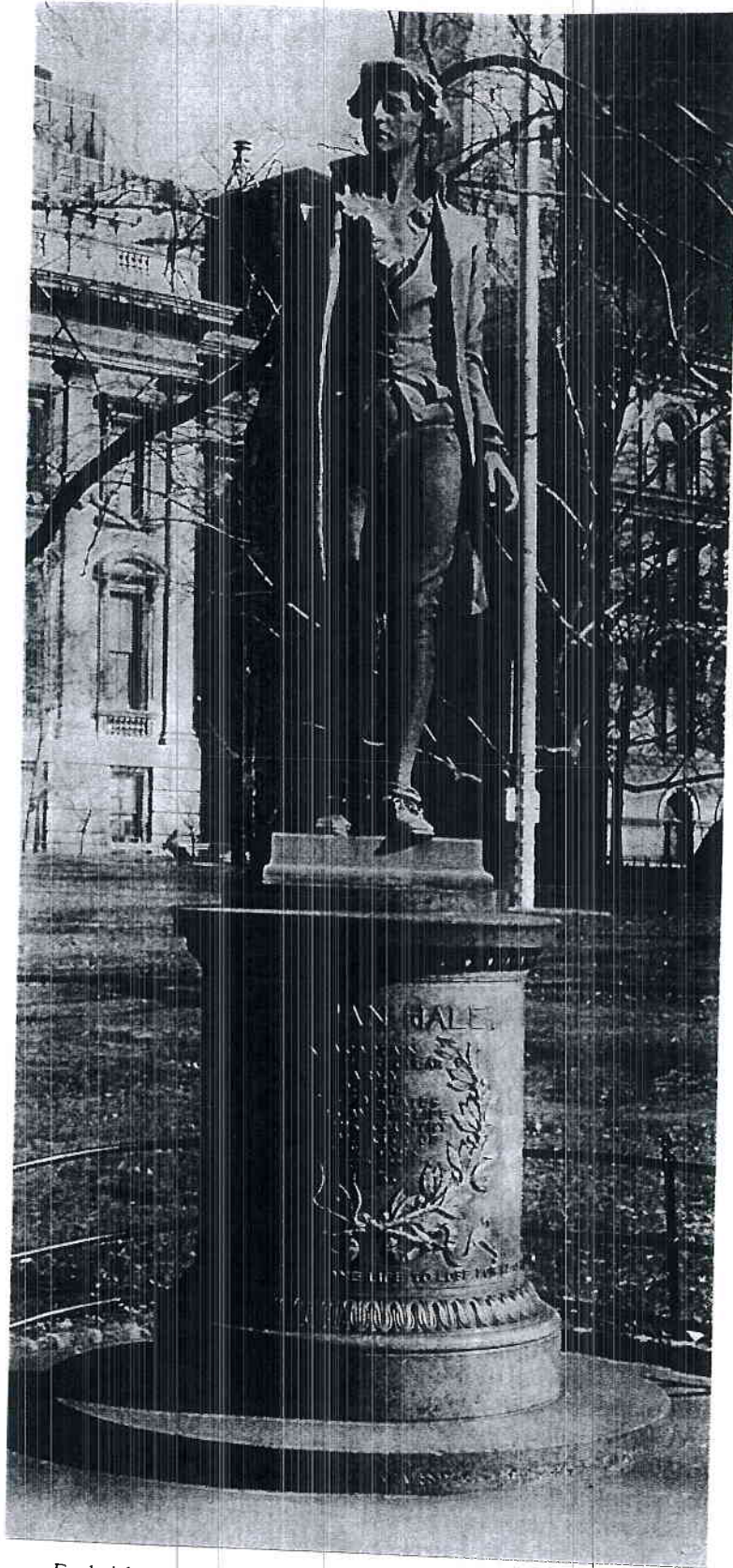


DORYPHOROS (SPEAR CARRIER). Roman copy from Pompeii of the bronze original (ca. 450 B.C.) by Polykleitos. Marble; ht., 6 ft., 6 in. Naples, National Museum.



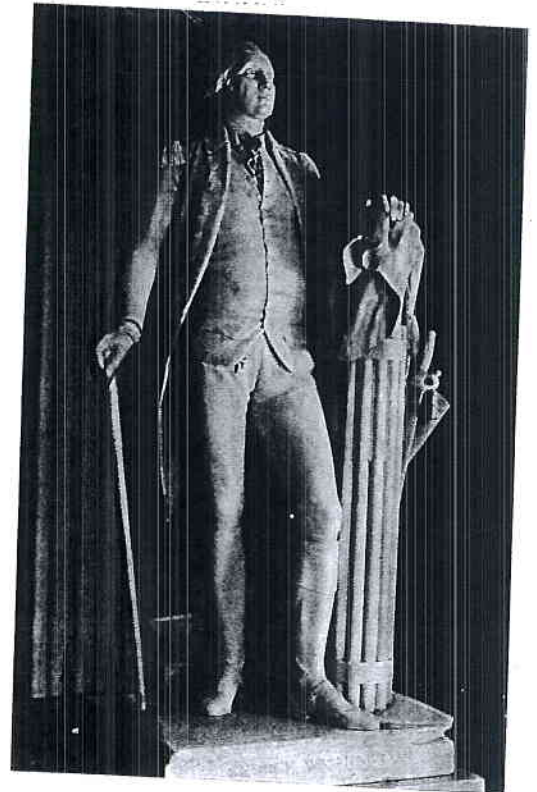
Augustus of Prima porta. c. 20 B.C. Marble, 6' 8". Vatican Museums, Rome





Frederick MacMonnies. *Nathan Hale*. 1890. Bronze, heroic size. City Hall Park, New York

These statues demonstrate the strong influence of Neoclassicism from western Europe in the United States. Neoclassicism, derived from ancient Greece and Rome's Golden Ages, was part of our nation's law, art, architecture, philosophy and surroundings as in other nations emulating the glory of the classical civilizations. Note the *contrapposto* poses.

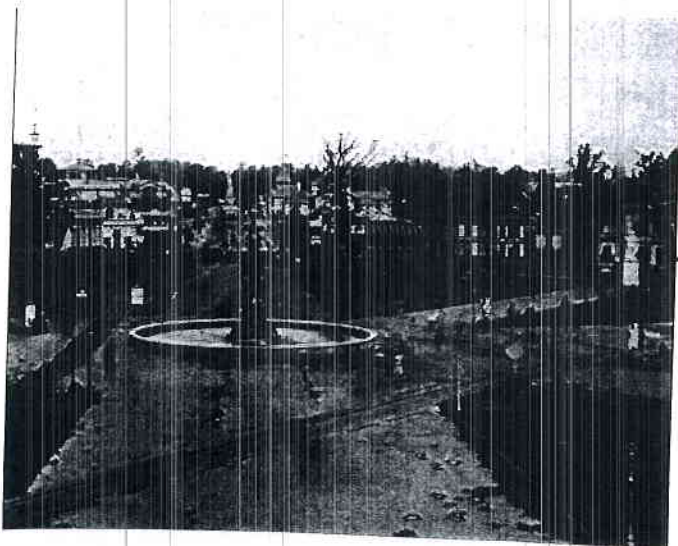


JEAN ANTOINE HOUDON. *George Washington*. 1788-92. Marble, height 74". State Capitol, Richmond, Virginia

and the sculptural techniques by Impressionists. The "Statue of Liberty" was said to have been an idea conceived in 1866 to be presented to the United States: this may have inspired local citizens in 1872 to commission the Columbus statue, which also was executed in Europe.

Credit for the fountain and "Liberty" though, are known; the Columbus sculptor is not, although some sources state "Emanuele Caroni" who entered many smaller, lively pieces for the Gallery. The records of the Centennial, the "Official Catalogue" and the Fairmount Park Art Association do not attribute the Columbus statue to Caroni. (Refer to Appendix II) McCabe's effusive discussion of "The Italian Day" during the Centennial further negates Caroni but does somewhat infer that "Professor Salla" was the artist/sculptor in Florence who used Italian marble. The inference was never asserted by other sources.

The Columbus statue's Neoclassicism was intentional, in the tradition of **monumental** sculpture reserved for the honored. (See images on preceding pages.) From antiquity through the founding of our country, Neoclassicism was adapted into the "New Rome" as some envisioned for America, with the important buildings designed to appear as Greek or Roman temples. In this respect, the 19th century Columbus statue was executed "for the ages" to come, in its resemblance to classical figures.



The Bartholdi Fountain at the intersection of Belmont and Fountain Avenues is center.

The Columbus statue is on right, where arrow directs.

Note the number of buildings.

The Christopher Columbus statue from the Centennial Exhibition certainly meets the significant value as part of the United States' cultural past from the earliest years of independence. The subject of Columbus was on the minds of eighteenth century patriots and especially our first president who approved the "Columbia" name in honor of Columbus to be enjoined with his name for our nation's capital city. This was only the beginning of tributes to Columbus as he became synonymous with our country.

Continuing in this tradition, the Centennial Exhibition in 1876 here placed the instant Columbus statue in one of the most frequented areas, close to the intersection of Belmont and Fountain Avenues in acknowledgement of the explorer's part in our history. Supervised by local Italian American groups and Centennial officers, the statue stylistically was appropriate in furthering Neoclassicism in American art while bearing a timeless image of a historical figure admired by the nation's first proponents of a republic with democracy, as found in the classical civilizations. The Centennial was the debut for this statue, now situated at Marconi Park in South Philadelphia, and this event held importance specifically in American history as the model of public spaces where one's work could compete, be on display, or serve to create innovation.

For all of these reasons, the Christopher Columbus statue merits historical designation by this Historical Commission.

Celeste A. Morello, MS, MA



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A P P E N D I X I:

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Headline: [America; Columbia; Christopher; Columbus; Tammany Society; Appointment; Eulogy; Nautical]; Article Type: News/Opinion  
Pennsylvania Journal (Philadelphia, Pennsylvania) • 10-24-1792 • Page [3]

## NEW-YORK, October 13.

At evening, the 3d centuary of the discovery  
(Columbia) by Christopher Columbus, was  
celebrated by the Tammany Society or Columbian  
Society, on this occasion, a portable monumental obelisk was  
erected at great expence, amid the plaudits of the be-  
liever John B Johnson, agreeable to appointment  
of the Society with an animated Eulogy on this  
monishing adventurer, with great applause  
patriotic songs were sung, and toasts given su-

The following copies of newspapers relate how  
"Columbus Day" was celebrated in 1792.



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Headline: Salem, October 9; Article Type: News/Opinion

Mail, published as The Mail; or, Claypoole's Daily Advertiser (Philadelphia, Pennsylvania) • 10-17-1792 • Page [2]

**S A L E M, October 9.**

Next Friday, the 14th instant, will complete the *third Century* since the immortal COLUMBUS discovered America.—The coincidence of this event with the circumnavigation of Africa, the reputation it gave to Commerce, as well as the wealth which it circulated through Europe, give it a claim to the attention of all who receive sublime pleasure from a knowledge of the Globe, from the grand progress of the Arts, and the happy changes which Commerce has produced in the history of man. It is true, there are shades in the picture—We behold ingratitude provoked by splendid services, in the fate of this enterprising navigator; we see the cruelty of an unbounded thirst for gain—and the struggles of genius with the “timid prudence of inferior understandings.” But by navigation, east and west, we find human nature advanced far beyond any former improvements, on principles which promise to become universal, and at this period raised from the mere infancy of its arts, sciences and polity.—While gratitude in posterity has immortalized the heroes who have fought the battles of individual nations, or given renown to empires—and while the same reward of fame has been bestowed on

founders of institutions, which triumphed only in the importance of a transient usefulness—THIS DAY demands of us to celebrate the exertions of an individual who, by his success, began a revolution



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Headline: By This Day's Mail. New-York, Oct. 18. King of France Beheaded; Article Type: News/Opinion  
Federal Gazette, published as The Federal Gazette AND PHILADELPHIA DAILY ADVERTISER. (Philadelphia, Pennsylvania) •  
Page [3]

## BY THIS DAY'S MAIL. NEW-YORK, Oct. 18. KING OF FRANCE BEHEADED.

By Capt. Aigie who is arrived at Kennebeck, in thirty days from Liverpool, we are informed that accounts had been received from France, just prior to his sailing, that the King of the French was beheaded!

The 12th inst. being the commencement of the IVth Columbian Century, was observed as a centuary festival by the Tammany Society, and celebrated in that stile of sentiment which distinguishes this social and patriotic institution.

In the evening a monument was erected to the memory of Columbus, ornamented by transparency, with a variety of suitable devices.

This beautiful exhibition was exposed for the gratification of public curiosity some time previous to the meeting of the society.

An elegant oration was delivered by Mr. J. B. Johnston, in which several of the principal events in the life of this remarkable man were pathetically described, and the interesting consequences to which his great achievements had already, and must still conduct the affairs of mankind, were pointed out in a manner extremely satisfactory.



During the evening's entertainment, a variety of rational amusement was enjoyed.—The following toasts were drank :

1. The memory of Christopher Columbus, the discoverer of this new world.

2. May the new world never experience the vices and miseries of the old ; and be a happy asylum for the oppressed of all nations and of all religions.

3. May peace and liberty ever pervade the United Columbian States.

4. May this be the last centenary festival of the Columbian Order that finds a slave on this globe.

5. Thomas Paine.

6. The Rights of Man.

7. May the 4th century be as remarkable for the improvement and knowledge of the rights of man as the first was for discovery, and the improvement of nautic science.

8. La Fayette and the French nation.

9. May the liberty of the French rise superior to all the efforts of Austrian despotism.

\* 10. A Burgoyning to the Duke of Brunswick.

11. May the deliverers of America never experience that ingratitude from their country, which Columbus experienced from his King.

12. May the genius of liberty, as she has conducted the sons of Columbia with glory to the commencement of the fourth century, guard their fame to the end of time.

13. The DAY.

14. WASHINGTON, the deliverer of the new world.



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Headline: [No Headline]; Article Type: Poetry

Federal Gazette, published as The Federal Gazette AND PHILADELPHIA DAILY ADVERTISER. (Philadelphia, Pennsylvania) • Page [3]

O D E,

*Sung at the Great Wigwam of the Tammany Society,  
or Columbian Order of New York, on the Celebration  
of the 3d Centuary of the Discovery of America by  
Christopher Columbus, on the 12th October, 1492.*

**Y**E sons of freedom, hail the day,  
That brought a second world to view;  
To great Columbus' mem'ry pay  
The praise and honor justly due.

**Chorus**—Let the important theme inspire  
Each breast with patriotic fire.

Long did oppression o'er the world,  
Her sanguine banners wide display;  
Dark bigotry her thunders hurl'd,  
And freedom's domes in ruin lay.

Justice and liberty had flown,  
And tyrants call'd the world their own.  
Thus heaven our race with pity view'd;  
Resolv'd bright freedom to restore;  
And heaven directed o'er the flood,  
Columbus found her on this shore.

O'er the bless'd land with rays divine,  
She shone, and shall forever shine.

Hark! from above, the great decree  
Floats in celestial notes along;

"Columbia ever shall be free,"

Exulting thousands swell the song.

Patriots revere the great decree,  
Columbia ever shall be free

Here shall the enthusiastic love.

Which freemen to their country owe ;  
Enkindled, glorious from above,  
In every patriot bosom glow.

Inspire the heart, the arm extend,  
The rights of freedom to defend.

Secure forever, and entire,  
*The Rights of Man* shall here remain :  
No nobles kindle discord's fire,  
Nor despot load with slavery's chain.

Here shall th' oppress'd find sweet repose,  
Since none but tyrants are our foes.

Here commerce shall her sails extend,  
Science diffuse her kindest ray :

Religion's purest flame ascend,  
And peace shall crown each happy day.

Thrice favor'd land, by heaven designed  
A world of blessings for mankind.

Then while we keep this jubilee,  
While seated round this awful shrine,  
Columbus' deeds our theme shall be,  
And liberty that gift divine.

Let the transporting theme inspire,  
Each breast with patriotic fire.

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10/17/1792

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Headline: On the Discovery of America; Article Type: News/Opinion

Gazette of the United States, published as The Gazette of the United States. (Philadelphia, Pennsylvania) • 10-27-1792 • P:

## ON THE DISCOVERY OF AMERICA.

*An Oration, delivered by Mr. Joseph Reed, of this City, at the late anniversary Commencement held at Princeton, New-Jersey.*

**A**T the close of a century the mind is naturally led to the contemplation of any great event which marked its commencement. Nations have chosen, at such periods, to distinguish with peculiar grandeur, the commemoration of those events from whence they date their birth, their happiness, or their glory. Such were the secular games at Rome, celebrated but once in an hundred years, which exhausted the resources of art, and to which all the citizens were invited by the voice of a herald, summoning them to a sight they had never seen before, and should never see again. But what is the foundation of a city, the establishment of an empire, or the ceasing of a plague, compared with the discovery of a world? Yet *these* have been often celebrated, while the year seventeen hundred and 92, a year which completes the third century since the discovery of America.

man, proud, scientific man, stands abashed in the presence of her superior discernment.

It there be an object truly sublime in nature, it is Columbus on his voyage to America! To use the language of antiquity, it is a sight which the Gods themselves might behold with pleasure. On this very day, the 26th of September, 1492, he had advanced above 700 leagues westward of the Canary Islands. There we behold him in the midst of the pathless ocean, with three small and ill-constructed vessels, steadily exploring his way where never mortal had adventured before. Amidst dangers new and unexpected, amidst appearances of nature to a mariner the most alarming, and surrounded by the terrors and superstition of his followers, we behold him displaying the most unshaken fortitude: now soothing their fears, now repressing their mutiny, and by patience and superior address establishing that ascendancy over their minds which genius alone can acquire. But in a voyage so long the resources of Columbus were at length exhausted. His officers themselves were in despair; and this wonderful man was perhaps the only one whose hopes remained firm and unshaken. Unable to repress any longer the terrors of his crew, he is obliged to promise that if land does not appear in three days, he will change his course and return to Europe. What an interesting period! a period which is to decide upon his fortune and his fame forever—which is to stamp immortality upon his name, or give him back to the scoffs and ridicule of the world! Methinks I see him in this solemn crisis standing upon the fore-castle of the Santa Maria. It is midnight—but not an eye is closed—not a sound is heard, save that of the winds and of the waves—every look is anxiously cast to the west, but despondence and distrust are painted on the faces of his crew; while confidence and hope still animate that of Columbus.—Hah! What light is that which he descries in motion and points out to those who are near him? What shout is that which bursts from the crew of the foremost ship?—'Tis land—'Tis land! The predictions of Columbus are accomplished; a new world is found, and the morning light unfolds to their eager eyes the verdant fields of Guanahani. Oh! what a moment for Columbus! I see the rapture which



passes almost unnoticed—a discovery which stands foremost among the works of genius; which once filled the world with astonishment, and must forever command the admiration of the philosophic mind. Yet the spirit of Columbus, while from his empyreal height he surveys, the rising greatness of this new world, sees no statues erected, no inscriptions made, no honors decreed to celebrate this great event.—Illustrious shade! my feeble voice at least shall announce thy praise; and this enlightened audience, kindling at thy name, will inscribe upon their hearts the honors due to thine exalted worth!

True genius is a ray of divinity, which beams only on the tall and elevated mind. A capacity for bold and original discovery resembles the power of creation; and its possessor raised above the rest of mankind, approximates to the Deity. Such was the celebrated Columbus.—Accustomed from his youth to adventurous voyages he often cast an inquisitive eye on the immense ocean to the west, which, for ages, had been deemed the impassible boundary of the habitable world. Ignorance and superstition spread all their terrors over the unknown abyss, and inevitable destruction seemed to await the wretch who should venture to explore it. But Columbus, elevating himself above the errors and prejudices of his age, and collecting the scattered rays of knowledge which faintly illuminated the close of the 15th century, descried the existence of unknown lands beyond the Atlantic, and boldly predicted the possibility of reaching them. Acquainted from our earliest years with the improvements in geography and navigation, it is difficult, at first sight, to comprehend all the greatness of this bold and original idea. To realize its magnitude, let us mark how it was received by philosophers and kings, when Columbus, eager to ascertain its truth, solicited the patronage of different courts. In Genoa, his native city, he was treated with all the contempt with which wealthy ignorance regards the suggestions of unpatronized genius. In the more enlightened court of Portugal his proposals were pronounced to be chimerical and absurd. In Spain we find him encountering the prejudices of false science, and wasting five long years in fruitless attempts to enlighten the scholars and ecclesiastical counsellors who adorned the court of Ferdinand and Isabella. But the idea was too vast for these philosophers to comprehend; and it seemed to require a genius like that of Columbus himself, to adopt a scheme so bold and uncommon. Mortified and disappointed, he retired from court: and that age was in danger of losing a discovery at once honorable and advantageous. But to the honor

glows on his cheek—the tear of joy which glistens in his eye. I see him affectionately railing up his followers, who prostrate themselves at his feet, overwhelmed with astonishment, and imploring his forgiveness. I see him gazing on the simple natives, who crowd to the shore, and wonder at the winged monsters which swim on the surface of the deep. I see him anticipate the astonishment of Europe—the triumph of his return—the splendor of his reception—the applause of his cotemporaries, and the admiration of ages to come. This moment—this single moment, overpays him for all his toil and distress, for eight years of mortification and contempt, and gives him those sublime transports which it is the prerogative of genius to enjoy.

*(To be concluded in our next.)*



# AMERICAN ART

PAINTING • SCULPTURE • ARCHITECTURE  
DECORATIVE ARTS • PHOTOGRAPHY

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PRENTICE-HALL, INC., ENGLEWOOD CLIFFS, NEW JERSEY  
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1979

How the Centennial Exhibition in 1876 influenced American architecture, painting and sculpture is noted in this source.



# 11

## Architecture: The Battle of Styles

The architecture of the nineteenth century as a whole, and of the second half specifically, has commonly been described as an epic struggle between the forces of reaction expressed in eclecticism and those of progress embodied in functionalism. However, it was an exuberantly productive era, fascinating in its failures as well as in its successes. What was once seen as a single undeviating line of development from Darby's iron bridge over the Severn to the International Style now seems too simplistic. Recent historians have rediscovered aspects of eclecticism which had either an important influence on the mainstream or aesthetic validity in their own right. The separation between architect and engineer in the latter half of the century was real, but architects were not blind to advances in technology. Many had engineering training, some even made important contributions to building technology, and every large architectural firm had its engineer. However, the gap between the purely utilitarian construction of bridges, railroads, canals, dams, or factories and that of traditional structures such as public buildings and dwellings had become irreconcilable. Architecture and engineering had become distinct and specialized professions.

It was in the gray area between engineering and architecture that aesthetic confusion occurred. The problem showed itself clearly in the railroad station, where the train shed was entrusted to the engineer and the station building itself to the architect. Commercial architecture in general teetered between utility and public presence. To be profitable the commercial building had to be serviceable and economical, but it often had to appeal to aesthetic taste as well. Ornateness was directly related to the status consciousness of the client.

Building activity fell off with the financial depression of 1857, and the decline naturally continued through the Civil War, but the postwar boom fostered public and private building on an unprecedented scale. The period is characterized not only by a new level of extravagance but also by an uninhibited and often misguided mingling of elements from various historical sources. The result was

at times a provincial pastiche, labeled aptly enough the "General Grant Style," since its life span coincided with the General's term as President (1869-77).

From the end of the Civil War to the Philadelphia Centennial Exhibition in 1876, American taste accepted with equanimity two distinct revival styles, the Victorian Gothic and the French Second Empire. On the face of it, no two modes could be more disparate: the one medieval, towered, pointed-arched, asymmetrical, and polychromed; the other Classical-oriented, mansard-roofed, round-arched, symmetrical, ordered, and, at least in its origins, essentially monochromatic. Yet, somehow the two were converted to a common aggressively plastic picturesqueness expressive of the brash adventurism of the period itself. Churches, schools, libraries, and museums were normally Gothic, while governmental and commercial buildings, or anything intended to appear palatial or luxurious, were more frequently Second Empire.

(continued on page 250)

### DECORATIVE ARTS

The Centennial Exhibition in Philadelphia in 1876 introduced several conflicting trends in decoration, from the revival of our colonial heritage to exotic Eastern modes. Various decorators and designers began then to mingle Moorish, East Indian, and Japanese elements, not always distinguishing among the styles they were incorporating. Interest in the Near East was evident in the use of cushions and divans, inlaid tables, brass objects of all kinds, and decorative screens. Many clients had special corners treated in exotic manners, and some even had entire Moorish rooms. The finest such room (colorplate 34) was designed for Arabella Worsham and later owned by John D. Rockefeller. Here divans, cushions, and the rich Oriental rug are almost subordinated to the lavish overall decorative scheme. The woodwork is covered with both deep carving and polychromed ornament taken from Moorish models. The furniture is attributed to George Schastey, who was known for

# 12

## Painting: The Gilded Age

The effect of the Civil War on culture was not cataclysmic. The euphoria generated by peace, the preservation of the Union, and, in the North, victory, fostered the illusion of national continuity. In a cultural sense, 1876 was more significant as a date than 1865, because it saw the end of the Grant administration and the opening of the Centennial Exposition in Philadelphia. The Exposition serves as a key to the next period, for the great Corliss engine that dominated Machinery Hall, symbolizing America's technological advances, proved more impressive than a century of American art displayed in a thousand works.

So, after a long reign of nationalist isolation, the arts turned again to Europe. Artists were going abroad to study at an earlier age, and Paris and Munich became new meccas for American students. Entrance to the École des Beaux-Arts was competitive and difficult, but professors did accept nonmatriculated students in their ateliers; however, such students did not undergo the rigorous academic training of the Beaux-Arts curriculum. One might also study with an independent master or enroll in the Académie Julian, specifically organized to accommodate the hordes of foreign students. Here, though space was at a premium, one could work at will and receive criticism from Beaux-Arts masters hired to perform that function. The majority collected a particular bag of tricks, assumed the artist's mien, and came home. Many who could not make what they had learned fit their native environment found it more congenial to live and paint abroad. Undigested borrowings from various European sources gave American painting of the late nineteenth century an air of eclecticism.

Artists returning from study abroad found no ready buyers, for the majority of *nouveau riche* collectors bought the fashion of the period, from Bouguereau to Meissonier or even Corot, rather than their American echoes. Very few knew about the avant-garde artists who were to become the great masters of the period. Wiser collectors began to invest in the old masters, and the collections of J.P. Morgan, Henry Walters, Benjamin Altman, Isabella

Stewart Gardner, John G. Johnson, and Henry G. Marquand were begun, and Mary Cassatt advised her wealthy friends to buy the Impressionists.

Art activity expanded greatly in the postwar period, as witness the establishment of museums, art institutions, and art schools and the increase in the number of collectors, dealers, and artists. Taste was wide enough, or perhaps confused enough, to accept a broader range of expression than previously. One can isolate two main currents in post-Civil War painting, Realism and Romanticism, with Realism dominant in importance. The new visual Realism grew out of the literalism of the Hudson River School and the popular art of the genre painters; the new Romanticism transformed the transcendental philosophy of the Hudson River School into the personal expression of poetic feeling.

### THE EXPATRIATES: WHISTLER, CASSATT, SARGENT

Since it was common for American artists to study, travel, and even live abroad as far back as the eighteenth century, it is rather curious for historians to have singled out Whistler, Cassatt, and Sargent as *the* expatriates. But except for Copley and West, who were colonials, and the sculptors who worked in Europe largely for reasons of craft, the earlier expatriates were inconsequential as artists. These three are a big chunk of American (or non-American) art, so that they are usually honored for their international eminence and slighted for their purported irrelevance to American art and life. In fact, all three thought of themselves as American and had more pertinence for American art than is commonly thought.

The expatriation of James Abbott McNeill Whistler (1834-1903) began when he was taken at the age of nine to St. Petersburg to join his father, who was supervising the building of the railroad to Moscow. His early years in Russia and later visits to his half-sister in England did not prepare him for life in Pomfret, Conn., to which the family moved in 1849. He spent three years at West Point and, after a short stint in the U.S. Coast and Geo-



# 13

## Sculpture: Mostly Monumental

Sculpture after the Civil War paralleled the evolution of painting, with the emergence of a new Realism and the discovery of Paris as a new influence, but its public character conditioned its development in ways that did not affect painting. Monuments, official portraits, and architectural sculpture are commissioned, paid for, and judged as establishment taste, and the sculptor's function depends on public acceptance. Sculpture was, therefore, more conservative and rhetorical, less adventurous and idiosyncratic.

The response to the Civil War as an expression of individual or public sentiment was more pronounced in sculpture than in painting, and the prevailing attitude was pro-North and antislavery. In the North such sentiments were institutionalized into civic monuments. Every hamlet had its war memorial in permanent stone, bronze, or cast iron, all of which kept a horde of sculptors lucratively busy. The defeated South, steeped in rancor and burdened with the demands of reconstruction, could not freely participate in this orgy of plastic commemoration. Still, for a while, at least, the erection of statues of southern Revolutionary War heroes affirmed the southern heritage.

The assassination of Lincoln had created a martyr whose image could serve as a symbolic reference to the idealism that had motivated the conflict, and, with time, monuments to his memory began to rival in number even those to Washington.

As in painting, postwar sculpture was for some time dominated by an older generation of established artists, both expatriate academic Neoclassicists and the native monument makers. The Neoclassicists prevailed at the Centennial Exposition, but they were playing out their string on reputation.

Edmonia Lewis (1845-?) created quite a sensation in Rome. Born of a Chippewa mother and a black father, she graduated from Oberlin College and made her way to Boston and to William Lloyd Garrison, who helped launch her on a sculpture career. Following her early success with Civil War subjects, she turned in Rome to Indian and Biblical themes. Her greatest triumph came

with the *Death of Cleopatra*, exhibited at the Centennial, a typical Victorian literary subject but with an element of the macabre in the depiction of the effect of death on beauty. Then she simply disappeared from the scene.

Of the old-guard monument sculptors, Thomas Ball continued to work as an expatriate in Florence, but his style was tied to the naturalism of the native school rather than to the Neoclassic tradition. His most famous work of the postwar years was the *Emancipation Group* (1874, plate 332). More than any Lincoln memorial of the time it captured the imagination of the public in its mixture of naturalism and sentimentality.

(continued on page 315)



332 Thomas Ball. *Emancipation Group*. 1874. Bronze, heroic size. Washington, D.C.





# THE UNITED STATES CAPITOL

Designing and Decorating  
a National Icon

EDITED BY DONALD R. KENNON





FIG. 14. "Marine." Neptune with trident in hand rides across the ocean. (See also color plate 6.)  
(Courtesy Office of Architect of the Capitol.)

Senate corridors, as he was able to get work authorized. Brumidi's last work, the rotunda frieze, was his greatest monument to patience. He created the sketch with scenes from American history in 1859, but he was allowed to start painting on the wall only in 1878. He began with Columbus, painted in true fresco on the wet plaster, using browns and whites to simulate sculpture. The painter was in his seventies and his health was not good, but he climbed up many steps and down a long ladder to a little scaffold dangling sixty feet above the rotunda floor. His near fall is well known: his chair leg slipped off the edge, but he managed to hold on to a rung of the ladder until rescued. Two contemporary newspaper accounts were found that show that the story that he never painted again is not true; they describe how he climbed back up the next day and accomplished more on the fresco than he had for a long time.<sup>27</sup> His work on the fresco ended with the figure of William Penn only partially completed (fig. 16). He painted the foot on the left, and the successor he recommended, Fillippo Costaggini, painted the one on the right. When the frieze was conserved in 1986, the pencil inscription where Costaggini noted his starting place could be read.

For the last few months of his life Brumidi stayed in his studio working on his full-size cartoons to enable someone else to complete his design. He was paid for working

<sup>27</sup>"Death of a Great Artist," *Washington Post*, Feb. 20, 1880, and "The Allegorical Work at the Capitol," *Forney's Sunday Chronicle*, Oct. 12, 1879.



ited a preference for historical subject matter for the decoration of the Capitol. Even as late as 1875, one author addressed this state of affairs, commenting: "In America there is also little government patronage of art, save the rare purchase by Congress of historical pictures or statues."<sup>18</sup>

There were, of course, numerous precedents for historical paintings, particularly those that illustrated scenes of discovery and settlement.<sup>19</sup> The most obvious were the paintings that had been executed for the rotunda of the U.S. Capitol between the years 1817 and 1855.<sup>20</sup> Of those eight paintings, three related to the themes of discovery and settlement: the *Embarkation of the Pilgrims at Delft Haven, Holland* by Robert W. Weir,<sup>21</sup> the *Landing of Columbus at the Island of Guanahani* by John Vanderlyn,<sup>22</sup> and the *Discovery of the Mississippi by De Soto* by William H. Powell.<sup>23</sup> ←

Another important influence was the work of Emanuel Leutze, one of the most celebrated history painters active in America at the time. Bierstadt had met Leutze while a student in Dusseldorf, where he may have even studied under the older artist.<sup>24</sup> Although Bierstadt had concentrated upon landscape during his studies, Dusseldorf was well known as a center of history painting, and Bierstadt inevitably came into contact with a number of practitioners of this genre, including Karl Friedrich Lessing. When Leutze received a commission for the Capitol, the fresco painting *Westward the Course*

<sup>18</sup>Philip Quilibet, "Art and the Centenary," *Galaxy* 19 (1875):697. This lack of government patronage was often viewed as a want of patriotism, as another author pointed out that year: "Again, paintings are ordered in this country neither by churches nor the state, mural art is unknown, and the only commands for decoration in fresco go to humble workmen of Italian or German origin when a new theater is to be hurried up" (*The Nation*, Apr. 15, 1875, p. 264). Frequently, the problems of patronage issued from within Congress. Such was the case with a proposed statue of Abraham Lincoln by Vinnie Ream. In a speech against this commission, Sen. Charles Sumner cited her relative inexperience and questionable ability to bring the project to fruition: "Suffice it to say that art throughout the whole country must suffer if Congress crowns with its patronage anything which is not truly artistic. By such patronage, you will discourage where you ought to encourage" (*Art in the United States Capitol: Speech of Hon. Charles Sumner in the Senate of the United States, July 17, 1866* [Boston, 1866], pp. 5-6).

<sup>19</sup>See William Truettner, "The Art of History: American Exploration and Discovery Scenes, 1840-1860," *American Art Journal* 14 (1982):4-31. On the more general issue of history painting in America, see Gilbert Tappley Vincent, "American Artists and Their Changing Perceptions of American History, 1770-1940," Ph.D. diss., University of Delaware, 1982; and William H. Gerdts and Mark Thistlewaite, *Grand Illusions: History Painting in America* (Fort Worth, Tex., 1988).

<sup>20</sup>See *Art in the United States Capitol* (Washington, D.C., 1976); *Compilation of Works of Art and Other Objects in the United States Capitol* (Washington, D.C., 1965).

<sup>21</sup>The full title reads: *Embarkation of the Pilgrims at Delft Haven, Holland, July 22nd, 1620*. Executed between 1837 and 1847, it was purchased for ten thousand dollars. See *Art in the Capitol*, p. 136; *Compilation of Works of Art*, p. 116.

<sup>22</sup>The full title reads: *Landing of Columbus at the Island of Guanahani, West Indies, October 12, 1492*. It was executed between 1837 and 1847 and was acquired for ten thousand dollars. See *Art in the Capitol*, p. 140; *Compilation of Works of Art*, p. 116. ←

<sup>23</sup>The full title reads: *Discovery of the Mississippi by De Soto A.D. 1541*. The painting was executed between 1847 and 1855 and was acquired for twelve thousand dollars. See *Art in the Capitol*, p. 134; *Compilation of Works of Art*, p. 116.

<sup>24</sup>Bierstadt was in Dusseldorf from 1853 until 1856. Tuckerman wrote that Bierstadt "enjoyed either the direct instruction or personal sympathy of Lessing, Achenbach, Leutze and Whittredge" (Henry Tuckerman, *Book of the Artists* [1867; reprint ed., New York, 1967], p. 387).

A P P E N D I X   I I :

Sources applied for criterion (b)

CITY ARCHIVES

CITY OFFICE OF

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UNITED STATES CENTENNIAL COMMISSION

# INTERNATIONAL EXHIBITION,

1876.

# OFFICIAL CATALOGUE

DEPARTMENT OF ART.

PHILADELPHIA:

PUBLISHED BY JOHN R. NAGLE AND COMPANY,

PRINTED AT THE RIVERSIDE PRESS, CAMBRIDGE, MASS.

1876.



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One of the few references to the Columbus statue in the archives of the Centennial Exhibition. (Single folder: "List of Statues on Grounds." City Archives, Philadelphia.)

\$2\frac{1}{2}\$. The Howe Monument

situated by the western end of the Lake  
bronze Statue, Life size on Sandstone  
Piedestal, erected by the Howe Company  
to the memory of the last Howe junior,

81.

211. Christopher Columbus, Brown Stone  
Statue, situated Corner of Belmont  
and Fountain Avenue —

103

~~B'nai B'rith, situated between  
Memorial Hall and a building, created  
by the Israelites, to encourage Liberty  
(not arrived)~~

184.

Fountain of the Jordan L Matt Iron Works  
of New York, East of Horticultural Hall  
45 feet in diameter 26 feet high, four figures  
at the Base, the Top, is surmounted



100

THE ILLUSTRATED HISTORY  
OF THE  
CENTENNIAL EXHIBITION,

HELD IN COMMEMORATION  
OF  
THE ONE HUNDREDTH ANNIVERSARY  
OF  
AMERICAN INDEPENDENCE.

WITH A FULL DESCRIPTION OF  
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INTEREST EXHIBITED IN THEM,

EMBRACING ALSO

A Concise History of the Origin and Success of the Exhibition, and Biographies of the  
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TO WHICH IS ADDED

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BY JAMES D. McCABE,

AUTHOR OF THE "CENTENNIAL HISTORY OF THE UNITED STATES,"  
"PATHWAYS OF THE HOLY LAND," ETC., ETC.

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PHILADELPHIA, PA., CHICAGO, ILL., AND ST. LOUIS, MO.

1876

*The Italian Day.*

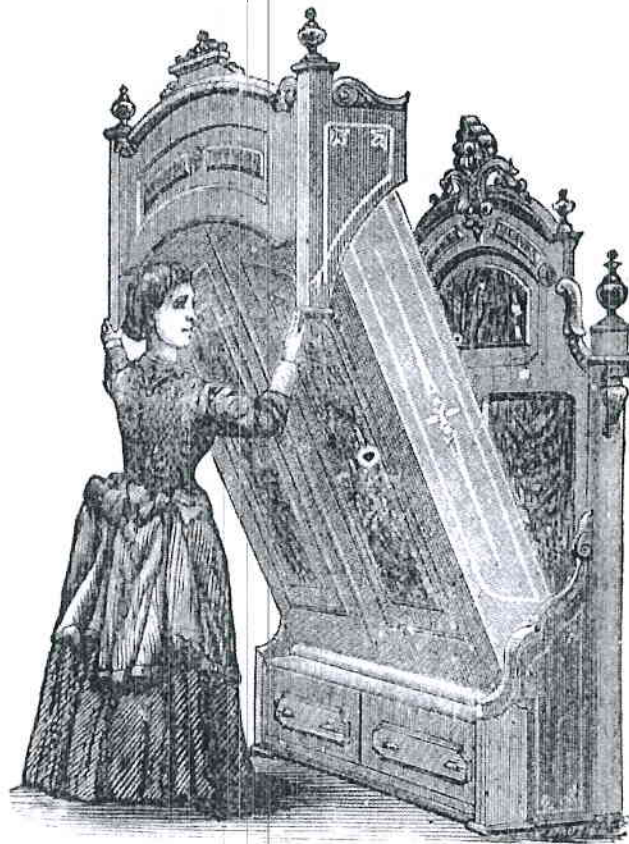
One of the most memorable celebrations connected with the Exhibition took place on Thursday, October 12th, on which day the Italian residents of the United States presented to the city of Philadelphia the magnificent marble statue of Christopher Columbus, which now ornaments the West Park. The day was the 386th anniversary of the discovery of the New World by Columbus.

The various Italian civic and military organizations of Philadelphia and other cities which decided to take part in the ceremonies assembled in South Eighth street on the morning of the 12th of October, and proceeded up Eighth street to Chestnut, and thence to Fifth, where they were reviewed by his Honor the Mayor, after which the Mayor and members of both branches of City Councils entered carriages and took the place in line assigned to them in accordance with the programme. Chief Marshal J. Ratto, Esq., headed the line and was followed by a platoon of twenty-four reserve officers, commanded by Lieutenant Crout. The visiting Columbus Guard (Bersaglieri), of New York, came next, headed by the Black Hussar Band dismounted. The riflemen numbered about seventy men, and made a handsome appearance, the officers having an abundance of green ostrich feathers in their low-crowned hats, while those of the privates and non-commissioned officers were black. The red, white, and green of Italy, together with the stars and stripes, were born by the color-bearers. Following these came the Columbus Monument Association in barouches, and then the Mayor and members of Councils. Attired in their handsome winter uniform, the State Fencible Band preceded the Italian Beneficial Society, of Philadelphia, who carried a handsome blue banner, with the proper inscription. Delegations from New York, Washington, Boston, Baltimore, and other cities were in one body, and bore at the front the banner of the Boston Mutual Relief and Beneficial Society, on which was an elegant painting in oil representing the landing of Columbus. The Italian Colony, of Philadelphia, and G. Garibaldi Society,



of New York, brought up the rear of the line. The line of march was up Fifth to Arch, thence to Broad, to Fairmount avenue, through the Park to Girard avenue, to Belmont avenue, and to the Globe Hotel, where Governor Hartranft and staff were in waiting to accompany them to the site of the monument.

The movement to erect a monument to Christopher Colum-



PATENT FOLDING BED, EXHIBITED IN THE MAIN BUILDING.

bus originated in Philadelphia about two years ago, when the Columbus Monument Association was organized, the call for aid in the enterprise being heartily responded to, not only by the various Italian societies in the country, but by individuals who made personal contributions. Professor Salla, of Florence, Italy, being applied to, sent over a design for a monument, which was adopted, and the artist began his work at once. It arrived

\*

in this country in July, 1876, but, as the officers of the association desired to have it placed in position not more than a few days before the time fixed for its dedication, it was not conveyed to the grounds until needed, when it was erected on the site originally selected for it. The entire monument cost \$18,000, and stands twenty-two feet from the ground, the statue of Columbus being ten feet in height, and the pedestal twelve feet. The base is seven feet long by six feet in width. The figure represents Columbus, in the costume of his age and clime, standing on a ship's deck; near his feet being an anchor, coils of rope, and a sailor's dunnage-bag; his right hand resting on a globe fifteen inches in diameter, with the New World outlined on the front face, and supported by a hexagonal column. His left is gracefully extended, and holds a chart of what was once an unknown sea. The head of the statue is bare, and the physiognomy about as represented in the bust of the great navigator at Genoa. The statue faces east, and on the front cap of the pedestal are the words: "Presented to the City of Philadelphia by the Italian Societies." Beneath this is a medallion representing the landing of Columbus. On the opposite side of the cap is inscribed: "Dedicated October 12th, 1876, by the Christopher Columbus Monument Association, on the Anniversary of the Landing of Columbus, October 12th, 1492." Underneath is the Genoese coat-of-arms and the words: "In Commemoration of the First Century of American Independence." On the remaining two sides of the pedestal are the coats-of-arms of Italy and the United States.

HEIGHT

The military escort to Governor Hartranft formed on Girard avenue east of Belmont avenue at about two o'clock. It consisted of the following regiments and organizations of the First Brigade, headed by General Brinton and staff: First Regiment, Colonel Benson; Second Regiment, Colonel Lyle; Weccacoe Legion, Captain Denny; Washington Grays, Captain Zane; First City Troop, Captain Fairman Rogers, acting as personal escort to the Governor. The military marched up Belmont avenue, and halted opposite the Globe Hotel, at which point Governor Hartranft took his place in the line. At about three

o'clock, the procession from the city having meanwhile arrived, marching through the Exhibition gates at the Belmont avenue entrance, the line proceeded along the avenue to its junction with Fountain avenue, the site of the monument.

The monument was veiled with two large American and Italian colors, and around its base had been erected a platform capable of accommodating about one hundred persons, the space in front being enclosed and supplied with seats for invited guests. The rear of the stage was festooned with American and Italian colors, studded with the coats-of-arms of all nations, and from all sides waved green, red, and white Italian bannerets and red, white, and blue streamers. A force of guards, under Captain Snyder, were in attendance to prevent the anxious multitude from pressing too closely upon the speakers' stand. At half-past three o'clock the military had taken position in a semi-circle skirting the crowd, with the First City Troop in the centre. Governor Hartranft, Mayor Stokley, and Baron Blanc, the Italian minister, advanced to the stage, followed at intervals by the officers of the Italian societies, the orators appointed for the occasion, and the Fairmount Park Commission. Governor Cheney, of New Hampshire, with his staff, in full uniform, also appeared on the platform, and the Black Hussars' Band, of Philadelphia, were assigned a position in front.

After an overture by the band, the exercises were opened by Mr. Charles S. Keyser, of Philadelphia, with whom the suggestion of the memorial statues in the Park originated several years since, and who has long been identified with the work. Mr. Keyser officiated in the conduct of the ceremonies, and introduced Mr. Alonzo M. Viti, Honorary Consul of Italy, and Member of the Royal Commission to the International Exhibition. Mr. Viti briefly stated the motives which had led to the presentation of the statue, and at the close of his remarks the statue was formally unveiled by Governor Hartranft and Baron Blanc, Envoy Extraordinary and Minister Plenipotentiary, from his Majesty the King of Italy to the United States, and Royal Commissioner to the International Exhibition. As



the two gentlemen, standing on either side of the platform, pulled vigorously at the halyards, the colors entwined around the statue slowly rose from the marble and floated on the breeze from the top of the flagstaffs to which they had been drawn, and disclosed to the cheering multitude the beautiful effigy of the great discoverer. The Italian hymn was given by the band, followed by the Star-Spangled Banner, and a salute of artillery was fired from a battery stationed on George's Hill. An address was then delivered by Governor Hartranft, after which Mr. Nunzio Finelli, the President of the Columbus Monument Association, formally presented the statue to the Commissioners of Fairmount Park. The address of acceptance was delivered by the Hon. Morton McMichael, President of the Park Commission. Brief addresses from a number of distinguished gentlemen present closed the ceremonies.

### *New Hampshire Day.*

Thursday, October 12th, the day of the Italian celebration, was also celebrated as "New Hampshire Day." The programme of each festival was so arranged that the New Hampshire ceremonies were over before those of the Italian societies began.

At a quarter to eleven, in the morning, Governor Cheney and staff, the latter being in full uniform, with the Amoskeag Veteran Corps, numbering ninety-six men, in Continental uniform, commanded by Colonel Wallace as the Governor's body-guard, the entire party being escorted by the cadets of the Virginia Military Institute, numbering one hundred and eighty-five youths, under the command of Colonel Scott Ship, left the United States Hotel, where the gubernatorial party were quartered, marched up Elm avenue, entered the Exhibition grounds by the main entrance, and were there received by a detachment of the Centennial Guard under Major E. H. Butler, who escorted the body to the New Hampshire building.

Presidents Hawley and Welsh acted as the escort of Governor Cheney, the three proceeding on foot, followed by the Governor's staff, members of the Centennial Commission and





"The Italian Day"

THE TIMES--PHILADELPHIA, FRIDAY MORNING, OCTOBER 13, 1876.

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tests of national struggle. On Tuesday Indians finally settled down as a Democratic State after the severest trial of her faith that could have been applied to her, and to what extent her tradition may influence Illinois, Michigan and Minnesota will be known only when their ballot-boxes shall speak in November.

—And what is the lesson of Ohio and Indiana? The result in those States gives the Democrats the prestige of victory. Ohio has not spoken for Hayes; she has been held as by hooks of triple steel from plunging into the Tilden fold. Her nominal majority has none of the symbols of success; none of the clarion notes of a triumphant party advancing to final vic-

McKay and Reynolds, saw the pile of ship-knives sold, and was to move them; saw them afterward, and they had largely increased in number; saw at Queen street wharf shot her iron and musket from which belonged to the Navy Yard. Mr. W. D. Middleton was receiver of iron at the old Navy Yard; was transferred to League Island a day and a half after McKay commenced his removal of the iron; that his department was not handed over to any one. Mr. William Rowbotham, assistant engineer of navy, saw McKay at office of Seyfert, McManus & Co., who said to him that "if you commence to investigate me I will lay you all out," and on another occasion he threatened witness at the

"He also received by express airmail, consisting of a box marked 'Home plant', a piece of broken cane and a palm-leaf fan, on which was written 'Keep cool.' Several other soundings of a similar sort are reported on their way."

If Mr. Tilden is to make a speech on inauguration day, hadn't he better commence writing it now? It took him a long time to accept, and it may take him a long time to tell the people he's President. Because the 4th of March comes on Sunday, he needn't think he can just take "my place" without saying something.

THE STATE CANVASS.

The Easton Argus promises to pay its respects to Dr. Linderman, who led the Bridge Success at the Pleasant Hill meeting, and Colonel Hutter usually keeps his word.

Hon. A. H. Dill, of the Twenty-seventh Senatorial district, consisting of Union, Snyder and Northumberland counties, has been formally nominated in accordance with unanimous instructions of the delegates from each county.

COLUMBUS

## THE GREAT DISCOVERER'S STATUE

A Procession, An Oration, Speeches, Gun-  
powder, Rethusiasm, Cheers and  
Music by the Band.

The monument erected by Italian citizens of Philadelphia to the Discoverer of the American Continent was unveiled yesterday. Previous to the exercises a procession formed at the headquarters of the Italian Association, in South Eighth street, as follows: Lieutenant Crot and Reserve, Musar Band, Bernaglieri Guard of New York, Columbus Monument Association, Mayor and Councils of Philadelphia, Dechert's

376.

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THE MONUMENT.

The monument represents the discoverer in the dress of his time, holding in his right hand a scroll, his left hand resting upon a globe, on which are traced the continents of the world. After music by the Hunsar Band, Mr. Alonzo M. Vitti, honorary Consul of Italy, and a member of the Royal Commission to the International Exhibition, made a few introductory remarks in Italian, congratulating all present upon the fact that Italy was "to-day as free in many respects as the country whose blessings we are now enjoying." The monument was then unveiled, Governor Hurtruff and Baron A. Blanc, Envoy Extraordinary and Minister Plenipotentiary of Victor Emmanuel, officiating. A park of artillery on George's Hill fired a salute, and in a brief speech Nunzio Pinelli, president of the Columbus Monument Association, presented the monument to the city of Philadelphia. Governor Hurtruff was then introduced. He said:

I deem it a distinguished privilege to have been permitted to participate in the travelling of the statue of Christopher Columbus, about to be presented by the people of Spain to the citizens of Philadelphia. The interest manifested by the citizens in the ceremony to-day is an acknowledgment of the indebtedness to Indian genius and heart, and of the indebtedness to the Spaniards, for the discovery of the continent that the good-will and respect between the two nations has never been broken, and it is to be hoped will continue to their mutual advantage uninterrupted forever. Providence seems to have selected Columbus for the discovery of America. Images

the city of Philadelphia. Governor Harriman was then introduced. He said:

I deem it a distinguished privilege to have been permitted to participate in the unveiling of the statue of Christopher Columbus, about to be presented by the people of Italy to the citizens of Philadelphia. The interest manifested by Americans in the ceremonies to-day is an acknowledged fact of their indebtedness to Italian genius and a hearty indorsement that the good-will and respect between the two nations has never been broken and, it is to be hoped, will continue to their mutual advantage uninterrupted forever. Providence seems to have selected Columbus for the discovery of America. Immediately after the invention of gunpowder and the art of printing, and a few decades before the first germ of the steam-engine, it was designed that a new continent should come into the possession of the civilized world. At this time, when the minds of men were awakening from the long lethargy of the dark ages these great motors of civilization were transferred from a continent where they were trammelled by proscriptive rights, by inveterate prejudices, by venerable institutions and long-established castes, to a land where their energy and influence, unimpaired by the institutions of man, derived new strength from the fertility and bounty of nature. Columbus was, indeed, the chosen instrument of Heaven, as he imagined, to extend Christian civilization to the ends of the earth. The realm that his genius thought to have given to the crown of Castile was designed by a higher Power to be the patrimony of mankind. The time, the opportunity and the man had come, and the fifteenth century saw the close of the dark ages and the dawn of a new era. Here we look upon the marvelous results achieved in the arts and sciences; and no results of history can be traced to their cause with more certainty than the rapid progress of the past four centuries to the lofty and ambitious genius, the unshaken faith and the indomitable will of Columbus. He laid the cornerstone of a new order of things. In the discovery of a new world he regenerated the old. It is fitting that his statue should look down upon the fruits of his genius. It is fitting that we should unveil it looking outward over the ocean, he was the first to cross and over the realm he unwillingly gave to civilization and to liberty.

Prolonged applause followed the Governor's remarks. The Hon. Morton McMichael, the President of the Park Commission, in eloquent terms then accepted the trust imposed. Judge Daly, of the Supreme Court of New York, and President of the American Geographical Society, referred to the trials and tribulations of Columbus. In conclusion, he said that when Columbus had returned to Spain and was in disfavor, his two sons, who were pages to the Queen, went into the streets and were followed by crowds shouting: "See the sons of the Italian traitor, who pretends to have discovered India, and let Spaniards and hidalgoes perish with hunger."

The truth is, he continued, he was a foreigner. It was an Italian that had brought an empire to Spain, and her pride could not brook that a foreigner should have the high titles and power which were the stipulated reward of his great discovery. How confident, in the very depth of this unlooked-for reaction, is his vindication of himself, for he said: "The debts I have performed are of such a nature that they will grow from day to day in the estimation of mankind. And how proudly, after the lapse of more than three centuries, are they vindicated to-day, as we look upon this majestic image of the world-seeking Genoese. How painful is the picture of his last voyage, so rich in geographical discovery, but so disastrous to him, and yet, at no period of his career does his character shine forth with such lustre. In 1851 when I visited Humboldt at Potsdam, he called my attention to Columbus' remarkable account of his dream in his letter to Orlando—a document not then to be found in the ordinary biographies—which was written when he was abandoned by the Spanish Viceroy in Jamaica, with his wrecked vessel, his rebellious crew, weighed down, at his advanced age, with a load of bodily infirmities. Humboldt referred to this letter as revealing the key-note of Columbus' character. In his conviction that he had been especially selected by God for great undertakings. In this dream he hears a voice crying out: "O, fool and slow to believe, did thy God do more for Moses or for David than He has for thee? He has made thy name resound throughout the earth; He has delivered into thy hands the keys of the gates of the ocean; He has given thee the Indies, the richest regions of the earth people of unto others. What did He more for the thine error. He has many a vast inheritance yet in his made to thee He has never broken." The final lonely journey upon a rattle, ennobled by age and disease, he journeyed across the rocky soil of Barbadura, and the rude Sierras of Toledo and Cordoba, to the seat of the Court, at Seville, to make a last appeal, which was unsuccessful and was speedily followed by his death. Mr. Major, the biographer of Prince Henry, has expressively said that the treatment which Columbus received in these last two years of his life presents a "picture of the blackest ingratitude on the part of the crown, which it is painful to contemplate." He gave to Spain an empire, and she gave him in return—simply, a grave. She has lavished honors upon his remains by frequent removals and pompous funerals. They were first deposited at Valladolid; again to San Domingo, and removed to Seville; again to San Domingo, and after to Havana. Let there be another and final removal."

G. Seecchi Di Casali, editor of *L'Eco d'Italia*, and member of the Grand Jury of Awards; the Rev. A. Isoleri, pastor of the Italian Church of this city, and Colonel Maggi, of Boston, delivered brief addresses.

THE BALL IN THE EVENING.

In the evening the eighth grand annual ball of the Italian Beneficial Society was given in Musical Fund Hall. There was a fair attendance, and markedly pleasant company. The ladies were gaily many of them luminously decorated, and did justice to the elaborate programme, including an old-fashioned supper a la 1492. Mr. Joseph Malatesta figured as master of ceremonies, and was assisted by Messrs. Chas. Malatesta, Joseph Mereto, C. D. Rogers, F. Vietri, N. Finelli, G. Frangoli, G. Barbieri, S. Itotto, F. Rosetti, G. Quirini, G. Costa and several others. At an early hour the guests departed for their homes, and the managers, after counting the cash, did the same thing.



HISTORY  
OF  
PHILADELPHIA.

1609 1884.

BY  
J. THOMAS SCHARF AND THOMPSON WESTCOTT.

---

IN THREE VOLUMES.  
VOL. II.

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PHILADELPHIA:  
L. H. EVERTS & CO.

1884.

Charles Thomson, son, born Jan. interred at the on.

West Fairmount sculptor, J. A. patriot of the nation of Independence, the aid of subscription of a thousand dollars, colonial times, gown or cloak on a pedestal of feet high.

Antain. — This has already his work. We see to state that. The statues of Commodore John, John Carroll, Hamilton, signer; and Father of Independence. The total Abstinence dollars. The

the elder, and in the yard of St. Stephen Decatur, who died on the seventh year of the Decatur, Jr., of 1812, is coming; a pure Ionic is perched on by private subscription the following

"Our Country! right or wrong!"  
A nation  
Gave him in return  
Its Applause and Gratitude."

*On the South Side.*

"The Gallant Officer  
Whose prompt and Active Valor,  
Always on the Watch,  
Was guided by a Wisdom  
And supported by a Firmness,  
Which never tired:  
Whose Exploits in Arms  
Reflected  
The daring fictions of  
Romance and Chivalry."

*On the West Side.*

"A name  
Brilliant from a Series of  
Heroic Deeds  
On the coast of Barbary,  
And Illustrious  
By Achievements Against  
More disciplined Enemies:  
The Pride of the Navy,  
The Glory of the  
Republic."

**Maj. Levi Twiggs**, of the United States army, who fell at the storming of Chapultepec, in Mexico, Sept. 13, 1847, and George Decatur Twiggs, his son, killed at the National Bridge, near Vera Cruz, in the same war. This monument, in North Laurel Hill Cemetery, was erected to the memory of father and son. It is a conspicuous ornament by its size and sculptured decorations. Above the pedestal rises a Roman battle-axe surrounded by a bundle of spears. The flag of the United States, in graceful folds, is thrown over these trophies. Beneath is the national shield and an anchor. The whole resting upon a cornice of twisted fasces.

**Christopher Columbus**.—In 1876 the Italian citizens of Philadelphia erected a statue monument, in marble, representing the great Genoese navigator. It was of heroic size, a standing figure, the right hand resting on a globe and the left holding a chart. An anchor and rope at the foot of the figure is emblematic of the career of the great sailor. On the pedestal is the name of Columbus, with bas-reliefs representing the landing of Columbus on his discovery of the coast of America and the coats of arms of the United States and Italy. This handsome work stands on the west side of Belmont Avenue, facing the sunken gardens and Horticultural Hall.

**Religious Liberty**.—This is an allegorical group, representing Liberty protecting Religion. It was erected by the Jewish Society of B'Nai B'rith, and is a tribute by the people of the Jewish faith to the toleration which has always been extended to them in this country. A female figure in armor represents the Genius of Liberty. A mantle, fastened at the neck, falls from the left shoulder to the left foot. The right breast and arm are uncovered. On the armor is a breastplate, on which is wrought the shield of the United States. The Phrygian cap of liberty, bordered

with thirteen stars, is on the head of the figure. In her left hand she holds the Constitution, supported by fasces. The other figure, at the right side, represents a youth, slightly draped, with upraised face. One hand is stretched to heaven, holding an urn, in which burns the sacred flame. At the base of the group an eagle is represented, its talons buried in a serpent, signifying the destruction of slavery. This beautiful monument stands upon a central plat opposite the east front of Horticultural Hall. The pedestal and statue stand twenty feet in height. The group in marble was executed in Rome by Ezekiel, an American sculptor.

**Benjamin Franklin**.—A statue in marble, life-size, of the patriot and philosopher, stands in Odd-Fellows' Cemetery, Islington Lane, in the centre of a lot belonging to the Franklin Lodge of Odd-Fellows. The sculptor was Battin.

**Soldiers' Monument**, in memory of American troopers, names unknown, massacred during the Revolutionary war by British soldiers, at Wood's barn, Roxborough, is placed in Leverington Cemetery, Ridge Avenue. This monument was erected by subscription, and dedicated by public ceremonies.

**Soldiers' Monument, Scott Legion**.—After the Mexican war the survivors of the regiments of Pennsylvania formed themselves into a body under the name of the Scott Legion. For the purpose of the interment of deceased members, they secured a large piece of ground in Glenwood Cemetery, on Ridge Avenue, at Islington Lane. Here they erected a fine memorial monument of marble, with proper inscriptions, upon which are recorded the names of the large numbers of the soldiers who lie in the grounds adjacent.

**Soldiers' Monument**.—Erected by the Light Artillery Corps, Washington Grays, to the memory of members of the company killed during the war of the Rebellion. It is situated on Broad Street, at its junction with Girard Avenue. This is a unique memorial of granite, which attracts attention by its peculiarity. Upon the base, which is of a triangular shape, is set a cannon, breech upward, which is surmounted by a bursting bomb. Other details are in the same military taste. The inscriptions are as follows:

*At the Top.*

"Artillery Corps,  
Washington  
Grays,  
W. G."

*On the West Side.*

"Lieutenant-Colonels,  
Thomas C. Martin,  
Henry C. Whelan,  
George W. Hawkins,  
Thomas M. Hall.

Majors,  
Joseph S. Chandler,  
Andrew Cal Suplee."

*At the Bottom.*

"Our Fallen Companions,  
1861 — 1865."



# Sculpture of a City:

Philadelphia's  
Treasures  
in Bronze  
and Stone

Fairmount Park  
Art Association

Published by

Walker Publishing Co., Inc.

720 Fifth Avenue, New York, N.Y. 10019



1974

Exhibition paled. Packed in ice, it had been sat upon in transit by a "burly son of Africa" and had to be reshaped. "So great was the crowd in the Women's Building, that the Butter Lady was removed to the upper floor of Memorial Hall, [where] the multitudes had to be regulated by the Centennial guards."<sup>58</sup> "That the Art Committee should have allowed that head modelled in butter to have been exposed as it was, shows that they considered art as a kind of a boyish trick," Alden Weir complained from Paris.<sup>59</sup> Yarns about the lard eagle flying back to Cincinnati and of the ice cream racehorse that only ran at certain temperatures were rampant. But to many a visitor it was a grand achievement, as it was to Josiah Allen's wife:

*I had thought in my proud spirited haughtiness of soul that I could make as handsome butter balls, and flower 'em off as nobby as any other woman of the age. But as I looked at that beautiful roll of butter all flattened out into such a lovely face, I said to myself in firm accent, though mild: "Samantha, you have boasted your last boast over butter balls."*<sup>60</sup>

In a command performance on October 14 before Centennial Commissioners, members of the Women's Committee, and gentlemen of the press, Miss Caroline S. Brooks of Arkansas repeated her feat, and in an hour and a quarter, with a pair of spatulas and a dozen pounds of butter, produced another golden *Iolanthe*<sup>61</sup> (figure 9).

Italian residents of Philadelphia had been raising funds for years for the erection of a monument to Columbus. Ground was dedicated on the Fourth of July, 1875, at a location suggested by Schwarzmann, "a point west of Belmont Avenue on a new walk open from the conservatory to the rear of Machinery Hall," and sketches were submitted in August:

*The statue and accessories will be as they appear in the design with the legend Italy to America and In Commemoration of the First Centenary of American Independence on the pedestal. The whole will, when completed, present a high finish and grand character. It will be executed in Italy by an Italian sculptor of eminence and of a durable Italian marble.*<sup>62</sup>

Of all the permanent installations this is the only one whose artist defies identification beyond "court sculptor." Surrounded by symbols of his accomplishments, Columbus stands atop a pedestal decorated with reliefs depicting the sighting of the coast, the first landing, and the seals of Italy and the United States.

In 1875 it appeared to one reporter that "almost the only one of the Florentine sculptors who was devoting himself assiduously to the preparation of works to be sent to the Philadelphia Exhibition is [Emanuele] Caroni."<sup>63</sup> Early in 1876, another wrote, "On account of the material risk incurred by transportation, as well as the expense, which, in spite of the amount assumed by their government, is still considerable to the artists themselves, many of the best Italian artists have decided not to send their works to the Philadelphia exhibition."<sup>64</sup> But these fears were unrealized. Of the 675 sculptures exhibited in the art department, 325 were Italian.

"Almost immediately after the Centennial the Italian group became negligible as a force, and the Italian-trained sculptors rose into a prominence which, in short time, became domination," wrote Taft.<sup>65</sup> But in 1876 the Italians carried the field. The Italian consul in Philadelphia, Signor Alonzo Viti, had "always, like his predecessor before him, felt for Italian sculpture the interest of connoisseur and a patron."<sup>66</sup> He had worked hard. Also, many of the pieces were already on this continent for a number of years. "Nothing in the whole Exhibition attracted so much attention as the Italian statuary," observed John G. Bain: "The Art Galleries were at all times the most crowded part of the fair, and the rooms containing these statues were the most crowded portions of the galleries."<sup>67</sup>

Despite this enthusiasm, many professionals, such as F. Weir, were negatively impressed: "The display of remarkable subtlety in the manipulation of material, in dexterous undercutting and intricate chiseling, which rendered many of the sculptures curiosities rather than works of art, gave evidence of great skill in workmanship; there was little that was essentially and vitally picturesque."<sup>68</sup> But Earl Shinn pointed out that the Italian statuary had a "rich, pictorial, and . . . colored quality of brown, which justifies the theory on which they are based": "If the success in representing texture were measured by an uncommon and worthless degree of mere color, it would not be commendable; but . . . it is not the color, but the quality of the live flesh and the responsiveness of the touch that gives the effect."<sup>69</sup> And Shinn responded to critics with customary vigor: "Their statuary is wonderful, and whatever the critics may say, popular instinct recognizes and approves the truthfulness to nature manifested in these works."<sup>70</sup> Emmanuele Caroni had worked as a cutter for Joseph Rogers and knew the value of American recognition. His preparations were not misplaced. From Philadelphia his *Africana* (figure 10) and *Telegram of Love* went to the San Francisco collection of A. E. Head, as did *Forced Prayer* by Pietro Guarnerio, one of the most popular sculptures at the Centennial. Another edition of Caroni's *Youth as a Butterfly*.<sup>71</sup> Pasquale Romanelli's *Benjamin Franklin and His Whistle* and *Washington and the Ratchet* were mass produced and found their way to collections of the Union League and the University of Pennsylvania.<sup>72</sup>

Of the "Centennial nudities" which sent thrills of passion down some American spines, one of the best was the *Bather* by Antonio Tantardini of Milan, acquired by T. Stewart for his Fifth Avenue mansion, where it was displayed in a gallery with Story's *Zenobia* and yet another nude. The Tantardini is less objective, more generalized, but at the same time more daring in undercutting than Story's *Premiere Pose*, which it otherwise resembles. Pietro Tacchini's *Adulteress* joined Story's *Cleopatra* in the New York collection of Mrs. Paran Stevens. At least two versions of Francesco Barzaghi's *Finding of Moses* stayed in America, the one in the Centennial being acquired for

PENNY BALKIN BACH

# Public Art in Philadelphia

Design by KATZ DESIGN GROUP



Temple University Press  
Philadelphia

C1992





2-19

Edward Kemeys (1843-1907)  
**Hudson Bay Wolves  
 Quarreling Over the Carcass  
 of a Deer**  
 1872

Bronze. Height 4' 2" (base 2' 6")  
 Philadelphia Zoological Gardens, near  
 Wolf Woods (relocated 1956)  
 34th Street and Girard Avenue  
 For access and admission fee call  
 243 1100

Born in Savannah, Georgia, and educated in New York, Edward Kemeys served as captain of artillery in the Union army during the Civil War and later with the Engineer Corps in Central Park before embarking on his artistic career. While in New York, he studied modeling and was fascinated by the energy and emotional tension found in animal interaction. His works are considered distinctly American, portraying animals in a direct, naturalistic style.

His group of two wolves fighting over a carcass was the first official acquisition of the newly established Fairmount Park Art Association. Kemeys used the money earned from the commission not to visit Paris, which was the center of sculptural activity at that time, but to travel into the American wilderness. He visited Paris after the Centennial celebration in 1876, but did not like the "approach" or the "caged animals" that he found in the ateliers there.



2-20

Edward Stauch (b. 1830)

**Night**

1872

Bronze. Height 5' 8"

Horticultural Center grounds (relocated  
 c. 1976)

North Horticultural Drive, West Fairmount  
 Park

Little is known about the sculptor of *Night*, Edward Stauch. Funds for the purchase—the first gift to the Fairmount Park Art Association—were contributed by Edwin N. Benson, a founding member of the board. The work was presented to the Fairmount Park Commission in 1872 and was originally located at George's Hill in West Fairmount Park. The sculpture was relocated when the new Horticultural Center was built. Other works in Philadelphia attributed to Rauch include a bust of George Bacon Wood at the American Philosophical Society and one of Friedrich Schiller at the German Society.



2-21

Wilhelm Franz Alexander Friedrich Wolff  
 (1816-1887)

**The Dying Lioness**

1873; cast 1875

Bronze, on granite base. Height 5' 9"  
 (base 4')

Philadelphia Zoological Gardens entrance  
 (installed c. 1877)

34th Street and Girard Avenue

Having won a first prize at the Vienna International Exhibition (1873), the model for *The Dying Lioness* caught the attention of Herman J. Schwarzmann, master architect for the Centennial Exposition in Philadelphia, who shared his discovery with the Fairmount Park Art Association. The emperor of Germany had already been promised the first casting of the piece for the Imperial Garden in Berlin, and he granted the Art Association permission to purchase a second casting. Upon arrival in Philadelphia, it was exhibited outdoors at the 1876 Centennial.

The artist was the younger brother of Albert Wolff, sculptor of *The Lion Fighter* (2-12) and was known for his powerful and allegorical renderings of animals. The Fairmount Park Art Association's *Annual Report* (1876) praises his depiction of "the maternal instinct, stronger than death . . . ; over the mother and the whelps stands the lion, the prominent figure of the group, who roars defiance, grief and rage."

2-22

A.M.J. Mueller (b. 1847)

**Art, Science, Industry,  
 Commerce, Agriculture,  
 Mining, and Columbia** (on dome)

c. 1876

Painted bronze. Columbia: height c. 20'  
 Memorial Hall

North Concourse Drive east of Belmont  
 Avenue, West Fairmount Park

See p. 53



2-23

Artist unknown

**Columbus Monument**

1876

Italian marble. Height 10' (base 12')

Marconi Plaza (relocated 1976)

South Broad Street between Oregon and  
 Bigler Streets

Italian residents of the city raised the funds for a memorial to Christopher Columbus for the 1876 Centennial. On the anniversary of his first landing, October 12, the Italian Societies dedicated this statue of the explorer "in commemoration of the first century of American Independence." Columbus stands with one hand on the globe, an anchor at his feet, as if prepared to begin yet another voyage. The pedestal on which he stands depicts his first sighting of the coast and ultimate landing, along with inscriptions and the coats-of-arms of Italy and the United States.



Richard N. Juliani

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# Building Little Italy

Philadelphia's  
Italians Before  
Mass Migration

©1998

The Pennsylvania State University Press  
University Park, Pennsylvania



after being proposed by Agostino Lagomarsino three years earlier, and finally organized in 1872, the Columbus Monument Association held a fair in October 1873 that earned \$2,000 to erect a statue to honor the explorer. With contributions from various sources, including King Victor Emmanuel II, the project finally culminated with the unveiling in Fairmount Park of the first public monument to Columbus in the United States on October 12, 1876. The massive ceremony, attended by many important local and national figures, including the governor



St. Mary Magdalen de Pazzi was the first Catholic church founded for Italians in the United States. Organized in 1852, the congregation was first housed in a former African American Methodist chapel, before the larger church pictured here was completed in 1891. Father Antonio Isolero served as pastor from 1870 to his retirement in 1926. (Courtesy Philadelphia Archdiocesan Historical Research Center)

The

of Pennsylvania and the may umphant moment for the office community. In subsequent year emphatically concerned with p members.<sup>19</sup>

The Società later demonstrat at a period in which relation were at a low ebb. In early Emmanuel II, and then shortl Società members participated of St. Mary Magdalen de Pazzi occasions. With the continuin in Rome, the nearly simultane Catholics and Italians by memb have been almost impossible in of the Società was a clear indica the Italians had become a more not the only instrument in tha flags at the first demonstrati the odyssey of an immigrant away from its Italian anteceder



he was also the final survivor of the original members. Active in local politics, Cavagnaro was elected as a school director for the Fifth Ward and served as a member of the executive committee of the Republican Party. He was selected by Count Gerolamo Naselli, the Royal Consul of the Kingdom of Italy, as a delegate to the International Exposition in Milan in 1906. While his personal character made him a likely candidate to become the first Italian elected to the City Councils, Cavagnaro was a modest man who preferred to remain in private business and at a lower level of public life.<sup>38</sup>

When his own years reached their final stage, Cavagnaro had not only succeeded in consolidating his personal wealth and influence, but he had also been able to retain the prominence of his family through another generation. The election to City Councils, which eluded him, was achieved by his only son, Paul Cavagnaro. The younger Cavagnaro also played an influential part in the politics of the Fifth Ward and became the first Italian elected to the Common Council of the city, serving from 1902 to 1904. This transfer of power and prestige from father to son maintained the position of the Cavagnaro family in the Italian community.

## Lagomarsino and Cuneo: Feeding and Organizing the Community

Another "dynastic" family closely connected to a formidable partnership emerged within the Italian colony during this period: the Lagomarsino-Cuneo line. As a result of their early beginnings and long careers, the two principal figures, Agostino Lagomarsino and Frank Cuneo, were rightly regarded as pioneers of Italian business in Philadelphia.

Lagomarsino was born on March 11, 1830, in San Colombano Certenoli, a village near Chiavari, in the province of Genoa. In 1847, he traveled to England, using a passport signed by King Carlo Alberto of Piedmont, a document that Lagomarsino jealously guarded later in life. It was probably during this period that he met Harriet Tucker, a native of Bristol, England, whom he would marry. After working at various jobs for seven years in England, Lagomarsino migrated to



John D. Raggio



Joseph Malatesta



Lorenzo Nardi

Leaders of the Italian  
*Società di Unione e Fi*



were prompt in paying their bills in cash, and they owned other property as well as the mill. Together they were estimated to be worth \$30,000–\$40,000.

Although the firm continued to flourish, Lagomarsino had other plans. In 1879, he expanded his business interests to a new partnership with two other Italians, Stephen Ratto (already discussed) and Augustus Latour, ship chandlers at 225 South Second Street. By August 1882, when he relinquished his share of his original partnership with Cuneo, it was first believed that Lagomarsino intended to retire in comfort on the money he had already made.<sup>42</sup> But soon afterward, he opened a banking office and continued to play an important role in the immigrant community. Lagomarsino was later regarded as the person responsible for the idea to erect the Columbus monument in Fairmount Park. He also served for fifteen years on the board of directors for the public schools of the city.<sup>43</sup>

Beyond his personal wealth, Lagomarsino's political influence had a significant impact on the Italians of the city. On one level, Lagomarsino played a quiet but important role in the naturalization of Italians as American citizens. In the very early years of Italian life in the city, such individuals as Secondo Bosio emerged as occasional vouchers for naturalization proceedings. Through the 1840s, George Alexander, whose name repeatedly appeared on petitions for naturalization by Italians, was the most conspicuous witness. In the disputed election of 1856, Dominic Corona was identified in a similar role. In the 1850s also, John B. Rogers (John B. Raggio) served in that capacity for the first time, and continued to do so over the next quarter-century. Other already naturalized Italians performed this function in the years ahead. Before 1880, however, no Italian provided this service more frequently than Agostino Lagomarsino. From 1878 to 1880, he was the voucher on thirty-three occasions for Italians who sought American citizenship. All these cases occurred between late August and early October, making it likely that his motive was actually to recruit registrations for a political party.<sup>44</sup>

Although Italians later became one of the Republican Party's most reliable components, it is not clear when they first aligned themselves with that party in Philadelphia. Lagomarsino's participation in an attempt to resolve the differences among Italian leaders at a series of meetings revealed a complicated picture in the mayoralty election of 1884. In early February, at a gathering of a reported 150 members

**REPORT OF THE COMMITTEE ON HISTORIC DESIGNATION  
PHILADELPHIA HISTORICAL COMMISSION**

**WEDNESDAY, 15 FEBRUARY 2017, 9:30 A.M.  
ROOM 18-029, 1515 ARCH STREET  
EMILY COOPERMAN, PH.D., CHAIR**

**PRESENT**

Emily Cooperman, Ph.D., chair  
Jeffrey Cohen, Ph.D.  
Janet Klein  
Bruce Lavery  
Douglas Mooney, M.A.

Jonathan Farnham, Executive Director  
Kim Broadbent, Historic Preservation Planner II  
Laura DiPasquale, Historic Preservation Planner II  
Meredith Keller, Historic Preservation Planner I

**ALSO PRESENT**

Jim Campbell, Campbell Thomas & Company  
Qiongzhou Schicktan  
Paul Steinke, Preservation Alliance for Greater Philadelphia  
Patrick Grossi, Preservation Alliance for Greater Philadelphia  
Amy Lambert, University City Historical Society  
David Gest, Esq., Ballard Spahr  
Brett Feldman, Esq., Klehr Harrison  
Nicole Norcross, Esq., Obermayer  
Theresa Shockley, Community Education Center  
Elizabeth Stegner, University City Historical Society  
Helma Weeks, Powelton Village Civic Association  
John Phillips, Powelton Village Civic Association  
George Poulin, Powelton Village Civic Association  
Caryn Healy, Powelton Village Civic Association  
Joyce Evans, Fox29  
William Martin, Esq., Fox Rothschild LLP  
Celeste Morello  
Oscar Beisert

**CALL TO ORDER**

Ms. Cooperman called the meeting to order at 9:30 a.m. Ms. Klein and Messrs. Cohen, Lavery, and Mooney joined her.

**2041-55 CORAL ST**

Name of Resource: Harbisons' Dairies

Proposed Action: Designation

Property Owner: Fozan Ehmedi

Nominator: Keeping Society of Philadelphia, LLC

Staff Contact: Meredith Keller, meredith.keller@phila.gov, 215-686-7660

**OVERVIEW:** This nomination proposes to designate the property at 2041-55 Coral Street as historic and list it on the Philadelphia Register of Historic Places. The nomination contends that the four buildings and iconic milk bottle water tower formerly owned by Harbisons Dairy satisfy Criteria for Designation A, C, D, F, H, and J. The nomination argues that Harbisons Dairy developed into a leading dairy company that served many Philadelphians through what began as a home milk delivery service and later expanded into a large-scale production facility. The nomination asserts that owners Robert and Thomas Bartly Harbison were significant Philadelphians, owing not only to their role in establishing and growing the prominent dairy business, but also for their involvement in educating and promoting the safe storage and transport of milk products. The nomination further contends that the milk bottle water tower is significant for its innovative use as an advertisement and as a familiar visual feature of the neighborhood.

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the property at 2041-55 Coral Street satisfies Criteria for Designation A, C, D, F, H, and J.

**DISCUSSION:** Attorney William Martin stated that he submitted a request for a continuance and explained that his team started significant investigatory work on the building's iconic milk bottle water tower. From his perspective, he continued, the milk bottle water tower is particularly noteworthy. He noted that the property owner hired Vertical Access of Ithaca, New York, to conduct a study with drones and climbers who accessed the milk bottle structure. The results of the study, he added, came in a couple weeks ago. He indicated that he met with representatives of the Commission's staff and reached out to the nominator to begin a dialogue with the Keeping Society. He also noted that he initiated a dialogue with the Preservation Alliance and will meet with the organization in a few weeks. He explained that their investigations are to allow them to develop creative ways to address the milk bottle water tower in such a way that will be successful to all parties. That process, Mr. Martin continued, will take some time, because further analysis will be necessary, pricing is required, and discussions on how to identify resources are needed. He concluded that a continuance is appropriate to enable a consensual approach.

Ms. Cooper asked if the nominator concurs with the continuance request. Nominator Oscar Beisert replied that he is open to dialogue and compromise, but argued that the continuances are out of control, even beyond this one specific case. He contended that there were approximately 19 sites designated last year with approximately double the number of nominations submitted. Mr. Beisert questioned whether nominations with continuance requests were unnecessarily taking up spots on the Committee's agenda or whether such requests were factored into the planning process. Ms. Cooperman responded that the Committee would make a motion to continue the review of the nomination to a specific meeting date, so it would not be an open-ended continuance. Mr. Beisert clarified that his question was to determine whether nominations with a continuance request were holding a place on the agenda when only a certain number of items can be reviewed because of time constraints. Essentially, he added, the review is dragged out and the reason for the continuance request has no bearing on the building's historical significance. He reiterated that he is not opposed to the continuance, but

asserted that the Committee could already have reviewed the nomination, and it could then be tabled on the Commission's agenda for any period of time. Mr. Beisert argued that the Committee on Historic Designation is only considering significance. He again reiterated that he is not opposed to the request, but commented that the continuances are causing too few sites to get designated. He advised the Committee to practice caution, so the requests do not continue in the same manner.

Ms. Cooperman commented that Mr. Beisert's point was well taken. She then explained that, at this particular meeting, the Committee only has the room until 1:30pm and noted that the Committee would need to move expeditiously. Given the current circumstances, she continued, it would be helpful to recommend to the Commission that it grant the current continuance requests. However, she added, it would be important that the minutes reflect Mr. Beisert's concern.

Ms. Cooperman asked there was any other comment on the property owner's request.

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the Historical Commission table the review of the nomination and remand it back to the Committee for review at its 21 June 2017 meeting.

### **1642 FITZWATER ST**

Name of Resource: Tabor Chapel and Mission School

Proposed Action: Designation

Property Owner: The First Colored Wesley Methodist Church

Nominator: Preservation Alliance for Greater Philadelphia

Staff Contact: Laura DiPasquale, [laura.dipasquale@phila.gov](mailto:laura.dipasquale@phila.gov), 215-686-7660

**OVERVIEW:** This nomination proposes to designate the property at 1642 Fitzwater Street as historic and list it on the Philadelphia Register of Historic Places. The nomination argues that property is significant under Criteria for Designation A, C, D, E, and J. The nomination contends that the church is significant under Criteria A and J for its association with the African American church and community in Philadelphia, and as a representation of the physical development of the larger Presbyterian Church through the establishment of mission chapels or congregations by the Philadelphia Sabbath-School Association. The nomination further argues that the Samuel Sloan-designed church is significant as an early example of his commissions, satisfying Criterion E, but little information is provided as to how the building embodies distinguishing characteristics of an architectural style, mentioned in the nomination as Italianate or Italian Romanesque, and how the building reflects the environment in an era characterized by said distinctive architectural style.

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the property at 1642 Fitzwater Street satisfies Criteria for Designation A, E, and J. The staff contends that the nomination, not the building itself, does not make a cogent argument for Criteria C and D. Additionally, the staff notes that the correct address for the church building is 1642 Fitzwater Street, rather than the 1640 Fitzwater Street address that is found on the nomination form and throughout the body of the nomination.

**DISCUSSION:** Mr. Farnham presented the continuance request to the Committee. Attorney David Gest represented the property owner. Paul Steinke represented the nominator.

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the Historical Commission table the review of the nomination and remand it back to the Committee for review at its 19 April 2017 meeting.

**100 S INDEPENDENCE W ML**

Name of Resource: Rohm & Haas

Proposed Action: Designation of building, public interior, and objects

Property Owner: KPG-IMW Owner, LLC

Nominator: Preservation Alliance for Greater Philadelphia

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

**OVERVIEW:** These nominations propose to designate the building, public interior, and chandeliers at 100 S. Independence W. Mall as historic and list them on the Philadelphia Register of Historic Places. The nominations collectively argue that the building, interior and chandeliers are significant under Criteria for Designation A, C, D, E, F, G, H and J. The building nomination contends that it is one of Philadelphia's most significant mid-twentieth century buildings, satisfying Criteria A and J, for its association with the Rohm & Haas Company, the Philadelphia Redevelopment Authority and the Philadelphia City Planning Commission, who were heavily involved in its development. The nomination further argues that the building's high-profile location next to Independence Mall, and the influence that the setting had on its design, satisfy Criteria G and H. Finally, the building nomination contends that the involvement of architect Pietro Belluschi satisfies Criterion E, while the building's Modernist characteristics and innovative incorporation of modern materials satisfy Criteria C, D, and F. The interior nomination proposes to designate the public interior portions of the north pavilion ground floor lobby and south pavilion commercial space. The nomination contends that the public interior portions of the ground floor are one of Philadelphia's most significant Modernist interior spaces, satisfying Criteria C and D, and are tied to influential modern designers Pietro Belluschi and György Kepes, satisfying Criterion E. The nomination further argues that the incorporation of Plexiglas into the design of the building, symbolizing the importance of that material to the success of the Rohm & Haas Company, satisfies Criterion A. The object nomination covers the three Plexiglas chandeliers that are located along the west perimeter of the north pavilion in an area of the building designed and used for non-public functions. The remainder of the chandeliers is included in the public interior nomination. The object nomination contends that the chandeliers are significant under Criterion A, for the incorporation of Plexiglas into the design of the building, symbolizing the importance of that material to the success of the Rohm & Haas Company, and under Criterion E, for their association with influential modern designers Pietro Belluschi and György Kepes.

**STAFF RECOMMENDATION:** The staff recommends that the nominations demonstrate that the building, public interior, and chandeliers at 100 S. Independence W. Mall satisfy Criteria for Designation A, C, D, E, F, G, H, and J.

**DISCUSSION:** Ms. Cooperman recused. Mr. Farnham presented the continuance request to the Committee. Attorney Brett Feldman represented the property owner. Patrick Grossi represented the nominator.

Mr. Grossi stated that the Preservation Alliance for Greater Philadelphia is joining in the continuance request while working with the property owner on alternative treatments. Mr.

Feldman stated that they have had multiple meetings with the Alliance's easement committee and look forward to continuing to work with the Alliance on the matter.

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the Commission table the review of the nomination and remand it back to the Committee for review at its 19 April 2017 meeting.

**ADDRESS: 1600-06, 1608-10 E BERKS ST**

Name of Resource: Objects in St. Laurentius Church

Proposed Action: Designation of Objects

Property Owner: Archdiocese of Philadelphia

Nominator: John Wisniewski, Friends of St. Laurentius

Staff Contact: Laura DiPasquale, [laura.dipasquale@phila.gov](mailto:laura.dipasquale@phila.gov), 215-686-7660

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the three reredos and 16 paintings satisfy Criteria for Designation D, E, and J.

**OVERVIEW:** This nomination proposes to designate 19 objects in the interior of St. Laurentius Church at 1600-06 and 1608-10 E Berks Street and list them on the Philadelphia Register of Historic Places. The nomination contends that the three reredos/altarpieces and 16 paintings satisfy Criteria for Designation D, E, and J. The exterior of the property is already listed on the Philadelphia Register of Historic Places. The nomination argues that the objects reflect the heritage of the Polish immigrants, who settled in Fishtown and founded the church. The three reredos, the nomination asserts, were imported from Munich, Germany and are original to the construction of the building in 1890, and are significant as representations of the Gothic Revival style, as is the exterior of the building. The nomination further contends that the 16 oil on canvas paintings, added in 1912, are significant as works of artist Lorenzo Scattaglia and for their depictions of many scenes unique to Polish Catholicism.

**DISCUSSION:** Mr. Farnham presented the continuance request to the Committee. Mr. Farnham explained that he spoke to attorney Michael Philips who requested the continuance for two reasons. First, Mr. Philips is taking his child to a doctor's appointment that could not be missed, and second, he is in continued discussions with the nominator about the relocation of the objects to an appropriate repository. Mr. Farnham noted that an agreement has not been reached, but the parties are actively working to come to an agreement.

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the Commission table the review of the nomination and remand it back to the Committee for review at its 19 April 2017 meeting.

**ADDRESS: 509-13 DIAMOND ST**

Name of Resource: First Mennonite Church of Philadelphia

Proposed Action: Designation

Property Owner: Lewis Temple Pentacostal Church of God

Nominator: Daniel Sigmans and Oscar Beisert

Staff Contact: Meredith Keller, [meredith.keller@phila.gov](mailto:meredith.keller@phila.gov), 215-686-7660

**OVERVIEW:** This nomination proposes to designate the property at 509-13 Diamond Street as historic and list it on the Philadelphia Register of Historic Places. The nomination contends that the former First Mennonite Church of Philadelphia satisfies Criteria for Designation A and J. The

nomination argues that the building housed the largest Mennonite congregation in Philadelphia and provided an urban place of worship for progressive southeastern Pennsylvania Mennonites, who typically left rural Bucks County farms to pursue economic opportunities within the industrialized city. The nomination also contends that Nathaniel B. Grubb, the church's charismatic leader for 38 years, quickly increased membership after joining as its minister and preached extensively to numerous Mennonite and non-Mennonite congregations.

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the property at 509-13 Diamond Street satisfies Criterion for Designation J, but that it does not satisfy Criterion A solely on the importance of Nathaniel Grubb.

**DISCUSSION:** Ms. Keller presented the nomination to the Committee on Historic Designation. Oscar Beisert represented the nomination. No one represented the property owner.

Mr. Beisert stated that this nomination serves as a great example of teamwork. He recounted the collaboration by explaining that he posted some details about the building on Facebook, and someone had corrected him. He remarked that he thanked the person for the correction and asked if he would be interested in writing a nomination. Mr. Beisert stated that the person agreed.

Ms. Cooperman opened the floor to public comment, of which there was none. She then conjectured whether Criterion for Designation A hinges on Grubb's importance, noting that there are certainly leaders of congregations who are sufficiently important to the city as a whole to merit designation under Criterion A. She questioned whether Grubb's significance satisfies Criterion A, stating that she has doubts, though she opined that the property itself may satisfy the criterion as a representation of the Mennonite community.

Mr. Cohen agreed that Grubb may not satisfy Criterion A, but argued for the inclusion of Criterion J. He further asserted that there may be an argument for architectural style, adding that the style is intriguing but lacks a name. He noted that in the nomination, Mr. Beisert refers to the style as Italianate, but Mr. Cohen commented that it does not quite apply. Ms. Cooperman agreed, adding that the Committee has seen a number of similar churches with a distinctive style. Mr. Cohen expressed his appreciation to Mr. Beisert for bringing the property to the Committee's attention and remarked that the church escapes the standard stylistic categories. Consequently, he continued, nobody knows what to call the style, though there are several churches and other buildings with the same type of brick. To call it Italianate, he elaborated, does not capture the special character of the building. Mr. Beisert responded that the lack of a clear style prevented him from exploring the architecture further.

Mr. Cohen observed that the nomination identifies a builder, H.M. Martin, but not an architect. He asked Mr. Beisert if he found more information on Martin. Mr. Beisert replied that he had not, and Mr. Cohen suggested that the name could likely be found in a directory to determine whether he was a design/builder.

Mr. Cohen stated that the nomination was well researched, but noted that the nomination does not need to contain photographs of people at parties. The Committee then discussed including Criterion for Designation A for the church's representation of Mennonite heritage.

Mr. Beisert asked to correct a typographical error on the nomination form. The form indicates that the nomination was sponsored by the University City Historical Society, and he asked that the organization be removed.



Ms. Klein inquired about the building's current use and whether it functions as a place of worship. She also asked if the adjacent building is a residence, noting that its front façade is boarded. Mr. Beisert answered that he believes the congregation uses a small portion of the building, though he was not certain.

Mr. Cohen argued that the property satisfies Criterion for Designation C, though Mr. Lavery countered that the distinctive architectural style is unnamed in the nomination. The Committee discussed which Criteria for Designation the property satisfies.

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 509-13 Diamond Street satisfies Criteria for Designation C and J.

**ADDRESS: 516 WHARTON ST**

Name of Resource: St. John German Evangelical Lutheran Church

Proposed Action: Designation

Property Owner: New York-Washington C.M.E. Annual Conference, Inc.

Nominator: Celeste Morello

Staff Contact: Meredith Keller, [meredith.keller@phila.gov](mailto:meredith.keller@phila.gov), 215-686-7660

**OVERVIEW:** This nomination proposes to designate the property at 516 Wharton Street as historic and list it on the Philadelphia Register of Historic Places. The nomination contends that the former St. John German Evangelical Lutheran Church satisfies Criterion for Designation A. The nomination argues that the church provides the only existing evidence of the neighborhood's nineteenth-century German heritage and reflects a period of German unrest during which Germans sought religious freedom in the United States. The nomination further contends that the church typifies a small working-class community of German Lutherans that lived in the neighboring Southwark rowhouses.

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the property at 516 Wharton Street satisfies Criterion for Designation A.

**DISCUSSION:** Ms. Keller presented the nomination to the Committee on Historic Designation. Celeste Morello represented the nomination. No one represented the property owner.

Ms. Morello stated that she selected the church because she felt it was an anomaly and noted that the building is tightly surrounded by rowhouses. She commented that the church serves as active African-American congregation and was told that they sometimes sublet the building to Hispanic groups. She also noted that NBC10 affixed weather devices to the belfry and uses the church as its Pennsport weather center. She asserted that the weather towers mar the church's architectural integrity. The weather center, she opined, suggests that the congregation is not wealthy. She argued that it had been small and poor in the past and that it went to great lengths to raise funds for the church's construction. She commented that she nominated the church only on Criterion for Designation, but that Mr. Cohen had informed her that Samuel Sloan designed the building. She explained that her research on the church's history, which included consulting the American Architects and Buildings website and archives at the Historical Society of Pennsylvania, resulted in no affiliation of any architect. Ms. Morello stated that she would take Mr. Cohen's word that Sloan designed the building, adding that she knows nothing about the architect that would potentially enhance the nomination.

Oscar Beisert commented that the church reminds him of the “squatty tower” on St. Mary’s Church in Manayunk, which also served the German community. Ms. Morello responded that the church is rustic in appearance and the congregation does not properly maintain the property. The photographs of the side, she continued, show simple maintenance issues, such as overgrown weeds and debris. She noted other maintenance issues that she felt should be addressed. Ms. Cooperman asked if the church has brownstone, and Ms. Morello affirmed.

Mr. Cohen remarked that when he saw the nomination, he felt the person responsible for the design had to be a known architect, so he conducted a newspaper search and discovered Samuel Sloan affiliated with the design. He then quoted the *Philadelphia Inquirer* entry he found: “The architect is Samuel Slone; the builder, Joseph McIlvaine.” Ms. Cooperman commented that McIlvaine is also an important figure in the city, adding that the newspaper mention is likely the best documentation for the period. One reason no name appears in the Philadelphia Architects and Buildings database, she continued, is because many records come from after the period after the city issued building permits, which only started in 1886. Prior to that date, she elaborated, finding notice in the newspaper was a good find, unless original drawings were available.

Mr. Lavery stated that the nomination would have stood on its own beforehand. After generating a little investigation, he continued, it has some important new information. Ms. Cooperman added that Sloan in particular stands as a very important figure, and because he was largely working before the issuance of building permits, the full extent of his work is not greatly understood. Mr. Cohen noted that Ms. Cooperman’s statement holds especially true for Sloan’s work in the 1870s, since more information exists on his 1850s work. Mr. Cohen explained that Sloan moved into a different phase following the Civil War. He then applauded the connection Ms. Morello drew to the German community, noting that that connection is no longer visible but that it was clearly shown in historic atlases.

Ms. Cooperman requested that the nomination focus on the period of the church and eliminate the very broad history of the denomination, which she claimed does not support the nomination and instead serves as a distraction. Ms. Morello countered that the denomination’s history does support the nomination, because this particular group developed into a sect. Ms. Cooperman agreed with the assertion, but argued that the history need not begin at 1742. Ms. Morello responded that she wanted to show the Lutheran church’s foundation in Philadelphia. Ms. Cooperman replied that a summary would be warranted rather than the entire history, so the reader is not left to search for information on the actual building. She then noted that the nomination identifies the church as marking the presence of Germans in Southwark, which she called crucial, though she stated that the nomination needs to indicate when the Germans first established a community. She asserted that the narrative buries the information and should be better organized to make for a stronger nomination.

Mr. Cohen stated that the nomination contained a point of confusion from a contradicting point on page 9. He recommended that he review the nomination with Ms. Morello to discuss how to improve it and suggested that she include figure numbers, cite sources, and better organize the arguments. Ms. Morello responded that she was finished with the nomination and that no one thanked her for writing it. Ms. Cooperman replied that she hopes Ms. Morello will take the comments in the spirit in which they are intended, which is to strengthen future nominations. Ms. Cooperman asserted that her goal is not to criticize or denigrate Ms. Morello’s work and that she realizes writing nominations requires a significant amount of volunteer work. She further noted that Ms. Morello had identified important places, reiterating that the Committee’s comments are

meant to make future efforts stronger. Ms. Morello countered that people often fail to understand that when she and others such as Mr. Beisert write nominations, they receive no support. Some people, she continued, ask her to address her own neighborhood in South Philadelphia, though she receives no help with expenses. The new generation, she contended, is not attuned to Philadelphia's heritage.

Ms. Klein remarked that on page 6, the nominator's comments on the need for more maintenance overall is very helpful for members of the congregation. She noted that documents such as Ms. Morello's nomination are rarely written and provide beneficial information on maintenance. Ms. Morello replied that no member of the congregation has contacted her, which makes her believe they do not care.

Mr. Cohen stated that his comments are meant to strengthen the nomination. When a nomination is weak and contains errors, he continued, people find it not to be trustworthy. Consequently, he added, some areas of the nomination need to be revised. Ms. Morello asked if the nomination contains errors of fact. Mr. Cohen replied that it does and offered to review the errors with Ms. Morello. Ms. Morello replied that she did her research at the Athenaeum and spoke with the German Lutherans. Representatives of the church, she claimed, were not amenable to her research. Ms. Morello recounted the difficulties in communicating with a church representative. Mr. Cohen stated that the Committee appreciates the trouble Ms. Morello went through in writing the nomination.

Ms. Cooperman opened the floor to public comment, of which there was none.

Mr. Cohen discussed which Criteria for Designation the property satisfies and determined that Criterion E should be added for the building's association with Samuel Sloan.

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 516 Wharton Street satisfies Criteria for Designation A, E, and J.

**ADDRESS: 400 WASHINGTON AVE**

Name of Resource: Southwark Iron Foundry/ Merrick & Sons (Sacks Playground)

Proposed Action: Designation

Property Owner: City of Philadelphia, Parks & Recreation

Nominator: Celeste Morello

Staff Contact: Meredith Keller, meredith.keller@phila.gov, 215-686-7660

**OVERVIEW:** This nomination proposes to designate the property at 400 Washington Avenue as historic and list it on the Philadelphia Register of Historic Places. The nomination contends that the former site of the Southwark Iron Foundry, now known as Sacks Playground, satisfies Criterion for Designation A. The nomination argues that the site is affiliated with Samuel Merrick, a significant nineteenth-century Philadelphian who became the first chief engineer of the Philadelphia Gas Works, served as an elected official, co-founded the Franklin Institute, and established the Southwark Iron Foundry. The nomination also contends that the site is likely to yield information important in history due to the nearly one-hundred-year production of machinery and parts for commercial, domestic, industrial, and military purposes when the Southwark Iron Foundry was in active use.

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the property at 400 Washington Avenue satisfies Criterion for Designation I. While the staff acknowledges the importance of Samuel Merrick, it contends that the lack of an extant above-ground resource precludes the property from satisfying Criterion for Designation A.

**DISCUSSION:** Ms. Keller presented the nomination to the Committee on Historic Designation. Celeste Morello represented the nomination. No one represented the property owner.

Ms. Cooperman opened the floor to public comment, of which there was none.

Mr. Mooney thanked Ms. Morello for recognizing the site's archaeological potential, adding that his colleagues at the Society for Industrial Archaeology would be very happy that the site was nominated. He commented that earlier artifacts, including those associated with the Mischianza, were not likely to be preserved on the site, especially given that the event was short-lived and probably did not leave much of an archaeological signature. The industrial site, he continued, holds huge potential to inform about Merrick's ironworks. Mr. Mooney also noted that the nomination is timely, given that the site may have been identified by the city for its Rebuild program and may be impacted in the near future.

Ms. Cooperman stated that she appreciated the relationship drawn between Merrick's career and Southwark, adding that Merrick is well known in Philadelphia's history. Ms. Morello noted that she nominated Merrick for an official historical marker and is hoping by the next meeting that he will not be one of Philadelphia's "unsung heroes." A marker at the site, she continued, would likely include the words, "On this site," since the site no longer exists. She commented that she understands why Criterion A may be excluded.

Ms. Cooperman questioned the inclusion of Criterion A, adding that site certainly satisfies Criterion I. Ms. Cooperman asked the Committee for their opinions on the inclusion of Criterion A.

Mr. Lavery opined that if no aboveground resource represents the period of significance, then Criterion A should not be applied. He agreed that Criterion I applies to the property, adding that he had no question about Merrick's or his ironworks' influence and importance to the city and nation. Ms. Cooperman suggested that other sites with surviving aboveground structures, such as the Franklin Institute, may serve as better candidates for Criterion A as it relates to Merrick.

Mr. Cohen voiced his uncertainty over the criterion and asked the staff to speak to its recommendation. Ms. Keller stated that the staff asserted that the site only satisfies Criterion I, because any resource that would represent the site's affiliation with Samuel Merrick would be belowground. She also clarified that the recommendation does not imply that Ms. Morello's argument is insufficient, noting that the nominator makes a strong argument for significance. However, she continued, the staff contends that the significance outlined in the nomination can only be represented by Criterion I.

Mr. Cohen opined on the site's future regulation, should it be designated. To designate under Criterion I, he continued, would condition any future construction on archaeological investigation. Mr. Cohen questioned how designation would impact the city's plans. Mr. Mooney responded that any listing of any site under Criterion I would not preclude future development or modification. He contended that development would need to proceed in such a way that it does not damage or destroy the archaeological resources. He noted that a certain amount of fill has been brought to the site already to create ball fields, adding that the fill provides some buffer

and that the city's plans may be superficial in nature. Mr. Mooney reiterated that archaeological investigation would not preclude development and commented that the process would not need to be costly or time consuming.

Mr. Lavery stated that the Committee's role is not to decide how the site will be regulated, even if the owner is the City of Philadelphia. Ms. Cooperman agreed, clarifying that the Committee's role is technical and that it is tasked with determining whether Criterion A is applicable. Ms. Morello remarked that she sees the site's value as part of the city's development and heritage, even as a blank site, since Merrick and his partners chose the site for specific reasons, including its proximity to the railway.

Mr. Cohen observed that it would be likely that the site would provide some traces of the ironworks' foundations, adding that there were likely heavy buildings with deep foundations. He concluded the site holds potential for learning more about Philadelphia's industrial past and noted that Merrick is a remarkable individual for his time.

Ms. Cooperman discussed the definition of Criterion A, stating that it does not offer much guidance. Mr. Mooney voiced his support for designating the site under Criterion I. Ms. Cooperman offered information on the definitions used by the National Register, explaining that a property designated under Criterion B, which relates to a person of significance, must have a meaningful association, must illustrate the person's achievements and be associated with that period of achievement, and must be recognizable. She reiterated that the Committee is not bound by the National Register's rules. Mr. Cohen stated that the National Register definition is informative in terms of measuring Criterion A regarding a significant person. Ms. Cooperman agreed that it serves as a useful model to determine how well a site illustrates the importance of an individual.

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 400 Washington Avenue satisfies Criterion for Designation I.

**ADDRESS: 2700 S BROAD ST**

Name of Resource: Christopher Columbus Statue

Proposed Action: Object Designation

Property Owner: City of Philadelphia, Parks & Recreation

Nominator: Celeste Morello

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

**OVERVIEW:** This nomination proposes to designate the Christopher Columbus statue at Marconi Plaza (2700 S. Broad Street) as historic and list it on the Philadelphia Register of Historic Places. The nomination argues that the statue is significant under Criteria for Designation A and B, for its depiction of nationally-significant Christopher Columbus, and for its commission by a group of Italian Americans who gifted it to the City for display at the Centennial Exhibition.

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the Christopher Columbus statue at Marconi Plaza satisfies Criteria for Designation A and B.

**DISCUSSION:** Ms. Broadbent presented the nomination to the Committee on Historic Designation. Celeste Morello represented the nomination. No one represented the property owner.

Ms. Morello explained that she was looking to highlight the connection of the statue to the Hispanic communities of Philadelphia, as well as the connection to the Centennial Exhibition.

Paul Steinke, representing the Preservation Alliance for Greater Philadelphia, commented that the Alliance supports the nomination, and that any significant surviving artifacts from the Centennial Exhibition should be preserved. He inquired as to the date that the statue was moved to Marconi Plaza. Ms. Morello responded that it was moved in the mid-1970s. Mr. Lavery commented that he always assumed it was moved during the Sesquicentennial. Ms. Broadbent confirmed that Parks and Recreation has correspondence regarding the relocation of the statue in 1976, and noted that it is already included in the nomination.

Ms. Cooperman commented that she appreciates the effort to determine the artist. Mr. Cohen commented that it was likely an Italian sculptor, but that a local artist would have made the base. He commented that the nomination was especially well-written and researched, especially in terms of highlighting the other celebrations of Columbus, both his American and Italian and Spaniard. Ms. Morello opined that much has been forgotten about the way that Columbus was regarded by the early patriots. Mr. Cohen suggested that more information could be included regarding the relocation of the statue.

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the Christopher Columbus statue at Marconi Plaza satisfies Criteria for Designation A and B.

**ADDRESS: 1114-50 S 5TH ST**

Name of Resource: George Washington Public School

Proposed Action: Designation

Property Owner: School District of Philadelphia

Nominator: Celeste Morello

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

**OVERVIEW:** This nomination proposes to designate the property at 1114-50 S. 5<sup>th</sup> Street as historic and list it on the Philadelphia Register of Historic Places. The nomination argues that the 1935 school building is significant under Criteria for Designation C and E, as an example of the popular Art Deco style of the 1920s and 30s, and as a design by prolific Philadelphia public school architect Irwin T. Catharine.

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the property at 1114-50 S. 5<sup>th</sup> Street satisfies Criteria for Designation C and E.

**DISCUSSION:** Ms. Broadbent presented the nomination to the Committee on Historic Designation. Celeste Morello represented the nomination. No one represented the property owner.

Ms. Morello explained that she did not want to repeat any information that was already provided on the National Register nomination, which is why she focused on the artwork and any additional information that was omitted from the National Register nomination.

Paul Steinke, representing the Preservation Alliance for Greater Philadelphia, commented that the Alliance supports the nomination, and that Irwin Catharine was a prolific architect who

designed public schools in a great variety of styles throughout Philadelphia. Ms. Cooperman agreed, commenting that it is remarkable how much Catharine shaped the environment of the City. She opined that he is not as well-recognized as he should be, simply because he only had one client. She asked for clarification as to whether the school was listed on the original 1980s multiple property National Register nomination, or whether it was only surveyed. She commented that, while she appreciates the effort to keep the information separate, it is not necessary and a lot of the same information can be used in both nominations. Ms. Morello responded that she likes to do her own work.

Ms. Klein commented that the property potentially meets additional Criteria for Designation, including Criteria D and H. Mr. Cohen agreed.

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 1114-50 S 5<sup>th</sup> Street satisfies Criteria for Designation C, D, E, and H.

**ADDRESS: 111 AND 201 E TABOR RD**

Name of Resource: St. James Methodist Episcopal Church

Proposed Action: Designation

Property Owner: St. James Methodist Episcopal Church

Nominator: Keeping Society of Philadelphia

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

**OVERVIEW:** This nomination proposes to designate the properties at 111 and 201 E. Tabor Road as historic and list them on the Philadelphia Register of Historic Places. The nomination argues that the church complex satisfies Criteria for Designation A and J, for its association with the Saint James Methodist Episcopal Church, and as an example of the growth and development of the community which resulted in the congregation building larger churches on several occasions until the construction of the present church in 1910.

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the properties at 111 and 201 E Tabor Road satisfy Criteria for Designation A and J.

**DISCUSSION:** Ms. Broadbent presented the nomination to the Committee on Historic Designation. Oscar Beisert represented the nomination. No one represented the property owner.

Mr. Beisert commented that the Pastor wished for the buildings to be designated prior to her retirement, and he assisted with that process.

Paul Steinke, representing the Preservation Alliance for Greater Philadelphia, commented that the Alliance supports the nomination for this well-deserving and character-defining feature of the Olney neighborhood.

Mr. Cohen asked about justification for Criterion A. Mr. Beisert responded that the congregation has been at this site for such an extended period of time, and the site has elements of the congregation's entire history, so it reflects the way that the City developed over the years. He explained that many congregations often built new buildings on different sites, but this is a more unique example of a congregation that stayed in the same place and constructed new buildings to adapt. Mr. Laverty commented that it is an unusual neighborhood complex in that it has



maintained its traditional large footprint, which dates from a rural time, even as the surrounding neighborhood became dense.

Ms. Cooperman asked about the potential of including Criterion I. Mr. Mooney responded that Criterion I absolutely applies to this site. He explained that the cemetery is listed as a component of the property, and should the owner decide to subdivide or build on the site in the future, having an archaeologist involved to ensure the graves remain preserved on the site is important.

Mr. Cohen suggested the addition of Criterion H, owing to its unique location as a neighborhood landmark. He also suggested the addition of Criterion C and the removal of Criterion A. Ms. Cooperman opined that Criterion C does not apply to this church complex. Ms. Klein commented that she was pleased to see the interior mentioned on page 15. Ms. Cooperman clarified that it is not an interior nomination. Mr. Lavery asked if the stained glass windows are under the jurisdiction of the Commission. Ms. Cooperman confirmed this, stating that the windows are a part of the exterior envelope. Mr. Beisert asked if the archaeological significance pertains to the entire site, which Ms. Cooperman confirmed.

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the properties at 111 and 201 E Tabor Road satisfy Criteria for Designation H, I, and J.

**ADDRESS: 3500, 3504, AND 3508 BARING ST**

Name of Resource: Northminster Presbyterian Church and Rectory

Proposed Action: Designation

Property Owner: Metropolitan Baptist Church

Nominator: Amy Lambert, University City Historical Society

Staff Contact: Laura DiPasquale, [laura.dipasquale@phila.gov](mailto:laura.dipasquale@phila.gov), 215-686-7660

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the property at 3500 and 3504 Baring Street satisfies Criteria for Designation A, C, D, E, and J, but recommends that the parking lot at 3508 Baring be considered non-contributing in the nomination.

**OVERVIEW:** This nomination proposes to designate the property at 3500, 3504 and 3508 Baring Street and list it on the Philadelphia Register of Historic Places. The nomination argues that the former Northminster Presbyterian Church, built in 1875, is a historically significant work by Thomas Webb Richards, a prominent local architect best known for his design of College Hall on the University of Pennsylvania campus. The nomination contends that Webb's design for the church, which was originally clad in serpentine, successfully adapted his polychromatic architectural ideas to the symbolic and practical requirements of a Presbyterian congregation. The nomination further argues that the church design represents the transformation in Protestant architecture from a rectangular, center aisle volume to a more theatrical exterior expression of the Auditorium Plan. The nomination also asserts that the church and its congregation represent the development of the Mantua and Powelton Village neighborhoods of West Philadelphia. Considered contributing to the property is the attached parsonage, constructed in 1904 by architects Wilson, Harris & Richards.

**DISCUSSION:** Ms. DiPasquale presented the nomination to the Committee on Historic Designation. Amy Lambert, the nominator on behalf of the University City Historical Society, represented the nomination. No one represented the property owner.

Ms. Cooperman opened the floor to public comment. Paul Steinke of the Preservation Alliance for Greater Philadelphia spoke in support of the nomination. He opined that it is a strong nomination for deserving building. He noted that one point that the nomination makes is that the architect, Thomas Webb Richards, was the architect of the four original buildings on Penn's campus, which are unquestionable landmarks in and of themselves. He stated that this building deserves to be considered in the same category. George Poulin of the Powelton Village Civic Association expressed support for the nomination, noting that it is an important historic resource. Neighbors John Phillips and Mark Brack also spoke in support of the nomination. Mr. Brack opined that it is an important local landmark and a significant example of Gothic Revival architecture.

Ms. Cooperman asked when the building was re-clad in schist. Ms. Lambert responded that she could not pinpoint an exact date, but that it does not seem to have been too long after the building was built, somewhere around the turn of the twentieth century. Ms. Cooperman suggested that perhaps it was done in conjunction with the construction of the parsonage. Mr. Cohen opined that it seems like a substantial piece of work to not be documented. Ms. Lambert agreed, noting that she had trouble believing that it had originally been clad in serpentine because the task of re-cladding it in schist would have been monumental. She noted that the congregation seemed to have always been flush with funds, so perhaps it was not terribly difficult for them to take it on. Ms. Cooperman and Mr. Cohen mused on the failure and patching of the serpentine cladding of College Hall. Mr. Lavery questioned whether the serpentine was removed on this building, or whether the schist was applied over top of it. Ms. Lambert responded that she does not know for sure, but that she believes that the serpentine was removed, given the detail of the building, which would be much more clunky if the schist had been applied over top. Ms. Cooperman noted that there must be some other masonry load-bearing construction behind the cladding. Mr. Lavery mused whether it was possible that Richards had serpentine left over from construction of College Hall.

Mr. Cohen asked Ms. Lambert to elaborate on her description of the exterior of the building as "theatrical." Ms. Lambert responded that she saw this building, which was constructed in 1875, as on a continuum from earlier buildings such as Christ Methodist Episcopal Church on N. 38<sup>th</sup> Street, which was constructed in 1870 and much more linear and symmetrical, and churches such as Columbia Avenue Presbyterian Church on Cecil B. Moore Avenue, constructed in 1891 and much more elaborate. Ms. Lambert noted that this 1875 building shifted the tower towards the neighborhood, with parts beginning to branch off. Mr. Cohen responded that he is not sure he sees it as theatricality. Ms. Cooperman responded that it is easier to see in retrospect. Mr. Cohen asked whether Ms. Lambert meant that the entrance was more theatrical or the volumes. Ms. Lambert responded that there are two entrances, one in the tower at the sidewalk, pulling people in, and then the central, more dramatic entrance. Ms. Cooperman noted that the building addresses both street fronts. Mr. Cohen asked if there was a rarity of corner towers before this building. Ms. Lambert responded that she does not know if there was a rarity, but that she believes this building is expressing something new and interacting with the neighborhood, despite the fact that it has a very monumental presence. Ms. Cooperman noted that this is something that really comes to the fore in the following two decades, but agreed with Mr. Cohen, noting that it is hard not to look at these in a retrospective way. Ms. Cooperman appreciated the use of Jean Kilda's argument in the nomination, and noted that the dominant corner tower does become the norm in subsequent decades, but this building is not quite there yet. She opined that it is dangerous to say that this architect was anticipating what was to come in the following decades, but that being said, it does have an important street presence no matter what. Ms. Lambert asked if the Committee members read the nomination as being more

anticipatory of what was to come, noting that she may have failed to put it in its time period. Ms. Cooperman responded that she may have been speaking slightly ahead of the game, but that she is delighted that Ms. Lambert included Kilda, and obviously Richards is an important figure and is not sufficiently recognized. Ms. Cooperman stated that it is a very worthy building, and these are minor architectural historian quibbles.

Ms. Klein questioned whether the concrete walkway to the Baring Street entrance would have been the original material for the building. Ms. Lambert responded that she does not know definitively, but that concrete has been used for many centuries. She noted that she did not find any records that indicated that it was a different material. Ms. Klein opined that to have such a bland entry paving material seems stark in comparison to the highly ornamental building. Ms. Cooperman opined that the paving appears to date from the mid-twentieth century. Ms. DiPasquale questioned whether the 1928 photograph in the nomination shows the Baring Street entrance, noting that it appears to be concrete. Mr. Lavery noted that it does not appear to have been changed significantly.

Mr. Cohen commented that he has been passing by this church for years and was always confounded by the stonework, which appears to be turn of the century, while the building was older, and this explains it. He opined that there are other things about it that are intriguing. He noted that Richards is a High Victorian goth, and that his design for the Presbyterian church is not so much the pointed Gothic, because Upjohn and others thought the Episcopalians got the claim to Gothic. He noted that Richards created a building that is not a pure Gothic Revival. He mused that the entrances with the double doors with the thin windows above suggest a gallery, and are almost announcing something that is more auditorium like, although in Protestant churches, there has something anti-liturgical going on with them since the eighteenth century.

Mr. Cohen pointed out some minor architectural description terms, noting that the windows on the side might be segmental rather the elliptical. He explained that this generation of architects was not fond of ellipses. Mr. Cohen noted that the word lintels should be removed, as they are really more voussoirs.

Mr. Cohen asked if the Richards in Wilson, Harris & Richards is the same Thomas Webb Richards. Ms. Lambert responded that she does not believe so.

Ms. Lambert noted that she sees the building as more of a toned-down Romanesque design. Mr. Cohen responded that it is really a High Victorian approach to the Romanesque.

Mr. Cohen asked why Ms. Lambert included Criterion A, and whether the building is significant to the city, state, or nation. Ms. Lambert responded that Richards certainly has city-level importance. She noted that she is not a native Pennsylvanian so she does not know how Richards fits in to the history of the Commonwealth. Ms. Cooperman responded that Richards' significance is covered under Criterion E.

Ms. Cooperman expressed her pet peeve of anthropomorphizing buildings with descriptions such as "welcoming." She also noted that the term "home" should not be used to describe a "house."

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property satisfies Criteria for Designation C, D, E, and J, but not A.

**ADDRESS: 3500-10 LANCASTER AVE**

Name of Resource: West Philadelphia Friends Meeting House and School

Proposed Action: Designation

Property Owner: Philadelphia Redevelopment Authority

Nominator: George Poulin and Amy Lambert, University City Historical Society

Staff Contact: Laura DiPasquale, [laura.dipasquale@phila.gov](mailto:laura.dipasquale@phila.gov), 215-686-7660

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the property at 3500-10 Lancaster Ave satisfies Criteria for Designation A, C, and J, but not Criterion H; the property is not situated at the terminus of Lancaster Avenue, as asserted, nor does it have any singular physical characteristic that represents an established and familiar visual feature in the neighborhood.

**OVERVIEW:** This nomination proposes to designate the property at 3500-10 Lancaster Avenue and list it on the Philadelphia Register of Historic Places. The nomination contends that the property, constructed in 1901 for the Hicksite West Philadelphia Meeting, satisfies Criteria for Designation A, C, H, and J. The nomination argues that the property is a local landmark prominently sited at the eastern terminus of Lancaster Avenue. It further contends that the property is significant as a physical reminder of the religious and cultural importance and influence of the Quakers in the region during the nineteenth century, and specifically in the growing suburb of West Philadelphia. The nomination also argues that the property is significant as an expression of both Beaux-Arts and Colonial Revival architecture.

**DISCUSSION:** Ms. DiPasquale presented the nomination to the Committee on Historic Designation. Amy Lambert and George Poulin represented the nomination. Theresa Shockley represented the equitable owner and tenant of the property.

Mr. Poulin requested a continuance of the review, as he just learned that the property tenant has questions and concerns about the nomination, and he would like the opportunity to meet with them. Ms. Cooperman asked Mr. Farnham how to proceed. Mr. Farnham responded that the Committee would make a recommendation to the Commission to continue the matter and remand it to the Committee at a future meeting.

Ms. Cooperman asked if the property tenant would like to make any comments. Ms. Shockley introduced herself and explained that she is the Executive Director of the Community Education Center, which has been the tenant of the property for 44 years and is soon to be the property owner. She noted that her organization is closing on the property in the next 30 days. She explained that as an arts institution, her board has concerns about freedom in terms of what might or might not want to do with the exterior. She clarified that her organization is interested in being part of the community and preserving the exterior of the building and has no intentions of doing anything drastic, but the board has concerns and would like to discuss the possible designation in greater detail.

Ms. Cooperman opened the floor to public comment. Patrick Grossi of the Preservation Alliance commented that he does not have any objection to the continuance request, but explained to Ms. Shockley that designation would not have any impact to the interior of the property. Ms. Shockley responded that she understands. Mr. Grossi added that the Community Education Center is important to the history of this building in its own right, given its long tenancy.

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the Commission table the review of the nomination and remand it back to the Committee for review at its 19 April 2017 meeting.

**ADDRESS: 1647-57 N 3RD ST**

Name of Resource: St. Jakobus German Evangelical Lutheran Church

Proposed Action: Designation

Property Owner: Qiong Zhao Schicktzan, Tiffany Zhao, and Selina Zhao

Nominator: Keeping Society of Philadelphia

Staff Contact: Laura DiPasquale, laura.dipasquale@phila.gov, 215-686-7660

**STAFF RECOMMENDATION:** The staff recommends that the nomination demonstrates that the property at 1647-57 N 3<sup>rd</sup> Street satisfies Criteria for Designation A, C, D, and J.

**OVERVIEW:** This nomination proposes to designate the property at 1647-57 N. 3<sup>rd</sup> Street and list it on the Philadelphia Register of Historic Places. The nomination contends that the former St. Jakobus German Evangelical Lutheran Church satisfies Criteria for Designation A, C, D, and J. The nomination argues that the church, built in 1856, has significant interest or value as part of the development, heritage, and cultural characteristics of the city of Philadelphia and its German-American community. As one of the oldest German-Lutheran churches in the city, the nomination contends that St. Jakobus exemplifies the cultural, social, and historical heritage of the larger German community. The nomination further contends that the church embodies distinguishing characteristics of the Georgian Revival architectural style.

**DISCUSSION:** Ms. DiPasquale presented the nomination to the Committee on Historic Designation. Oscar Beisert represented the nomination. Property owner Qiong Zhao Schicktzan represented the property. Sarah Chiu of the City Planning Commission provided Mandarin Chinese translation for the property owner.

Mr. Beisert commented that, because so many early Lutheran churches have been lost, especially in the center of Philadelphia, this turns out to be one of the oldest German Lutheran churches near the center of Philadelphia. He opined that it is also interesting that it is similar to Trinity Lutheran church at the W. Queen Lane and Germantown Avenue. Mr. Cohen agreed, noting that they are remarkably similar. He asked if the architect for the latter building is known.

Ms. Cooperman asked if the property owner would like to comment on the nomination. Ms. Schicktzan responded that this is her third Historical Commission-related meeting. She noted that she is now this building's owner. Ms. Chiu translated for Ms. Schicktzan that when she purchased the church, it was a closed daycare center and the interior was severely deteriorated. On the second floor, one of the beams was completely rotten, so she has hired a structural engineer to fix all of the problems on the interior. She noted that the upper floor windows were all closed with plywood, and she has replaced the windows already. Ms. Chiu explained that Ms. Schicktzan has concerns about the roof, which needs major repairs, and she does not have the means to fix it. She wants to get suggestions from the City how and what to do that will be manageable. Ms. Cooperman responded that the Historical Commission's staff can provide technical assistance. Mr. Beisert noted that he also could provide names of some affordable roofers who have worked on historic buildings.

Ms. Chiu explained that Ms. Schicktzan is a sculptor herself and wants to convert this building into an art museum. She noted that the one exterior change that Ms. Schicktzan would like to make is to remove the cross at the top of the steeple. Ms. Cooperman responded that that would be a question for the full Historical Commission; this Committee is focused on the merits of the nomination. She asked if Mr. Farnham could address that question. Mr. Farnham responded that the staff could certainly look at the cross and make a determination as to whether its removal could be approved at the staff level and if not, could assist the owner in applying to the Historical Commission for its removal. Mr. Farnham noted that the Commission

previously approved the removal of a cross on a different former German Lutheran church on S. 4<sup>th</sup> Street several years ago. He noted that the staff would be happy to help the property owner in any way outside of the meeting.

Ms. Cooperman asked if there was anything else that Ms. Schicktanz would like to add. Ms. Schicktanz responded that she has no objection to designation.

Ms. Cooperman opened the floor to public comment, of which there was none.

Mr. Beisert noted that when they decided to build Trinity Lutheran church in Germantown, the English-speaking congregation admired St. Jakobus and hired the same contractor, whose last name was Bender.

Ms. Cooperman commented that the property could potentially be by architect Samuel Sloan. Mr. Cohen noted that it is the correct time period for Sloan. Mr. Beisert responded that, although it has been a while since he wrote the nomination, he remembers searching for the architect and not being able to find who designed it. Ms. Cooperman replied that it just may not be recorded or digitized yet.

Mr. Cohen opined that overall, the nomination was well-researched, but that Mr. Beisert used some terminology that he was not familiar with, for instance "canton." Mr. Cohen noted that Mr. Beisert characterized the building as Georgian, but what is significant is how much the design is actually departing from Georgian. He suggested that it is clearly something that is trying to be post-Georgian, while using the color palette of Georgian. There are elements of the building that are very 1850s, such as arches that have no impost. Ms. Cooperman agreed, noting that Mr. Beisert was correct in calling it out as Georgian, but it is not the sort of archaeological approach to Georgian, it is more a recollection of the Georgian roots of the congregation presumably, in the 1850s version. Mr. Beisert noted that, although there are other examples, it was not hugely popular to build a church of this style and form at that time. Ms. Cooperman agreed, noting that it is an interesting conscious choice. Mr. Cohen opined that it is a remarkable transition from square base to round tower with little diagonal volutes.

Addressing the Criteria for Designation, Mr. Cohen noted that he is never sure of the boundary between Criteria C and D. He commented that the question is much more about A, and asked if Mr. Beisert was hinging it on the importance of the German-American community. Mr. Beisert affirmed this and also noted that he drew from Mr. Farnham's nomination for a church in West Philadelphia that talked about this neighborhood.

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property satisfies Criteria for Designation A, C, D, and J.

#### **ADJOURNMENT**

The Committee on Historic Designation adjourned at 11:35 a.m.

### **CRITERIA FOR DESIGNATION**

§ 14-1004(1) Criteria for Designation.

A building, complex of buildings, structure, site, object, or district may be designated for preservation if it:

- (a) Has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the City, Commonwealth, or nation or is associated with the life of a person significant in the past;
- (b) Is associated with an event of importance to the history of the City, Commonwealth or Nation;
- (c) Reflects the environment in an era characterized by a distinctive architectural style;
- (d) Embodies distinguishing characteristics of an architectural style or engineering specimen;
- (e) Is the work of a designer, architect, landscape architect or designer, or professional engineer whose work has significantly influenced the historical, architectural, economic, social, or cultural development of the City, Commonwealth, or nation;
- (f) Contains elements of design, detail, materials, or craftsmanship that represent a significant innovation;
- (g) Is part of or related to a square, park, or other distinctive area that should be preserved according to a historic, cultural, or architectural motif;
- (h) Owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community, or City;
- (i) Has yielded, or may be likely to yield, information important in pre-history or history; or
- (j) Exemplifies the cultural, political, economic, social, or historical heritage of the community.



**THE MINUTES OF THE 655<sup>TH</sup> STATED MEETING OF THE  
PHILADELPHIA HISTORICAL COMMISSION**

**FRIDAY, 10 MARCH 2017  
ROOM 18-029, 1515 ARCH STREET  
BOB THOMAS, CHAIR**

**PRESENT**

Robert Thomas, AIA, chair  
Emily Cooperman, Ph.D.  
Michael Fink, Department of Licenses & Inspections  
Anuj Gupta, Esq.  
Steven Hartner, Department of Public Property  
Melissa Long, Division of Housing & Community Development  
John Mattioni, Esq.  
Dan McCoubrey, AIA, LEED AP BD+C  
Rachel Royer, LEED AP BD+C  
R. David Schaaf, RA, Philadelphia City Planning Commission  
H. Ahada Stanford, Ph.D., Commerce Department  
Betty Turner, M.A.

Jonathan Farnham, Executive Director  
Randal Baron, Historic Preservation Planner III  
Kim Broadbent, Historic Preservation Planner II  
Laura DiPasquale, Historic Preservation Planner II  
Meredith Keller, Historic Preservation Planner I

**ALSO PRESENT**

Oscar Beisert  
David S. Traub, Save Our Sites  
Paul Steinke, Preservation Alliance for Greater Philadelphia  
Patrick Grossi, Preservation Alliance for Greater Philadelphia  
Kathy Dowdell  
Michael McDermott, Coyle, Lynch & Co.  
Angelo Fatiga, Pennoni  
Stephen Kazanjian, Real Estate Strategies  
Nancy Weinberg, Save Our Sites  
Julia Frayman  
Zory Shmidoff  
Olga Shorokova, Alfa Engineering Inc.  
Thomas Adams, Pennoni  
Joe Loonstyn  
Peter Angelides, Econsult  
Matthew Ritsko, Intech Construction  
Jan Vacca, The Harman Group  
Dustin Downey, Southern Land Co.  
Tim Downey, Southern Land Co.  
Clara Wineberg, AIA, Solomon Cordwell Buenz  
David Gest, Esq., Ballard Spahr  
John Loonstyn

Jed Levin  
Logan Dry  
George Thomas, CivicVisions  
Fred Baumert, Keast & Hood  
Henry Clinton  
Leonard F. Reuter  
Celeste Morello  
John Phillips, PVCA  
Carolyn Healy, PVCA  
Scott Woodruff, DesignBlendz  
Elizabeth Stegner, University City Historical Society  
Neil Sklaroff, Esq., Ballard Spahr  
Doug Mooney, Philadelphia Archaeological Forum  
Venise Whitaker  
Alan Greenberger

#### **CALL TO ORDER**

Mr. Thomas called the meeting to order at 9:05 a.m. Commissioners Cooperman, Fink, Gupta, Hartner, Long, Mattioni, McCoubrey, Royer, Schaaf, Stanford, and Turner joined him.

#### **MINUTES OF THE 654<sup>TH</sup> STATED MEETING OF THE PHILADELPHIA HISTORICAL COMMISSION**

**ACTION:** Ms. Turner moved to adopt the minutes of the 654<sup>th</sup> Stated Meeting of the Philadelphia Historical Commission, held 10 February 2017. Mr. McCoubrey seconded the motion, which passed unanimously.

#### **SELECTION OF VICE CHAIR**

Mr. Thomas explained that the position of vice chair of the Historical Commission was vacant because the former vice chair, Sara Merriman, had resigned from the Commerce Department to take a job in the private sector. Mr. Thomas suggested Ms. Turner as vice chair.

**ACTION:** Ms. Cooperman moved to appoint Ms. Turner as the vice chair of the Historical Commission. Mr. Mattioni seconded the motion, which passed unanimously.

#### **REQUESTS TO CONTINUE NOMINATION REVIEWS**

Mr. Thomas and Ms. Cooperman recused from the discussion of the continuance request for the nomination for 100 S. Independence West Mall. Mr. Farnham presented the requests to continue the reviews of the nominations for 2041-55 Coral Street, 1642 Fitzwater Street, 100 S. Independence West Mall, 1600-06 And 1608-10 E. Berks Street (objects in St. Laurentius Church), and 3500-10 Lancaster Avenue to the Historical Commission.

**ACTION:** Mr. Mattioni moved to continue the review of the nomination for 2041-55 Coral Street and remand it to the Committee on Historic Designation meeting in June 2017, and to continue the reviews of the nominations for 1642 Fitzwater Street, 100 S. Independence West Mall, 1600-06 And 1608-10 E. Berks Street (objects in St. Laurentius Church), and 3500-10 Lancaster Avenue and remand them to the Committee on Historic Designation meeting in April 2017. Ms. Royer seconded the motion, which passed unanimously.

## **THE REPORT OF THE ARCHITECTURAL COMMITTEE, 22 FEBRUARY 2017**

Dan McCoubrey, Chair

### **CONSENT AGENDA**

Mr. Thomas introduced the consent agenda, which included applications for 2222 Delancey Place, 613 Pine Street, 15 Bank Street, 2322 Pine Street, and 1736 Green Street (aka 1735 Brandywine Street). Mr. Thomas asked if any Commissioners had comments on the Consent Agenda. None were offered. Mr. Thomas asked if anyone in the audience had comments on the Consent Agenda. None were offered.

**ACTION:** Mr. McCoubrey moved to adopt the recommendations of the Architectural Committee for the applications for 2222 Delancey Place, 613 Pine Street, 15 Bank Street, 2322 Pine Street, and 1736 Green Street (aka 1735 Brandywine Street). Mr. Schaaf seconded the motion, which passed unanimously.

### **AGENDA**

#### **ADDRESS: 1918-20 SANSOM ST**

Proposal: Complete demolition

Review Requested: Final Approval

Owner: 1911 Walnut Street LLC

Applicant: Neil Sklaroff, Ballard Spahr LLP

History: 1910; Dolan Garage

Individual Designation: None

District Designation: Rittenhouse Fidler Residential Historic District, Contributing, 2/8/1995

Staff Contact: Jon Farnham, jon.farnham@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE RECOMMENDATION:** The Architectural Committee voted to recommend that the Historical Commission deny the application, owing to the demolition, which does not satisfy the Secretary of the Interior's Standards, unless the Commission finds that the building cannot be used for any purpose for which it is or may be reasonably adapted, pursuant to Section 14-1005(6)(d) of the Philadelphia Code. The Committee additionally recommended that the application is thorough and complete; no other studies or analyses are required.

**COMMITTEE ON FINANCIAL HARDSHIP RECOMMENDATION:** Mr. McCoubrey moved that the Committee on Financial Hardship recommend to the Historical Commission that the building at 1918-20 Sansom Street cannot be used for any purpose for which it is or may be reasonably adapted; that the owner has demonstrated that the sale of the property is impracticable because the application shows that a listing for sale with a third-party broker would be futile; that commercial rental cannot provide a reasonable rate of return; and that other potential uses of the property are foreclosed; pursuant to Section 14-1005(6)(d) of the Philadelphia Code. Ms. Trego seconded the motion, which passed unanimously.

**OVERVIEW:** This application proposes the complete demolition of the building at 1918-20 Sansom Street. The property is not individually designated, but is classified as Contributing in the Rittenhouse Fidler Residential Historic District. The building was constructed as a garage in 1910 and subsequently housed offices for a construction company, marketing firm, and other businesses before being converted for use as a funeral home. The building has been vacant since 1997.

Section 14-1005(6)(d) of the preservation ordinance limits the Historical Commission to approving demolitions in two instances only, when the demolition is necessary in the public interest, and when the building cannot be reasonably adapted for any purpose. The application

contends that the building is in very poor condition and therefore cannot be used for any purpose for which it is or may be reasonably adapted. The case that the building cannot be reused is made in an affidavit with supporting exhibits. The affidavit recounts the recent history of the property and attempts to redevelop it. The exhibits include a series of reports by consultants regarding the existing conditions at the property as well as schematic architectural designs, construction cost estimates, and financial analyses for three proposed reuses, restaurant/retail, single-family residential, and office. The application concludes that none of the likely reuses is financially feasible.

The Historical Commission retained a consultant, RES, with expertise analyzing the feasibility of the adaptive reuses of historic buildings to assess the application and make a recommendation to the Historical Commission regarding the validity of its claims. The consultant's conclusions are presented in a written report.

**DISCUSSION:** Mr. Farnham presented the application to the Historical Commission. Attorneys Neil Sklaroff and David Gest, developers Tim and Dustin Downey, engineer Fred Baumert, financial analyst Peter Angelides, and construction cost estimator Matthew Ritsko the application.

Mr. Sklaroff introduced the members of the development team. He reported that his client, 1911 Walnut LLC and Southern Land Co., purchased the property and several adjacent properties in February 2015. He noted that his client successfully developed 3601 Market Street, a 26-story building. He described the lots in question. He stated that this application relates to the proposed demolition of the building at 1918-20 Sansom Street only. His client will submit additional applications for the renovations of the buildings at 1904 and 1906-16 Sansom and the new construction on the remainder of the site. He reported that he submitted an application to the Historical Commission in October 2015 to demolish the three buildings on Sansom Street: the Rittenhouse Coffee Shop, the Warwick Apartments, and the Garage. Since that submission, Southern Land has been working with neighboring stakeholders, the City Planning Commission, and the Office of Council President Clarke to create a plan of development. Pursuant to those discussions, Southern Land is narrowing its request and now seeks approval for the demolition of the Garage building only. The Rittenhouse Coffee Shop and Warwick will not be demolished, but will be used for affordable housing. The renovation and new construction work on the other sites will be submitted under separate applications.

Mr. Sklaroff explained that his team analyzed the Garage and has documented that analysis in several reports included in the application. He stated that he would like to call on some of his experts to verify and explain the reports. He observed that his consultants looked into numerous possible reuses for the building and eventually narrowed the investigation down to three uses, which will be presented to the Commission.

Mr. Sklaroff noted that curriculum vitae are included in the application for all consultants. Mr. Baumert, a structural engineer with Keast & Hood, stated that he has significant experience with historic buildings. Mr. Baumert stated that he prepared a report on the building in question, which was included with the application. He stated that he visited and inspected the building twice, once with a masonry contractor. He stated that he inspected every aspect of the interior and exterior of the building. He noted that the building is supported by steel beams that span across the space from masonry party wall to masonry party wall. The side walls are bearing walls, but the front wall is not. The walls are brick are 8 to 12 inches thick. The brick walls are stained with salts, which results from water infiltration into the brick walls. The water has washed the lime out of the mortar that keeps the brick in place. The mortar has been turned into

powder. The water has corroded the steel beams. The steel beams would need to be strengthened and, in some cases, replaced. The front wall is in "very poor condition." It would be difficult to salvage. The interior brick in the front wall is entirely deteriorated. Water has damaged the inside and outside of the wall. The brick is coming apart, owing to the moisture and freeze-thaw cycles. Mr. Baumert stated that various campaigns of maintenance work have used a very hard, cement-based mortar that has damaged the brick. The faces of the brick are spalling off because of the hard mortar. Mr. Baumert stated that it would be very difficult to retain the front wall in place and repair it. The beam at the front wall needs replacement; to replace it, the second floor and roof would need to be shored. The steel beams supporting the floor slabs are in very poor condition, especially where they pocket into the walls; they would need to be repaired or replaced. Mr. Sklaroff asked Mr. Baumert if he provided a list of recommendations in his report. Mr. Baumert stated that he did provide recommendations and still agrees with them. Mr. Baumert stated that, if one could maintain the walls rather than replacing them, the building would need to be dried out owing to the extensive saturation. It would take as long as two years to dry out the building. Drawing the moisture out is a very slow process. Mr. Sklaroff stated that Mr. Baumert would answer any questions posed by the Commission. The Commission asked no questions.

Mr. Sklaroff directed the Commission's attention to a report by consulting engineers Edwards & Zuck on the air conditioning, heating, electrical, plumbing, and fire protection systems in the building. He noted that the engineers concluded that those systems do not exist in the building in any usable form. He also directed the Commission to a second report by consulting engineers Edwards & Zuck, which details the systems that would need to be added if the building were rehabilitated. Mr. Sklaroff then discussed the environmental reports by Pennoni. The reports detail hazardous materials like asbestos discovered in the building and the costs of remediating those hazards.

Mr. Sklaroff stated his architectural consultant devised schematic plans for the three reuse scenarios that seemed most viable in light of the building's location and configuration. Mr. Sklaroff explained that the structural engineering firm reviewed the Keast & Hood analysis of the structure as well as the architect's schematic plans and proposed the structural remediation and improvement necessary for reuse. Describing their process, Mr. Sklaroff reported that Intech provided construction cost estimates for each of the three adaptive reuse scenarios, restaurant/retail, single-family residence, and office, based on the reports of the architectural, structural engineering, environmental engineering, and systems engineering consultants. He introduced Mr. Ritsko of Intech Construction, who discussed the construction cost estimates at Exhibit N in the application. Mr. Ritsko explained that he and his colleagues have 30 years of experience generating construction cost estimates. He stated that he relied on the expert reports presented earlier as the basis of his cost estimating. He stated that he and others at his firm visited the site and inspected the building and also reviewed all of the expert reports. He stated that they established a scope of work and then prepared a detail cost estimate for each of the three reuse scenarios. He stated that each of the three scopes is different, but similar. Each of the cost estimates is about \$3 million. He stated that his company has 30 years of collective experience working on construction cost estimating in Philadelphia. Mr. Ritsko explained that he has presented two versions of the cost estimates. The first version of the estimate is the original Intech estimate. Then ICI reviewed the estimate and made suggestions. The second version of the estimate is the original Intech estimate reconciled with the ICI corrections. Mr. Ritsko explained that the estimate also changed slightly when the two buildings to the east were removed from the project. It costs more to dry out the Garage alone than it costs to dry it as part of a larger drying project with the other buildings. He stated that the items that changed between the first and second versions were the drying costs and the kitchen

cabinet correction offered by ICI. He stated that the estimates were provided in February 2016. He stated that the estimates were not adjusted for the escalation of construction costs from 2016 to 2017. Also, the building has deteriorated more over the intervening time. Mr. Farnham explained that ICI is International Consultants, Inc., a construction cost estimating firm that RES, the City's independent consultant, hired to undertake independent construction cost estimates to verify the accuracy of Intech's estimates.

Mr. Angelides stated that he is a Principal at Econsult Solutions, Inc. and teaches at the University of Pennsylvania. Econsult specializes in the analyses of economic development, transportation, and real estate projects and in public policy and finance. Mr. Angelides stated that he has prepared several financial feasibility analyses for applications to the Historical Commission and other venues. In preparation for his work on this project, he reviewed all of the expert reports and discussed the project with the experts. He stated that he and the team considered many possible reuses, but decided to analyze the three most likely of success in depth. He stated that he analyzed three scenarios in depth, restaurant/retail, single-family residential, and office. Mr. Sklaroff noted that the financial analyses are in the report at Exhibit Q. He asked Mr. Angelides if he still agrees with his analyses. Mr. Angelides stated that he does agree with them.

Mr. Angelides displayed a Powerpoint presentation. He provided his conclusion first. He stated that there is no use to which 1918-1920 Sansom Street may be reasonably adapted given the cost of renovations and the revenues that can be expected by those uses. He stated that the building cannot be reused in an economically viable way. He stated that he analyzed three scenarios, restaurant/retail, single-family residential, and office. For the restaurant/retail use, the total project cost is projected to be \$4.5 million, the annual net operating income would be \$100,000, the completed project value would be \$1.0 million, the value created would be -\$3.5 million, and the net present value would be -\$2.1 million. For the single-family residential use, the total project cost is projected to be \$4.2 million, the sales income would be \$1.8 million, the completed project value would be \$1.3 million, the value created would be -\$2.9 million, and the net present value would be -\$2.0 million. For the office use, the total project cost is projected to be \$4.5 million, the annual net operating income would be \$100,000, the completed project value would be \$0.7 million, the value created would be -\$3.8 million, and the net present value would be -\$2.4 million. In general, one would lose about \$2 million on a \$4 million investment in this building.

Mr. Angelides showed a map of the 1918-1920 Sansom Street location and displayed a current photograph of the building. He displayed a photograph of the deteriorated condition of the interior and explained that it would require a significant investment to be reused.

Mr. Angelides explained that he not only undertook financial analyses, but also conducted numerous interviews to understand the current state of the marketplace. He looked at comparable rents and sales in the area and talked to experts in those fields. He stated that he looked at financing costs, construction costs, development costs, and operating costs as well as operating revenue. He explained that he also considered incentives. He noted that the only as-of-right incentive is the Philadelphia tax abatement. He stated that he also considered other potential subsidies like low-income housing subsidies and historic tax credits, but noted that they are not guaranteed, but only potentialities. He stated that the historic tax credit is not included in his base analysis, but is included in a variation and does not change the conclusions. He concluded that his analysis is predicated on realistic assumptions for revenues and costs. However, it does include one unrealistic assumption. It assumes that a bank would

provide a loan based on the construction costs. A bank would not provide a loan based on construction costs, but would only loan on the value created, which is negative.

Mr. Angelides discussed the three reuse scenarios. He stated that the configuration of the building limits options. It is a long, narrow space. It lacks windows on the sides and has no possibility of windows on the sides; skylights could be installed. It has low ceiling heights. He displayed architectural plans and discussed the gross and net space for the three reuse scenarios. He discussed the retail scenario first. The architectural plans show that the building would provide 4,312 square feet of retail space over two floors. He contended that 1918-1920 Sansom Street is not ideal retail space. He stated that retail renters like corners and wide street frontages. It is not on a corner. It has an undesirable interior layout. It is a larger space than most retailers want and a deeper space than most want. The 1900-block of Sansom Street is not prime location. Sansom Street retail is focused on lower value uses. The block of Sansom Street around 1918-1920 is not a developed or inviting streetscape. He displayed a table of current asking rents for comparable, nearby retail space. The rents varied from about \$20 to about \$50 per square foot. He reported that his analysis assumes \$52 per square foot for the ground floor and \$27 per square foot for the second floor. He reported that the retail use would generate \$100,000 in net annual income when accounting for vacancy and operating expenses. He stated that the development cost for the retail scenario is \$4.5 million and concluded that the operating income would not support such an investment. He stated that the net present value for the retail scenario would be -\$2.1 million; there would be no return on investment; and the net value of project would be -\$3.5 million. He stated that retail or restaurant is not a feasible reuse scenario.

Mr. Angelides then discussed the residential scenario. He stated that this scenario presumes that the building would be used as a single-family residence. Single-family units in the area usually sell for \$300 per square foot to \$500 per square foot. The inability to install windows in the side facades severely limits the number of bedrooms. The building at 1918-1920 Sansom Street, fully rehabbed, is estimated to sell for \$341 per square foot. He displayed tables of recently completed and current sales of comparable, nearby properties. The sales ranged from \$204 to \$578 per square foot. The house would sell for \$1.8 million in current dollars, or \$1.91 million at the time of sale in a few years. The cost to sell would be \$150,000. The net revenue from the sale would be \$1.76 million. He reported that the development cost would be \$4.2 million, but the net revenue would only be about \$1.8 million, today, but \$1.91 when it would be ready for sale. The residential project would have a net present value of -\$2.0 million; no return on investment; and a net value of -\$2.9 million. He concluded that residential is not a feasible reuse scenario.

Mr. Angelides then discussed the office scenario. The schematic architectural plans propose a 4,104 square foot leasable office building. It would likely be a single-tenant office space because of the size and layout. The building would result in Class B office space owing to configuration, low ceilings, and low natural light. Also, the location is "weird." He displayed a table of asking rents for comparable office space in the area. He explained that asking rents are between \$18 and \$26 per square foot. He estimated an achievable rent of \$23 per square foot for this building. Mr. Angelides stated that his firm recently obtained office space for itself of about the size in question. The analysis his firm undertook very recently for its new office space showed that the proposed rents used in the rental scenario were very reasonable. He stated that his model predicts a total annual revenue of \$95,000. Factoring annual operating expenses of \$30,000, it would produce a net annual income of \$65,000. The development cost would be \$4.5 million, which is greatly in excess of the value generated. The net present value would be -



\$2.4 million; there would be no return on investment; and the net value of project would be -\$3.8 million. Commercial office space is not a feasible reuse scenario for this property.

Mr. Angelides displayed a table summarizing his results and showing that none of the scenarios would produce a feasible project. Mr. Angelides stated that he conducted a variety of sensitivity analyses to determine the effects of adjusting assumptions on the outcomes. He displayed a table with his results. He tested the outcomes when removing all land costs; adding in federal and state historic tax credits; using ICI's costs estimates; adding 20% to the rents and sales prices; and combining all four sensitivity tests. Even when simultaneously removing all land costs, adding in federal and state historic tax credits, using ICI's costs estimates, and adding 20% to the rents and sales prices, there is no scenario that is close to feasible. The best case scenario, single-family residential, is still \$900,000 in the red with all of the adjustments to the financial model. Mr. Angelides concluded that there is no use to which 1918-1920 Sansom Street may be reasonably adapted, given the cost of renovations and the revenues that can be expected from those uses. No reuse project is feasible.

Mr. Thomas asked Mr. Angelides if he considered a mixed-use project with retail on the first floor and residential on the second floor. He stated that the lack of windows at the sides at the first floor would not be an imposition on a retail use and the second floor could have skylights. He also noted that, if the building were rehabilitated for single-family residence for sale, it would not be eligible for the historic preservation tax credits. Mr. Angelides agreed that the building would not be eligible for the tax credits if sold outright as a residence, meaning that the project is even less viable than the sensitivity analysis shows. Mr. Angelides then discussed the mixed-use scenario. He noted that they did consider such a scenario. He stated that the upper-floor rent for the retail scenario, \$27 per square foot, is comparable to residential rental rates. Therefore, the upper-floor retail and residential analyses would be almost identical. However, construction costs for residential and mixed-use are greater. One can safely conclude that a mixed-use building would not be financially feasible; "it wouldn't even come close." Mr. Thomas noted that creating a private entrance to the second-floor residential would be difficult. Mr. Angelides concluded that one "could build that building, probably, but the numbers don't work."

Mr. Sklaroff asked if anyone had questions. Mr. Thomas noted that Southern Land purchased the property two years ago. He noted that the building suffered while vacant, beginning in 1997. Mr. Sklaroff responded that the condition of the building exacerbates the difficulty in reusing it, but the configuration with low ceilings and few windows also makes it difficult to reuse. Mr. Thomas stated that the Historical Commission has a responsibility to determine whether the current or past owners have responsibility for the current condition. Is this a case of demolition by neglect? Mr. Sklaroff stated that this owner has no responsibility in allowing the condition to deteriorate. The building was in the current condition when purchased two years ago. Mr. Thomas agreed that the current owner is not responsible for the poor condition.

David Traub of Save Our Sites stated that this matter is of considerable importance. The decision on this application "will have significant ramifications and set precedent for the future." Mr. Traub insisted that he be allotted as much time for his presentation as the applicants were given for theirs. Mr. Thomas asked Mr. Traub to move away from the microphone because his voice was much too loud. He stated that this application is different than the proposed demolition of Jeweler's Row because this building is already listed on the Philadelphia Register of Historic Places. Although it is only one building, "Philadelphia is being chipped away at, one building at a time. I say 'chipped away at.'" He claimed that these three buildings, the Warwick Row or the Sansom Three, are a trio of buildings; there are three of them. He challenged the notion that contributing buildings in historic districts are less important than significant buildings,

because a historic district would be nothing without the contributing buildings. “Demolishing designated buildings creates cynicism on the part of the citizenry and discourages them from proposing further designations, which we all want to do.” He claimed that Southern Land is not eligible for a hardship finding because it is the “end-user” of the building. Southern Land purchased the building to “incorporate” it into the larger development. Southern Land has no intention to sell or rent the building separately. It intends to incorporate this space into a new building on the adjacent lot. The building cannot be analyzed individually. He commented that the façade of this building is beautiful and the entry portal is a distinguished piece of architecture. The three historic buildings have fused together over time as a trio in the public consciousness, and to destroy one is to spoil the integrity of the whole. He opined that tourists want to enjoy a mix of old and new buildings, and the city needs to retain its low buildings like those found on this block. He suggested that the front façade and approximately 20 feet of the existing building be retained and incorporated into the new construction project. He commented that the building is not much larger than a typical townhouse, and townhouses are always having their front facades restored. He opined that it cannot be considered a burden for a development company as large as Southern Land. He referenced the Divine Lorraine, which was vacant for many years prior to its ongoing restoration. He stated that Inga Saffron reported that Southern Land was unaware of the condition of the buildings when it purchased them. He added that Southern Land stated that it would incorporate the historic buildings into its tower project. Mr. Traub contended that Southern Land should have sealed the building when it purchased it two years ago. He stated that the building was in very poor condition when purchased two years ago, but any additional deterioration over the last two years is self-inflicted. Mr. Traub stated that the degree of financial hardship should be measured against the owner’s financial capacity. Southern Land is not impecunious. The cost to restore this building is “miniscule” when compared to the total project cost, which is “millions and millions of dollars.” The building is the size of two townhouses. Mr. Traub stated that renovations to the building in question “would be a hardship for me or any other small developers who do such work in Philadelphia, but not for Southern Land,” which has lots of money. Small developers struggle with buildings in poor condition. It is “an insult” that Southern Land, with all of its money, claims a hardship. Mr. Traub suggested keeping the façade and first 10 or 20 or more feet of the Garage building. The preserved façade would serve as a model that we can all be proud of. Mr. Traub displayed a rendering of the streetscape on the 1900-block of Sansom with the building restored.

Paul Steinke of the Preservation Alliance for Greater Philadelphia stated that the Alliance shares in spirit an affection for this building. He stated that his organization has reviewed the application and does not oppose it. He asserted that the application demonstrates that the building meets the test of hardship. He stated that the Alliance also appreciates that the developer will preserve the other two buildings on the site. He stated that the Alliance appreciates the way in which the developer has worked with the community. He stated that the condition of the building is very poor, owing to its vacancy and the water infiltration. He concluded that the Alliance does not oppose this project.

Nancy Weinberg introduced herself and stated that she is a member of Save Our Sites. She claimed that Philadelphia has recently been designated as a World Historical Site. Mr. Thomas corrected that it was designated as a World Heritage City. Ms. Weinberg asserted that the city “has some responsibility for maintaining that responsibility.” This building with the other two “is more than the sum of its parts and achieves a greater significance for the city historically and economically as well.” She suggested that “that be recognized and observed as a valid criteria.”

Cary Bryan introduced herself as a resident of the area. She stated that these buildings have been subject to neglect for 20 years. She asked why, if Southern Land has owned the building for two years, there is a “broken, open window next to the front entrance.” It would be easy to put up a board. She asked why Southern Land let it rot. She stated: “I’m angry. Yes.”

Oscar Beisert introduced himself as an architectural historian. He stated that he is not opposed to the project. He asked for the preservation of the Sansom Street façade. Saving facades is standard in other cities. To demolish the façade would be a waste of the architectural value.

Mr. Sklaroff stated that his client will attempt to save elements of the front façade for use elsewhere in the project. He also noted that his client will preserve the two adjacent buildings for use as low-income housing. He asserted, however, that these efforts by his client should have no bearing on the Commission’s decision in this case, which should be predicated solely on the case regarding feasibility of reuse. Mr. Sklaroff objected to Mr. Traub’s misconception that the extent of the financial resources of the property owner is the proper measure for hardship. Mr. Thomas noted that recordation is sometimes required when a building is approved for demolition. Mr. Sklaroff again observed that he is not asking the Commission to base its decision on the preservation of elements of the building or the preservation of the adjacent buildings. Mr. Sklaroff asserted that Southern Land is working in good faith with numerous parties, but will not know whether it can save elements of the façade until the demolition work is underway. Mr. Sklaroff contended that what is preserved or not preserved should play no role in the Commission’s decision. The Commission must consider feasibility of reuse only. He concluded that the Commission must not compel the property owner to expend funds on preservation if it determines that the property suffers from a hardship. Mr. Sklaroff acknowledged that the property and surrounding properties will continue to be subject to the Historical Commission’s jurisdiction.

Mr. Downey stated that he is sympathetic to those who would like the building saved. He stated that he is sorry that he cannot save it all. He stated that he has promised to save the Warwick and the Coffee Shop and he will honor that promise, but it is costing significant amounts of money to save them. He stated that he will be more careful about what he promises in the future. He again stated that he will keep his promise. Mr. Downey stated that he will endeavor to save elements from the Garage building, but he cannot commit to saving them until he has a better understanding of them. Mr. Sklaroff stated that they could demonstrate that the Warwick and the Coffee Shop also suffer from hardships, but will save them nonetheless. Mr. Sklaroff stated that they will submit applications to restore the Warwick and the Coffee Shop as housing in the near future. Mr. Mattioni noted that the Historical Commission is bound by the historic preservation ordinance and cannot simply do as it chooses. He observed that it would be nice to find someone with deep enough pockets to restore everything, but the Commission cannot compel a property owner to restore the building or salvage elements if it has found that there is no reasonable reuse for a building and demolition is the only way to restore value to the property. Mr. Mattioni concluded that the Commission must comply with the law.

Mr. Gupta asked Mr. Downey if he had considered saving the front façade. Mr. Downey responded that they have considered saving it, but doing so would be almost impossible. He stated that he could recall his engineer from the audience to testify about the problems with saving the façade, but the primary problem is that the brick is in such poor condition that it would crumble if disturbed. Mr. Downey stated that he cannot commit to saving the façade because it would be very difficult and expensive to save it. Mr. Gupta asked why the brick of the Garage is in worse condition than that of the adjacent Warwick. Mr. Sklaroff responded that the all three buildings are in very poor condition. Southern Land has committed to saving the

Warwick and Coffee Shop, but cannot save the Garage. He stated that Southern Land will not make money on those properties. It will be very expensive to dry them out for reuse; the drying alone will take eight months to two years. Mr. Baumert, the structural engineer, added that the brick on the Garage is much softer and in worse condition than the brick at the Warwick. He noted that the interior brick of the Garage is so soft that one can grab handfuls of clay with bare hands. The front façade does not have sufficient integrity to be saved. Mr. Sklaroff added that they considered every possibility with the Garage and concluded that it could not be saved.

Mr. Traub stated that this “economic hardship doesn’t abide with the nature, spirit, and letter of the historic preservation ordinance. It applies to some situation that this is not and their argument is really in the abstract.”

Mr. Beisert stated that he is not opposed to this project and understands the need to demolish almost the entire building, but saving a façade is not impossible. He observed that facades are saved and incorporated into new construction frequently in Washington DC and also in Louisville, Kentucky. It is a common practice, but not a desirable practice from a preservation perspective. It is a standard practice. He claimed that he has witnessed eight-story facades preserved in areas of Washington DC with less economic viability than this area. He contended that saving the front façade would be a good compromise. He asserted that this building is 30% of the total amount of historic fabric on the entire block. He noted that the Commission approved the demolition of the Boyd Theater and remarked that the new construction project to replace it may not even occur. He urged the Historical Commission to require the preservation of the façade, claiming that “it is done everywhere else.” Mr. Thomas disagreed with Mr. Beisert’s contention that facades are not retained and reused in Philadelphia. He noted that the Historical Commission recently approved the incorporation of the historic Royal Theater façade into a new building. He noted that the Historical Commission also approved the retention of two facades and their incorporation into a larger project for the Curtis School of Music on the 1600-block of Locust Street. Mr. Thomas stated that he could point to a dozen examples of the preservation of historic facades in Philadelphia. He dismissed Mr. Beisert’s claim that facades are never preserved in Philadelphia. He observed that the question before the Commission is whether the building can be feasibly reused. He noted that the conditions are similar at the other two buildings in the row, but the developer has agreed to save them at great cost. He stated that the Commission cannot require an “angel” to step in and save buildings at a financial loss. Mr. Baumert refuted Mr. Beisert’s testimony. He stated that his engineering firm knows how to preserve and reuse facades; it is not ignorant. In this case, the façade is too deteriorated to save. Mr. Thomas agreed with Mr. Baumert that his firm has the knowledge and capability to engineer the preservation of facades and their reincorporation into new buildings.

Ms. Weinberg stated that she “would like to suggest that there is a larger and relevant civic responsibility to save this façade. Thank you.”

Meg Sowell and Stephen Kazanjian of Real Estate Strategies-RES Advisors, the independent consultants retained by the City to analyze the application, presented their conclusions. Ms. Sowell provided a summary of her decades of experience with housing and commercial rehabilitation projects, including as the project manager of the historic Jekyll Island Hotel. She stated that she and Mr. Kazanjian collaborated on similar work in Baltimore. She stated that Mr. Kazanjian has extensive experience in such analyses. Ms. Sowell explained that her firm subcontracted to construction cost estimator, ICI, which evaluated and corroborated the costs included in the application. She stated that ICI has extensive experience with historic buildings. Ms. Sowell directed the Historical Commission to their report. She stated that she agrees with the analysis undertaken by the applicants. She stated that she and her partner were unable to

identify any feasible reuse for the building in question at 1918-20 Sansom Street. She stated that the building suffers because of its poor condition as well as its configuration; it is very deep with few windows at the front and back and no possibility of windows on the side facades. She noted that the documentation in the application indicates that the front façade was replaced about 1950, when the building was converted from a garage to an office building. It is a lovely façade, but it is not historic; it is a later addition.

Ms. Sowell stated that she and Mr. Kazanjian undertook an independent analysis of the application. She stated that her company has been involved with this case on behalf of the Historical Commission since November 2015. She stated that they inspected the interior and exterior of the property. The building is in extremely poor condition. She stated that they walked the neighborhood and looked at the surroundings in order to understand the building in its context. By understanding the context, they were able to evaluate potential reuses. She reported that they met with representatives of Southern Land, Center City Residents Association, the Preservation Alliance, private developers, and other parties to understand the real estate environment. She stated that they reviewed and verified all of the numbers in the application. She stated that they questioned all of the construction costs in the application. They considered all of the redevelopment scenarios. They assessed all of the assumptions and calculations provided by Econsult. She reported that they surveyed rental and sales prices in the area to ensure that the numbers in the application reflected reality. She noted that they re-analyzed the numbers used in the application, which was first prepared more than one year ago, to ensure that they had not changed over time. She reported that the analyses are still valid. She noted that three sets of cost estimates for the construction of the three most viable reuses were generated. The applicant's consultant, Intech, generated the first. The consultant's subcontractor, ICI, generated the second. And Intech generated the third, based on the comments and criticisms from ICI. Ms. Sowell stated that they analyzed the three reuse strategies proposed by the applicant as well as other strategies like a nightclub, industrial use, garage parking, hotel use, and apartments. The building would only accommodate eight apartments or 10 hotel rooms, not enough for it to be profitable. She stated that the building was too small for any useful light well. Ms. Sowell stated that they reran the analyses for the three selected uses. She explained that they reran the retail scenario with updated comparable costs based on the current rental market in the immediate area. She reported that the conclusions of their analyses were so close to Econsult's conclusions that they considered Econsult's older analysis to continue to be valid; in that analysis, Econsult concluded that restaurant and retail were not feasible. Ms. Sowell explained that they ran the single-family sensitivity analysis as had Mr. Angelides, but also added the historic tax credit into the single-family residential because one could fashion a scheme where the house was rented for the five-year recapture period. However, even with the added tax credit, no land cost, 120% of the revenue, the lower ICI costs, and all of the subsidies, the single-family scenario was not feasible. She stated that they tested the per-square-foot cost of the single-family house and found that theirs was almost equal to Econsult's. She stated that they then explored what would happen to values if the immediate neighborhood improved very quickly with nearby development. They also explored adding amenities to the house like a rooftop garden and garages. However, even with an optimistic outlook and added amenities, along with the other sensitivity changes, the house option was not feasible. She explained that they reran the office analysis using lower costs, higher rents, more incentives, and no land costs, and still ended up with a project that was not feasible. Ms. Sowell concluded that there is no reasonable use for the building in question. There is no financially feasible way to adaptively reuse the building. The value generated by any new use as measured by net present value is insufficient to provide a reasonable return on the investment required to renovate the properties. Mr. Kazanjian agreed.

Mr. Schaaf asked if Ms. Sowell had assessed a scheme to add floors to the building. He noted that floors had been constructed on a historic building on the 700-block of Chestnut Street. He noted that that building originally had additional floors, but they had been removed. The project replaced the missing floors. Ms. Sowell asked Mr. Farnham to answer the question. Mr. Farnham responded that, for a finding of financial hardship, the ordinance requires the Historical Commission to find the building cannot be used for any purpose for which it is or may be reasonably adapted. The Commission must decide what constitutes a "reasonable" adaptation. He noted that the Commission discussed the limits of a reasonable adaptation during the Boyd Theater case. The former director of the Preservation Alliance had suggested during that review that one could convert the Boyd auditorium into office space by leveling the existing floor and adding floors. The conversion would have required major renovations. The Commission concluded that that was not a reasonable adaptation. One could add 50 stories to a two-story building to make it profitable, but that addition would not be a reasonable adaptation. Mr. Farnham suggested that the Commission would need to determine, for example, whether adding two stories on a two-story building, thereby doubling the space, was a reasonable adaptation. He advised the Commission that it is the body that decides what is and is not reasonable. Mr. Farnham observed that adding a stair tower or a small penthouse addition might be reasonable, but doubling the space of a building probably was not.

Mr. Traub spoke again, asserting that the analysis of the feasibility of reuse was "out of focus, very much in the abstract, and does not apply to this situation." "There is no intention to sell or rent this property as a separate parcel." He asserted that Southern Land intends to use this property as an extension of the rental property immediately to the west. There is a use for the building as part of the larger development. It can be incorporated into the scheme. He said that the developer should retain 10 or 20 or 25 feet of the front of the building with the façade.

Mr. Thomas asked his fellow Commissioners if the Commission should require the developer to provide photographic documentation of the building before it is demolished. Mr. Farnham explained that Section 14-1005(6)(c) of the historic preservation ordinance allows the Commission to require an owner, at the owner's expense, to document a building to be demolished according to the documentation standards of the Historic American Buildings Survey and the Historic American Engineering Record (HABS/HAER) for deposit with the Historical Commission. He noted, however, that this building has been documented extensively over the last 15 years or so, as various property owners have sought to demolish it. He reported that the Historical Commission holds extensive information on the building, and additional documentation would be superfluous.

**ACTION:** Mr. Mattioni moved to find that the building at 1918-20 Sansom Street cannot be used for any purpose for which it is or may be reasonably adapted; that the owner has demonstrated that the sale of the property is impracticable because the application shows that a listing for sale with a third-party broker would be futile; that commercial rental cannot provide a reasonable rate of return; and that other potential uses of the property are foreclosed; and to approve the application for complete demolition, pursuant to Section 14-1005(6)(d) of the Philadelphia Code. Mr. Fink seconded the motion, which passed unanimously.

**ADDRESS: 2222 DELANCEY PL**

Proposal: Construct roof decks with pilot house

Type of Review Requested: Final Approval

Owner: Alex Bastian & Marta Parentes Ribes

Applicant: Charles Capaldi, LCaVA Architects, llp

History: 1877

Individual Designation: 9/12/1974

District Designation: Rittenhouse Fidler Residential Historic District, Contributing, 2/8/1995

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE RECOMMENDATION:** The Architectural Committee voted to recommend approval, provided a mockup demonstrates that the rooftop construction is inconspicuous from the public right-of-way, including to a potential height of seven feet to account for umbrellas; the railing is changed to a black metal picket; a front elevation is provided; and the pilot house roof and walls are minimized, pursuant to Standard 9 and the Roofs Guidelines.

**OVERVIEW:** This application proposes to construct roof decks and a pilot house on the main block and rear ell of this property. The pilot house would provide access to a front deck, set back 12 feet from Delancey Place, and a rear deck, set back nine feet from the rear wall. The pilot house would be partially visible from Fidler Square, as is the pilot house at the next door property at 2220 Delancey Place, which the Historical Commission approved in 2002 along with a deck on the rear ell.

**ACTION:** See Consent Agenda

**ADDRESS: 613 PINE ST**

Proposal: Construct additions at front and rear

Review Requested: Final Approval

Owner: Igor Frayman

Applicant: Paul Kremer, Alfa Engineering Inc.

History: 1990; Stephen Varenhorst, architect

Individual Designation: None

District Designation: Society Hill Historic District, Contributing, 3/10/1999

Staff Contact: Meredith Keller, meredith.keller@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE COMMENT:** The Architectural Committee voted to recommend approval, with the staff to review details, pursuant to Standards 2 and 9.

**OVERVIEW:** This application proposes to construct a second-story addition at the Pine Street façade and a third-story addition at the rear. The building is identified as Contributing in the Society Hill Historic District. However, the current building was constructed in 1990, replacing the c. 1980 structure, which was classified as Contributing in the inventory because of the involvement of the Redevelopment Authority in its construction. The addition at the front façade would mimic the elements of the building's original detailing, such as its precast stone trim, slate roofing, red brick veneer, metal railings, and window configurations. Similarly, the rear would incorporate slate roofing and precast stone trim at the cornice, and would duplicate the existing window configurations of the second story.

**ACTION:** See Consent Agenda



**ADDRESS: 15 BANK ST**

Proposal: Install mural on side wall

Review Requested: Final Approval

Owner: ASI Management

Applicant: Ambrose Liu, Philadelphia Mural Arts Advocates

History: 1855

Individual Designation: 11/4/1976

District Designation: Old City Historic District, Contributing, 12/12/2003

Staff Contact: Meredith Keller, meredith.keller@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE RECOMMENDATION:** The Architectural Committee voted to recommend approval, provided stainless steel fasteners are used and that the details include wall spacers and spacing to allow airflow behind the panels, with the staff to review details, pursuant to Standard 9.

**OVERVIEW:** This application proposes to install a mural on the north wall of 15 Bank Street. An application for the same mural was approved by the Commission at its 8 July 2016 meeting, but at that time the application proposed to install the mural on a similar wall located at 304 Arch Street. The wall at 15 Bank Street is a former party wall, is constructed of brick, and is currently stuccoed. The proposed project will be a collaboration between artist Marcus Balum, students at Mastery Charter School–Lenfest Campus, and the Mural Arts Program. The mural would incorporate a series of sixty-three brushed-aluminum composite panels of various sizes, printed with photographs taken by students. Each panel would be anchored to the wall by 12 four-inch masonry screws. The mural would be concentrated at the west end of the wall and would not obstruct any existing masonry openings.

**ACTION:** See Consent Agenda

**ADDRESS: 1635 WAVERLY ST**

Proposal: Construct four-story single family residence

Review Requested: Review and Comment

Owner: Robert Saltzman

Applicant: Logan Dry, KCA Design Associates

History: vacant lot

Individual Designation: None

District Designation: Rittenhouse Fidler Residential Historic District, Non-contributing, 2/8/1995

Staff Contact: Laura DiPasquale, laura.dipasquale@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE COMMENT:** The Architectural Committee offered no formal comment, but commented that the applicant take into consideration all of the suggestions offered during the discussion.

**OVERVIEW:** This application proposes to construct four-story, single-family residence with a front-loaded garage and a roof deck with pilot house. The house would be clad in brick for the first three stories with limestone details and aluminum-clad casement and fixed windows. The fourth floor would feature a shallow, standing seam mansard roof with a large dormer window. A roof deck would be accessed by a sloped pilot house, and enclosed by a parapet wall on the sides, but a metal railing at the front and rear.

**DISCUSSION:** Ms. DiPasquale presented the application to the Historical Commission. Architect Logan Dry represented the application.

Mr. Dry explained the changes suggested by the Architectural Committee that the owner was willing to make. He noted that the revised design tried to mimic more of the punched window pattern of the block. He noted that he also considered two single dormers but the smaller dormers did not align well with the breezeway and the design ended up with one dormer overhanging the cantilever. He explained that he also removed the fussier arched and limestone details, and simplified the facade. In terms of massing, he explained that the oddly shaped pilot house is pushed back as far from the front as possible, but is limited by a relatively compact floorplan.

Mr. McCoubrey commented that in terms of the massing and the height of the building, the Committee suggested it should be a three-story building as opposed to a four-story building. Other than that, he noted, the design changes accurately reflect the Committee's comments. Mr. McCoubrey suggested that the dormer be revised to spread the windows out more to eliminate the panels on the sides and fill out the dormer more.

Mr. McCoubrey also suggested differentiating between the color of the muntins and the glass, both of which are depicted as black in the rendering. Ms. Cooperman commented that, if the windows were wood, the color would be more flexible, and it would be more in keeping with the block. Mr. McCoubrey opined that aluminum-clad windows would be fine, but suggested using a lighter color that gives some contrast.

Ms. Cooperman questioned the planned material for the face of the dormer. Mr. Dry responded that the proposed material is a large format metal panel. He noted that if he makes the windows larger, he would still use a larger format metal panel, but could attempt to replicate more of a traditional dormer construction.

Ms. Royer asked whether the dormer windows will also have divided lites. Mr. Dry responded that in the current design, the two smaller windows will but the middle one will not. He noted that if he revises the size of the windows, he is open to using muntins across all three. He explained that he wants to keep the scale cohesive without getting too busy. Mr. Thomas replied that dormers often have a different pattern than the windows below, and opined that it is important to be consistent and have muntins. Ms. Cooperman asked if the dormer windows are casements. Mr. Dry responded affirmatively.

**ACTION:** Mr. McCoubrey moved to adopt the comments offered by the Architectural Committee and Historical Commission. Ms. Long seconded the motion, which passed unanimously.

**ADDRESS: 125 CHRISTIAN ST**

Proposal: Rebuild third-floor gable wall; construct roof deck at rear

Review Requested: Final Approval

Owner: Alex Aberle

Applicant: Alex Aberle

History: 1820

Individual Designation: 6/24/1958

District Designation: None

Staff Contact: Randal Baron, randal.baron@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE RECOMMENDATION:** The Architectural Committee voted to recommend approval of the masonry work, with the staff to review details, but denial of the deck, pursuant to Standard 9 and the Roofs Guideline, which stipulates that decks should be inconspicuous from the public right-of-way.

**OVERVIEW:** This application proposes to construct a roof deck on the pitched roof of the rear ell of this corner property. The deck would be accessed via an existing dormer window, which would be cut down to create a door. The wood deck structure would be supported on approximately four, five-foot tall painted posts and enclosed by an open, wood balustrade on the street side, with a five-foot high privacy fence at the party wall.

The proposed construction would be highly conspicuous from both Christian Street and S. Hancock Street.

**DISCUSSION:** Mr. Baron presented the application to the Historical Commission. No one represented the application.

Mr. Thomas stated that, if this deck were in a less conspicuous location and if the building were in the middle of the block, the deck might meet the standards.

He asked for public comment, of which there was none.

**ACTION:** Mr. McCoubrey moved to approve the masonry work, with the staff to review details, but to deny of the deck, pursuant to Standard 9 and the Roofs Guideline, which stipulates that decks should be inconspicuous from the public right-of-way. Ms. Cooperman seconded the motion, which passed unanimously.

**ADDRESS: 2322 PINE ST**

Proposal: Construct addition

Review Requested: Final Approval

Owner: Kyle Wharton

Applicant: Scott Woodruff

History: 1960

Individual Designation: None

District Designation: Rittenhouse Fidler Residential Historic District, Contributing, 2/8/1995

Staff Contact: Randal Baron, randal.baron@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE RECOMMENDATION:** The Architectural Committee voted to recommend denial of the application as proposed, but approval, with the staff to ensure no visibility of the additions from Pine Street, provided the following:

- the inclusion of a window and door the south façade of the addition,
- the relocation of the deck from the addition to the roof of the existing house with a 15-foot setback,
- the removal of the parapet, and
- the relocation of the mechanical equipment to a hidden location not on the roof.

**OVERVIEW:** This application proposes to construct an addition at the rear and on top of a two-story building that is classified as Contributing to the Rittenhouse Fidler Residential Historic District. The addition would be set back approximately 26 feet from the front façade with a roof terrace at the front. The Committee reviewed a similar application at its January 2017 meeting. In that application, the addition was set back 17 feet from the front façade; the Committee recommended denial and encouraged the applicant to revise the application to set the addition back to a location where it would be inconspicuous from the public right-of-way, or to limit the addition to two stories, instead of three. The current application sets the addition back, but it remains conspicuous, overwhelming the two-story building.

**ACTION:** See Consent Agenda

**ADDRESS: 1710 PINE ST**

Proposal: Replace window sash

Review Requested: Final Approval

Owner: Sophia Rosenfeld & Matthew Affron

Applicant: Keith Yaller, Architectural Window Corp.

History: 1845

Individual Designation: None

District Designation: Rittenhouse Fidler Residential Historic District, Contributing, 2/8/1995

Staff Contact: Randal Baron, randal.baron@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE RECOMMENDATION:** The Architectural Committee voted to recommend denial, pursuant to Standard 6.

**OVERVIEW:** This application proposes to remove the existing one-over-one double-hung sash at the front façade windows and to replace them with either two-over-two or one-over-one double-hung sash. The existing frames and brick mold would remain. Based on the building's date of construction and the existing clamshell brick mold at windows along this block of Pine Street, the original window sash would likely have been six-over-six double-hung sash. However, the application argues that changes to the entry door and transom, as well as extensive renovations at the interior, reflect characteristics of a later period that warrant a later window style.

**DISCUSSION:** Mr. Baron presented the application to the Historical Commission. No one represented the application.

Mr. Thomas commented that the 1963 photograph shows that most of the buildings in the development row have six-over-six windows. He suggested that the staff should approve six-over-six windows, if the owner proposes them. He asked for public comment, of which there was none.

**ACTION:** Mr. McCoubrey moved to adopt the Architectural Committee's recommendation and deny the application, but to approve six-over-six wood windows, with the staff to review details, pursuant to Standard 6. Ms. Cooperman seconded the motion, which passed unanimously.

### **REPORT OF THE COMMITTEE ON HISTORIC DESIGNATION**

Emily Cooperman, Chair

#### **ADDRESS: 509-13 DIAMOND ST**

Name of Resource: First Mennonite Church of Philadelphia

Proposed Action: Designation

Property Owner: Lewis Temple Pentacostal Church of God

Nominator: Daniel Sigmans and Oscar Beisert

Staff Contact: Meredith Keller, meredith.keller@phila.gov, 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 509-13 Diamond Street satisfies Criteria for Designation C and J.

**OVERVIEW:** This nomination proposes to designate the property at 509-13 Diamond Street as historic and list it on the Philadelphia Register of Historic Places. The nomination contends that the former First Mennonite Church of Philadelphia satisfies Criteria for Designation A and J. The nomination argues that the building housed the largest Mennonite congregation in Philadelphia and provided an urban place of worship for progressive southeastern Pennsylvania Mennonites, who typically left rural Bucks County farms to pursue economic opportunities within the industrialized city. The nomination also contends that Nathaniel B. Grubb, the church's charismatic leader for 38 years, quickly increased membership after joining as its minister and preached extensively to numerous Mennonite and non-Mennonite congregations.

**DISCUSSION:** Ms. Keller presented the nomination to the Historical Commission. Oscar Beisert represented the nomination. No one represented the property owner.

Mr. Thomas inquired about the disparity between the Criteria for Designation identified in the nomination and those identified by the Committee. Ms. Cooperman explained that the nomination presented Criteria for Designation A and J, but the Committee found that the significance of the property under Criterion A solely for its association with Nathaniel Grubb was not convincing. The concern, she continued, was that every congregation has an important clergy leader, but that person, in most cases, does not necessarily have citywide significance. She noted that Committee members had strong opinions that the building reflects the environment in an era characterized by a style, though that style lacks a common name. The Committee agreed that Criterion for Designation C would be appropriate and also found that the

church held significance for its association with the city's Mennonite history, which further satisfies Criterion J.

Mr. Beisert stated that he and a member of Philadelphia's Mennonite community collaborated to write the nomination.

Mr. Thomas opened the floor to public comment, of which there was none.

Mr. McCoubrey asked whether the nomination included only the church building or if the flanking building was part of the property. Ms. Keller answered that the boundary description in the nomination includes both buildings and together they comprise the parcel of 509-13 Diamond Street.

**ACTION:** Ms. Cooperman moved to find that the nomination demonstrates that the property at 509-13 Diamond Street satisfies Criteria for Designation C and J, and to designate it as historic, listing it on the Philadelphia Register of Historic Places. Mr. Schaaf seconded the motion, which passed unanimously.

**ADDRESS: 516 WHARTON ST**

Name of Resource: St. John German Evangelical Lutheran Church

Proposed Action: Designation

Property Owner: New York-Washington C.M.E. Annual Conference, Inc.

Nominator: Celeste Morello

Staff Contact: Meredith Keller, meredith.keller@phila.gov, 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 516 Wharton Street satisfies Criteria for Designation A, E, and J.

**OVERVIEW:** This nomination proposes to designate the property at 516 Wharton Street as historic and list it on the Philadelphia Register of Historic Places. The nomination contends that the former St. John German Evangelical Lutheran Church satisfies Criterion for Designation A. The nomination argues that the church provides the only existing evidence of the neighborhood's nineteenth-century German heritage and reflects a period of German unrest during which Germans sought religious freedom in the United States. The nomination further contends that the church typifies a small working-class community of German Lutherans that lived in the neighboring Southwark rowhouses.

**DISCUSSION:** Ms. Keller presented the nomination to the Historical Commission. Celeste Morello represented the nomination. No one represented the property owner.

Ms. Cooperman explained that the Committee on Historic Designation recommended Criteria for Designation A, E, and J because of evidence uncovered by Committee member Jeff Cohen, who found a reliable citation that this church is the work of the very important Philadelphia architect Samuel Sloan. The Committee, she continued, determined that the property merited designation under Criterion E, which specifically relates to a prominent architect's work. She reiterated that Sloan was an extremely important practitioner.

Ms. Morello stated that it was her understanding that the building was attributed but that no definitive evidence exists to show that Sloan was the architect. She argued that an attribution to Sloan would be more correct. Ms. Cooperman replied that for this period of time, a newspaper

citation together with the building's appearance is likely the strongest evidence to exist, lacking the church records themselves. Ms. Morello responded that no information in the church records gave credit to any architect. She contended that the record keepers were not interested in the building of the church beyond establishing some type of financial structure for maintaining the building. Ms. Cooperman asserted that that approach is not unusual. In her experience from working in this period, Ms. Cooperman continued, though no bills or drawings survive, there is certainly enough evidence to support a strong attribution to Sloan.

Mr. Thomas opened the floor to public comment, of which there was none.

**ACTION:** Ms. Cooperman moved to find that the nomination demonstrates that the property at 516 Wharton Street satisfies Criteria for Designation A, E and J, and to designate it as historic, listing it on the Philadelphia Register of Historic Places. Ms. Long seconded the motion, which passed unanimously.

**ADDRESS: 400 WASHINGTON AVE**

Name of Resource: Southwark Iron Foundry/ Merrick & Sons (Sacks Playground)

Proposed Action: Designation

Property Owner: City of Philadelphia, Parks & Recreation

Nominator: Celeste Morello

Staff Contact: Meredith Keller, meredith.keller@phila.gov, 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 400 Washington Avenue satisfies Criterion for Designation I.

**OVERVIEW:** This nomination proposes to designate the property at 400 Washington Avenue as historic and list it on the Philadelphia Register of Historic Places. The nomination contends that the former site of the Southwark Iron Foundry, now known as Sacks Playground, satisfies Criterion for Designation A. The nomination argues that the site is affiliated with Samuel Merrick, a significant nineteenth-century Philadelphian who became the first chief engineer of the Philadelphia Gas Works, served as an elected official, co-founded the Franklin Institute, and established the Southwark Iron Foundry. The nomination also contends that the site is likely to yield information important in history due to the nearly one-hundred-year production of machinery and parts for commercial, domestic, industrial, and military purposes when the Southwark Iron Foundry was in active use.

**DISCUSSION:** Ms. Keller presented the nomination to the Historical Commission. Celeste Morello represented the nomination. No one represented the property owner.

Ms. Morello stated that she felt strongly that Criterion for Designation A should be considered. She explained that she submitted a nomination to the Pennsylvania Historical and Museum Commission for a state historical marker to recognize Samuel V. Merrick. She indicated that the marker application would likely be approved. She noted that she hoped the marker would be placed at the site's Washington Avenue side and again argued for the appropriateness of including Criterion A.

Ms. Cooperman responded that it was the opinion of several members of the Committee that, if the building were still extant, Criterion A would be appropriate. However, she continued, since the property largely contains an archaeological site, the Committee found that Criterion I would be most appropriate. Ms. Morello countered that if any artifacts are uncovered from a future



archaeological excavation, they would relate to Samuel Merrick and his factory, since the factory remained on the site for approximately 100 years.

Mr. Thomas opened the floor to public comment. Jed Levin, a professional archaeologist and South Philadelphia resident, spoke to support the nomination of Sacks Playground specifically under Criterion I. He noted that he is a member of the Philadelphia Archaeological Forum and was at the meeting to represent the organization. He stated that members of the organization feel strongly that the site holds exceptional potential for archaeology and could provide important information on Philadelphia's history, particularly its industrial history. He reiterated his strong endorsement of the nomination.

Ms. Cooperman added for the record that Samuel Merrick was one of the giants of nineteenth-century Philadelphia industry and is both locally and nationally significant.

Mr. Thomas asked Mr. Farnham how designation would impact the site and whether the Department of Parks and Recreation would be required to excavate prior to undertaking any significant work. Mr. Farnham answered that any work that includes significant ground disturbance would trigger a review by the Historical Commission.

**ACTION:** Ms. Cooperman moved to find that the nomination demonstrates that the property at 400 Washington Avenue satisfies Criterion for Designation I, and to designate it as historic, listing it on the Philadelphia Register of Historic Places. Mr. McCoubrey seconded the motion, which passed unanimously.

**ADDRESS: 2700 S BROAD ST**

Name of Resource: Christopher Columbus Statue

Proposed Action: Object Designation

Property Owner: City of Philadelphia, Parks & Recreation

Nominator: Celeste Morello

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the Christopher Columbus statue at Marconi Plaza satisfies Criteria for Designation A and B.

**OVERVIEW:** This nomination proposes to designate the Christopher Columbus statue at Marconi Plaza (2700 S. Broad Street) as historic and list it on the Philadelphia Register of Historic Places. The nomination argues that the statue is significant under Criteria for Designation A and B, for its depiction of nationally-significant Christopher Columbus, and for its commission by a group of Italian Americans who gifted it to the City for display at the Centennial Exhibition.

**DISCUSSION:** Ms. Broadbent presented the nomination to the Historical Commission. Celeste Morello represented the nomination. No one represented the property owner.

Mr. Thomas asked who is responsible for maintaining the statue. Mr. Farnham confirmed that the Department of Parks and Recreation is responsible. Ms. Cooperman commented that the Committee appreciated the extensive effort that Ms. Morello took to try to identify the artist responsible for the statue.

**ACTION:** Ms. Cooperman moved to find that the nomination demonstrates that the Christopher Columbus statue at Marconi Plaza satisfies Criteria for Designation A and B,

and to designate it as an historic object, listing it on the Philadelphia Register of Historic Places. Mr. Schaaf seconded the motion, which passed unanimously.

**ADDRESS: 1114-50 S 5TH ST**

Name of Resource: George Washington Public School

Proposed Action: Designation

Property Owner: School District of Philadelphia

Nominator: Celeste Morello

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property at 1114-50 S 5<sup>th</sup> Street satisfies Criteria for Designation C, D, E, and H.

**OVERVIEW:** This nomination proposes to designate the property at 1114-50 S. 5<sup>th</sup> Street as historic and list it on the Philadelphia Register of Historic Places. The nomination argues that the 1935 school building is significant under Criteria for Designation C and E, as an example of the popular Art Deco style of the 1920s and 30s, and as a design by prolific Philadelphia public school architect Irwin T. Catharine.

**DISCUSSION:** Ms. Broadbent presented the nomination to the Historical Commission. Celeste Morello represented the nomination. No one represented the property owner.

Ms. Cooperman explained that the Committee added Criterion H owing to the building being particularly conspicuous in its context. Mr. Thomas asked about the public school thematic historic district. Mr. Farnham explained that it is a National Register historic district, not a local historic district. Ms. Cooperman commented that it is particularly gratifying to see Irwin Catharine's work recognized, as he is often under-recognized owing to the School District of Philadelphia being his only client. Mr. Thomas commented that it is important to recognize the historic value of public school buildings. Ms. Morello noted that there are other worthy school buildings nearby. Mr. McCoubrey commented that the former Edward W. Bok Technical High School is now being adaptively reused and is open to the public. Ms. Morello briefly discussed the possibility of writing a nomination for that building.

**ACTION:** Ms. Cooperman moved to find that the nomination demonstrates that the property at 1114-50 S 5<sup>th</sup> Street satisfies Criteria for Designation C, D, E and H, and to designate it as historic, listing it on the Philadelphia Register of Historic Places. Mr. McCoubrey seconded the motion, which passed unanimously.

**ADDRESS: 111 AND 201 E TABOR RD**

Name of Resource: St. James Methodist Episcopal Church

Proposed Action: Designation

Property Owner: St. James Methodist Episcopal Church

Nominator: Keeping Society of Philadelphia

Staff Contact: Kim Broadbent, kim.broadbent@phila.gov, 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the properties at 111 and 201 E Tabor Road satisfy Criteria for Designation H, I, and J.

**OVERVIEW:** This nomination proposes to designate the properties at 111 and 201 E. Tabor Road as historic and list them on the Philadelphia Register of Historic Places. The nomination argues that the church complex satisfies Criteria for Designation A and J, for its association with the Saint James Methodist Episcopal Church, and as an example of the growth and development of the community which resulted in the congregation building larger churches on several occasions until the construction of the present church in 1910.

**DISCUSSION:** Ms. Broadbent presented the nomination to the Historical Commission. Oscar Beisert represented the nomination. No one represented the property owner.

Ms. Cooperman explained that the Committee added Criterion I owing to the early cemetery and no other previous development on that site. Mr. Thomas commented that Tabor Road is one of the earliest roads in that area. Ms. Cooperman added that the church is an institution that has been on the site for quite a long time, relative to its context. Mr. Beisert explained that he was contacted by the out-going pastor, who was concerned about appropriate reuse of the buildings, should the congregation cease to exist.

**ACTION:** Ms. Cooperman moved to find that the nomination demonstrates that the properties at 111 and 201 E Tabor Road satisfy Criteria for Designation H, I and J, and to designate the properties as historic, listing them on the Philadelphia Register of Historic Places. Ms. Royer seconded the motion, which passed unanimously.

**ADDRESS: 3500, 3504, AND 3508 BARING ST**

Name of Resource: Northminster Presbyterian Church and Rectory

Proposed Action: Designation

Property Owner: Metropolitan Baptist Church

Nominator: Amy Lambert, University City Historical Society

Staff Contact: Laura DiPasquale, laura.dipasquale@phila.gov, 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property satisfies Criteria for Designation C, D, E, and J, but not A.

**OVERVIEW:** This nomination proposes to designate the property at 3500, 3504 and 3508 Baring Street and list it on the Philadelphia Register of Historic Places. The nomination argues that the former Northminster Presbyterian Church, built in 1875, is a historically significant work by Thomas Webb Richards, a prominent local architect best known for his design of College Hall on the University of Pennsylvania campus. The nomination contends that Webb's design for the church, which was originally clad in serpentine, successfully adapted his polychromatic architectural ideas to the symbolic and practical requirements of a Presbyterian congregation. The nomination further argues that the church design represents the transformation in

Protestant architecture from a rectangular, center aisle volume to a more theatrical exterior expression of the Auditorium Plan. The nomination also asserts that the church and its congregation represent the development of the Mantua and Powelton Village neighborhoods of West Philadelphia. Considered contributing to the property is the attached parsonage, constructed in 1904 by architects Wilson, Harris & Richards.

**DISCUSSION:** Ms. DiPasquale presented the nomination to the Historical Commission. Elizabeth Stegner, president of the University City Historical Society (UCHS), represented the nomination. No one represented the property owner.

Ms. Stegner noted that Amy Lambert prepared the nomination, and that she cannot say anything more about Ms. Lambert's careful and fine research. She explained that her role is simply to be a representative of the University City Historical Society and to show the UCHS's support for the nomination.

**ACTION:** Ms. Cooperman moved to find that the nomination demonstrates that the property at 3500, 3504, and 3508 Baring Street satisfies Criteria for Designation C, D, E and J, and to designate it as historic, listing it on the Philadelphia Register of Historic Places, with the parking lot at 3508 Baring Street to be considered as non-contributing. Mr. Schaaf seconded the motion, which passed unanimously.

**ADDRESS: 1647-57 N 3RD ST**

Name of Resource: St. Jakobus German Evangelical Lutheran Church

Proposed Action: Designation

Property Owner: Qiong Zhao Schick Tanz, Tiffany Zhao, and Selina Zhao

Nominator: Keeping Society of Philadelphia

Staff Contact: Laura DiPasquale, [laura.dipasquale@phila.gov](mailto:laura.dipasquale@phila.gov), 215-686-7660

**COMMITTEE ON HISTORIC DESIGNATION RECOMMENDATION:** The Committee on Historic Designation voted to recommend that the nomination demonstrates that the property satisfies Criteria for Designation A, C, D, and J.

**OVERVIEW:** This nomination proposes to designate the property at 1647-57 N. 3<sup>rd</sup> Street and list it on the Philadelphia Register of Historic Places. The nomination contends that the former St. Jakobus German Evangelical Lutheran Church satisfies Criteria for Designation A, C, D, and J. The nomination argues that the church, built in 1856, has significant interest or value as part of the development, heritage, and cultural characteristics of the city of Philadelphia and its German-American community. As one of the oldest German-Lutheran churches in the city, the nomination contends that St. Jakobus exemplifies the cultural, social, and historical heritage of the larger German community. The nomination further contends that the church embodies distinguishing characteristics of the Georgian Revival architectural style.

**DISCUSSION:** Ms. DiPasquale presented the nomination to the Historical Commission. Oscar Beisert represented the nomination. No one represented the property.

Mr. McCoubrey asked if the church's steeple was altered. Mr. Beisert responded that he believes there was a storm in the 1970s or 1980s, and that he believes there was some damage to the tower.

Ms. Cooperman noted that the Committee felt that it was highly likely that an architect was responsible for the design of this property. She noted that the design could be by Samuel Sloan

or T.U. Walter, but the highly sophisticated design appears to be done by a professional. Mr. Beisert noted that Trinity Church in Germantown was modeled after this design.

Mr. Thomas opened the floor to public comment, of which there was none.

**ACTION:** Ms. Cooperman moved to find that the nomination demonstrates that the property at 1647-57 N 3<sup>rd</sup> Street satisfies Criteria for Designation A, C, D and J, and to designate it as historic, listing it on the Philadelphia Register of Historic Places. Mr. McCoubrey seconded the motion, which passed unanimously.

## **OLD BUSINESS**

### **ADDRESS: 1736 GREEN ST (AKA 1735 BRANDYWINE ST)**

Proposal: Construct three-story building on subdivided lot

Review Requested: Final Approval

Owner: Loonstyn Development L.P.

Applicant: John Loonstyn, Wallace St. Construction LLC

History: 1891; Willis Hale, architect; subdivided lot at 1735 Brandywine Street

Individual Designation: None

District Designation: Spring Garden Historic District, Significant, 10/11/2000

Staff Contact: Meredith Keller, meredith.keller@phila.gov, 215-686-7660

**ARCHITECTURAL COMMITTEE RECOMMENDATION:** The Architectural Committee moved to recommend approval, with the staff to review details, pursuant to Standard 9, with the following provisions:

- the front door is in the plane of the main façade;
- the lintel at the entryway is directly over the door with the panel eliminated, or the doorway includes a transom or other historically consistent element;
- the shutters are either eliminated or revised to be historically appropriate in size and detailing;
- the brick façade incorporates a return of one and a half or more courses;
- the rooftop equipment is located with a large setback from the front façade, with the location to be confirmed with the staff; and
- a terminating feature is added to the cornice, such as a turn, corbel, or other historically appropriate element.

**OVERVIEW:** This application proposes to construct a three-story building with a roof deck and pilot house on a newly created lot facing Brandywine Street. The property was historically associated with 1736 Green Street, but has been subdivided from it. A one-story garage constructed around 1960 stands on the subdivided lot. Although it was all one property known as 1736 Green Street at the time of the district designation, the rear portion of the lot was listed separately as 1735 Brandywine Street in the Spring Garden Historic District inventory and classified as non-contributing. The front façade of the proposed structure includes a brick veneer, one-over-one windows, a six-panel door at a recessed entryway, an Italianate-style cornice, cast stone base, and cast stone lintels and sills. The east side of the property, which would be visible from Brandywine Street, would be clad in composite siding.

**ACTION:** See Consent Agenda

## **ADJOURNMENT**

**ACTION:** At 11:51 a.m., Ms. Cooperman moved to adjourn. Ms. Long seconded the motion, which passed unanimously.

## **STANDARDS AND GUIDELINES CITED IN THE MINUTES**

Standard 2: The historic character of a property will be retained and preserved. The removal of distinct materials or alterations of features, spaces, and spatial relationships that characterize a property will be avoided.

Standard 6: Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

Standard 9: New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new works shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

Roofs Guideline: Recommended: Designing additions to roofs such as residential, office, or storage spaces; elevator housing; decks and terraces; or dormers or skylights when required by the new use so that they are inconspicuous from the public right-of-way and do not damage or obscure character-defining features.

14-1005(6)(d) Restrictions on Demolition.

No building permit shall be issued for the demolition of a historic building, structure, site, or object, or of a building, structure, site, or object located within a historic district that contributes, in the Historical Commission's opinion, to the character of the district, unless the Historical Commission finds that issuance of the building permit is necessary in the public interest, or unless the Historical Commission finds that the building, structure, site, or object cannot be used for any purpose for which it is or may be reasonably adapted. In order to show that building, structure, site, or object cannot be used for any purpose for which it is or may be reasonably adapted, the owner must demonstrate that the sale of the property is impracticable, that commercial rental cannot provide a reasonable rate of return, and that other potential uses of the property are foreclosed.

14-203(88) Demolition or Demolish.

The razing or destruction, whether entirely or in significant part, of a building, structure, site, or object. Demolition includes the removal of a building, structure, site, or object from its site or the removal or destruction of the façade or surface.

## **CRITERIA FOR DESIGNATION**

§ 14-1004(1) Criteria for Designation.

A building, complex of buildings, structure, site, object, or district may be designated for preservation if it:

- (a) Has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the City, Commonwealth, or nation or is associated with the life of a person significant in the past;

- (b) Is associated with an event of importance to the history of the City, Commonwealth or Nation;
- (c) Reflects the environment in an era characterized by a distinctive architectural style;
- (d) Embodies distinguishing characteristics of an architectural style or engineering specimen;
- (e) Is the work of a designer, architect, landscape architect or designer, or professional engineer whose work has significantly influenced the historical, architectural, economic, social, or cultural development of the City, Commonwealth, or nation;
- (f) Contains elements of design, detail, materials, or craftsmanship that represent a significant innovation;
- (g) Is part of or related to a square, park, or other distinctive area that should be preserved according to a historic, cultural, or architectural motif;
- (h) Owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community, or City;
- (i) Has yielded, or may be likely to yield, information important in pre-history or history; or
- (j) Exemplifies the cultural, political, economic, social, or historical heritage of the community.





## CITY OF PHILADELPHIA

PHILADELPHIA HISTORICAL  
COMMISSION

1515 Arch Street, 13th Floor  
Philadelphia, Pennsylvania 19102  
Tel: 215.686.7660

Robert Thomas, AIA  
Chair

Jonathan E. Farnham, Ph.D.  
Executive Director

16 December 2016

Aparna Palantino  
Deputy Commissioner  
Philadelphia Parks & Recreation  
1515 Arch St, 10<sup>th</sup> Floor  
Philadelphia, PA 19102

Re: Christopher Columbus statue, 2700 S BROAD ST, PHILADELPHIA PA 19145

Dear Aparna Palantino:

The Philadelphia Historical Commission, the City of Philadelphia's historic preservation agency, is pleased to inform you that the Christopher Columbus statue, located on the west side of Marconi Plaza at 2700 S BROAD ST has been proposed for designation as an historic object and inclusion on the Philadelphia Register of Historic Places.

The Historical Commission seeks to safeguard the city's unique heritage and wealth of cultural resources as it encourages economic development, promotes healthy and sustainable communities, enhances property values, attracts new residents, businesses, and tourists, provides educational opportunities, and fosters civic pride. Under the City's historic preservation ordinance, Section 14-1000 of the Philadelphia Code, the Historical Commission is authorized to designate as historic and then promote the preservation of buildings, structures, sites, objects, interiors, and districts that are representative of and important to Philadelphia's heritage, traditions, and values. More than 23,000 properties illustrating Philadelphia's history from its earliest years to the recent past have been designated as historic and listed on the Philadelphia Register of Historic Places. A brief overview of the Historical Commission is attached to this letter.

The Historical Commission will consider the proposal, called a nomination, to designate the object at 2700 S BROAD ST as historic at two public meetings. The Historical Commission's advisory Committee on Historic Designation will consider the nomination at its meeting at 9:30 a.m. on Wednesday, 15 February 2017 in Room 18-029, 1515 Arch Street, a municipal office building also known as the One Parkway Building. The Historical Commission will consider the nomination and its advisory committee's recommendation at its regular monthly meeting at 9:00 a.m. on Friday, 10 March 2017 in the same meeting room, Room 18-029, 1515 Arch Street. You are invited but not required to attend these meetings, which are open to the public. The meetings provide the owner as well as the public with opportunities to participate in the Historical Commission's discussions about the historical significance of the property and deliberations on the merits of its historic designation. A copy of the nomination proposing the designation of this property is available on our website, [www.phila.gov/historical](http://www.phila.gov/historical).

The designation of a property as historic provides benefits to the owner. There is, of course, the satisfaction derived from the ownership of a recognized historic landmark and from the

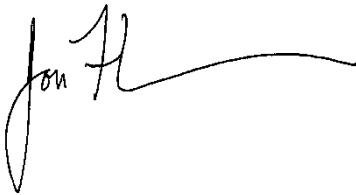
trusteeship for the past and future that accompanies ownership. The owner of a designated property may call upon the Historical Commission's staff for historical and technical services and assistance at no charge. In addition, the protection against inaccurate or unsympathetic alterations and against unnecessary demolitions offers some assurance that the historic character of the property will be preserved and improved. In Philadelphia and other cities, studies show that designation has helped to enhance resale values and foster community pride. Finally, a well-maintained, accurately preserved property may also be eligible for a Historical Commission plaque, which, when mounted on the exterior, identifies the property as a historic landmark.

In addition to benefits, the designation of a property as historic entails some restrictions. If adopted, the designation of the property as historic would include the site, the exterior envelopes of all buildings on the site, and any permanent site appurtenances. To promote the preservation of historic buildings and sites, the Historical Commission reviews all building permit applications and other proposals for exterior alterations to ensure compliance with historic preservation standards. The Historical Commission also reviews all demolition proposals for designated properties. The Historical Commission and its staff approach such matters reasonably and practically, and understand that historic buildings must be adapted for evolving uses and requirements. The Historical Commission's goal is to manage change, not prevent it, and to ensure that any changes to historic properties meet historic preservation standards.

The Historical Commission has no jurisdiction over building permit applications submitted to the Department of Licenses & Inspections (L&I) prior to the date of this notice letter unless the building permit application is still under review at L&I when the Historical Commission finalizes its designation process and designates the property. The Historical Commission has jurisdiction and must review all building permit applications submitted to L&I on and after the date of this notice letter. For building permit applications under the Historical Commission's jurisdiction while it considers the nomination, L&I may issue the permit if the Historical Commission approves the application, or if the Historical Commission has not completed its designation process within 90 days of the submission of the application.

The Historical Commission welcomes your participation in the efforts to preserve Philadelphia's unique, significant, and valuable heritage. Philadelphia's remarkable collection of historic landmarks is one of its greatest resources. Working together, property owners and the Historical Commission can protect and preserve those resources, ensuring a rich future for the city. Should you have any questions about historic preservation or the work of the Historical Commission, please do not hesitate to contact the Commission's staff at 215-686-7660 or to explore the Commission's website at <http://www.phila.gov/historical>.

Yours truly,

A handwritten signature in black ink, appearing to read "Jon Farnham", with a long horizontal flourish extending to the right.

Jonathan E. Farnham, Ph.D.  
Executive Director



## CITY OF PHILADELPHIA

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1515 Arch Street, 13th Floor  
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Robert Thomas, AIA  
Chair

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16 December 2016

Owner  
2700 S Broad St  
Philadelphia, PA 19145

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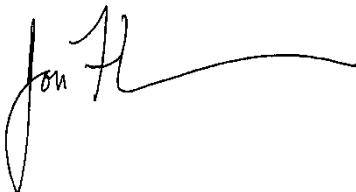
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15 March 2017

Aparna Palantino  
Deputy Commissioner  
Philadelphia Parks & Recreation  
1515 Arch Street, 10<sup>th</sup> Floor  
Philadelphia, PA 19102

Re: Christopher Columbus statue, 2700 S. Broad Street, Philadelphia, PA 19145

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The Historical Commission seeks to safeguard the city's unique heritage and wealth of cultural resources as it encourages economic development, promotes healthy and sustainable communities, enhances property values, attracts new residents, businesses, and tourists, provides educational opportunities, and fosters civic pride. Under the City's historic preservation ordinance, Section 14-1000 of the Philadelphia Code, the Historical Commission is authorized to designate as historic and then promote the preservation of buildings, structures, sites, objects, interiors, and districts that are representative of and important to Philadelphia's heritage, traditions, and values. More than 23,000 properties illustrating Philadelphia's history from its earliest years to the recent past have been designated as historic and listed on the Philadelphia Register of Historic Places. A brief overview of the Historical Commission is attached to this letter.

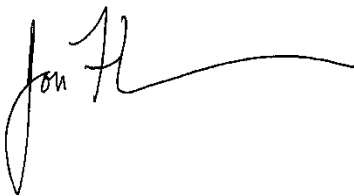
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Robert Thomas, AIA  
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15 March 2017

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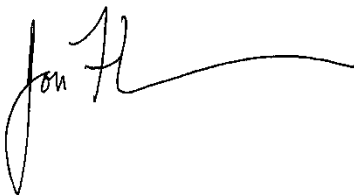


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Yours truly,

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Jonathan E. Farnham, Ph.D.  
Executive Director

**The Order Sons Of Italy in America**  
**Saint Mary Magdalen de Pazzi Lodge No. 2787**  
**Of South Philadelphia**  
**"Rekindling Amore d'Italia"**

**Victor L. Baldi III**  
**President**

**Domenick Lazzaro Jr.**  
**Vice President**

**Past Presidents**  
**Edward J Bonett Jr**  
**Nicholas Ciabattoni**

**Louis Baldino**  
**Treasurer**

**Rose A. DeRienze**  
**Financial Secretary**

**Anna Mullen**  
**Recording Secretary**

**Edward Bonett Jr. Esq.**  
**Historian**

**Trustees:**  
**Rita Punzo**  
**Rose M. Lauletta**  
**Barbara Fanelli**  
**Carol Ann Pagliotti**

**La Cucina**  
**Committee**  
**Rita Emmanuel**  
**Domenick Lazzaro Jr.**

September 20, 2016

To the Historical Commission of Philadelphia

RE: The Christopher Columbus Statue at Marconi Park

Dear Sirs & Madams:

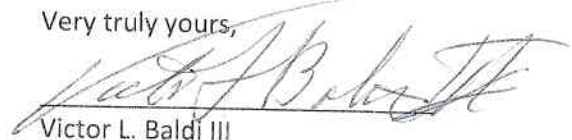
I have the honor as President of a Lodge whose members are the descendants of those who participated in commissioning the Christopher Columbus statue that was dedicated in 1876. This Lodge is named after St. Mary Magdalen de Pazzi Church, the first Italian National Church in the United States (1852), a Pennsylvania Historical and Museum Commission historic marker site and building on the Philadelphia Register of Historic Places. This was the Parish of those in the Christopher Columbus Monument Association who proposed to give this statue to the City of Philadelphia.

This statue should have historic significance as part of St. Mary Magdalen's proud history.

My members' ancestors from Liguria, Columbus's birthplace, intended to memorialize America's history with this statue of a historic figure whose accomplishments were celebrated in Philadelphia before the Declaration of Independence in 1776. Over one hundred years ago, my ancestors also took part in the "Columbus Day" festivities that include this statue.

Please know that the St. Mary Magdalen de Pazzi Lodge of the Order, Sons of Italy in America fully supports Celeste Morello's nomination of the Columbus Statue for certification by the Commission.

Very truly yours,

  
Victor L. Baldi III



**Grand Lodge of Pennsylvania**  
**Sons and Daughters of Italy**

1518 Walnut Street  
Suite 1410  
Philadelphia, PA 19102  
215-592-1713  
215-592-9152 fax



September 22, 2016

To: The Historical Commission of Philadelphia

**Re: The Christopher Columbus Statue at Marconi Plaza**

Dear Commissioners,

We have become aware of the efforts of Celeste Morello, M.S., M.A. to have the Columbus Statue at Marconi Plaza certified by the Philadelphia Historical Commission.

Please be advised that a unanimous vote in support of this was taken at our Grand Council meeting on September 19, 2016. Obviously the certification by the Historical Commission is extremely important to us, the largest fraternal organization of Americans of Italian descent in the state of Pennsylvania.

We Thank You for your consideration of this on behalf of the Italian American community in both Philadelphia and the state of Pennsylvania.

Sincerely,

Joseph Sanders III  
State President

cc: Grand Council