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**Municipal Art Society and Partners Submit Brief to New York Supreme Court
To Clarify Legal Issues Related to Landmark Preservation Commission's Ruling on St.
Vincent's Catholic Medical Centers**

***-- Seven Organizations Join To Assist Court in Determining If Hardship Relief Was Properly
Applied Regarding Demolition of Hospital's O'Toole Building --***

The Municipal Art Society of New York (MAS), along with six civic organizations, today filed a brief with the New York Supreme Court as *amici curiae*, or friends of the court, to assist the court in resolving the issues presented in *Protect the Village Historic District, et. al, v. New York City Landmarks Preservation Commission, et. al.*

The case arises from the New York City Landmarks Preservation Commission's (LPC) determination that St. Vincent's met the judicial test for hardship and could proceed with the demolition of its Edward and Theresa O'Toole Building, on Seventh Avenue between 12th and 13th Streets. The Commission reached its preliminary determination in October of 2008, and issued its Final Notice to Proceed in May of 2009.

Joining MAS in filing the brief are the New York Landmarks Conservancy, The National Trust for Historic Preservation, The Preservation League of New York State, The Greenwich Village Society for Historic Preservation, The Brooklyn Heights Association and Friends of the Upper East Side Historic Districts.

In filing the brief, MAS and other *amici* have taken the uncommon step of supporting neither party to the litigation. The primary function of the submission is to assist the court in reaching its determination by outlining the proper judicial test for hardship relief, as well as the regulatory takings analysis on which that test is premised.

St. Vincent's originally proposed demolishing nine buildings located within the Greenwich Village Historic District, to allow for the construction of a new hospital and residential complex, with a tower and other buildings to be built by a private developer. The LPC denied the request to demolish four of the nine buildings, including the O'Toole building, citing their historic and architectural significance. St. Vincent's then invoked the hardship provision of the Landmarks Law as applied to non-profit owners by the courts, to allow the demolition of the 1963 O'Toole Building. After numerous hearings and modifications to the plans, the LPC approved St. Vincent's hardship application, the design of the new hospital building and the private residential development.

After the LPC issued its preliminary determination, Protect the Village Historic District, a neighborhood group, filed suit in February 2009, alleging that the LPC misconstrued the Landmarks Law and failed to properly consider alternatives to demolition.

The judicial test for hardship is a complex doctrine, which provides that where the impact of the Landmarks Law results in a “taking” of a non-profit property owner’s building, the LPC may grant that owner relief from the landmarks restrictions. That relief may include permission to demolish or substantially redevelop the otherwise protected structure.

Determining whether a non-profit owner’s property has been “taken” by a regulation is not a simple matter. After nearly a year of deliberation, the LPC determined that St. Vincent’s was entitled to demolish the O’Toole Building as hardship relief, but based its determination on a novel campus-based rationale that was announced after the close of public hearings on the matter. Essentially, the LPC found that where a non-profit owner of “campus” properties can demonstrate that certain of those properties warrant hardship relief, but that it is impracticable to demolish them, other “campus” properties may be demolished to alleviate the hardship without an analysis of whether the buildings to be demolished themselves meet the criteria for relief. This campus-transfer, as articulated by the LPC, is not grounded in applicable takings or hardship law, and creates a dangerous precedent that might be exploited by other owners of “campus” properties throughout New York City’s historic districts. St. Vincent’s hardship application was the first to come before the LPC in 20 years.

The Municipal Art Society of New York, founded in 1893, is a non-profit membership organization that fights for intelligent urban planning, design and preservation through education, dialogue and advocacy. For more information, visit www.MAS.org.