

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

----- x

THE BATTERY ALLIANCE, BATTERY PARK CITY  
NEIGHBORHOOD ASSOCIATION,  
JOHN DELLAPORTAS and J. KELLY McGOWAN,

Petitioners,

-against -

BATTERY PARK CITY AUTHORITY, U.S. ARMY  
CORP OF ENGINEERS, U.S. FISH AND WILDLIFE  
SERVICE, U.S. ENVIRONMENTAL PROTECTION  
AGENCY and FEDERAL EMERGENCY  
MANAGEMENT AGENCY,

Respondents.

For a Preliminary and Permanent Injunction, Declaratory  
Judgment, and Order Pursuant to Article 78 and CPLR  
6301.

----- x

Index No. 162911/2025

**REPLY  
AFFIRMATION OF  
TIMOTHY D. LYNCH, P.E.  
IN FURTHER SUPPORT OF  
PETITIONERS' CLAIM FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

I, TIMOTHY D. LYNCH, P.E., affirm this 9th day of January, 2026 under the penalties of perjury pursuant to the laws of New York, which may include a fine or imprisonment, the foregoing is true, and I understand that this document may be filed in an action or proceeding in a Court of Law:

1. I am a Professional Engineer, with over 35 years of experience. I graduated from Queens University, Belfast, Ireland in 1986, with a B.E. in structural engineering. I joined Thornton Tomasetti in 2022. I bring more than 35 years of experience with 17 years spent at the New York City Department of Buildings (DOB). Prior to serving as the Chief Engineer for the Enforcement Bureau at the DOB, I was Assistant Commissioner for Investigative Engineering Services, where I led teams for forensic engineering, excavation, concrete, façade, and emergency response, among others. I am a recognized expert in building forensics and was

involved in the development and implementation of the 2008, 2014, and 2022 New York City International Code Council (ICC) building codes, law, and rules. I have a background in restoration in many landmark buildings including Carnegie Hall, New York City – City Hall, Brooklyn Park Slope Armory and Brooklyn Academy of Music.

2. I served on numerous associations pertaining to structural engineering. I am a Board Member of Structural Engineers Association of New York, was a member of the New York City Department of Buildings Structural Engineering Committee 2006-2022.

3. I am an accomplished lecturer on engineering matters and publisher of numerous articles on façade and structural engineer topics. “Structural Challenges with Shared Wall-Buildings”, Historic Buildings Symposium: Rowhouse City, Philadelphia, PA, September 2022 (co-presenter), “19<sup>th</sup> Century Corner Lot Buildings,” New York City Department of Buildings, Build Safe/Live Safe Conference, New York, New York, “Evaluation of Existing and Adjacent Buildings, Know Your Neighbor, Keep Them Safe,” New York City Department of Buildings, Build Safe/Live Safe Conference, New York, NY, 2020 (presenter) Various articles on existing buildings, prior codes, how to locate data on prior code buildings. Structural Engineers Association of New York (SEAoNY), 2019-2022 (author) “New York City’s 1M Buildings: Building Research and Mapping using ArcGIS – BIG DATA,” International Scientific Symposium on Safety in Heritage, Madrid Spain. EKABA Foundation and the KALAM Space for Fine Art, Spain, May 2019 (presenter), “Classifying New York City’s Housing Stock: Clarifying a Difficult Issue,” New York City Department of Buildings, Build Safe/Live Safe Conference, New York, NY, 2018 (co-presenter) “Chapter 17: Special Inspections,” NYC Department of Buildings, Build Safe/Live Safe Conference, New York, NY. May 2017 (co-

presenter) “Facades and Retaining Walls: Laws, Rules and Filing Protocols,” NYC Department of Buildings, Build Safe/Live Safe Conference, New York, NY, May 2016 (co-presenter).

4. This report is based upon my review of plans and specifications provided by the BPCA and publicly available documents related to a proposed easement and related construction work at 377 Rector Place and 380 Rector Place in the County, City and State of New York (“site”). The following documents form the basis of my report: The BPCA Stakeholder Presentation dated June 18th 2025 - South Esplanade Proposed Plan; 2022 New York City Construction Code; NY Times Article dated November 17th, 2012 - NY Region Mapping Hurricane Sandys Deadly Toll; 2022 New York City Administrative Code Mission Statement on Owner’s Responsibilities for Safe Buildings and Construction; NYC DOB Safety Week High Risk Construction Operations Relative to Demolition Operations: 2016, 2017, 2018, 2020, 2021, 2022;; BPCA Schematic Drawings Related to the Proposed Easement; Diagram of BPCA Permanent Easement Section Thru Proposed New Flood Wall Foundations at p. 33; BPCA Geotechnical Instrumentation and Monitoring Notes Related to the Easement; and Undated 2025 Proposed Easement Agreement by and between Battery Park City Authority and The Board of Managers of the Liberty House Condominium and the Exhibits “A”-“D” annexed thereto which included Lot Description (Ex. A), Easement Areas (Ex. B), Easement Areas Metes and Bounds (Ex. B-1) (not provided) (includes Footnote “to be provided”), Vegetation Diagram (Ex. C), and Insurance Requirements (Ex. D).

5. My analysis set forth herein relates to the proposed demolition of existing concrete privacy walls (“walls”) (see sketch annexed hereto) and the plan by BPCA to replace

them with new taller walls built upon new piles in close proximity to and within the zone of influence of those Petitioners residing within the site<sup>1</sup>.

6. BPCA proposes to work within Petitioners' property lines. This is significant because Petitioners' properties fall within the jurisdiction of the New York City Department of Buildings ("DOB") and is regulated by a detailed statutory scheme set forth in the New York City Construction and Administrative Code<sup>2</sup>. My review of the documents discovered a set of design development drawings that were provided to the Condo Board, but not generally shared in the public domain. The additional documents I reviewed were still deficient because they were not developed to a degree required for construction readiness. These deficiencies include plans, sections, details, notes, means and methods and details of existing as-built conditions of Petitioners' properties. Statutory compliance is a necessary precondition for a design proposal and a 100% complete design proposal is required so that Petitioners as property owners can sign off as to the safety and integrity of the plans. Statutory compliance is a health and safety issue for two critical reasons.

7. First, the proposal involves the demolition of two existing privacy walls within the site inside Petitioners' property lines. The site currently contains approximately 7' high granite clad concrete privacy walls, that were an integral part of the original architecture of the buildings, separating Petitioners' properties from the publicly accessible Battery Park south esplanade. The privacy walls are approximately 10' west from the façade of the buildings, and

---

<sup>1</sup> The Zone of Influence (ZOI) in construction is the area around an excavation, structure, or utility where ground movement, vibration, or soil changes could affect nearby buildings, pipes, or other infrastructure, often defined by a 45-degree angle from the excavation's edge, requiring careful management to prevent damage like settlement or collapse. It's crucial for safety, ensuring equipment and spoils stay clear of the zone, and protecting adjacent properties by calculating potential impacts on foundations or underground services, sometimes involving geotechnical analysis.

<sup>2</sup> New York City Administrative Code §§28-101.2; 28-301.1; 28-105.12.3; 28-101.4.4; 28-211.1; §101.2; 101.3; Ch. 16. Structural Design; Ch. 18 Soils and Foundations; and Ch. 33 Safeguards during Construction or Demolition.

define the privately owned ground floor terraces for the residents of Petitioners' buildings. The walls are original to the buildings and are comprised of elaborately cut, high quality granite. Currently, they are both maintained safe and neither has outstanding NYC Department of Buildings (DOB) violations.

8. Second, the foundational landfill is composed of approximately 50-year-old urban fill, broken bedrock and loose sand. This foundational composition is generally unsuitable for supporting the weight of a mid-rise building. Nearly all of the BPCA's low and midrise towers are founded on steel and concrete piles driven through the fill material, to the underlying rock approximately 100' below the surface. Petitioners have advised my office that during the terrorist attacks of 9/11, 377 Rector Place and 380 Rector Place, located south of the World Trade Center site, experienced violent shaking.

9. The first task to be undertaken by BPCA, based upon review of the documents received relative to the proposed easement is the demolition of the privacy walls. This task is a highly regulated activity governed by the 2022 New York City Construction Code statutory framework. BPCA has failed to disclose means or methods, plans, sections and details developed to 100% construction readiness that will accompany the easement that demonstrates statutory compliance. No detailed and fully developed means or methods have been disclosed describing efforts to maintain the safety and stability of Petitioners' properties. Additionally, the demolition equipment and debris will be stored on Petitioners' properties. Petitioners' vital and necessary egresses into these spaces will be compromised potentially jeopardizing their health and safety.

10. In the absence of any information pertaining to means and methods to assure safety and Construction Code compliance. Petitioners have been deprived full disclosure of the impact and ramifications of the proposed easement. Due to the nature of the proposed demolition

and the underlying vulnerability of the sandy subgrade, there is a possibility of dangerous structural disruption to Petitioners' buildings as set forth in more detail herein. The threat to Petitioners and the safety of the surrounding community is apparent due to the nature of the work related to the proposed easement.

11. For that reason, this type of work is highly regulated with a strict code of procedural conduct governing this activity. Until such time as the BPCA discloses means and methods for safety compliance, there has been no disclosure compliance necessary for Petitioners to formulate an informed consent to the proposed easement or license to perform the work.

12. Moreover, the Administrative and Construction Code mandates that Petitioners or their authorized representatives sign and affirm all applications relative to their building and must endorse the means and methods of construction activity based upon drawings that are fully developed. In the absence of demolition or additional geotechnical information, no certification can be provided as to means or methods or the safety of the proposed activity.

### **CONCLUSION**

13. The proposed demolition of the existing walls is a potentially significantly disruptive, and high-risk procedure requiring the concrete walls, their foundations, spread footings / existing piles (tbd) to be broken up and pulled free of the site to avoid conflict with the proposed work and piles. The existing site contains two occupied midrise towers which are approximately 10' away from the demolition and the removal work is well within the zone of influence of the mid-rise towers.

14. The demolition and removal of the existing walls, and the placement of the proposed foundations and piles, only approximately 10' or less from the heavily loaded piles

supporting Petitioners' mid-rise buildings, are high-risk construction operations, with a reasonably foreseeable potential for structural damage. The safety of Petitioners' buildings must not be compromised based upon the plans and proposals reviewed by my office and the absence of plans and specifications provided to Petitioners.

15. The BPCA has provided Petitioners with deficient evidence or documentation indicating that their design consultants have followed the prescriptive design provisions as set forth in the 2022 NYC Construction Code.

16. Evidence provided by BPCA must demonstrate and outline demolition and reconstruction work fully designed with 100% Construction Ready Code Compliance. Construction Ready Code Compliance means 100% developed plans, sections, details, notes, means and methods. Statements such as "we'll get to all that later" is not acceptable considering proposed mobilization and work commences in the spring 2026.

17. Petitioners have been provided with deficient documentation or evidence that background safety investigations were undertaken before the design of the new flood walls was undertaken prior to the new design being provided to Petitioners.

18. For the foregoing reasons and based upon the state of the record to date, the BPCA proposed easement departs from reasonably appropriate construction and demolition standards for an easement of this extent and nature. Unless remedial and mitigation measures are taken forthwith, Petitioners face a high possibility of structural damage with the resultant health and safety risks. Dated: January 9, 2026



Timothy D. Lynch, P.E.

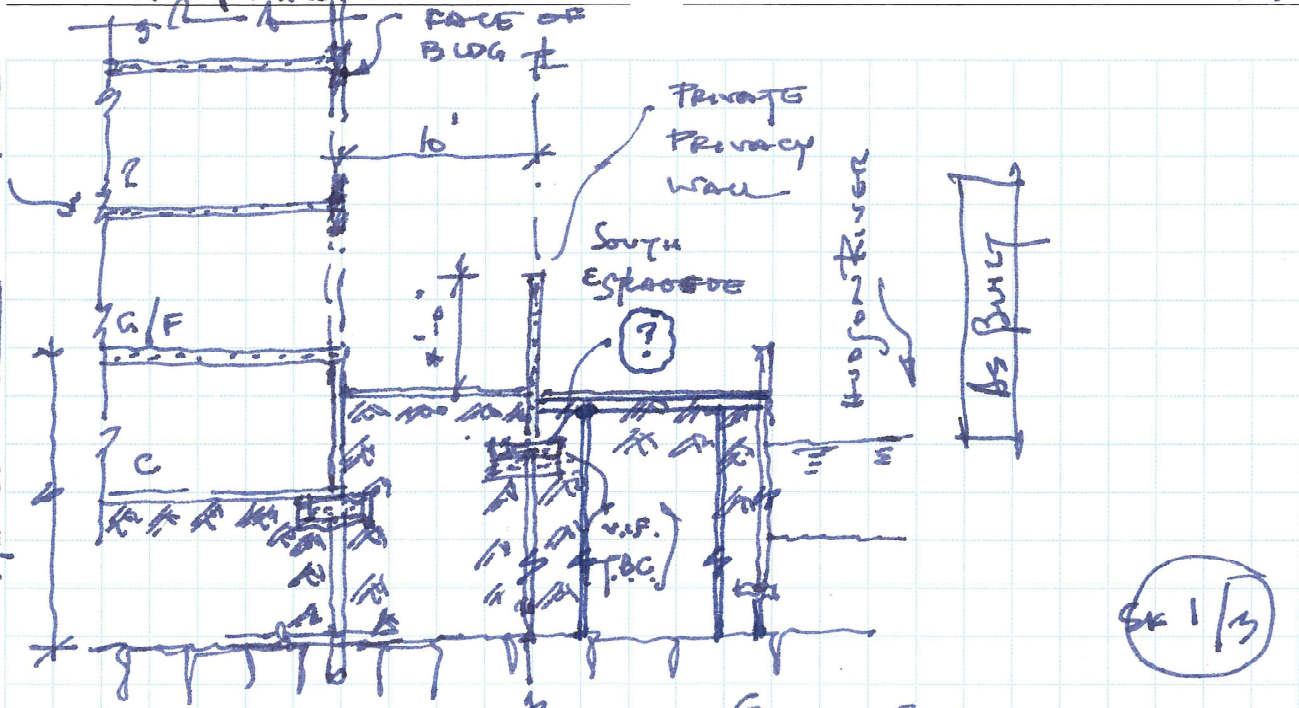
# Thornton Tomasetti

SCHEMATIC  
FIELD SKETCH

PROJECT 377 / 380 RECTOR PL NY NY.  
SCHEMATIC FIELD SKETCH OF PROPOSED  
SUBJECT Privacy Wall Removal.

PROJECT NO. 15020402 DATE 11.08.25  
BY TDC. SHEET 1 of 1  
CHECKED BY TDC DRAWING NO. SK 1-1

377 RECTOR PL  
380 RECTOR PL  
+/- 100'



## South Entrance SCHEMATIC EXIST. CONDITIONS

SK 2/3  
PARTIAL DEMOLITION

