

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

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THE CITY OF NEW YORK,

Plaintiff,

v.

STEVEN HOLL ARCHITECT, P.C., STEVEN HOLL
ARCHITECTS, STEVEN HOLL, and CHRISTOPHER
MCVOY,

Defendants.

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SUMMONS

Index No. _____

Plaintiff designates New York
County as the place of trial.

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer upon plaintiff's undersigned attorney within twenty (20) days after service of this summons, exclusive of the day of service, or within thirty (30) days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint. Plaintiff designates venue in this action in New York County in accordance with CPLR 503(a).

Dated: New York, New York
May 17, 2023

HON. SYLVIA O. HINDS-RADIX
Corporation Counsel of the City of New York
Attorney for Plaintiffs
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By: s/June R. Buch
June R. Buch
Assistant Corporation Counsel

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

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THE CITY OF NEW YORK,

Plaintiff,

VERIFIED COMPLAINT

v.

Index No. _____

STEVEN HOLL ARCHITECT, P.C., STEVEN HOLL
ARCHITECTS, STEVEN HOLL, and CHRISTOPHER
MCVOY,

Defendants.

----- X

Plaintiff the City of New York (“the City”) by its attorney, Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, as and for its verified complaint against Defendants alleges upon personal knowledge as to itself and upon information and belief as to all other matters, as follows:

1. The City brings this action to recover the additional costs of design and construction at the Hunters Point Library (“the Library”), a newly-opened branch in the Queens Borough Public Library system, in order to bring the Library into compliance with the Americans with Disability Act and other federal, state, and local laws. As a result of Defendants’ breach of contract and professional malpractice in providing design services, significant elements of the Library’s design are inaccessible to persons with disabilities and require remediation or reconstruction. These elements include, among other features, a staircase that is a major architectural feature of the building, but is the sole means of access to several upper-level areas.

2. The Library opened to the public in September 2019. Before the end of that year, it was the subject of investigations by the United States Department of Justice and the New

York City Commission on Human Rights and a federal civil action alleging disability discrimination. Those proceedings remain pending.

3. The City brings this action to recover the costs of remediation, including design, engineering, and construction, for which Defendants are responsible due to their failure to design in compliance with applicable laws and regulations that mandate access for persons with disabilities, in breach of the contract with the City and in violation of their professional obligations.

Parties

4. Plaintiff the City of New York is a municipal corporation organized and existing under the laws of the State of New York.

5. Defendant Steven Holl Architect, P.C., also named herein as Steven Holl Architects (collectively, “SHA”) is a domestic professional service corporation organized and existing under the laws of the State of New York, with offices at 450 West 31st Street, New York, New York.

6. Defendant Steven Holl is a resident of the State of New York and is the principal of SHA. Holl had lead responsibilities for SHA’s design work for the Library and supervised other SHA professional staff

7. Defendant Christopher McVoy is a resident of the State of New York and is a senior partner of SHA. McVoy had lead responsibilities for SHA’s design work for the Library, was the project manager, and supervised other SHA professional staff.

Background

8. The City’s public library system consists of three separate historical systems – the New York Public Library, the Brooklyn Public Library, and the Queens Borough Public Library (“QBPL”).

9. On September 19, 2019, the Library – a new Queens West branch library of the QBPL system – opened to the public. The building is located on the East River waterfront in Long Island City, Queens, with views to the west across the river to Manhattan.

10. The City is the owner of the Library building. The Library was designed by defendant SHA pursuant to a consultant agreement between SHA and the City, acting through its Department of Design and Construction (“DDC”).

11. The consultant agreement with SHA (“the Design Contract”) consisted of a “parent” requirements contract for design services and a series of task orders for the specific design of the Library. The requirements contract for architectural, engineering and construction related services, Reg. No. 20070036790, was entered into on or about May 16, 2007. In July 2010, the City awarded SHA a task order for design services for the Library, Reg. No. 20107203016 (“Task Order 1”). Under Article 6 of the Design Contract and Task Order 1, SHA agreed to prepare design documents and to perform design services during construction.

12. In Section 2.2 of the Design Contract, SHA agreed to “comply with all local, State and Federal laws, rules and regulations applicable to this Agreement and to the services to be performed hereunder.” In Section 6.3.3, SHA agreed that the applicable local, state and federal laws expressly included “without limitation, ... the Americans With Disabilities Act.”

13. Task Order 1 required SHA, among other services, to investigate all applicable local, state, and federal codes and to provide a complete analysis of applicable codes and guidelines, including “... barrier free accessibility requirements.” (Task Order 1, Scope of Work § G.3.)

14. The Task Order 1 design requirements further included the following:

All areas of the building shall provide **the greatest level of accessibility as required to persons with disabilities or limited**

mobility, which shall include, but is not limited to, features of entrance / egress, elevators and stairs as applicable, [Emphasis added.] (Task Order 1, Queens Library New Building Program, § I.C.3).

15. Task Order 1 also provided that “Interior spaces are to be inviting in approach with easy access for the general public, for persons with disabilities / limited mobility and shall have natural transitions between spaces.” (*id.* § 1.C.4).

16. In addition, Task Order 1 directed that:

Plans must conform to Public Law 504 Program and to the Americans With Disabilities Act (ADA) and all other current applicable national / local codes and ordinances, etc. of agencies having jurisdiction. [Emphasis added.] (Task Order 1, Queens Library New Building Program, § II.B.2.)

17. SHA provided services pursuant to the Design Contract through the duration of the Library’s construction, until its completion in 2019, and thereafter, including work in connection with obtaining the temporary and permanent Certificates of Occupancy for the building.

SHA’s Designs Failed to Comply with Accessibility Requirements

18. As designed and built, the Library failed in multiple ways to comply with the design requirements set forth in the requirements contract and Task Order 1. The areas of non-compliance included several primary design elements of the building, as well as ADA standards for bathroom layout, door clearances, and the like.

19. The Main Staircase and the Inaccessible Tiers. As noted above, SHA’s design included a large staircase feature ascending from the lobby to the second floor. There are five landings along the staircase, each of which opens to a seating areas, or “tier”. The lowest tier provides shelving for current periodicals and is furnished with lounge chairs and tables. The remaining tiers have bookshelves that are designed to house the Library’s adult fiction collection,

and provide seating at built-in desks with charging stations. Library users who are unable to use the staircase can access the first and fifth tiers by an elevator; the fifth tier is at the second floor level. However, the elevator does not provide access to the second, third, or fourth tiers. Those areas can be accessed only by means of the staircase. Apart from the current periodicals that are on a tier accessible by elevator, the books have been moved to accessible areas of the Library and the shelves remain empty.

20. The Children's Area on the Second Floor. The Library's Children's Area can be reached by elevator, but a major feature of the area – a multi-tiered stepped sitting area that is used for activities that include reading and story time – cannot. A person using a wheelchair could access the bottom of this area, but the design failed to provide required space for wheelchair and companion seating (or appropriate signage) as required by law.

21. The Fifth Floor Ramp. The Library includes a seating area on the fifth floor that can be accessed by an elevated concrete ramp that leads from the elevator. However, as a result of the building's design, the slopes of the ramp and of an intermediate landing exceed the maximums allowed under applicable law.

22. The Rooftop Terrace. The Library has a public terrace on its roof, with a tiered seating area. The rooftop terrace can be reached only by the inaccessible fifth-floor ramp described above. Moreover, the design of the tiered seating did not include required space for wheelchair and companion seating (or appropriate signage) as required by law.

23. Additional Areas. In addition to these deviations from accessible design requirements in major elements of the Library's design, SHA made myriad other errors regarding compliance. For one, the bathrooms throughout the building, for both staff and visitors, are replete with inadequate space for wheelchair maneuverability, and with plumbing fixtures, partitions, and

accessories such as grab bars, flush sensors, and diaper changing stations, that fail to provide compliant clearance and accessible installation. For another, multiple ramps, including the fifth-floor ramp described above, fail to comply with requirements for landings, handrails, edge protection, and/or slope. Additional non-compliant features include doors that lack sufficient clearance or require other modifications, including due to weight and operability; and electrical receptacles that are mounted on the floor or are otherwise inaccessible.

Discovery of Defendant's Design Errors

24. The Library opened to the public on or about September 19, 2019.

25. The United States Department of Justice ("DOJ") advised the QBPL by letter dated October 7, 2019 that it had opened an investigation to determine whether the Library failed to provide full access to its services, including portions of the Library that were inaccessible to individuals with mobility disabilities, in violation of Title II of the Americans with Disability Act ("ADA") and related regulations.

26. By letter dated November 7, 2019, the City notified SHA about complaints and inquiries about accessibility barriers at the library, received from members of the public, DOJ, and the New York City Commission on Human Rights.

27. On or about November 26, 2019, Tanya Jackson ("Jackson") and the Center for Independence of the Disabled, New York ("CIDNY", and together with Jackson, the "Federal Plaintiffs") filed a putative class action in the United States District Court for the Eastern District of New York against the Library, its Board of Trustees, and the City, *Jackson et al. v. Queens Borough Public Library, et al.*, No. 19-cv-06656 ("the Federal Action").

28. In the Federal Action, plaintiffs Jackson, a library user with mobility disabilities, and CIDNY, a nonprofit organization that works to remove barriers to equal access

for people with disabilities, allege that the Library was designed and built in violation of federal and New York City laws: Title II of the ADA, 42 U.S.C. § 12131, *et seq.*; Title III of the ADA, 42 U.S.C. § 12181; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (“Section 504”); and the New York City Human Rights Law, N.Y.C. Admin. Code § 8-101, *et seq.* (“NYCHRL”).

29. The Federal Plaintiffs allege that the Library is in specified respects inaccessible to Jackson and other individuals with mobility disabilities, and seek injunctive relief requiring the defendants in the Federal Action to remediate such noncompliant conditions.

Remediation of the Noncompliant Areas

30. As a temporary measure to provide access to the books that were shelved on the inaccessible tiers, QBPL relocated those books to accessible areas. They have been placed on tables located in various areas of the Library that are accessible by the elevator.

31. The City will be required to make substantial changes to the Library in order to make it compliant. This work has not been performed to date, but the City anticipates that it will incur remediation costs estimated at not less than \$10 million.

FIRST CAUSE OF ACTION **(Breach of Contract - SHA)**

32. Plaintiff repeats and realleges the allegations set forth above as if fully set forth herein.

33. The Design Contract, Section 2.2, required SHA to perform its design services in accordance with “all local, State and Federal laws, rules and regulations.” Section 6.3.3 expressly specified that the applicable local, state and federal laws included “without limitation, ... the Americans With Disabilities Act.”

34. Task Order 1 specified that all areas of the building were to provide “the greatest level of accessibility as required to persons with disabilities or limited mobility” and that plans were to conform to Section 504, the ADA, and all other applicable national and local codes and ordinances.

35. SHA failed to perform its design services as required under the ADA, Section 504, the New York State Human Rights Law, N.Y. Exec. L. §296 *et seq.* (“NYSHRL”), and the NYCHRL, failed to provide the greatest level of accessibility as required to persons with disabilities or limited mobility as specified in the contract, and failed to ascertain that its design drawings and specifications were incorrect throughout its subsequent provision of services during the construction of the Library. The drawings and specifications SHA provided were noncompliant with applicable accessibility requirements.

36. Pursuant to Section 22.1 of the Design Contract, SHA is liable to Plaintiff “for all losses, expenses and damage caused by the failure of the Consultant properly to perform its obligations under this Agreement and the Consultant shall not be entitled to any compensation for services or reimbursement for costs or expenses with respect to any such obligations not properly performed by it hereunder.”

37. As a result of SHA’s material breaches of the Design Contract, the City anticipates that it will incur remediation costs, including design, engineering, and construction, in an amount to be determined, but estimated at not less than \$10 million.

38. By reason of the foregoing, the City is entitled to a judgment against SHA in an amount to be judicially determined, but not less than \$10 million.

SECOND CAUSE OF ACTION
(Breach of Contract - SHA)

39. Plaintiff repeats and realleges the allegations set forth above as if fully set forth herein.

40. Pursuant to Section 22.1 of the Design Contract, SHA was not entitled to compensation for services or to reimbursement for costs or expenses with respect to any obligations thereunder that were not properly performed.

41. Plaintiff compensated SHA and reimbursed SHA for costs and expenses in connection with SHA's performance of its obligations under the Design Contract. Such compensation and reimbursement included payments with respect to SHA's obligation to provide designs that complied with all accessibility requirements under all applicable provisions, including under the ADA, Section 504, the NYSHRL, and the NYCHRL.

42. SHA is liable to the City to return such amounts of compensation and reimbursement for costs and expenses as the City paid to SHA with respect to the noncompliant design services that SHA provided.

43. By reason of the foregoing, the City is entitled to a judgment for such sums that it paid to SHA for compensation and reimbursement for costs and expenses with respect to SHA's noncompliant design services, in an amount to be judicially determined.

THIRD CAUSE OF ACTION
(Contractual Indemnification - SHA)

44. Plaintiff repeats and realleges the allegations set forth above as if fully set forth herein.

45. SHA agreed in the Design Contract, Section 22.1, that it “shall be liable to the City for all losses, expenses and damage caused by [its] failure properly to perform its obligations” under the agreement.

46. SHA failed to perform its design services as required under the ADA, Section 504, the NYSHRL and the NYCHR, failed to provide the greatest level of accessibility as required to persons with disabilities or limited mobility as specified in the Design Contract, and failed to ascertain that its design drawings and specifications were incorrect throughout its subsequent provision of services during the construction of the Library.

47. As a result of SHA’s failure to properly perform its obligations under the Design Contract, the City anticipates that it will incur remediation costs in an amount to be determined, but estimated at not less than \$10 million.

48. In addition, as set forth above, the City is the defendant in an action pending in the United States District Court for the Eastern District of New York, *Jackson et al. v. Queens Borough Public Library, et al.*, No. 19-cv-06656 (“the Federal Action”), in which the plaintiffs allege that the Library fails to comply with accessible design requirements under the ADA, Section 504, and the NYCHRL. As further set forth above, the City is the subject of investigations by the Department of Justice and by the New York City Commission on Human Rights with respect to such asserted noncompliant conditions.

49. As a result of SHA’s failure to properly perform its obligations under the Design Contract, SHA is liable to the City for the City’s losses, expenses or damage in connection with these matters, including the reasonable costs and expenses related to defense and/or litigation, attorneys’ fees for the City, fees for consultants and/or attorneys’ fees for plaintiffs in the Federal Action.

50. By reason of the foregoing, the City is entitled to judgment against SHA in an amount to be judicially determined.

FOURTH CAUSE OF ACTION
(Negligence/Professional Malpractice - SHA)

51. Plaintiff repeats and realleges the allegations set forth above as if fully set forth herein.

52. By undertaking the design work for the Library, SHA assumed a duty to the City to perform the work in accordance with the standard of care expected of a professional architect.

53. SHA failed to comply with professional standards of care by providing deficient design documents for the Library that failed in major respects to comply with applicable legal requirements of the ADA, Section 504, the NYSHRL, and the NYCHRL as described above, and by failing to ascertain such errors and omissions throughout the construction phase of the Library.

54. As a result of SHA's failures to adhere to professional standards of care, the City anticipates that it will incur remediation costs estimated at not less than \$10 million.

55. By reason of the foregoing, the City is entitled to judgment against SHA in an amount to be judicially determined, but not less than \$10 million.

FIFTH CAUSE OF ACTION
(NY BCL § 1505(a) – Steven Holl)

56. Plaintiff repeats and realleges the allegations set forth above as if fully set forth herein.

57. Pursuant to Section 1505(a) of the New York Business Corporations Law, each “shareholder, employee or agent of a professional service corporation and a design professional service corporation shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or by any person under his direct supervision and control while rendering professional services on behalf of such corporation.”

58. SHA is a New York professional service corporation.

59. Defendant Steven Holl (“Holl”) is the principal of SHA, and is a shareholder, employee and/or agent thereof.

60. Holl rendered professional services on behalf of SHA in connection with the design of the Library as the principal in charge of the project. Holl had lead responsibilities for SHA’s design work for the Library and supervised other SHA professional staff.

61. As described above, SHA provided design documents for the Library that failed in major respects to comply with applicable legal requirements of the ADA, Section 504, the NYSHRL, and the NYCHRL and SHA failed to ascertain such errors and omissions throughout the construction phase of the Library.

62. Holl is personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or by any person under his direct supervision and control while rendering such professional services.

63. As a result of Holl’s failures to adhere to professional standards of care, the City anticipates that it will incur remediation costs estimated at not less than \$10 million.

64. By reason of the foregoing, the City is entitled to judgment against Holl in an amount to be judicially determined, but not less than \$10 million.

**SIXTH CAUSE OF ACTION
(NY BCL § 1505(a) – Christopher McVoy)**

65. Plaintiff repeats and realleges the allegations set forth above as if fully set forth herein.

66. Pursuant to Section 1505(a) of the New York Business Corporations Law, each “shareholder, employee or agent of a professional service corporation and a design professional service corporation shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or by any person under his direct supervision and control while rendering professional services on behalf of such corporation.”

67. SHA is a New York professional service corporation.

68. Defendant Christopher McVoy (“McVoy”) is a senior partner of SHA, and is a shareholder, employee and/or agent thereof.

69. McVoy rendered professional services on behalf of SHA in connection with the design of the Library and was the project manager. McVoy had lead responsibilities for SHA’s design work for the Library and supervised other SHA professional staff.

70. As described above, SHA provided design documents for the Library that failed in major respects to comply with applicable legal requirements of the ADA, Section 504, the NYSHRL, and the NYCHRL and SHA failed to ascertain such errors and omissions throughout the construction phase of the Library.

71. McVoy is personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or by any person under his direct supervision and control while rendering such professional services.

72. As a result of McVoy’s failures to adhere to professional standards of care, the City anticipates that it will incur remediation costs estimated at not less than \$10 million.

73. By reason of the foregoing, the City is entitled to judgment against McVoy in an amount to be judicially determined, but not less than \$10 million.

WHEREFORE, the City demands judgment against Defendants:

- (a) Declaring that Defendant SHA is liable for the costs to be incurred for remediation of the non-compliant conditions at the Library that were caused by Defendant's failure to properly perform its obligations under the Design Contract;
- (b) Awarding the City damages in an amount to be judicially determined, but not less than \$10 million, for the remediation of the non-compliant conditions at the Library that were caused by Defendant SHA's failure to properly perform its obligations under the Design Contract;
- (c) Awarding the City damages in an amount to be judicially determined, but not less than \$10 million, resulting from Defendant SHA's failure to adhere to professional standards of care;
- (d) Awarding the City damages against defendant Holl in an amount to be judicially determined, but not less than \$10 million, pursuant to New York Business Corporations Law § 1505(a);
- (e) Awarding the City damages against defendant McVoy in an amount to be judicially determined, but not less than \$10 million, pursuant to New York Business Corporations Law § 1505(a);
- (f) Ordering that Defendant SHA return to the City all compensation for services or reimbursement for costs or expenses that it was paid under the

Design Contract with respect to design services that Defendant failed to properly perform;

- (g) Awarding the City an amount to be determined judicially for losses, expenses or damage incurred in connection with the Federal Action and the investigations by the Department of Justice and the New York City Commission on Human Rights; and
- (h) Awarding the City the costs and disbursements of this action, and such other and further relief as this Court may deem just and proper.

Dated: New York, New York
May 17, 2023

HON. SYLVIA O. HINDS-RADIX
Corporation Counsel of the
City of New York
Attorney for Plaintiff
100 Church Street, Rm. 20-097
New York, New York 10007
(212) 356-2690

By: /s/ June R. Buch
June R. Buch
Assistant Corporation Counsel

VERIFICATION

STATE OF NEW YORK)

$$:SS:$$

COUNTY OF NEW YORK)

Salvatore Cali, Jr., being duly sworn, says that he is a Deputy Commissioner at the New York City Department of Design and Construction; that the City of New York is the plaintiff in the within action; that the allegations in the Complaint as to plaintiff are true to his knowledge; that the matters alleged therein upon information and belief, he believes to be true; and that the basis of his knowledge is the books and records of the plaintiff and/or statements made to him by officers or employees thereof and of the Queens Borough Public Library.

ugh Public Library.

Handwritten signature: [Illegible]

Sworn to before me this
15 day of May, 2023



NOTARY PUBLIC

CHRISTINE LAI
Notary Public, State of New York
No. 02LA6356760
Qualified in Queens County
Commission Expires April 3, 2025