

STATE OF NEW YORK
SUPREME COURT COUNTY OF MONROE

In the Matter of
BRIGHTON RESIDENTS AGAINST VIOLENCE TO
EVERYONE, INC., ROC LOVE, INC.,
CAROL N. CROSSED, ELLEN DUNCAN, and
WILLIAM MCGINN,

Plaintiffs-Petitioners,

**AFFIRMATION IN SUPPORT
OF MOTION FOR LEAVE
TO ADD PARTIES PURSUANT
TO CPLR 401 AND TO AMEND
PLEADING PURSUANT TO
CPLR 1003**

-v-

PLANNING BOARD OF THE TOWN OF BRIGHTON,
And KENNETH W. GORDON, in his capacity as
TOWN ATTORNEY FOR THE TOWN OF BRIGHTON, and
WESTFALL MEDICAL REALTY, LLC

Defendants-Respondents,

For Relief Pursuant to CPLR Article 78 and
for Declaratory Judgment Relief Pursuant to CPLR 3001

Linda A. Mandel Clemente, Esq., an attorney duly admitted to practice in the courts of the
state of New York, affirms subject to penalties of perjury as follows:

1. I am the sole attorney in the firm Mandel Clemente, P.C., attorneys for the Plaintiffs-
Petitioners herein, and have personal knowledge of the facts and circumstances set forth
herein.

2. At the time that the action-proceeding had to be commenced under the provisions of the NY Town Law, a response to the FOIL request submitted by Petitioner McGinn had not yet been received.
3. Accordingly, the only information available about the “applicant” for the Project was gained from the public notices and listening to the recordings of public hearings.
4. No documents were in the possession of your deponent to indicate which Planned Parenthood entity was to be the tenant or vendee of the Project at issue.
5. Since that time, I have learned of the existence of the intended tenant, although the actual status of the tenancy remains unknown.
6. Defendant Westfall Realty has not appeared or otherwise answered or responded to the action-proceeding despite having been duly served with the Summons, Notice of Petition, Verified Complaint-Petition, and all of the e-filing case notification and judicial assignment papers issued by the Court, by service through the Secretary of State on September 2, 2021.
7. It is therefore respectfully submitted that Defendant-Respondent Westfall Realty is in default.
8. Out of an abundance of caution, leave is sought to add Planned Parenthood of Central and Western New York out of concern that its interest, although not a named applicant and specifically declining such status on the application, might be affected by a judgment rendered herein, particularly in light of the default of Respondent Westfall.

9. An amended verified complaint-petition is being filed as of right pursuant to CPLR 3025 and since no answer has yet been filed by any of the Respondents.
10. However, leave is sought to file a further amended pleading, as well as supplemental summons and supplemental notice of petition, upon the granting of leave sought in this motion to add the new Plaintiffs-Petitioners Clianda Yarde and Lynn Howlett and Defendant-Respondent Planned Parenthood.
11. It is respectfully submitted that such leave should be freely granted because the conduct of the Defendants-Respondents prevented the additional proposed Plaintiffs-Petitioners from knowing about the true nature of the Project and subsequent action-proceeding in time to be named as original parties, and because the identity of the specific Planned Parenthood entity, and tenancy status, of same was not known to your deponent or the Petitioners at the time that the proceeding was required to be commenced.

DATED: December 14, 2021


LINDA A. MANDEL CLEMENTE, ESQ.