

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

**382**

**CA 17-01301**

PRESENT: CENTRA, J.P., CARNI, DEJOSEPH, TROUTMAN, AND WINSLOW, JJ.

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IN THE MATTER OF CAMPAIGN FOR BUFFALO HISTORY  
ARCHITECTURE & CULTURE, INC.,  
PETITIONER-PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

CITY OF BUFFALO, THE CROSBY COMPANY, AND  
ELLICOTT DEVELOPMENT CO.,  
RESPONDENTS-DEFENDANTS-RESPONDENTS.

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LIPPES & LIPPES, BUFFALO (RICHARD J. LIPPES OF COUNSEL), FOR  
PETITIONER-PLAINTIFF-APPELLANT.

TIMOTHY A. BALL, CORPORATION COUNSEL, BUFFALO (JESSICA M. LAZARIN OF  
COUNSEL), FOR RESPONDENT-DEFENDANT-RESPONDENT CITY OF BUFFALO.

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Appeal from a partial order and judgment (one paper) of the Supreme Court, Erie County (Catherine R. Nugent Panepinto, J.), entered September 21, 2016 in a hybrid CPLR article 78 proceeding and declaratory judgment action. The partial order and judgment denied the petition/complaint with respect to respondent-defendant Ellicott Development Co.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: The challenge of petitioner-plaintiff (petitioner) to the determination of the Common Council of respondent-defendant City of Buffalo is moot because petitioner did not seek any injunctive relief from this Court during the pendency of this appeal, and the subject building has been demolished (see *Citizens for St. Patrick's v City of Watervliet City Council*, 126 AD3d 1159, 1160 [3d Dept 2015]; *Solow v Imre Beauty Salon*, 34 AD2d 901, 901 [1st Dept 1970]; see also *Lubelle v Rochester Preserv. Bd.*, 158 AD2d 975, 976 [4th Dept 1990], *lv denied* 75 NY2d 710 [1990]; see generally *Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714 [1980]). This appeal must therefore be dismissed.

Contrary to petitioner's contention, "the exception to the mootness doctrine does not apply because '[t]here is a realistic likelihood that the issues presented here will recur [in other cases] with an adequately developed record and with a timely opportunity for review' " (*Matter of Citineighbors Coalition of Historic Carnegie Hill v New York City Landmarks Preserv. Commn.*, 2 NY3d 727, 730 [2004]; see

*generally Hearst Corp.*, 50 NY2d at 714-715).

Entered: March 23, 2018

Mark W. Bennett  
Clerk of the Court