

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

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In the Matter of

DEVELOP DON'T DESTROY BROOKLYN, INC.,
et al.,

Petitioners - Plaintiffs

For a Judgment Pursuant to Article 78 of the CPLR and
Declaratory Judgment

- against -

URBAN DEVELOPMENT CORP. d/b/a
EMPIRE STATE DEVELOPMENT CORPORATION, et al.,

Respondents - Defendants

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AFFIDAVIT OF LETITIA JAMES

STATE OF NEW YORK)

ss.:

COUNTY OF KINGS)

LETITIA JAMES, being duly sworn, deposes and says:

1. I am a member of the New York City Council, representing District 35, which includes areas of Fort Greene, Clinton Hill, and Prospect Heights in Brooklyn. District 35 includes the footprint of, and is most directly affected by, Forest City Ratner Companies' (FCRC) proposed publicly subsidized, mixed-use redevelopment plan known as the Atlantic Yards Arena and Redevelopment Project.

2. The Project would cover 22 acres of land in my District with a sports arena, a 180-room hotel, and 16 high-rise apartment and office towers, and would replace existing residences

and businesses through the use of eminent domain.

3. I respectfully submit this Affidavit in support of the application of petitioners-plaintiffs to preliminarily enjoin the announced demolition of 13 buildings in my District within the footprint of the Project, pending the hearing and determination of the petitioners' claims raised in the instant Petition/Complaint. (See the chart of the proposed demolitions, annexed hereto)

4. As I understand it, the claims raised in the Petition/Complaint are likely to result in the rescission of the various agency approvals necessary for this Project to move forward. To permit the demolition of so many of the buildings in the footprint of this Project when the defendants' compliance with statutory and regulatory mandates are in question would improperly allow the devastation of an entire neighborhood for a Project that may not ever be permitted to move forward in full or in part. Moreover, demolitions prior to a decision on the instant Petition/Complain will wrongfully and willfully discourage further civic engagement in and opposition to the Project from those residents, business and property owners in the footprint, as well as from so many others in my District who oppose the Project. Specifically the demolitions, all of them, are adjacent to buildings where homeowners and tenants reside, and are clearly an intimidation tactic against those individuals. If the Project does not move forward because of this suit, the devastation surrounding them, and the adjacent blocks, would have been sorrowfully premature, unnecessary, and irreparable.

5. It seems to be clear from public pronouncements that FCRC and ESDC have no "Plan B" or secondary plan if this instant Petition/Complaint is successful as to what they will do with the vast area they would have been responsible for leveling. Certainly before demolitions begin

en masse there needs to be clarity if the Project can move forward, instead of leaving true blight where it previously did not exist.

The Matter of Public Interest at Stake

6. This case involves a matter of important public interest. The Project would require the closing of City streets, an override of the City's zoning regulations, would rely on eminent domain to force residential and commercial property owners to sell their properties for transfer to a private developer, and would thrust a massive real estate development, including 16 skyscrapers up to 60-stories tall, into the midst of thriving, vibrant and historically low-rise neighborhoods; it is wholly at odds with neighborhood character and land use patterns.

7. Many residents within my District believe that the Project would have a substantially detrimental impact on the community environment and have been exercising their rights to voice opposition to the Project in its current form and to lobby governmental officials to alter or defeat the Project. A number of residents and property owners within the proposed Project's foot print do not wish to sell their homes or properties to FCRC and are adamantly opposed to the State's use of eminent domain to compel them to do so. Permitting demolition of such a large number of the buildings in the footprint prior to appropriate judicial review will likely intimidate these property owners further and destroy any faith they may have in the ability of their government to protect their interests adequately.

8. As the court can readily see from the attached map highlighting the buildings scheduled for demolition, the demolition of 13 buildings within the proposed Project site will begin the process of forever changing my District, even though, as is set forth more fully in the

annexed affirmation of petitioner/plaintiffs attorney, the annexed petition/complaint, and the annexed Memorandum of Law, the approvals of the Project are seriously being questioned.

9. As your affiant understands it from the New York City Department of Buildings, demolition applications have been filed and approved, and the permits for the demolition can happen literally any day. As I further understand it, pre-demolition work, including asbestos removal, is being undertaken in the said buildings. I also understand that none of the announced demolitions are of buildings that present any threat to public safety.

10. A preliminary injunction to postpone demolition, pending an inspection and further review of the application, will cause little prejudice whatsoever to FCRC. The company is still shoring up investor financing. As recently as March 29th, on an analyst conference call, it was revealed that equity investors for the project are not even lined up. An executive vice president for the parent company—Forest City Enterprises—stated on the call, “we have some of the equity in there, but certainly not all of it.” Forest City officials and the Project’s master landscape architect Laurie Olin have recently stated that the project construction timeline could be 15 or even 20 years. In light of this it is clear that a minor waiting period in the face of a preliminary injunction presents little to no hardship on FCRC.

11. Clearly the harm of premature demolitions is onerous for the community in and around the Project site. Once the buildings are torn down they cannot be put back, and the injury to the community – an altered landscape with the likelihood of no plan to “fix” it and a loss of faith in the integrity of the environmental review process – is irreparable.

12. No prior application for the relief requested herein has been made.

WHEREFORE, it is respectfully requested that the petitioners-plaintiffs' motion for a preliminary injunction be granted.

L. James
Letitia James

Sworn to before me this
4th day of April, 2007.


Notary Public

SANDACE Q. [unclear]
Notary Public
No. [unclear]
Qualified in [unclear]
Commission Expires [unclear]

kap
6/20/07