

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

In the Matter of

DEVELOP DON'T DESTROY BROOKLYN; et al,

Petitioners - Plaintiffs

**AFFIDAVIT OF  
JAMES VOGEL**

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

- against -

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

Respondents - Defendants

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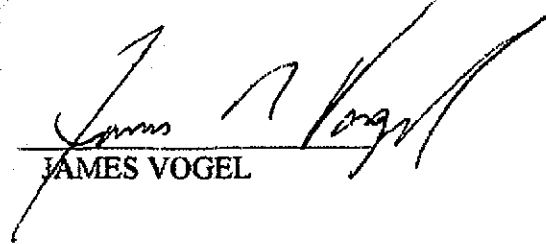
STATE OF NEW YORK     )  
                                  )ss.:  
COUNTY OF KINGS     )

JAMES VOGEL, being first duly sworn, deposes and states:

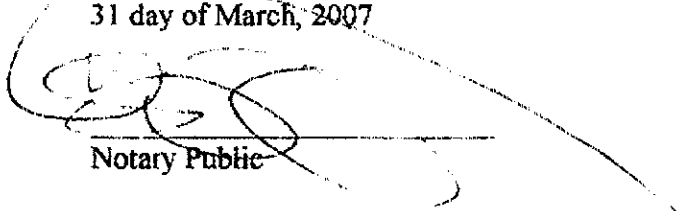
1. I live at 568 Pacific Street, Brooklyn, New York, which is in the immediate vicinity of the Atlantic Yards Project. I make this affidavit in support of the above-captioned proceeding and to recount a recent encounter I had with persons doing preparatory work for the developer, Forest City Ratner Companies.
2. I have been a member of the Board of the Council of Brooklyn Neighborhoods since its creation and I am very familiar with the Project and the Environmental Impact Statements prepared for and approved by the ESDC.

3. On or about March 14, 2007, upon leaving my building, I noticed two men and one woman with clipboards on my block of Pacific Street. It appeared they were doing a visual inspection of some of the buildings and taking notes on their clipboards.
4. I approached them and asked if they were doing anything in relation to the Atlantic Yards Project.
5. They identified themselves as being from Thornton-Tomasetti and informed me they were doing a study for FCRC to visually inspect buildings in proximity to the Project that might be affected by vibrations created during the construction phase of the Project.
6. I said to them I hoped they would be able to save the Pacific Street Library and they said it was already on their list and there were planned mitigation measures to protect the building from vibration.
7. I pointed to my building and asked if it would require any special protection.
8. They looked at it and remarked that it would definitely require some kind of protection and/or stabilization from construction related vibration.
9. That was the end of my conversation with them.
10. Given my familiarity with the EIS for the Project, I was surprised that this team was doing a vibration analysis at this time. It was my understanding from the EIS that a vibration study had already been conducted and that only a few buildings had been identified in that study as needing protection.
11. However, based upon my conversations with the inspection team, it appears that any study that may have been performed for preparation of the EIS was seriously

deficient and the team had little or no baseline information with which to work. The team I encountered was just beginning to assess the area for buildings potentially at risk from construction related vibration.

  
JAMES VOGEL

Sworn to before me this  
31 day of March, 2007

  
Notary Public