

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

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In the Matter of the Application of

PROSPECT HEIGHTS NEIGHBORHOOD DEVELOPMENT
COUNCIL, INC., et al,

Index No. 116323/09

Petitioners,

Assigned to
Justice Friedman

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules.

- against -

EMPIRE STATE DEVELOPMENT CORPORATION and
FOREST CITY RATNER COMPANIES, LLC,

AFFIDAVIT OF
MAJORA CARTER
IN SUPPORT OF
SUPPLEMENTAL
PETITION

Respondents.

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

MAJORA CARTER, being duly sworn, deposes and says:

1. I am president of the Majora Carter Group, an economic and environmental consulting firm. Prior to forming MCG, from 2001 to 2008, I was Executive Director of Sustainable South Bronx, a non-profit organization focused on community development, environmental justice, and green job training in the south Bronx, where I pioneered green-collar job training and placement systems in one of the most environmentally and economically challenged parts of the US. In 2005, I was a recipient of the MacArthur "genius" grant based on my work on environmental/environmental justice issues. I host a public radio series, "The Promised Land" which addresses topics relating to community-based planning and sustainability, and I serve on the Boards of CERES and the US Green Building Council.

2. In its response to the November 9 remand order, the Empire State Development Corporation maintains that extending the construction schedule of the Atlantic Yards project from 10 to 25 years would create no additional adverse impacts to the Brooklyn neighborhoods adjoining the project, some of the most socioeconomically diverse in Brooklyn. This conclusion is not just counterintuitive. It reflects a national trend in land use policy that prioritizes the interests of private developers over the sustainability of vibrant communities.

3. My work in both non-profit and the private sector, as well as my experience growing up in the south Bronx, has provided me with many opportunities to study successful and unsuccessful urban renewal projects. Often in the latter category are top-down, policy-driven developments that offer to transform diverse but politically fragmented neighborhoods. Such projects may promise affordable housing, local jobs, and environmentally-conscious planning, marketed as a "public-private partnership" to justify the use of zoning overrides, tax subsidies, and perhaps even the use of eminent domain to consolidate development parcels. However, in too many cases, the public is saddled with what would to any other counterparty be unacceptable financial and environmental risks, and the surrounding communities bear the burden of the realization of these risks. Large areas of land in vibrant but diverse communities are left underutilized or undeveloped, jobs and housing are not delivered at the levels promised, residents of surrounding communities are displaced, and local businesses are closed. In extreme cases, vacant property (or unfavorable "interim" uses) may persist for years or decades.

4. The pattern is so identifiable that one would expect governmental agencies responsible for the approval and oversight of such projects to be especially vigilant with respect to analyzing risks, assessing impacts and proposing strategies that mitigate them. Unfortunately, these considerations are often given a back seat as agencies focus on the shepherding the project through the bureaucratic approval process to meet an administration's policy goals, without a meaningful public process that engages the community in the planning of projects and that assures accountability on all levels. After approval, the project's promises to residents and businesses are quickly forgotten, unexamined risks are realized, and the local community is burdened with the blighting effects of the failed development.

5. Neighborhoods with significant populations of low and moderate income families and people of color are particularly vulnerable to urban renewal projects fitting this pattern. But it doesn't have to be that way. In some cases, communities have successfully fought against misguided projects, and have worked with government to create plans for sustainable developments that provide real benefits to residents and businesses.

6. The urban renewal plan that was proposed in the late 1980's for the Melrose section of the Bronx is one example. With virtually no community input, the City of New York developed a plan for what was called "The Melrose Commons Urban Renewal Area." As described by Planners Network, it was a "30-block area in the South Bronx with a large concentration of city-owned property that the City conceived as a place in which to create a new middle-income, home-ownership-based community. Plans along these lines were developed by the Departments of City Planning and Housing Preservation and Development in the late 1980's. In August 1990 the Draft Environmental Impact Statement (D.E.I.S.) for those plans was issued. According to the D.E.I.S., the plan called for the creation of 2,600 units of new, middle-income housing, 250,000 square feet of commercial space, a centrally located 4-acre park, and a realignment of the street system in the northeastern corner of the area to a ninety degree grid system. It also identified 78 homeowners, 400 tenants and 80 businesses with 550 employees to be displaced in order to implement the plan."¹ Incredibly, no formal presentation of the plan

¹ Stand et al., *Melrose Commons: A Case Study for Sustainable Community Design*, Planners Network, 1996.

was made to the community – one of the poorest in the nation, with 6,000 residents and a median income of \$12,000—even though displacement and disruption of the community would be extreme. This plan, much like the Atlantic Yards plan, provided no public accountability, its proposed timeline was long and variable, and displacement and neighborhood disruption would be extreme and unacceptable. Residents also expressed concern that the housing planned for the project would not be affordable to community members. The community protested loudly, and in 1993, We Stay/Nos Quedamos was born, which organized the community and helped create an alternative plan for the neighborhood. This time, City agencies, the Bronx Borough President's office and the community worked together to create a better plan that was acceptable to the community. Today, Melrose Commons is a shining example of government/community cooperation and is considered a national model.

7. In another example of so-called "urban planning" gone wrong, the City, in the late 90's, issued an RFP to privatize New York City's municipal waste stream. American Marine Rail, LLC was formed in direct response to that RFP, and it sought a contract with the City that would bring more than 5200 tons of waste per day- none of it from the Bronx - to the Hunts Point waterfront. Hunts Point, a low income community of color, had an overabundance of noxious sites; it had become a favorite "dumping ground" for the City's hazardous wastes and other environmental burdens. Incredibly, the City deemed this a "waterfront revitalization" project. The project, which was ultimately defeated because of community activism, would have added unacceptable burdens to the community for decades. At the time, the South Bronx alone was already handling more than 40% of the entire City's garbage, most of it created in boroughs other than the Bronx. The City's "waterfront development" plan was nothing more than an excuse to privatize the waste handling business. In response, a coalition of groups banded together to propose a City-wide plan for waste disposal. Eventually, a plan that called for each borough to deal with its own waste and to bring back the City's marine transfer terminals for handling waste was adopted, after several years of struggle.

8. In both cases, the City, under the guise of "economic development," "urban renewal," or "waterfront development," had proposed plans for low-income, diverse communities without consulting us and including us in the process. Community members, like me, knew that these projects, if allowed to go forward as the City planned, were destined to degrade our neighborhoods for decades. In both cases, the communities said "no" and, working with partners and government, developed plans that led to redevelopment, yet did not add further to environmental and other burdens.

9. Atlantic Yards is yet another example of a top-down so-called economic development project that is reminiscent of the cases cited above. Unlike those examples, however, the government agency responsible for Atlantic Yards has failed to engage the surrounding affected communities in the planning and execution of the project. Although the Atlantic Yards developer has executed a so-called "community benefits agreement" with organizations responsible for providing services related to jobs and housing, that is not a substitute for a meaningful dialogue with community stakeholders on the design and implementation of the project.

10. Theoretical applications of planning theory are not an appropriate forecaster of the harm suffered by vulnerable populations when considered in light of the experience of communities in New York City confronting privately-sponsored development projects. Governments have the responsibility to ensure the needs and concerns of communities are considered, proper

environmental impact analyses are performed in good faith, and meaningful mitigations designed to promote the continuance and sustainability of the neighborhoods hosting projects are implemented. While doing so in and of itself will not guarantee expected project benefits are delivered, thorough environmental analysis and ongoing oversight, along with continuous community input, will reduce the chance that a project intended to redevelop and renew underutilized land will instead create new blight. It also represents the best chance for sustainable redevelopment of diverse urban neighborhoods.

Majara Carter
Majara Carter

Sworn to before me this

2 day of March, 2011

S. Greer
Notary Public

