

Empire State Development

June 25, 2014

Michelle de la Uz
Executive Director
Fifth Avenue Committee, Inc.
621 DeGraw Street
Brooklyn, New York 11217

Gib Veconi
Treasurer
Prospect Heights Neighborhood Development Council
284 Park Place
Brooklyn, New York 11238

Re: Atlantic Yards Project

Dear Ms. De la Uz and Mr. Veconi:

Over the past several months, Empire State Development (“ESD”) has worked with BrooklynSpeaks and a number of its member groups (the “BrooklynSpeaks parties”), as well as with the City of New York, Forest City Ratner Companies (“FCRC”), and elected officials, to ensure that the Atlantic Yards Project (the “Project”) delivers affordable housing and other public benefits as soon as possible, and to effectively address any potential adverse impacts the Project may have on the community. This letter serves to advise you of the five significant changes ESD, working with FCRC and New York City, will make to the Project moving forward.

First, ESD will require that all affordable housing units embodied in existing agreements be built by 2025, ten years earlier than currently required. Project Site Affordable Housing Units (i.e. 2,250 Affordable Housing Units) will be required to have a temporary certificate of occupancy (“TCO”) or certificate of occupancy (“C of O”) by May 2025, subject to extensions set forth in the Development Agreement and the General Project Plan. To the extent this requirement is not met, FCRC and/or the project sponsors (hereinafter “FCRC”) will pay Liquidated Damages of \$2,000/month/unit for every Affordable Housing Unit that does not have a TCO or C of O.

Second, ESD will require that two affordable buildings, totaling not less than 590 units of affordable housing, be built in the next phase of development at the Project, with the first of the two buildings to commence this year. In particular, Building 14 (B14) will be commenced by December 31, 2014 and Building 3 (B3) by June 30, 2015, each in accordance with the subsidy letters for each such building from the New York City Housing Development Corporation dated May 16, 2014, subject to Unavoidable Delay and assuming no Affordable Housing Subsidy Unavailability or Market Financing Unavailability, as these terms are defined in the Atlantic Yards General Project Plan and Development Agreement.

ESD will utilize existing enforcement mechanisms to ensure prompt completion of these buildings. The existing Liquidated Damages penalties in ESD’s Development Agreement for failure to commence the first three buildings on the Arena Block (i.e. \$5M each) will apply to B2 (as currently contemplated) as the first Required Building, B14 as the second Project Building, and B3 as the third Project Building, as defined in the Master Development Agreement section 8.6(d)(i). For the purposes of section 8.6(d)(i), the “Second Commencement Deadline” and the “Third Commencement Deadline” are now agreed to be December 31, 2014 and June 30, 2015, respectively.

Third, ESD will require FCRC to build affordable housing as it constructs market rate housing. In particular, ESD will amend the Development Agreement to require that a minimum of 35% of all units for which construction has commenced at any time will be Affordable Housing Units until construction of 1,050 Affordable Housing Units has commenced. Thereafter, this percentage requirement may drop to a minimum of 25. However, by 2025, FCRC

must complete 2,250 Affordable Units (which comprises 35% of the anticipated residential units to be built at the Project site as specified in its Modified General Project Plan). If at any time FCRC falls below the 35%/25% threshold, it will not be able to complete a single market rate unit until the threshold is again met.

Fourth, ESD will direct all Liquidated Damages to the New York City Housing Trust Fund, a fund administered by the NYC Department of Housing Preservation & Development, to fund preservation or development of affordable housing with preference given to projects in Brooklyn Community Districts 2, 3, 6 and 8.

Fifth, ESD agrees, subject to and following approval by its Board of Directors (the "directors"), to create a new subsidiary, the Atlantic Yards Community Development Corporation ("AYCDC"), to improve oversight and monitoring of the Project as follows:

- ESD shall establish AYCDC within 6 months of this letter.
- AYCDC shall be governed by a board of fourteen (14) directors, who shall be responsible for monitoring the delivery of public commitments related to the Project by making policy recommendations to the ESD Board of Directors.
 - Nine (9) board members, including the Chair, shall be appointed by the New York Governor (Governor must appoint Chair per statute). Of these nine (9), no more than five (5) may be City or State employees;
 - The additional five (5) board members shall be appointed by New York City Mayor and local elected officials:
 - 1 appointed by the Mayor of the City of New York
 - 1 appointed by the Brooklyn Borough President
 - 1 appointed by the Speaker of the New York State Assembly
 - 1 appointed by the President Pro Tem of the New York State Senate
 - 1 appointed by the Speaker of the New York City Council;
 - All board members shall be appointed to serve three year terms and must reside in New York City;
 - All elected officials making appointments will be encouraged to consult with Brooklyn Community Boards 2,3,6 and 8 in making appointments;
 - AYCDC shall meet not less than quarterly, and shall comply with the New York State Open Meetings Law; and
 - ESD shall provide adequate staff support and cover administrative expenses for AYCDC.
- AYCDC shall be charged with the following specific responsibilities:
 - Reviewing proposed changes to Project plan and agreements, and advising ESD board accordingly in advance of votes;
 - Monitoring developer compliance with all public commitments;
 - Monitoring, reporting on and responding to construction impacts and quality of life issues;
 - Evaluating the quality and effectiveness of monitoring, support and other services;

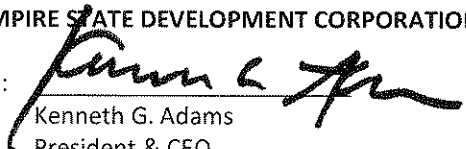
- Making recommendations to ESD on ways to improve and expedite developer responsiveness to public obligations and increase transparency of Project development;
- Assuring effective communication between the developer, government agencies and officials, elected officials and community and civic organizations;
- Developing recommendations related to the Project, including in relation to unanticipated issues; and
- Complying, as appropriate, with the Public Officers Law as it applies to members of the board and the conduct of business by AYCDC.

We believe these five key steps will significantly advance the community's interests in the Project, address the Project's impacts, and ensure effective governance of the Project as it moves to the next crucial phase. As recognition of these steps, and as a condition precedent for implementation of the foregoing, the coalition members of BrooklynSpeaks listed below will sign a "Covenant not to Sue" in the form attached hereto as Exhibit A, to be effective after action by the Directors on June 27, 2014, to begin implementation of the foregoing steps. Although this letter does not create enforceable obligations, the BrooklynSpeaks parties retain their rights as set forth in the "Covenant not to Sue" in the event that ESD does not take the steps outlined above. Please note that neither this letter, nor any term or provision hereof, shall constitute, or be interpreted, constructed, or used as evidence of any admission of liability by any party hereto.

Please also acknowledge receipt and concurrence with the steps outlined above by signing in the space provided below.

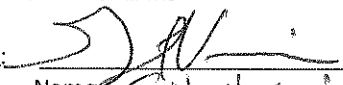
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By:

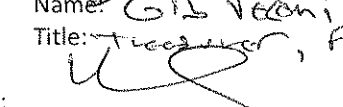

Kenneth G. Adams
President & CEO

BROOKLYNSPEAKS

By:


Name: Gil Veoni
Title: Treasurer, Prospect Heights Neighborhood Development Council

By:


Name: Ms. Chetelle deTalle
Title: Executive Director, Fifth Avenue Committee, Inc.

on behalf of
Fifth Avenue Committee, Inc.
Prospect Heights Neighborhood Development Council, Inc.
Pratt Area Community Council, Inc.
Brown Community Development Corporation
Boerum Hill Association, Inc.
Diaspora Community Services, Inc.
Park Slope Civic Council

and
Benita Clark
Hermalinda Gumbs
Daron Hudson
Renee Mintz