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THE COUNCIL
OF
THE CITY OF NEW YORK

COMMITTEES
ECONOMIC DEVELOPMENT
HOUSING
SMALL BUSINESS
GOVERNMENT IN TECHNOLOGY
VETERANS

To: My City Council Colleagues

From: Letitia James

Date: 3/8/05

Re: Atlantic Yards Memorandum of Understanding (MOU)

Priority: High

Overview

This memo is a brief overview of the MOU that was executed last week by NYC Economic Development Corporation (NYCEDC), Empire State Development Corporation (ESDC), and Forest City Ratner (FCR) with respect to an **18,000-seat arena and mixed-use development in my district, including commercial and residential skyscrapers ranging in height from 110 to 620 feet**. Please note that the MTA was not a signatory to the MOU but has indicated in writing its commitment to cooperate with FCR subject to certain conditions, including but not limited to reserving the right to use a competitive bidding process to sell or lease MTA properties.

This agreement designates ESDC as the lead agency for the project, *circumventing the City Council and ULURP*. The project would only need to comply with the State Environmental Quality Review Act, SEQRA. As most of you know, *SEQRA is less stringent than ULURP and is not subject to approval by the State Legislature*.

The MOU also grants power to ESDC to initiate Eminent Domain proceedings, including but not limited to seizing private property, city projects, and streets within the footprint of the project site.

The Fleecing of Taxpayers

EDC will sell to ESDC for \$1.00 the City properties underlying the arena site. ESDC may acquire by Eminent Domain private properties and city streets. ESDC and NYCEDC shall commit \$100 million each in capital funding to the arena. The City contribution may be used for more than infrastructure improvement. In fact, the City subsidy can be used to acquire property that will be the subject of Eminent Domain in the arena site. Additional subsidies related to the housing, commercial, and related aspects of the project have yet to be determined.

Land Grab and Corporate Welfare

The land for the arena site will be leased by ESDC to a local development corporation (LDC) for a term of 99 years for \$1.00 in rent. The LDC will in turn lease the land for the arena to FCR for \$1.00 in rent. The LDC will issue tax-exempt bonds to finance all or part of the arena. The arena site and the arena itself shall be exempt from taxation and there will be no sales tax on materials used for construction. Semi-annual payments in lieu of taxes (PILOTs) by FCR will be pledged as debt payments to service the tax-exempt bonds to finance the arena. The rest of the development will be leased to FCR for \$1.00. FCR shall pay a PILOT to the state, not the city, equal to the value of real property taxes. However, FCR seeks a full array of “subsidies” including but not limited to city and state mortgage recorded taxes, sales taxes for construction, materials, energy and brown fields tax credits.

Non-Specific Community Benefits

The MOU fails to specify the number of affordable housing units and specifics related to local hiring and procurement opportunities for Women and Minority-Owned Businesses (WMBEs.)

In Conclusion

The central questions raised by the project are as follows:

Will the fiscal benefits generated by the arena equal or exceed the public costs? I say no and independent critiques of this project confirm that position.

Are there better uses for the public land that costs taxpayers less? I say yes and refer all of you to the UNITY Plan that was developed by my office in cooperation with local architects and the community. Please contact my office if you would like a copy of this plan.

Should policy be developed to address large-scale development projects that attempt to circumvent the role of the City Council?

Many of the issues raised by this project are identical to those in the debate over the Westside stadium. ***I therefore urge your support regarding the following legislative agenda that I will be introducing to the Council:***

1. An introduction mandating that any City money dedicated to the project must be subject to City Council approval.
2. An introduction mandating that any PILOTs generated from the project must be earmarked for the City treasury for general revenue purposes.
3. An introduction mandating that any City money for property acquisition as part of Eminent Domain proceedings must be subject to City Council approval.
4. A resolution urging the MTA to submit the Atlantic Yards to an open and competitive bidding process.
5. A resolution urging the MTA to make a fair market value determination of the Atlantic Yards exclusive of the benefits proposed primarily for Forest City Ratner.

Please contact my City Hall office at 212 788 7081 if you would like to see a copy of the MOU or if you would like any further information.