

COUNTY OF NEW YORK

In the Matter of

DEVELOP DON'T DESTROY BROOKLYN; COUNCIL OF BROOKLYN NEIGHBORHOODS, INC., ATLANTIC AVENUE BETTERMENT ASSOCIATION; BERGEN STREET-PROSPECT HEIGHTS BLOCK ASSOCIATION, INC.; BOERUM HILL ASSOCIATION; BROOKLYN BEARS COMMUNITY GARDENS, INC.; BROOKLYN VISION FOUNDATION, INC.; CARLTON AVENUE ASSOCIATION; CARROLL STREET BLOCK ASSOCIATION BETWEEN FIFTH AND SIXTH AVENUES, INC.; CENTRAL BROOKLYN INDEPENDENT DEMOCRATS by its President Josh Skaller; CROWN HEIGHTS NORTH ASSOCIATION, INC.; DEAN STREET BLOCK ASSOCIATION (4th to 5th Ave.) by its President JUDY SACKOFF; EAST PACIFIC BLOCK ASSOCIATION; FORT GREENE ASSOCIATION, INC., FORT GREENE PARK CONSERVANCY, INC., MARILYN OLIVA FRIENDS AND RESIDENTS OF GREATER GOWANUS by its President MARILYN OLIVA; NEW YORK PUBLIC INTEREST RESEARCH GROUP, INC ("NYPIRG"); PARK PLACE-UNDERHILL AVENUE BLOCK ASSOCIATION by its President LINNEA CAPPS; PARK SLOPE NEIGHBORS, INC.; PROSPECT HEIGHTS ACTION COALITION by its President PATRICIA HAGAN; PROSPECT PLACE OF BROOKLYN BLOCK ASSOCIATION, INC.; SIERRA CLUB, INC., SOCIETY FOR CLINTON HILL, INC., SOUTH OXFORD STREET BLOCK ASSOCIATION by its President ABBY WEISSMAN; SOUTH PORTLAND AVENUE BLOCK ASSOCIATION; and ZEN ENVIRONMENTAL STUDIES INSTITUTE

Petitioners - ~~Plaintiffs~~

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

- against -

URBAN DEVELOPMENT CORPORATION d/b/a EMPIRE STATE DEVELOPMENT CORPORATION; FOREST CITY RATNER COMPANIES, LLC, METROPOLITAN TRANSPORTATION AUTHORITY; and NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD

Respondents - ~~Defendants~~

*HT: I've written
As requested
of the Supreme Court
of the State of New York
held on a date for the Court
of New York, City and
State of New York, at
The Courthouse located
at 60 Centre Street,
New York, NY on
the 4th day of April, 2008*

**ORDER TO
SHOW CAUSE**

Application for a Preliminary Injunction and Return Date for Petition.

Oral Argument Requested
Index No. *104599/08*
RJI No.

Upon the annexed Affidavit of Jeffrey S. Baker, Esq., sworn to on April 4, 2007, the Affidavit of Jeffrey S. Baker, Esq. pursuant to CPLR Section 2217(b), sworn to on April 4, 2007, the Verified Petition and Complaint dated April 4, 2007, the Affidavit of Jon Crow sworn to on February 15, 2007, the Affidavit of Ronald Shiffman sworn to on March 3, 2007, the Affidavit of Norman Groner sworn to on March 12, 2007, the Affidavit of Letitia James sworn to on April 4, 2007, the affidavit of James Vogel sworn to on March 31, 2007, the Affidavit of Randall Rasey, Esq. sworn to on April 4, 2007 and the Memorandum of Law dated April 4, 2007, let the Respondents, Urban Development Corporation d/b/a Empire State Development Corporation (hereinafter "ESDC"); Forest City Ratner Companies, Metropolitan Transportation Authority, and New York State Public Authorities Control Board, or their attorneys show cause before this Court located at Room 331 60 Centre Street, New York, New York, on the 3 day of May, 2007 at 3:30 clock in the afternoon of that day, or as soon thereafter as counsel can be heard, why the relief requested in the annexed petition/complaint should not be granted and why a stay ~~preliminary injunction~~ should not be granted herein enjoining the Respondents, their agents, servants, and employees, and all persons acting on their behalf, pursuant to Section 6301 of the Civil Practice Law and Rules and pending the determination of this action/proceeding, from undertaking or authorizing any other party to demolish any structures or buildings existing in the footprint of the proposed Atlantic Yards Project (hereinafter "Project"); and further enjoining the Respondents, their agents, servants, and employees, and all persons acting on their behalf from commencing any construction located within the proposed Atlantic Yards Project footprint.

The above-entitled action is a combined declaratory judgment action and Article 32

proceeding.

IT IS ALLEGED THAT

The Respondent, Forest City Ratner Companies has begun demolition of the properties located in the footprint of the Project and to allow the continuation of demolition and commencement of land clearing related to the construction of the structures for this proposed Project would render the Petition and Complaint filed by the Petitioners ineffectual and that immediate and irreparable injury, loss or damage would result to the Petitioners before a decision on the merits of the action-proceeding can be reached by this court.

IT IS ALLEGED THAT

The Respondent Empire State Development Corporation issued SEQRA findings on December 8, 2006 which concluded that the requirements of Article 8 of the New York Environmental Conservation Law and its implementing regulations, 6 NYCRR Part 617 had been met, and that the Project avoided or minimized adverse environmental impacts to the maximum extent practicable and that adverse impacts would be avoided or minimized to the maximum extent practicable. Forest City Ratner Companies has already commenced demolition and abatement work on many of the buildings located in the footprint of the project. The continuation of the demolition and the commencement of construction will result in immediate and irreparable injury to the Petitioners, in that their neighborhood character will be permanently destroyed and they will immediately suffer adverse health and safety impacts resulting from the several significant adverse environmental impacts of the proposed project, including those alleged to be mitigated and those unavoidable adverse impacts which will not be mitigated.

Sufficient cause therefore appearing, it is hereby ordered that the petition and supporting affidavits, if any, must be served on the Respondent within the time specified in the petition is noticed to be heard, and

excluding Great City Police

It is hereby further ordered that respondents are directed to file a certified transcript of the proceedings considered herein with the clerk of the court and ~~petitioners' counsel~~ *petition on the parties* no later than

JSL 25 day of April, 2007; and

it is further ORDERED that

It is further ordered, that oral argument shall be required on the return date of this motion. *reply papers if any are to be served so as to be received no later than*

JSL

Let service of a copy of this order, and the aforementioned papers upon which it is granted, *personal* *on* *May 2, 2007*

the Memorandum of Law and the Verified Petition and Complaint upon the respondents no later than the 9 day of April, 2007 be deemed good and sufficient service.

ENTER

JH

**HON. JOAN A. MADDEN
J.S.C.**

Hon.