



THE COUNCIL OF
THE CITY OF NEW YORK
CITY HALL
NEW YORK, NY 10007

May 3, 2012

Ms. Joan McDonald
Commissioner
New York State Department of Transportation
50 Wolf Road
Albany, New York 12232

Dear Commissioner McDonald:

As duly elected public officials representing the people of the South Bronx, we write to express concern about one of New York State Department of Transportation's properties and to ask the Department of Transportation to review the lease for that property and to take appropriate action. Specifically, we write in reference to the Harlem River Rail Yard, a 94-acre waterfront plot in the South Bronx owned by the State of New York under the jurisdiction of the Department of Transportation and leased, for over 20 years, to a private developer. We are concerned that this property has been and continues to be used in a manner that is causing severe harm to the residents of the South Bronx and that undermines nearly two decades of rezoning and development of the surrounding community. We are further concerned that the tenant is using the property in a manner that is inconsistent with the terms of the lease and that the tenant is in default under the terms of that lease.

By way of background, in 1991 the DOT leased this property to Harlem River Yard Ventures, Inc., for a period of 99 years under the express condition that Harlem River Yard Ventures develop an intermodal rail yard for the public benefit with the purpose of increasing rail freight services and thereby reducing truck traffic congestion. In 1993, the DOT prepared a Final Environmental Impact Statement, which generically analyzed the land-use plan attached to the lease. Nearly twenty years later, the Industrial Development Agency relied upon this same EIS in conducting its environmental review of the Fresh Direct project, a Type 1 Action under SEQRA, and issued a negative declaration for the project. The IDA's reliance upon the 1993 EIS was inappropriate for numerous reasons, including but not limited to, the fact that it fails to take into account two decades of change and development and, therefore, fails to contemplate the effects of the current and proposed uses of this property.

Over the last 21 years, Harlem River Yard Ventures has failed to develop the intermodal rail terminal, which was the expressed overarching purpose for which the Department of Transportation's leased the land to this entity. Instead, Harlem River Yard Ventures has subleased to an array of manufacturing and waste process facilities that place a disproportionate impact of diesel truck traffic running in and through the South Bronx. Harlem River Yard currently hosts a FedEx hub making over 1,400 daily truck trips through the neighborhood, the New York Post printing and distribution center, and a 5,000 ton per day waste transfer station, one of four waste transfer stations located within a 1/8 mile radius. And, in February, the board of the New York City Industrial Development Agency gave preliminary approval of approximately \$81 million in subsidies for FreshDirect's proposed relocation to the Harlem River Yards. The Empire State Development Corporation has proposed additional subsidies worth approximately \$50 million but has not yet voted on the project or released details. Should this deal be approved, it would add upwards of 2,000 daily vehicle trips through the neighborhood.

The cumulative effect of such facilities on air quality in the South Bronx, where we have an asthma epidemic, is staggering. Asthma hospitalizations in the South Bronx are five times the national average; asthma deaths are three times the national average; and it is estimated that one in every five children in the South Bronx has asthma.

The industrial and heavy manufacturing uses on Harlem River Yards are no longer consistent with the actual and contemplated use of the surrounding area, which has been repeatedly rezoned over the last 21 years to foster residential and commercial development, develop community access to the waterfront, which Harlem River Yards blocks, and turn the area into a true pedestrian-friendly "Gateway to the Bronx."

In 1997, for example, a five-block area next to Harlem River Yards was rezoned as a mixed-use, residential district. The new zoning was a catalyst for strengthening the area's antique businesses, along "Antique Row," and for revitalizing the residential character of this historically mixed-use neighborhood. As a result of the rezoning, approximately 42 row and houses were rehabilitated, 36 new residential units were created or reactivated on upper floors of buildings, upwards of 100 lofts in a former piano factory were converted and new ground floor retail and exhibit spaces were opened.

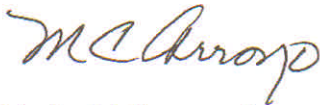
Then in 2005, building on the success of the 1997 rezoning, New York City rezoned in an additional 11 blocks immediately adjacent to Harlem River Yards, including a portion of Harlem River Rail Yards, for mixed-use residential to further the city's housing initiative, focus on improved waterfront access and create a vibrant neighborhood. In response to the rezoning, a new 419-unit residential development adjacent to the Harlem River Yards was built in 2010 and people now live there. This new residential development, named "Bruckner by the Bridge," would sit directly across the street from a proposed truck satellite facility of FreshDirect, which would provide fuel and maintenance to its fleet of over 200 diesel trucks.

Adding insult to injury, Harlem River Yard Ventures collects approximately \$500,000 per month in rent from its subleases, while paying only \$43,000 per month in rent to DOT for the entire 94 acres.

Therefore, we request that the Department of Transportation audit the lease for this property, consider declaring an event of default, and explore the State's remedies in the event of such default. We also request that the Department of Transportation place a moratorium on all new development at Harlem River Yards, including with respect to FreshDirect's proposed development, until a thorough review of the current uses of the land and the cumulative effects of such uses on the residents of the South Bronx can be done, taking full account of the socio-economic makeup of the neighborhood and the disproportionate impact on the poorest congressional district in the country.

Thank you for your attention to this matter, and thank you in advance for working with our offices to ensure this property is being put to uses that would further, rather than hinder, two decades of progress in the South Bronx and that such uses would be an asset, rather than a detriment, to our constituents.

Sincerely,



Maria del Carmen Arroyo
Council Member, 17th District



Melissa Mark-Viverito
Council Member, District 8