

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of the Application of

AFFIDAVIT OF KATE VAN TASSEL

BRONX COUNCIL FOR ENVIRONMENTAL QUALITY; and CHAUNCY YOUNG,

Index No.: 100240/2018

Petitioners,

-against-

THE CITY OF NEW YORK; NEW YORK CITY COUNCIL; NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION; NEW YORK CITY DEPARTMENT OF SMALL BUSINESS SERVICES; NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION; and MITCHELL J. SILVER, as Commissioner of the New York City Department of Parks and Recreation.

Respondents.

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

KATE VAN TASSEL being duly sworn, deposes and says under penalty of perjury:

1. I am a Vice President at New York City Economic Development Corporation (“NYCEDC”). NYCEDC is a not-for-profit corporation engaged in economic development projects and initiatives in the five boroughs of New York City (“City”). I have held my current position for over ten years. As Vice President, I work on various aspects of multi-million dollar

infrastructure and real estate development projects in diverse communities. I have a Master's degree in City Planning from the Massachusetts Institute of Technology.

2. I submit this Affidavit in opposition to the Verified Petition. In particular, I will discuss the development project that Petitioners challenge—the Lower Concourse North project (also known as “Bronx Point”) on the property commonly known as Pier 5. I base this Affidavit on my personal knowledge, my review of the books and records of NYCEDC and City agencies, and my conversations with current and former NYCEDC and City employees and others.

Bronx Point project: an overview

3. The Bronx Point project is a key component of a \$194 million capital investment strategy for the Lower Concourse neighborhood in the Bronx, announced by the de Blasio administration in 2015 and spearheaded by NYCEDC. This unprecedented capital investment in South Bronx neighborhoods was developed through an NYCEDC-led two-year community process that included interactive workshops and visioning sessions to engage the local community. Other major components of the strategy include the development of a new 2.3 acre waterfront park at East 144th Street, a few blocks south of the Pier 5 site; new sewer infrastructure; full reconstruction of Exterior Street to promote traffic safety; and installation of commercial-grade broadband access.

4. The Pier 5 site is attractive for a mixed-use development project due to its relatively large size, proximity to transit, and potential for open space resources along the Harlem River waterfront. In July 2016, NYCEDC, on behalf of the City and in partnership with New York City Department of Housing Preservation and Development (“HPD”), issued a Request for Expressions of Interest for a developer to redevelop the Pier 5 site with a new

mixed-use development, to include new housing, ground-floor retail space, community facility space, and public open space. The public open space would include a shore public walkway along the Harlem River waterfront, open space resources contiguous with Mill Pond Park to the north of Pier 5, and a new public plaza along Exterior Street.

5. The project included four discretionary land use actions—namely, a zoning map amendment and zoning text amendment, a special permit under the Zoning Resolution, and disposition of the project site through long-term lease. The lease of the property to the developer will not include the waterfront open space component of the project; instead, the City will retain ownership of this land, and maintenance of the waterfront open space created by the developer will be funded by the developer.

Bronx Point project was subject to extensive review.

6. Petitioners' claims that the parcel allegedly was, is, or should be parkland have no merit, and were addressed throughout the extensive public review process.

7. The proposed project underwent environmental review under New York City Environmental Quality Review ("CEQR") and the New York State Environmental Quality Review Act ("SEQRA"). This review culminated in the issuance by the Office of the Deputy Mayor for Housing and Economic Development of a Final Generic Environmental Impact Statement ("FGEIS") on August 10, 2017. The FGEIS contains twenty-four chapters assessing the various categories of impact analysis, as set forth in the *New York City CEQR Technical Manual*, and six appendices. It comprehensively analyzed the potential for significant environmental impacts from the project.

8. The environmental review also directly addressed the issue of whether Pier 5 is parkland; as explained in the FGEIS, the "project site is city-owned and entirely vacant; it is

not mapped as or considered to be parkland.” Lower Concourse North FGEIS Chapter 1, attached as City Exhibit R, at 1-1.¹ The FGEIS also noted that the proposed open space contiguous with Mill Pond Park, while referred to as “an extension of Mill Pond Park,” would “be publicly accessible open space,” and “would not be mapped parkland.” *Id.* at 1-2, n.1.

9. In a response to a comment stating that “[t]he EIS does not list the need to alienate parkland, or the need for a 6(f) review due to the nature of the Land and Water Conservation Fund replacement,” the FGEIS explains, “[p]arkland alienation, or the need for a 6(f) review are not listed [as required land permits] . . . because Pier 5 was never mapped or otherwise dedicated as parkland.” Lower Concourse North FGEIS Chapter 24, attached as City Exhibit T, at 24-4.

10. In response to a series of comments expressing belief that Pier 5 is parkland, the FGEIS explains:

Comments Noted. Pier 5 is not parkland. . . . Although some may associate Pier 5 with two major development projects in the area, Yankee Stadium and Gateway Center project, it is not associated with either.

- With the Yankee Stadium Redevelopment Project, a total of 22.42 acres was alienated. Replacement parkland (a total of 24.56 acres) was acquired and developed, and includes a portion of the former Bronx Terminal Market parcel (5.11 acres consisting of Piers 2 and 3), south of the Major Deegan Exit 6 Ramp, which was mapped as parkland. Pier 5 is in no way included in this replacement parkland.
- Pier 4 (and not Pier 5) was developed as open space in connection with the redevelopment of the former Bronx Terminal Market as Gateway Center, located to the east of the Major Deegan Expressway.

While Pier 5 was in DPR jurisdiction for a period of time, unlike Piers 2 and 3, it was never mapped or otherwise dedicated as parkland.

¹ All exhibits referenced herein are attached to the Affirmation of Amy McCamphill, sworn to on April 27, 2018.

Id. at 24-8.

11. The discretionary land use actions were subject to review under the City's Uniform Land Use Review Procedure ("ULURP"). Accordingly, pursuant to the ULURP review procedures set forth in N.Y. City Charter § 197(c), the project was referred to Bronx Community Board 4, the Bronx Borough President, the City Planning Commission and the New York City Council.

12. Bronx Community Board 4 held a public hearing on the project on May 23, 2017, and recommended approval of the project with conditions by a vote of 19 in favor, seven opposed, and five abstentions. *See* Bronx Community Board 4 May 30, 2017 Resolution, attached to the August 23, 2017 City Planning Commission Report, attached as City Exhibit V.

13. Following a public hearing and comment period convened by the Bronx Borough President from June 1 through 20, 2017, the Bronx Borough President issued a recommendation approving the project with recommendations on June 29, 2017. *See* Bronx Borough President June 29, 2017 Recommendation, attached to the August 23, 2017 City Planning Commission Report, attached as City Exhibit V. The recommendations included that a minimum of three acres be dedicated for open space.

14. On June 21, 2017, the City Planning Commission held a public hearing on the land use applications for the project. *See* August 23, 2017 City Planning Commission Report, attached as City Exhibit V, at 12. Six speakers spoke in favor of the project, and three in opposition. The six speakers in favor were representatives from NYCEDC, the New York City Parks Department, Bronx Community Board 4, a local employment non-profit, a non-profit business, and a local development company. The speakers in opposition included two representatives of an environmental non-profit organization and one member of the community.

The representative from the Parks Department explained that the Pier 5 site was never mapped or otherwise dedicated as parkland. Statements in opposition included the contention that the project conflicted with plans and promises to make the parcel parkland.

15. The City Planning Commission approved the land use actions on August 23, 2017. *See* August 23, 2017 City Planning Commission Report, attached as City Exhibit V.²

16. The discretionary land use actions ultimately required the review by the New York City Council. The City Council's Subcommittee for Planning held a public hearing on the project on September 25, 2017, *see* September 25, 2017 Subcommittee on Planning Hearing Transcript, attached as City Exhibit W, and voted to approve the project on October 10, 2017. The Land Use Committee voted to approve the project on October 11, 2017. On October 17, 2017, the New York City Council approved the Bronx Point project, thus concluding the ULURP process. *See* October 17, 2017 minutes of the City Council, attached as City Exhibit X.

Bronx Point project's current status

17. The Bronx Point project is being developed through a joint venture between L+M Development Partners and Type A Projects, a woman-owned emerging development firm.

18. In addition to the open space resources discussed above, the project will also feature affordable housing. Phase I of the project will include 530,000 square feet of permanently affordable rental apartments, in 571 residential units, targeting households with incomes ranging from extremely low to moderate, in a new building with modern amenities. Phase II of the project will contain up to 474 additional residential units, in a mix of affordable and market-rate housing, and ground floor retail space.

² A separate City Planning Commission report documents its approval of each of the four discretionary land use actions. City Planning Commission Report C 170314 (disposition of property) is attached as City Exhibit V. The other reports are available on the Department of City Planning's website, at <http://a030-cpc.nyc.gov/html/cpc/index.aspx>.

19. Phase I of the project is anticipated to include a permanent home for the Universal Hip-Hop Museum, the world's first brick-and-mortar museum dedicated to the history of hip-hop. The museum will feature exhibition space as well as interactive programming. In addition, the project will include a 48,500 square foot state-of-the-art cinema, as well as retail space along Exterior Street and community facility space for educational and community-focused programming.

20. These Phase I project components, including the public open space components, are expected to be completed by 2022. The Bronx Point project is expected to create over 150 permanent jobs and approximately 1,200 direct construction jobs.

Petitioners' claims

21. I understand that Petitioners claim that the Bronx Point project is a "give away" to developers. Nothing could be further from the truth. As described above, most of the project site is being leased to the project developers, via a long-term lease. The waterfront public open space component of the project will not be included in the lease, but the developer will build the open space and fund its maintenance. Also as described above, the majority of the building space will be dedicated to permanently affordable housing, and other large portions of the building will be devoted to cultural and community facility uses.

22. I understand that Petitioners also complain that the Bronx Point project is receiving public subsidies and public financing. As explained above, the Bronx Point project has been developed by the City and NYCEDC to achieve multiple City policy goals, including capital investment to revitalize the Lower Concourse neighborhood. These goals were refined through multiple public engagement meetings and public review. This project includes hundreds of units of permanently affordable housing, developed in a new, modern building with full

amenities, along with community facility space and publicly accessible open space along the Harlem River waterfront. The fact that this project has received government support—indeed, that it has been spearheaded by the government—is consistent with the City’s efforts to improve an underserved neighborhood.

Conclusion

23. In conclusion, the Bronx Point project is expected to revitalize the local neighborhood, by providing affordable housing, world-class cultural and entertainment facilities, and publicly accessible open space along the Harlem River waterfront. The project has undergone extensive review under SEQRA/CEQR and ULURP, and has been duly approved by the City Planning Commission and the City Council. Petitioners’ challenge to the Bronx Point project should be rejected.


KATE VAN TASSEL

Sworn to before me this
27th day of April 2018



NOTARY PUBLIC

RICHARD TOM
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01T05008816
QUALIFIED IN KINGS COUNTY
COMMISSION EXPIRES 06/17/ 2019