

FROM: EAST HARLEM ALLIANCE OF RESPONSIBLE MERCHANTS "EHARM"
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For Immediate Release:

East Harlem Property Owners File Petition In Appellate Division to Stop Eminent Domain

Members of the East Harlem Alliance of Responsible Merchants "EHARM" have filed a Petition in the Appellate Division of the New York State Supreme Court seeking an order rejecting the Determination and Findings issued by the City's Department of Housing, Preservation, and Development (HPD) in conjunction with the City's Economic Development Corp (EDC), which purport to authorize the seizure of their private property and businesses by eminent domain.

"This case is about the misuse of municipal might to take private, productive commercial property and hand it to a secretly selected private development company beset by bankruptcy and incapable of bringing about any of the alleged public benefits used as a pretext to justify the taking," said the property owners' lead attorney, J. David MacCartney, Jr. of the law firm Feerick Lynch MacCartney. "The City intentionally manipulated and violated lawful procedure and has trampled on the constitutional rights of these private property owners in the process."

Among the several allegations in the Petition are the following:

(1) The taking is a pretext to benefit a politically connected developer who was chosen in secret but not announced until after the City Council approved the condemnation. The development company secretly selected by EDC has been connected to the Carey Group, LLC, led by Michael Carey, influential former president of the EDC and son of former Governor Hugh Carey.

(2) The taking was approved as a result of a sham process, without any financial or contractual assurances provided that (a) any specific development plan will be followed, (b) that the project can or will ever be built, or (c) that any of the benefits used to justify the taking will ever accrue. Indeed, the contrary is true, as one of the developer's primary partners (General Growth Properties) filed the largest real estate bankruptcy in U.S. history in April.

(3) The City, which owns 80% of the property in the project area, blighted its own property to justify the taking. The private parties are not blighted at all; they are well maintained, productive commercial properties.

"We are responsible business owners," said Damon Bae, one of the private property owners who filed the Petition and a spokesman for the group. "We maintained our properties and grew our businesses over the past decades, but we are being victimized by the City. The City neglects its own property, and then cries 'blight' so it can take our property and give it to some politically connected developer. This is just not right and we will fight this to the end."

(3) The proposed taking violates Article 18, Section 6 of the N.Y. State Constitution, as HPD itself claims this is a housing project. Since it will receive public loans or subsidies, the law requires it to be restricted to low income housing, which it is not. Of the portion of the project reserved for housing, only 30% is targeted at (not even required to be) for those with low incomes.

(4) These property owners have illegally been forced by the City to fight the same battle on not one, but two fronts. The City initially approved the use of eminent domain back in October, 2008, and in December, 2008, the property owners filed a lawsuit in Supreme Court New York County (still pending) challenging numerous illegalities in the approvals. The dual track condemnation process violates lawful procedure and the property owners' constitutional right to equal protection.

(5) The City failed to follow the NYS Environmental Conservation Law in numerous respects.

For more information, contact Michael Kramer: 917-622-5154.

A copy of the Petition is available at <http://www.eastharlempreservation.org/docs/E125Street.htm> .

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