

FROM: EAST HARLEM ALLIANCE OF RESPONSIBLE MERCHANTS “EHARM”

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For Immediate Release – “Slumlord of East Harlem” to use its powers of Eminent Domain to create blight; EHARM to fight NYC’s Determination and Findings’

(New York, NY – June 23, 2009) – *Today, the City of New York concluded (see attached) that HPD will use its powers of Eminent Domain against the alliance of responsible merchants of East Harlem (“EHARM”) to forcefully “take” their properties from East 125th to East 127th Streets from Second to Third Avenues that it determines to be blighted when it caused the blighting.*

- The City of New York has circumvented the will of the people and chosen an alternate route because it could not get approval from the elected officials of Harlem or Manhattan Community Board 11.
- The City of New York has no viable plan, having handpicked developers who are bankrupt or on the verge of bankruptcy.
- The City of New York is the single largest landowner from 125th to 127th Streets between 2nd and 3rd Avenues and yet the only investment they have been willing to make (since the 1970’s) in what they call a blighted neighborhood is take our properties for a song and hand them to developers.

EHARM will challenge these Determinations and Findings in Court, and will continue to use all legal means to fight against the illegal taking of private property.

“Willets Point United Against Eminent Domain Abuse stands united with **EHARM** in trying to strike down the practice of eminent domain for private gain. For too long the City and State of New York have abused their power of eminent domain. Forty-four states have passed laws limiting eminent domain since the infamous Kelo decision - why not New York? Mayor Bloomberg in his re-election ads says he is fighting to help small businesses stay in the City, so why is he stealing our land and putting us out of business? Developers and unions blackmail our elected officials with contributions and threats and this needs to stop now. They know what the right thing to do is. We ask all elected officials to take a stand and say enough is enough!” said *Jerry Antonacci*, President of **Willets Point United Against Eminent Domain Abuse**.

"If the City really wanted to do development in East Harlem, all they had to do was maintain the properties that they own here. Instead, they treated this place with neglect for the past forty years. Now they want to use their own neglect as a justification for deploying eminent domain against the business owners who've held the neighborhood together for decades? The hypocrisy of Mayor Bloomberg and the City is amazing," said *NYC Council Member Tony Avella* who has announced his candidacy to be the Democratic challenger for Mayor.

Ms. Carolee Fink, Senior Project Manager of the **NYC Economic Development Corporation**, was caught in a conflicted position as she presided at the Hearing, which was conducted on April 20th, 2009, as she was soon the only City official in the room, even though **HPD** was “technically” the Agency of Record in the proceedings. The first thing that the City did was submit a host of documents that have already been approved by the **City Planning Commission, the City Council and the Mayor’s office**, including the Amended Urban Renewal Plan, the Final Environmental Impact Statement and a 2008 Blight Study.

EHARM’s attorney, Brian Nugent, attended the meeting and correctly pointed out that the public hearing was a sham at which time the HPD officials departed. So why did the City through the efforts of *Ms. Fink* hold this hearing and make these Findings and Determinations? Not because they cared what the Public thought or because they wanted to review any public purpose or environmental impact. All that has already been signed, sealed and delivered by the City. The real reason for the hearing was to:

- (1) Give the City and *Ms. Fink* more time to acquire the private properties in the E125 Project Area. By having this duplicative and unnecessary hearing, the City gets to re-start the three-year clock to acquire the properties.

- (2) A second reason for the sham hearing was for the City to have an opportunity to try and correct, at least on paper, the deficiencies that **EHARM** identified in its legal papers when **EHARM** filed an Article 78 proceeding in December challenging the actions of New York City. Now, armed with **EHARM's** allegations, the City can try to dance around their problems by issuing the new determination and findings.

The City submitted a 2008 Blight Study to support the finding of blight in the Harlem-East Harlem Urban Renewal area, and specifically in the E125 Project site area. The Blight Study did not identify the property owners, but merely laid out each lot and the conditions observed on each. **EHARM's** Attorney Mr. Nugent reviewed each lot in the proposed E125 Project area and cross-referenced it with the property ownership records and he found that one property owner was responsible for the majority of the so-called "blight" in East Harlem. Essentially, he identified a "**Slum Lord of East Harlem.**"

This single property owner has been the owner of these properties for over 30 years and had over 24 critical conditions on its properties, including graffiti, litter, broken fences, broken sidewalks, deteriorating surface conditions. Mr. Nugent discovered that the "Slum Lord of East Harlem" is the City of New York.

What the City of New York has done in East Harlem is an absolute disgrace, as they have compounded this lack of respect for the quality of life of residents and property owners rights once again in both Atlantic Yards and Willets Point respectively. By their own admission via their Blight Study, the City has neglected its properties for decades, allowing unsightly litter, graffiti, broken fences, and broken sidewalks to fester on city-owned properties. Then, after neglecting their own property and neglecting the people and merchants of East Harlem, Atlantic Yards and Willets Point for decades, the City, through *Ms. Fink*, comes back and now tells the hard-working merchants and business owners who have maintained their private properties and stayed the course in East Harlem, Atlantic Yards and Willets Point that New York City needs to take those well-kept private properties.

Why does New York City need to take them? Because the City has done a Blight Study that shows that the City-owned properties around these viable businesses are covered with litter, graffiti and other unsightly conditions!

In other words, the City has manufactured and maintained blight in East Harlem over four decades, so that the City could come back in 2009 to forcibly take our property, our neighborhood, our businesses and a piece of our community and hand it over to a private developer so that everyone reaps the benefits from East Harlem, except of course, the very people that live here, work here and call Harlem their home.

CITY OF NEW YORK
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

DETERMINATION AND FINDINGS BY THE CITY OF NEW YORK PURSUANT
TO SECTION 204 OF THE EMINENT DOMAIN PROCEDURE LAW WITH
RESPECT TO CERTAIN PROPERTY TO BE ACQUIRED IN CONNECTION WITH
THE HARLEM-EAST HARLEM FIFTEENTH AMENDED URBAN RENEWAL
PLAN.

The City of New York ("City") and its Department of Housing Preservation and Development ("HPD") have considered the use of the Eminent Domain Procedure Law ("EDPL") for the acquisition of certain properties necessary for the Harlem-East Harlem Fifteenth Amended Urban Renewal Plan ("Plan").

Pursuant to EDPL §203, the City held a public hearing in relation to this proposed acquisition on April 20, 2009 in the Borough of Manhattan. At the public hearing, a representative of the City presented information concerning the public use, benefits, and purposes to be served by the proposed acquisition, the reasons for the acquisition, and the general effect of the proposed acquisition on the environment and residents of the locality. In addition, a detailed property map indicating the properties to be acquired was displayed at the hearing, with smaller scale copies of this map made available to the public to take away.

The record of the hearing was concluded on April 27, 2009. All testimony and written comments received at the April 20, 2009 hearing or by April 27, 2009, which was designated as the last day to receive comments, as well as all materials made available at the hearing have been reviewed, made a part of the record, and afforded full consideration.

Determination and Findings:

Pursuant to EDPL §204 and having given due consideration to the complete hearing record, which includes, among other things, all documents submitted and all public comments, the City makes the following determination and findings concerning the above-described acquisitions and the Plan:

- (1) The Public Use, Benefit and Purpose to be served by the Acquisition: The public use, benefit, and purpose of the Plan is to eliminate blight and redevelop the area in a comprehensive manner by maximizing appropriate land use; removing or rehabilitating substandard and unsanitary structures; removing impediments to land assemblage and orderly development; strengthening the tax base of the City by encouraging development and employment opportunities in the area; providing new housing of high quality and/or rehabilitated housing of upgraded quality; providing appropriate community facilities, parks and recreational uses, retail shopping, public parking and private parking; and, providing a stable environment within the area that will not be a blighting influence on surrounding neighborhoods. The proposed acquisition is a component of the Plan, a public planning effort to eliminate blight and create opportunities for stimulating economic development in East Harlem. It is part of the City's long-range strategy to create a vibrant, multi-use urban environment that serves the residents and businesses of East Harlem, which can only be attained by the elimination of blight.

(2) Location of Real Property and Reason for Selection of Location: The properties to be acquired are shown on the Tax Map of the City for the Borough of Manhattan and comprise the following properties: Block 1790, Lots 1, 5, 101, 8, 24, 46, 28, 44, 20, and Block 1791, Lot 34. These sites will be acquired for the purposes specified in the Plan due to their inclusion in the Harlem-East Harlem Fifteenth Amended Urban Renewal Area and the Plan.

(3) General Effect of Real Property Acquisitions on the Environment and the Residents of the Locality: The general effects of the property acquisitions described herein and the Plan as a whole upon the environment are beneficial in that they would result in development that will sustain and enhance the ongoing revitalization of 125th Street as a unique commercial corridor, promote local economic growth, encourage private investment and improve the quality of life for East Harlem residents.

The environmental impacts of the Plan were analyzed in exhaustive detail in the Final Environmental Impact Statement ("FEIS"), dated August 2008, which disclosed the probable impacts of the Plan and required mitigation measures. The decision-makers considered the relevant environmental impacts, facts and conclusions disclosed in the FEIS and weighed and balanced relevant environmental impacts with social, economic and other considerations. It was determined that (1) consistent with social, economic and other essential considerations, from among the reasonable alternatives available, the Plan will avoid or minimize adverse environmental impacts to the maximum extent practicable; and (2) adverse environmental impacts will be avoided or minimized

to the maximum extent practicable by incorporating the mitigation measures described in the FEIS.

- (4) Conclusion: Based upon due consideration of the record and the foregoing findings, it is determined that the City of New York should exercise its power of eminent domain to acquire the above described properties in order to promote and permit the purposes of the Plan to be achieved.

PLEASE TAKE NOTICE THAT:

Copies of this Determination and Findings by the City of New York are available and can be obtained without cost, upon written request addressed to:

New York City Department of Housing Preservation and Development
Division of Planning
100 Gold Street, Rm. 9E4
New York, New York 10038
Attn.: Charles Marcus

PLEASE TAKE FURTHER NOTICE THAT:

PURSUANT TO SECTION 207 OF THE EMINENT DOMAIN PROCEDURE LAW, ANY PERSON WHO WISHES TO SEEK JUDICIAL REVIEW OF THIS DETERMINATION AND FINDINGS, OR WHO CLAIMS TO BE AGGRIEVED BY SUCH DETERMINATION AND FINDINGS AND WISHES TO CHALLENGE SAME, MUST DO SO, IF AT ALL, BY DULY COMMENCING A LEGAL PROCEEDING IN THE APPELLATE DIVISION, FIRST DEPARTMENT, NO LATER THAN THIRTY (30) DAYS AFTER THE COMPLETION OF THE PUBLICATION OF THIS DETERMINATION AND FINDINGS. SINCE PUBLICATION WILL TAKE PLACE ON JUNE 18 AND 19,

2009, ANY SUCH PROCEEDING MUST BE COMMENCED ON OR BEFORE
JULY 17, 2009.

UNDER SECTIONS 207 AND 208 OF THE EMINENT DOMAIN
PROCEDURE LAW, THE EXCLUSIVE VENUE FOR ANY CHALLENGE TO
THIS DETERMINATION AND FINDINGS IS THE ABOVE-DESCRIBED
APPELLATE DIVISION.

ANYONE WISHING TO CHALLENGE THIS DETERMINATION
AND FINDINGS IS ADVISED TO CONSULT AN ATTORNEY PROMPTLY.