



REQUEST FOR JUDICIAL INTERVENTION

For Clerk Only

Supreme Court, Kings County Index No. 32741/09 Date Purchased 12/23/09

In the Matter of the Application of the New York State Urban Development Corporation d/b/a Empire State Development Corporation to acquire title in fee simple absolute to certain real property, required for the

ATLANTIC YARDS LAND USE IMPROVEMENT AND CIVIC PROJECT - PHASE 1

BLOCK 1118, LOTS 1, 5, 6, 21-25 and 27; BLOCK 1119, LOTS 1 and 64; BLOCK 1120, LOT 35; BLOCK 1121, LOTS 42 and 47; BLOCK 1127, LOTS 1, 10-13, 18-22, 27, 29, 30, 33, 35, 43, 45-48, 50, 51 and 54-56; BLOCK 1129, LOTS 1, 3-6, 13, 21, 25, 39, 43-46, 49, 50, 54, 62, 76 and 81; Pacific Street between Carlton and Vanderbilt Avenues; Pacific Street between Flatbush and Sixth Avenues; Fifth Avenue between Atlantic and Flatbush Avenues including traffic island at Fifth Avenue and Pacific Street (FEE),

as said property is shown on the current Tax Map of the Borough of Brooklyn, City and State of New York.

NO FEE
COUNTY CLERK, KINGS COUNTY
FEE EXEMPT PURSUANT TO CPLR 8017

RJI Date

2009 DEC 23 11:38 AM

Date issue joined:

Bill of particulars served: Yes No

NATURE OF JUDICIAL INTERVENTION (check ONE box only AND enter information)

- Request for preliminary conference
- Note of issue and/or certificate of readiness
- Notice of motion (return date) Relief sought
- Order to show cause (Clerk enter return date) Relief sought
- Other ex parte application (specify)

- Notice of petition (return date January 29, 2010) Relief sought condemnation vesting
- Notice of medical or dental malpractice action (specify)
- Statement of net worth
- Writ of habeas corpus
- Other (specify)

NATURE OF ACTION OR PROCEEDING (check ONE box only)

- Matrimonial**
- Contested -CM
 - Uncontested -UM
- Commercial**
- Contract -CONT
 - Corporate -CORP
 - Insurance (where insurer is a party, except arbitration) -INS
 - UCC (including sales, negotiable instruments) -UCC
 - *Other Commercial -OC
- Real Property**
- Tax Certiorari -TAX
 - Foreclosure -FOR
 - Condemnation -COND
 - Landlord/Tenant -LT
 - *Other Real Property -ORP
- Other Matters**
- * -OTH

- Torts**
- Malpractice**
- Medical/Podiatric -MM
 - Dental -DM
 - *Other Professional -OPM
- Motor Vehicle -MV
 - *Products Liability -PL
 - Environmental -EN
 - Asbestos -ASB
 - Breast Implant -BI
 - *Other Negligence -OTN
 - *Other Tort (including intentional) -OT

- Special Proceedings**
- Article 75 (Arbitration) -ART 75
 - Article 77 (Trusts) -ART 77
 - Article 78 -ART 78
 - Election Law -ELEC
 - Guardianship (MHL Art. 81) -GUARD 81
 - *Other Mental Hygiene -MHYG
 - *Other Special Proceeding -OSP

*If asterisk used, please specify further.

Check "YES" or "NO" for each of the following questions. Is this action/proceeding against a:

- YES NO Municipality: (specify YES NO Public Authority: (specify
)
 YES NO Does this action/proceeding seek equitable relief?
 YES NO Does this action/proceeding seek recovery for personal injury?
 YES NO Does this action/proceeding seek recovery for property damage?

Pre-Note Time Frames:

(This applies to all cases except contested matrimonials and tax certiorari cases)

Estimated time period for case to be ready for trial (from filing of RJI to filing of Note of Issue):

- Expedited: 0-8 months Standard: 9-12 months Complex: 13-15 months

Contested Matrimonial Cases Only: (Check and give date)

Has summons been served? No Yes, Date

Was a Notice of No Necessity filed? No Yes, Date

Attorney(s) for plaintiff(s):

<u>Self Rep.*</u>	<u>Name</u>	<u>Address</u>	<u>Phone No.</u>
<input type="checkbox"/>	Berger & Webb, LLP	1633 Broadway New York, NY 10019	212 319-1900
<input type="checkbox"/>			

Attorney(s) for defendant(s): see attached schedule

<u>Self Rep.*</u>	<u>Name</u>	<u>Address</u>	<u>Phone No.</u>
<input type="checkbox"/>			
<input type="checkbox"/>			

* Self Represented: parties representing themselves, without an attorney, should check the "Self Rep" box and enter their name, address and phone number in the space provided above for attorneys.

INSURANCE CARRIERS:


NONE

RELATED CASES: (if NONE, write "NONE" below)

<u>Title</u>	<u>Index #</u>	<u>Court</u>	<u>Nature of relationship</u>
None.			

I affirm under penalty of perjury that, to my knowledge, other than as noted above, there are and have been no related actions or proceedings, nor has a request for judicial intervention previously been filed in this action or proceeding.

Dated: December 16, 2009



 (Signature)
 Charles S. Webb III

 (Print or type name) ESDC

 (Attorney for)

Attach rider sheet if necessary to provide required information.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

In the Matter of the Application of the New York State Urban Development Corporation d/b/a Empire State Development Corporation to acquire title in fee simple absolute to certain real property, required for the

**ATLANTIC YARDS LAND USE
IMPROVEMENT AND CIVIC PROJECT –
PHASE 1**

**BLOCK 1118, LOTS 1, 5, 6, 21-25 and 27;
BLOCK 1119, LOTS 1 and 64; BLOCK 1120,
LOT 35; BLOCK 1121, LOTS 42 and 47; BLOCK
1127, LOTS 1, 10-13, 18-22, 27, 29, 30, 33, 35, 43,
45-48, 50, 51 and 54-56; BLOCK 1129, LOTS 1, 3-
6, 13, 21, 25, 39, 43-46, 49, 50, 54, 62, 76 and 81;
Pacific Street between Carlton and Vanderbilt
Avenues; Pacific Street between Flatbush and
Sixth Avenues; Fifth Avenue between Atlantic
and Flatbush Avenues including traffic island at
Fifth Avenue and Pacific Street (FEE),**

as said property is shown on the current Tax Map of
the Borough of Brooklyn, City and State of New
York.

NOTICE OF PETITION

Index No. 32741/09

IAS Part 74

PLEASE TAKE NOTICE, that upon the annexed Verified Petition (the “Petition”) of the New York State Urban Development Corporation, doing business as Empire State Development Corporation (“ESDC”), verified on December 15, 2009, and upon the exhibits annexed thereto, an application will be made by ESDC, through its attorneys Berger & Webb, LLP, to the Supreme Court of the State of New York, Kings County, at Individual Assignment Part 74, to be held in and for Kings County, at the County Courthouse, 320 Jay Street, in the Borough of Brooklyn, City of New York, on the 29th day of January, 2010, at 9:30 a.m., or as soon thereafter as counsel may be heard, for an Order:

- (1) granting the Petition in all respects;
- (2) authorizing ESDC to file acquisition maps in the office of the Clerk of Kings County or the Office of the City Register, Borough of Brooklyn;
- (3) directing that upon the filing of the Order and the acquisition maps with the said Clerk of the County of Brooklyn or the City Register, title to the property sought to be acquired pursuant to the Petition (the "Properties") shall vest in the ESDC, together with the legal right of possession;
- (4) providing that the compensation, which should be made to the respective owners of, or persons interested in, the Properties, sought to be acquired and described below, shall be ascertained and determined by this Court without a jury;
- (5) directing that within thirty (30) days after vesting title to the Properties, ESDC shall cause a copy of the Notice of Acquisition to be served upon each condemnee, or its attorney of record, pursuant to the Civil Practice Law and Rules;
- (6) directing that each condemnee shall have a period of one hundred twenty (120) days from the date of service of said notice to file a written claim for damages with the Clerk of this Court and to serve a copy upon Berger & Webb, LLP, 1633 Broadway, New York, New York 10019; and
- (7) granting ESDC such other and further relief as this Court deems just and proper.

The Properties which ESDC seeks to acquire title in fee pursuant to the Petition are more particularly described as follows:

<i>Block/Lot</i>	<i>Address</i>
1118/1	179-183 Flatbush Avenue
1118/5	177 Flatbush Avenue
1118/6	175 Flatbush Avenue
1118/21	608 Atlantic Avenue

1118/22	610 Atlantic Avenue
1118/23	612 Atlantic Avenue
1118/24	614 Atlantic Avenue
1118/25	616 Atlantic Avenue
1118/27	620 Atlantic Avenue
1119/1	622 Atlantic Avenue
1119/64	622 Atlantic Avenue
1120/35	730-740 Atlantic Avenue
1121/42	516 Vanderbilt Avenue
1121/47	524 Vanderbilt Avenue
1127/1	195 Flatbush Avenue
1127/10	193 Flatbush Avenue
1127/11	191 Flatbush Avenue
1127/12	189 Flatbush Avenue
1127/13	185 Flatbush Avenue
1127/18	618 Pacific Street
1127/19	620 Pacific Street
1127/20	622 Pacific Street
1127/21	624 Pacific Street
1127/22	626 Pacific Street
1127/former 27 (Condominium Lots 1101-1131)	636 Pacific Street
1127/29	640 Pacific Street
1127/30	642-646 Pacific Street
1127/33	648 Pacific Street
1127/former 35 (Condominium Lots 1001-1021)	24 Sixth Avenue
1127/43	483-485 Dean Street
1127/45	481 Dean Street
1127/46	479 Dean Street
1127/47	477 Dean Street
1127/48	475 Dean Street/34 Sixth Avenue
1127/50	473 Dean Street
1127/51	467 Dean Street
1127/54	465 Dean Street
1127/55	463 Dean Street
1127/56	461 Dean Street
1129/1	551 Carlton Avenue
1129/3	549 Carlton Avenue
1129/4	547 Carlton Avenue
1129/5	545 Carlton Avenue
1129/6	543 Carlton Avenue
1129/13	750 Pacific Street
1129/21	768-772 Pacific Street
1129/25	800 Pacific Street
1129/39	802 Pacific Street
1129/43	810 Pacific Street

1129/44	812 Pacific Street
1129/45	814 Pacific Street
1129/46	818 Pacific Street
1129/49	540 Vanderbilt Avenue
1129/50	542 Vanderbilt Avenue
1129/54	546 Vanderbilt Avenue
1129/62	645 Dean Street
1129/76	603 Dean Street
1129/81	585-601 Dean Street
	Pacific Street between Carlton and Vanderbilt Avenues
	Pacific Street between Flatbush and Sixth Avenues
	Fifth Avenue between Atlantic and Flatbush Avenues including the traffic island at Fifth Avenue and Pacific Street

as shown on the current Tax Map of the City of New York, for the Borough of Brooklyn, Kings County.

Each of these parcels is more particularly bounded and described on the acquisition maps, with metes and bounds descriptions, annexed to the Petition herein as Exhibit A.

The following interests are excluded from this acquisition:

a. All right, title and interest of the Metropolitan Transportation Authority, the New York City Transit Authority and the Long Island Rail Road Company (collectively, the "MTA Parties") and their subsidiaries and affiliates, in and to the property interests to be acquired herein, including, with respect to the New York City Transit Authority, all right, title and interest of the City of New York and the New York City Transit Authority in the Agreement of Lease ("Master Lease) from the City of New York to the New York City Transit Authority first dated June 1, 1953, as from time to time amended. The excluded interests of the MTA Parties, if and to the extent located within the properties being acquired herein, include, without limitation: (1) routes, tracks, tunnels, switches, sidings, extensions, connections, platforms, structures or terminals; (2) wires, conduits, pipes, ducts, telephone, signal and other

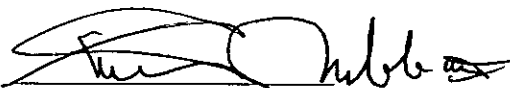
communication or service facilities; (3) columns, footings, bracings, foundations and other structural members; and (4) any other devices, equipment and facilities used in connection with the operation or maintenance of the MTA Parties' subway and commuter railroad facilities;

b. Public and governmental utility facilities having a physical manifestation within the area being acquired; all recorded easements, licenses, franchises and other agreements, if any, for such public and governmental utility facilities and reasonable rights of access to such public and governmental utility facilities necessary for the maintenance, operation, repair, replacement or use of the same whether or not embodied in recorded instruments; and

c. The covenants, restrictions and agreements in the Declaration of Restrictive Covenant, dated as of September 12, 2007, and recorded in the Office of the New York City Register, Kings County, on February 14, 2008 as CFRN 2008000063495 and on November 6, 2009 as CFRN 2009000364215.

Dated: New York, New York
December 15, 2009

BERGER & WEBB, LLP

By: 

Charles S. Webb, III
Kenneth J. Applebaum

*Attorneys for New York State Urban Development
Corporation d/b/a Empire State Development
Corporation
1633 Broadway
New York, New York 10019
(212) 319-1900*

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

In the Matter of the Application of the New York State Urban Development Corporation d/b/a Empire State Development Corporation to acquire title in fee simple absolute to certain real property and a temporary easement in certain real property, required for the

**ATLANTIC YARDS LAND USE
IMPROVEMENT AND CIVIC PROJECT –
PHASE 1**

**BLOCK 1118, LOTS 1, 5, 6, 21-25 and 27;
BLOCK 1119, LOTS 1 and 64; BLOCK 1120,
LOT 35; BLOCK 1121, LOTS 42 and 47;
BLOCK 1127, LOTS 1, 10-13, 18-22, 27, 29, 30,
33, 35, 43, 45-48, 50, 51 and 54-56; BLOCK 1129,
LOTS 1, 3-6, 13, 21, 25, 39, 43-46, 49, 50, 54, 62,
76 and 81; Pacific Street between Carlton and
Vanderbilt Avenues; Pacific Street between
Flatbush and Sixth Avenues; Fifth Avenue
between Atlantic and Flatbush Avenues
including traffic island at Fifth Avenue and
Pacific Street (FEE),**

as said property is shown on the current Tax Map of the Borough of Brooklyn, City and State of New York.

VERIFIED PETITION

Index No.

TO THE SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS:

Petitioner, New York State Urban Development Corporation, doing business as Empire State Development Corporation (“ESDC”), respectfully represents:

1. ESDC is a corporate governmental agency of the State of New York, constituting a political subdivision and public benefit corporation duly organized and existing under

the New York State Urban Development Corporation Act of 1968 (Chapter 24 of the Unconsolidated Laws of the State of New York (the “UDC Act”)).

2. Pursuant to § 5(7) of the UDC Act, ESDC is empowered to acquire or contract to acquire from any person, firm, corporation, municipality, federal or state agency, by grant, purchase, condemnation or otherwise, leaseholds, real, personal or mixed property, or any interest therein in order to achieve its corporate objectives.

3. Pursuant to § 13 of the UDC Act, ESDC is empowered, in accordance with the provisions of the New York State Eminent Domain Procedure Law (“EDPL”), to acquire by condemnation real property or any interest therein deemed necessary or convenient for its immediate or future use.

4. ESDC requires the real property interests to be acquired herein for purposes related to the construction of ESDC’s Atlantic Yards Land Use Improvement and Civic Project (the “Project”), which involves the renewal and redevelopment of a blighted area in the Atlantic Terminal section of Brooklyn through the clearance, replanning and reconstruction of the area and the construction thereon of a major mixed-use development.

5. Pursuant to ESDC’s Modified General Project Plan, the Project calls for the development of a new arena for the New Jersey Nets National Basketball Association Team, sixteen mixed-use buildings and a newly reconfigured Long Island Rail Road train yard to be developed in two or more phases. The properties that ESDC presently seeks to acquire pursuant to the Petition are necessary for the first phase of the Project, which involves construction of the arena and buildings surrounding the arena as well as construction, development and operation of the upgraded LIRR yard.

6. The properties as to which ESDC seeks to acquire fee title pursuant to the Petition are more particularly described as follows:

- Block 1118, Lot 1 (a/k/a 179-183 Flatbush Avenue);
- Block 1118, Lot 5 (a/k/a 177 Flatbush Avenue);
- Block 1118, Lot 6 (a/k/a 175 Flatbush Avenue);
- Block 1118, Lot 21 (a/k/a 608 Atlantic Avenue);
- Block 1118, Lot 22 (a/k/a 610 Atlantic Avenue);
- Block 1118, Lot 23 (a/k/a 612 Atlantic Avenue);
- Block 1118, Lot 24 (a/k/a 614 Atlantic Avenue);
- Block 1118, Lot 25 (a/k/a 616 Atlantic Avenue);
- Block 1118, Lot 27 (a/k/a 620 Atlantic Avenue);
- Block 1119, Lot 1 (a/k/a 622 Atlantic Avenue);
- Block 1119, Lot 64 (a/k/a 622 Atlantic Avenue);
- Block 1120, Lot 35 (a/ka/ 730-740 Atlantic Avenue);
- Block 1121, Lot 42 (a/k/a 516 Vanderbilt Avenue);
- Block 1121, Lot 47 (a/k/a 524 Vanderbilt Avenue);
- Block 1127, Lot 1 (a/k/a 195 Flatbush Avenue);
- Block 1127, Lot 10 (a/k/a 193 Flatbush Avenue);
- Block 1127, Lot 11 (a/k/a 191 Flatbush Avenue);
- Block 1127, Lot 12 (a/k/a 189 Flatbush Avenue);
- Block 1127, Lot 13 (a/k/a 185 Flatbush Avenue);
- Block 1127, Lot 18 (a/k/a 618 Pacific Street);

- Block 1127, Lot 19 (a/k/a 620 Pacific Street);
- Block 1127, Lot 20 (a/k/a 622 Pacific Street);
- Block 1127, Lot 21 (a/k/a 624 Pacific Street);
- Block 1127, Lot 22 (a/k/a 626 Pacific Street);
- Block 1127, Former Lot 27 (Condominium Lots 1101-1131) (a/k/a 636 Pacific Street);
- Block 1127, Lot 29 (a/k/a 640 Pacific Street);
- Block 1127, Lot 30 (a/k/a 642-646 Pacific Street);
- Block 1127, Lot 33 (a/k/a 648 Pacific Street);
- Block 1127, Former Lot 35 (Condominium Lots 1001-1021) (a/k/a 24 Sixth Avenue);
- Block 1127, Lot 43 (a/k/a 483-485 Dean Street);
- Block 1127, Lot 45 (a/k/a 481 Dean Street);
- Block 1127, Lot 46 (a/k/a 479 Dean Street);
- Block 1127, Lot 47 (a/k/a 477 Dean Street);
- Block 1127, Lot 48 (a/k/a 475 Dean Street/34 Sixth Avenue);
- Block 1127, Lot 50 (a/k/a 473 Dean Street);
- Block 1127, Lot 51 (a/k/a 467 Dean Street);
- Block 1127, Lot 54 (a/k/a 465 Dean Street);
- Block 1127, Lot 55 (a/k/a 463 Dean Street);
- Block 1127, Lot 56 (a/k/a 461 Dean Street);
- Block 1129, Lot 1 (a/k/a 551 Carlton Avenue);

- Block 1129, Lot 3 (a/k/a 549 Carlton Avenue);
- Block 1129, Lot 4 (a/k/a 547 Carlton Avenue);
- Block 1129, Lot 5 (a/k/a 545 Carlton Avenue);
- Block 1129, Lot 6 (a/k/a 543 Carlton Avenue);
- Block 1129, Lot 13 (a/k/a 750 Pacific Street);
- Block 1129, Lot 21 (a/k/a 768-772 Pacific Street);
- Block 1129, Lot 25 (a/k/a 800 Pacific Street);
- Block 1129, Lot 39 (a/k/a 802 Pacific Street);
- Block 1129, Lot 43 (a/k/a 810 Pacific Street);
- Block 1129, Lot 44 (a/k/a 812 Pacific Street);
- Block 1129, Lot 45 (a/k/a 814 Pacific Street);
- Block 1129, Lot 46 (a/k/a 818 Pacific Street);
- Block 1129, Lot 49 (a/k/a 540 Vanderbilt Avenue);
- Block 1129, Lot 50 (a/k/a 542 Vanderbilt Avenue);
- Block 1129, Lot 54 (a/k/a 546 Vanderbilt Avenue);
- Block 1129, Lot 62 (a/k/a 645 Dean Street);
- Block 1129, Lot 76 (a/k/a 603 Dean Street);
- Block 1129, Lot 81 (a/k/a 585-601 Dean Street);
- Pacific Street between Carlton and Vanderbilt Avenues;
- Pacific Street between Flatbush and Sixth Avenues; and
- Fifth Avenue between Atlantic and Flatbush Avenues including the traffic

island at Fifth Avenue and Pacific Street;

all as shown on the current Tax Map of the Borough of Brooklyn, City and State of New York.

7. Each of these parcels is more particularly bounded and described on the acquisition maps, with metes and bounds descriptions, annexed hereto as Exhibit A.

8. The names and places of residence of the condemnees of the property interests to be acquired herein are set forth in the schedule annexed hereto as Exhibit B. If there are other persons or entities who hold an interest in the property interests to be acquired, either as owners or otherwise, their names are unknown to ESDC.

9. On August 23, 2006, pursuant to Article 2 of the EDPL, ESDC, upon public notice duly given, held a public hearing concerning the Project and the proposed acquisition by eminent domain of certain property located within the Project site in furtherance of the Project. The hearing was held open for the receipt of comments until the close of business on September 29, 2006. On September 12, 2006 and September 18, 2006, ESDC held community forums (at the same location as the public hearing) at which additional testimony and written comments were received.

10. On December 8, 2006, in accordance with EDPL § 204, ESDC, through its duly assembled Board, issued Determination & Findings, approving the exercise of eminent domain to implement the Project and to acquire the properties necessary for the Project. A copy of the Determination and Findings is annexed hereto as Exhibit C. In accordance with EDPL § 204, ESDC caused the Determination & Findings to be published on December 11 and 12, 2006.

11. Challenges to the Determination and Findings asserting claims under EDPL § 207 were brought in federal and state court, all of which were dismissed. Dismissal of the last

such challenge was upheld by the Court of Appeals in a November 24, 2009 decision. *See Goldstein v. New York State Urban Dev. Corp.*, 2009 WL 4030939 (Nov. 24, 2009).

12. Prior to the return date hereof, ESDC will file in the office of the Clerk of Kings County a Notice of Pendency of this proceeding, a copy of which is attached hereto as Exhibit D.

13. The following interests are excluded from this acquisition:

a. All right, title and interest of the Metropolitan Transportation Authority, the New York City Transit Authority and the Long Island Rail Road Company (collectively, the "MTA Parties") and their subsidiaries and affiliates, in and to the property interests to be acquired herein, including, with respect to the New York City Transit Authority, all right, title and interest of the City of New York and the New York City Transit Authority in the Agreement of Lease ("Master Lease) from the City of New York to the New York City Transit Authority first dated June 1, 1953, as from time to time amended. The excluded interests of the MTA Parties, if and to the extent located within the properties being acquired herein, include, without limitation: (1) routes, tracks, tunnels, switches, sidings, extensions, connections, platforms, structures or terminals; (2) wires, conduits, pipes, ducts, telephone, signal and other communication or service facilities; (3) columns, footings, bracings, foundations and other structural members; and (4) any other devices, equipment and facilities used in connection with the operation or maintenance of the MTA Parties' subway and commuter railroad facilities;

b. Public and governmental utility facilities having a physical manifestation within the area being acquired; all recorded easements, licenses, franchises and other agreements, if any, for such public and governmental utility facilities and reasonable rights of access to such public and governmental utility facilities necessary for the maintenance,

operation, repair, replacement or use of the same whether or not embodied in recorded instruments; and

c. The covenants, restrictions and agreements in the Declaration of Restrictive Covenant, dated as of September 12, 2007, and recorded in the Office of the New York City Register, Kings County, on February 14, 2008 as CFRN 2008000063495 and on November 6, 2009 as CFRN 2009000364215.

WHEREFORE, ESDC respectfully requests that this Court enter an Order:


- a) granting the Petition in all respects;
- b) authorizing ESDC to file the acquisition maps in the office of the Clerk or Register of Kings County;
- c) directing that upon filing with said Clerk or Register of Kings County the acquisition maps, together with the order granting the petition to condemn, title to the property interests to be acquired, as described herein, shall vest in ESDC;
- d) providing that the compensation which should be made to the condemnees of the interests to be acquired herein be ascertained and determined by this Court without a jury;
- e) directing that within thirty (30) days after vesting title to the interests acquired herein, ESDC shall cause a copy of the Notice of Acquisition to be served upon each condemnee, or each condemnee's attorney of record, pursuant to the Civil Practice Law and Rules;
- f) directing that each condemnee shall have a period of ninety (90) days from the date of service of said notice to file a written claim for damages with the Clerk of this Court

and to serve a copy of the same upon Berger & Webb, LLP, 1633 Broadway, New York, New York 10019, counsel for ESDC; and

g) granting ESDC such other and further relief as this Court deems just and proper.

Dated: New York, New York
December 15, 2009

BERGER & WEBB, LLP

By: 
Charles S. Webb, III
Kenneth J. Applebaum

*Attorneys for New York State Urban Development
Corporation d/b/a Empire State Development
Corporation
1633 Broadway
New York, New York 10019
(212) 319-1900*

VERIFICATION

ANITA W. LAREMONT, being duly sworn, deposes and says pursuant to CPLR 3020(d)(2):

I am the Senior Vice President–Legal and General Counsel of the New York State Urban Development Corporation, doing business as Empire State Development Corporation (“ESDC”), the petitioner herein. I have read the foregoing petition and know the contents thereof; and the same are true to my own knowledge except as to the matters therein stated upon information and belief, and, as to those matters, I believe them to be true.

The grounds for my belief as to all matters not stated upon my own knowledge are as follows:

Examination of books and records of ESDC; and

Conversations with other officers and employees of ESDC.



ANITA W. LAREMONT

Sworn to before me this
15th day of December, 2009



NOTARY PUBLIC

SUZANNA BLASKOVIC
NOTARY PUBLIC, State of New York
No. 01BL5G79348
Qualified in Queens County
Commission Expires June 2, 2011