

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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PEOPLE FOR GREEN SPACE FOUNDATION, INC.,
LORI SCHOMP and JOSEPH MERZ

Petitioners,

**STIPULATION
AND ORDER OF
SETTLEMENT**

For a Judgment under Article 78 of the
Civil Practice Law and Rules,

Index No. 10480/14
(Justice Knipel)

-against-

NEW YORK STATE URBAN DEVELOPMENT
CORPORATION d/b/a EMPIRE STATE
DEVELOPMENT, BROOKLYN BRIDGE PARK
DEVELOPMENT CORPORATION and BROOKLYN
BRIDGE PARK CORPORATION,

Respondents.

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WHEREAS, Petitioners brought this action by order to show cause on July 18, 2014 seeking a) a judgment directing and compelling Respondents to prepare or cause to be prepared a Supplemental Environmental Impact Statement (“Supplemental EIS”) concerning residential development on the upland of Pier 6 in Brooklyn Bridge Park (the “Park”) due to various changed circumstances which had occurred since the 2005 Final Environmental Impact Statement was released, b) to annul the determination by Respondents to release a certain Request for Proposal dated May 13, 2104 (“RFP”) for the Pier 6 residential development on the grounds that the RFP failed to conform with the General Project Plan (“GPP”) for the Brooklyn Bridge Park Civic and Land Use Improvement Project (“Park Project”), and c) to enjoin Respondents from accepting or approving any proposals or bids to the RFP until such time as a Supplemental EIS was prepared and the GPP is modified; and

WHEREAS, Petitioners allege violations of the State Environmental Quality Review Act (“SEQRA”), the New York State Environmental Conservation Law (“ECL”), § 8-0101 *et seq.* and the State Urban Development Corporation Act (“UDCA”), Unconsolidated Laws § 6266; and

WHEREAS, Respondents deny petitioners’ allegations; and

WHEREAS, after hearing oral argument from the parties, the Court issued a temporary restraining order (“TRO”) enjoining Respondent Brooklyn Bridge Park Corporation (“BBP”) from approving by final action proposals submitted in response to the RFP pending a preliminary injunction hearing; and

WHEREAS, Petitioners served and filed a First Amended Verified Petition (“Amended Petition”) dated August 7, 2014 for the purposes of amending the caption on consent of the Respondents; and

WHEREAS, Respondent New York State Urban Development Corporation d/b/a Empire State Development (“ESD”), as lead agency under SEQRA and at the request of Respondent BBP, issued and provided to Petitioners, on or about November 21, 2014, a Technical Memorandum pursuant to SEQRA which Respondents assert analyzed whether the proposed project would have the potential for any significant adverse environmental impacts not previously identified in the Final Environmental Impact Statement for the Brooklyn Bridge Park Project; and

WHEREAS, Respondents served a Notice of Cross-Motion to Dismiss the First Amended Verified Petition, Joint Answer, affidavits, affirmations and exhibits on January 16, 2015 asserting that Respondents’ claims were not ripe and lacked merit; and

WHEREAS, Petitioners provided Respondents with a draft of their opposition to Respondents' Cross-Motion to Dismiss at the request of Respondents for purposes of good faith settlement discussions; and

WHEREAS, on February 13, 2015, Petitioners filed a motion seeking an order granting leave to obtain discovery, which Petitioners withdrew on February 19, 2015; and

WHEREAS, Respondents have advised Petitioners that Respondent BBP planned to request a modification of the existing GPP relating to certain aspects of the Pier 6 development that is the subject of the RFP. Respondents ESD and Brooklyn Bridge Park Development Corporation ("BBPDC") have advised BBP that they will consider a request from BBP for modification of the GPP; and

WHEREAS, ESD and BBPDC have a public process that provides for the public's written and verbal comments when considering proposed modifications to a General Project Plan; and

WHEREAS, the parties now desire to resolve the litigation as set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the undersigned counsel for Petitioners and Respondents in the above-referenced action, as follows:

1. This Stipulation shall not be construed as an admission or evidence of any wrongdoing, misconduct, or liability on the part of either Petitioners or Respondents.
2. Respondent BBP will request Respondents ESD and BBPDC to consider, in accordance with the UDCA, modifications to the GPP that will: (1) allow the BBP Board of Directors to determine a) the number and affordability of residential units in each of the Pier 6 upland buildings, subject to the existing aggregate limit of 430 units and b) the other characteristics

of the buildings, including the types and locations of any community facility or retail uses; (2) require that maximum height limits of 155 feet and 315 feet be inclusive of mechanicals and other permanent structures and be measured from the flood resistant construction elevation, in accordance with the New York City Zoning Resolution; and (3) allow for the closure of the Loop Road “elbow,” a portion of the Park road that lies between Parcel A and open space uses to the south and west. The parties acknowledge that any requested modifications to the GPP will be subject to the discretion of Respondents BBPDC and ESD pursuant to the UDCA.

3. Respondent BBP will provide at least 14 days public notice, by posting on its web site, of any meeting of the BBP Board of Directors at which the Directors will be asked to approve by final action a project submitted in response to the RFP;

4. This proceeding is hereby discontinued with prejudice and without costs, expenses, or fees by or to any party.

5. A facsimile or copy of a signature hereto shall have the same force and effect as an original.

6. This Stipulation shall be filed by Respondents with the County Clerk pursuant to CPLR 2104 and CPLR 3127 no later than ten (10) days after it is so ordered by the Court, and Respondents shall provide Petitioners with proof of the filing no later than five (5) days after it is filed.

Dated: New York, New York
May 27 2015

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SO ORDERED:

J.S.C.