

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

<hr/>		x
In the Matter of	:	Index No. 104597/07
	:	IAS Part 11
	:	Justice Madden
DEVELOP DON'T DESTROY (BROOKLYN), INC., et al.,	:	
	:	
Petitioners-Plaintiffs,	:	VERIFIED ANSWER
	:	OF RESPONDENT-DEFENDANT
For a Judgment Pursuant to Article 78 of the CPLR and Declaratory Judgment	:	NEW YORK STATE
	:	URBAN DEVELOPMENT
	:	CORPORATION d/b/a
- against -	:	EMPIRE STATE DEVELOPMENT
	:	CORPORATION
URBAN DEVELOPMENT CORPORATION d/b/a EMPIRE STATE DEVELOPMENT CORPORATION, et al.,	:	
	:	
Respondents-Defendants.	:	
	:	
<hr/>		x

Respondent-Defendant New York State Urban Development Corporation d/b/a
 Empire State Development Corporation (“ESDC”), by its undersigned attorneys, in answer to the
 Verified Petition and Complaint (“Petition”), sets forth its Affirmative Statement of Facts
 pursuant to CPLR § 7804(d) and, thereafter, its Answer to the Petition as follows:

AFFIRMATIVE STATEMENT OF FACTS

1. ESDC is the state’s economic development agency.
2. ESDC is charged with furthering, among other things, the State’s policy:

to promote a vigorous and growing economy, to prevent economic stagnation and to encourage the creation of new job opportunities in order to protect against the hazards of unemployment, ... [to] increase revenues to the state and to its municipalities[,] ... to achieve stable and diversified local economies[,] to promote the sound growth and development of our municipalities through the correction of such substandard, insanitary, blighted, deteriorated or deteriorating conditions, factors and characteristics

by the clearance, replanning, reconstruction, redevelopment, rehabilitation, restoration or conservation of such areas, and of areas reasonably accessible thereto[,] ... [to provide] educational, recreational and cultural facilities, and ... [to] encourage[] ... participation in these programs by private enterprise.

Urban Development Corporation Act (“UDC Act”) § 2, codified at McKinney’s Unconsolidated Laws of New York (“Unconsol. L.”) § 6252.

3. ESDC has authority under the UDC Act to adopt and approve various types of projects, including a “land use improvement project” and a “civic project.” UDC Act § 10(c) and (d), Unconsol. L. § 6260(c)–(d).

4. ESDC is directed to pursue its statutory mission by “encouraging maximum participation by the private sector of the economy, including the sale or lease of ... [ESDC’s] interest in projects at the earliest time deemed feasible.” UDC Act § 2, Unconsol. L. § 6252.

5. ESDC has been involved in the development of numerous successful land use improvement projects. Recent ESDC projects in New York City include: the 42nd Street Development Land Use Improvement Project, involving the construction of more than 8 million square feet of office, retail, hotel and entertainment space in the Times Square neighborhood of Manhattan, and the Hunters Point (Queens West) Waterfront Development Land Use Improvement Project, involving the construction of a 9 million-square-foot development along the East River in Queens.

6. ESDC has also been involved in the development or improvement of numerous sports facilities statewide, including the new Yankees and Mets stadiums currently under construction, the Ralph Wilson Stadium (home of the Buffalo Bills), and an arena for the Buffalo Sabres of the National Hockey League. Each of these sports facility projects was adopted and approved by ESDC as a civic project under the UDC Act.

7. The project at issue in this proceeding is the Atlantic Yards Land Use Improvement and Civic Project, which is also referred to as the Atlantic Yards Arena and Redevelopment Project (hereinafter, the “Project” or “Atlantic Yards Project”).

8. On December 8, 2006, ESDC adopted and approved the Project as both a land use improvement project and a civic project under the UDC Act. Administrative Record (“AR”) at 19929–31.

Initiation of Preliminary Planning

9. When a development project in New York City or New York State is proposed as a public-private undertaking, it becomes subject to scrutiny by the City and State. For the Atlantic Yards Project to go forward, numerous government actions would be required, including funding from the City of New York (the “City”) and State, adoption of a General Project Plan (“GPP”) pursuant to the UDC Act by ESDC, condemnation by ESDC of certain properties at the proposed project site, and disposition by the Metropolitan Transportation Authority (“MTA”) of certain property interests at the proposed project site. The Project would therefore be subject to three separate governmental reviews: (a) the process for adopting a GPP under the UDC Act, (b) the condemnation process under the Eminent Domain Procedure Law (“EDPL”) and (c) the environmental review process under the State Environmental Quality Review Act (“SEQRA”), which is codified at Article 8 of the Environmental Conservation Law (“ECL”).

10. Each of these review processes provides for significant public participation. Before it is feasible to proceed with the review processes, however, projects of the magnitude of the Atlantic Yards Project require extensive preliminary planning and discussions