

Comptroller Thomas P. DiNapoli
Office of the State Comptroller
110 State Street
Albany, NY 12236

Comptroller William C Thompson, Jr.
Office of the Comptroller of New York City
1 Centre Street
New York, NY 10007

March 31, 2009

Dear Comptrollers DiNapoli and Thompson:

New York City and State are refusing to release the construction costs of developer Forest City Ratner's proposed Barclays Center—the arena portion of the Atlantic Yards development proposal in Brooklyn—and the cost of the rest of the project. **In a denial of a Freedom of Information request for this information the NYC Economic Development Corporation has claimed that these costs of the publicly financed project are “trade secrets,” and the Empire State Development Corporation has stonewalled.**

This lack of disclosure defies logic and good government principles.

Developer Forest City Ratner Companies' (FCRC) proposed Atlantic Yards project had a \$4 billion price tag when announced in December 2003, with the arena portion estimated at \$435 million. When approved in December 2006 the arena cost had shot up to \$637 million. Last March the *New York Times* reported that the arena cost had increased to \$950 million. Recently it has been reported that the developer is looking to reduce the cost of the arena. But the cost is unknown.

These substantial changes in the arena price tag (with no mention of the attendant project cost increases) have left the public and elected officials in the dark about basic information.

Atlantic Yards Report journalist Norman Oder made FOIA requests for the most recent arena and project price tag and so far his requests to the ESDC and NYC EDC have been denied. (See: **Will we ever find out how much AY and arena now cost? More FOIL responses from NYC EDC and ESDC.** <http://tinyurl.com/projectcost>)

In response to the FOIA request, NYCEDC has claimed that the current cost of the Atlantic Yards project is exempt from disclosure because it is either a trade secret or its disclosure "*would cause substantial injury to the competitive position of the subject enterprise.*" The financial materials, NYCEDC said in a letter, "*contain proprietary assumptions, analyses and projections regarding the feasibility and performance of the Project and provide insight into FCRC's proprietary financial models and other business practices, which would be detrimental to FCRC's competitive position if disclosed.*" And disclosure would frustrate ongoing negotiations "*relating to all aspects of the Project.*"

The ESDC told Mr. Oder that the agency would grant access to documents "*not privileged or exempt from disclosure*" only after FCRC gets the opportunity to argue for an exemption. That's not particular reason for optimism about disclosure.

If there is truly proprietary information, those sections could be redacted. But the arena and project costs are not proprietary information—especially for a project subsidized by taxpayers.

When the project was being promoted, prior to approval, the developer issued arena cost projections frequently, and at approval the costs were not top-secret information. As recently as a year ago FCRC was willing to divulge the \$950 million figure to the press.

Now, more than two years after the project’s approval, the arena and project cost are suddenly carefully guarded “trade secrets” whose disclosure would jeopardize the developer’s competitive edge or negotiations? Furthermore, why are there even negotiations going on at this point, over two years after the project was approved? What, in general, is being negotiated and with whom?

We write to urge you to make every effort to procure these costs—the arena cost and the project cost—and release them to the public. These figures are the very least the taxpaying public deserves to know, and must know, about the project.

Sincerely,



Candace Carponter
Legal Director
Develop Don’t Destroy Brooklyn

Cc: Mayor Michael Bloomberg, Governor David Paterson, ESDC Chair Marisa Lago, NYC EDC President Seth Pinsky

Candidates for City Comptroller: David Yassky, David Weprin, Melinda Katz, John Liu

Assembly Members Jim Brennan, Hakeem Jeffries and Richard Brodsky.
Senators Bill Perkins, Velmanette Montgomery, Eric Adams and Daniel Squadron.

NY City Council Economic Development Committee Chair and Members:
Thomas White, Alan Gerson, Letitia James, Annabel Palma, Diana Reyna, Albert Vann, David Weprin, David Yassky

NY City Council Finance Committee Chair and Members:
David Weprin, Maria Baez, Gale Brewer, Leroy Comrie, Jr., Bill de Blasio, Lewis Fidler, Dennis Gallagher, James Gennaro, Vincent Gentile, Alan Gerson, Eric Gioia, Vincent Ignizio., Robert Jackson, Oliver Koppell, James Oddo Diana Reyna, Joel Rivera, Helen Sears, Peter Vallone, Jr., Albert Vann, David Yassky