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FROM: DAVID PAGET, ESQ.

DATE: December 29, 2005

PLEASE DELIVER THE FOLLOWING TO:

Name: **Jeffrey S. Baker, Esq.**
Young, Sommer, Ward, Ritzenberg, Baker & Moore LLC

Fax No.: **(518) 438-9914**

MESSAGE:

Client No.: 6209800111570

No. of Pages (including this page): - 4 -

Please call **JOANN HOOKER** at (212) 421-2150 if you did not receive all of the pages indicated.

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VIA FACSIMILE AND REGULAR MAIL

Jeffrey S. Baker, Esq.
 Young, Sonnet, Ward, Ritzenberg, Baker & Moore LLC
 Executive Woods
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Re: Declaration of Emergency for Proposed Atlantic Yards
 Arena and Redevelopment Project

Dear Jeff:

As requested, annexed please find a copy of ESDC's Declaration of Emergency, dated December 15, 2005, for the referenced matter.

This will also formally confirm my prior advice that 465 Dean Street is not slated for demolition. Please note that it does not appear in the Emergency Declaration. Further, there is no current Emergency Declaration in respect of 622 Pacific Street. However, as discussed we have been advised by the project applicant that an engineer's report will be submitted in support of its demolition.

Sincerely,



David Paget

Enclosure
 cc: Rachel Shatt



MEMORANDUM

TO: Atlantic Yards Arena and Redevelopment Project File
FROM: Rachel Shatz
DATE: December 15, 2005
RE: Declaration of Emergency Pursuant to SEORA

I. Background

The Empire State Development Corporation ("ESDC") is acting as lead agency for the Atlantic Yards Arena and Redevelopment Project ("Project"). The Project would occupy an approximately 22-acre area in Brooklyn that is roughly bounded by Flatbush and Fourth Avenues to the west, Vanderbilt Avenue to the east, Atlantic Avenue to the north, and Dean Street to the south. The affected parcels include: Block 927: Lots 1, 16; Block 1118: Lots 1, 5, 6, 21-25, 27; Block 1119: Lots 1, 7, 64; Block 1120: Lots 1, 15, 28, 35; Block 1121: Lots 1, 42, 47; Block 1127: Lots 1, 10-13, 18-22, 27, 29, 30, 33, 35, 43, 45-48, 50, 51, 54-56, 10001-1021, 1101-1131; Block 1128: Lots 1, 2, 4, 85-89; and Block 1129: Lots 1, 3-6, 13, 21, 25, 39, 43-46, 49, 50, 54, 62, 76, 81.

The Project is subject to environmental review under the State Environmental Quality Review ("SEQR") and City Environmental Quality Review ("CEQR") regulations and guidelines. While ESDC is acting as SEQR lead agency, the Metropolitan Transportation Authority and the City of New York are involved agencies.

The Project sponsor, Forest City Ratner Companies ("FCRC"), has provided ESDC with a copy of a November 7, 2005 report prepared by FCRC's consultant, LZA Technology, entitled "Summary Report of the Existing Structural Condition Surveys" (the "LZA Report"). A copy of the LZA Report is being maintained in ESDC's Project file, together with this Memorandum.

The LZA Report documents the existing conditions at certain structures on the Project site and recommends demolition of the following structures, each of which is owned by FCRC, because such structures "pose an immediate threat to the preservation of life, health and property:"

- 608-620 Atlantic Avenue;
- 461 Dean Street;

463 Dean Street (both the four-story and three-story structures);
585-601 Dean Street; and
620 Pacific Street (collectively, the "Unsafe Structures").

The LZA Report's recommendation for the immediate demolition of the Unsafe Structures is based upon multiple field inspections demonstrating that the Unsafe Structures have, among other indicia of severe structural failure, deteriorated and/or collapsing floors, collapsing or collapsed roofs, failing walls, failing timber shoring, and/or severe water infiltration. According to the LZA Report, each of the Unsafe Structures have failing structural support systems and are at risk of collapse, and pose a threat both to people (including firefighters) who may enter the structures, and to pedestrians and adjacent properties in the event of collapse.

II. Declaration of Emergency Authorizing Demolition

After reviewing the LZA Report and discussions with ESDC Staff and ESDC's counsel, I conclude, pursuant to Section 617.5(c)(33) of the SEQR regulations, that demolition of the Unsafe Structures by FCRC is an emergency action that is immediately necessary on a limited and temporary basis for the protection and preservation of life, health, and property. The demolition of the Unsafe Structures is directly related to the emergency, and FCRC is to cause the least change or disturbance to the environment that is practicable under the circumstances while performing the demolition. Such emergency demolition is a Type II action pursuant to Section 617.5(c)(33) and therefore not subject to SEQR review; however, any activities in respect of the funding or approval of the Project, or other physical activities at the Project site beyond the limited emergency demolition specified herein, shall be fully subject to SEQR and its implementing regulations.

157 emergency memo 12-5-05