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December 29, 2005

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## VIA FACSIMILE AND REGULAR MAIL

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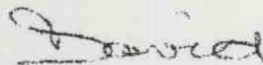
Re: Declaration of Emergency for Proposed Atlantic Yards  
Arena and Redevelopment Project

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 Shatz

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EXHIBIT A



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:"

605-620 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.

1570 emergency memo 12-5-05



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## David Paget, Partner

### Executive Summary:

David Paget is a 1964 graduate of New York University Law School and has extensive experience in environmental law and related litigation, particularly in preparing and processing environmental impact statements and permits pursuant to the Clean Air Act, the Clean Water Act, the National Environmental Policy Act (NEPA), National Historic Preservation Act and their New York State counterparts. David began litigating environmental cases in the early 1970s following his service as an Assistant United States Attorney for the Southern District of New York.

Among the many projects and undertakings in which David has been a central participant in the preparation of environmental impact statements and in obtaining related permits and approvals, and, most commonly, successfully defending legal challenges to those projects, are:

- The expansion of the United States Tennis Association facilities in Flushing Meadows, Corona Park, New York City.
- Major residential and mixed use developments, including Battery Park City, Donald Trump's Riverside South, the Davids Island project in New Rochelle, New York, the Tuxedo Reserve project in Tuxedo, New York, and the Gateway Estates project at Starrett City in Brooklyn.
- Major economic development and civic projects in the City of New York and elsewhere, including the New York City Convention Center, the 42nd Street Redevelopment, Metro Tech, Hudson River Waterfront Park, Downtown Brooklyn Rezoning, Bear Stearns Corporate Headquarters, Hunts Point Terminal Market, International Airport Center at JFK Airport, the Cooper Union project, South Street Seaport, the Marriott Marquis Hotel, Morgan Stanley, the Harlem River Yards inter-modal facility, the Severn World Trade Center, Pyramid Mall, development of the Alexander's site, numerous projects on behalf of the Related Companies, the Olympus project in the Town of Huntington, the New York Hospital development in White Plains, the Harlem Valley, New York light industrial park, the New York Times printing plant in Flushing, the Cadillac Square shopping mall development in Detroit, Michigan, the Tanger Outlet Mall in Riverhead, New York and the Traditional Links project also in Riverhead.
- Resource recovery and cogeneration projects in New York City, Hempstead, Oyster Bay and Albany, New York.
- Among his current engagements, David represents the Forest City Companies regarding the development of a basketball arena and major mixed-use development in Brooklyn, the New York Yankees regarding the construction of a new Yankee Stadium, the Convention Center Operating Corporation regarding the expansion of the Convention Center, the First Avenue Properties project, the Brookfields Ninth Avenue Development project, Lincoln Center regarding its renovation and modernization efforts,

the City of New York regarding its lower Manhattan Waterfront plans, the Empire State Development Corporation regarding the development of the Brooklyn Waterfront Park, the Thruway Authority of the State of New York regarding the Tappan Zee Bridge and Corridor project, the Governors Island Development Corporation, the developers of a major mixed-use development on the Queens Waterfront, the North Westchester Hospital in Mt. Kisco regarding its development plans.

- The environmental assessment and disposition by New York State of its statewide mental health care facilities and campuses.
- The representation of dominant participants in the solid waste collection and disposal sector.

**Affiliations/Activities:**

David has lectured widely at law schools and continuing legal education programs on environmental law, litigation, trial advocacy and historic preservation. From its inception, he has been a co-chairman of the annual American Law Institute-American Bar Association/Environmental Law Institute program on the National Environmental Policy Act and State Environmental Review Acts.

**Education:**

- New York University School of Law (L.L.B. 1964): Order of the Coif and Law Review Editor
- City College of New York (A.B. 1961)

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