

CITY COUNCIL
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

SUBCOMMITTEE ON LANDMARKS,
PUBLIC SITING AND MARITIME
USES

----- X

May 6, 2014
Start: 11:43 a.m.
Recess: 12:06 p.m.

HELD AT: 250 Broadway
Committee Rm, 16th Fl.

B E F O R E:
Peter A. Koo
Chairperson

COUNCIL MEMBERS:

Ben Kallos
Maria del Carmen Arroyo
Inez D. Barron
Annabel Palma
Stephen T. Levin

A P P E A R A N C E S (CONTINUED)

Kenrick Ou
New York City School Construction Authority

Jensen Ambachen
New York City School Construction Authority

Anthony D'Angelo
New York City School Construction Authority

Frank DeLeonardis
Owner at 2392 Jerome Avenue

2 CHAIRPERSON KOO: Good morning. I am
3 Peter Koo, Chair of the Subcommittee on Landmarks,
4 Public Siting and Maritime Uses, and today, we have a
5 hearing. We want to welcome Council Members Levin,
6 Barron and Kallos of Committee. And today we have a
7 hearing on Landmarks, Land Use Item Number 56,
8 20145351 SCX on the City Council District 14. We are
9 also joined by Council Member Palma. So, we want to
10 call Kenrick Ou, Jensen Ambachen, sorry, and Anthony
11 D'Angelo from SCA to testify.

12 KENRICK OU: Good morning Chairperson Koo
13 and Subcommittee members. My name is Kenrick Ou, and
14 I am Senior Director for Real Estate Services for the
15 New York City School Construction Authority. I am
16 joined to my left by Jensen Ambachen from the Senior
17 Attorney for Real Estate, and to Mr. Ambachen's left,
18 by Anthony D'Angelo, who is a Principal Attorney from
19 our Legal Department. The New York City School
20 Construction Authority has undertaken the site
21 acquisition process for the property located at 2392-
22 98 Jerome Avenue in the Borough of the Bronx. The
23 site consists of Lot eight on Block 3188 and is
24 located on the east side of Jerome Avenue between
25 East 184th Street and East Fordham Road, within Bronx
Community District Number 5 and Community School

1 District Number 10. The proposed site contains a
2 total of approximately 10,000 square feet of lot area
3 and is currently occupied by a one-story building
4 that contains approximately 10,000 gross square feet.
5 The building was a commercial structure that was
6 leased and renovated for public school use by the New
7 York City Department of Education in 1998. The lease
8 expired in December 2013 and the Department currently
9 continues to occupy the property as a month to month
10 tenant. The site is currently used as an annex for
11 PS 33, whose main building is located at 2424 Jerome
12 Avenue on property that adjoins the leased annex.
13 During the 2012 to 2013 school year, both the main PS
14 33 building and the leased annex were overcrowded.
15 They operated at utilization rates of 135 percent and
16 120 percent of capacity respectively. The site is
17 located in an area of Community School District
18 Number 10, for which the New York City Department of
19 Education's proposed five year capital plan
20 identifies the continued need for additional public
21 school capacity. Under the proposed plan, the SCA
22 would acquire this site for continued long term
23 public school use and occupancy. The notice of
24 filing of the site plan was published in the New York
25 Post in the City Record on January 16th, 2014. Bronx
Community Board Number Five was notified of the site

2 plan on January 16, 2014 and was asked to hold a
3 public hearing on the proposed site plan. The
4 Community Board held its public hearing on February
5 27th, 2014 and subsequently submitted written
6 comments recommending in support of the proposed
7 acquisition of the site, and a copy of that letter is
8 in the package that you have before you. The City
9 Planning Commission was also notified of the site
10 plan on January 16, 2014 and it also recommended in
11 favor of the proposed acquisition. The SCA has
12 considered all comments received on the proposed site
13 plan, and affirms the site plan pursuant to Section
14 1731 of the Public Authorities Law. In accordance
15 with Section 1732 of the Public Authorities Law, the
16 SCA has submitted the proposed site plan to the Mayor
17 and City Council for consideration on May 1st, 2014.
18 We look forward to your Subcommittee's favorable
19 consideration of this proposal and are prepared to
20 answer any questions that you may have. Thank you.

21
22
23 COUNCIL MEMBER DICKENS: Thank you, Mr.
24 Chair. So, this is a space that has been previously
25 leased, and now the City wants to acquire it?

KENRICK OU: Correct. The space was
leased in 1998 and that lease expired in December

2 of 2013. Under that expired lease, the Department
3 had the right to, and is continuing to currently
4 occupy the space as a month to month tenant.

5 COUNCIL MEMBER DICKENS: And you wouldn't
6 want to continue to lease? You would want to own,
7 is that what it is?

8 KENRICK OU: The proposal is to actually
9 acquire ownership of the property. There have
10 been, and the property owner is here, discussions
11 about a potential lease extension. But after
12 consideration of the existing needs, the future
13 needs, and the relative benefits of leasing, versus
14 ownership in this overcrowded area, the Department
15 and the SCA are proposing to acquire ownership.

16 COUNCIL MEMBER DICKENS: What is the
17 annual Lease Agreement?

18 KENRICK OU: I don't have that number in
19 front of me. I think Mr. D'Angelo may be able to
20 assist.

21 COUNCIL MEMBER DICKENS: I'd want to
22 know, what is the lease, the annual Lease Agreement
23 and what would be the purchase cost, if you were
24 going to purchase it?

25 KENRICK OU: Well, I can speak to the
purchase cost. We have actually made an offer,
based on an appraisal to the owner as we are

2 required to do in any proposed acquisition. I
3 believe, and Jenson, that's--did you want to speak
4 to the offer?

5 JENSEN AMBACHEN: Yeah, the offer went
6 out on March 21st. We sent a letter to the owner,
7 but we have not heard a response to that offer.

8 COUNCIL MEMBER DICKENS: And the offer
9 was?

10 JENSEN AMBACHEN: Oh, two million
11 dollars.

12 COUNCIL MEMBER DICKENS: Okay.

13 UNKNOWN: And to answer your question--
14 [off mic]

15 ANTHONY D'ANGELO: [off mic] Anthony
16 D'Angelo. The annual rent presently is 317,644
17 dollars.

18 COUNCIL MEMBER DICKENS: Okay. And, so
19 you're saying that the owner did not want to
20 negotiate a new lease, or that you don't want to
21 enter into a new lease?

22 KENRICK OU: We had started negotiations
23 on a renewal and those negotiations were not
24 successful. After, and there is a very complicated
25 history here, but after the eviction proceedings
had been initiated by the owner, as a result of the
Department of Education's continued month to month

2 tenancy, the Department of Education and the School
3 Construction Authority reassessed the situation
4 that has advanced this proposal to actually acquire
5 the property--

6 COUNCIL MEMBER DICKENS: [interposing]

7 Thank you.

8 KENRICK OU: outright.

9 COUNCIL MEMBER DICKENS: Thank you.

10 CHAIRPERSON KOO: Mr. Ou, can I ask you,
11 what was this site before, before used as a school;
12 what was it before?

13 KENRICK OU: It was, I think, it was a
14 one-story commercial structure. I think it had a
15 variety of uses, I believe it was retail, but I was
16 not around at the time. It does, and I do want to
17 be clear, have a Certificate of Occupancy for
18 public school use now, and that's what was
19 undertaken, prior to occupancy in 1998, the
20 renovations necessary to make it appropriate and
21 legally usable as a public school.

22 CHAIRPERSON KOO: And what about on the
23 site, what was behind the school, on the other side
24 of the school? Was it houses?

25 KENRICK OU: It's the--I'm sorry, are
you talking about the leased annex or the main
school building that's next to our--

2 CHAIRPERSON KOO: [interposing] The
3 behind the school. I don't know. Behind the
4 annex?

5 KENRICK OU: I believe that is a
6 residential structure.

7 CHAIRPERSON KOO: Although [sic] it is a
8 residential unit.

9 KENRICK OU: Correct.

10 CHAIRPERSON KOO: Is the lease a triple
11 let [sic] lease? Is there any amount that the
12 owner is responsible for?

13 ANTHONY D'ANGELO: The lease is not a
14 triple net lease. The Department pays the rent and
15 a portion of real estate taxes, and is responsible
16 for the interior repairs. The envelope repairs of
17 the building and other costs are the responsibility
18 of the landlord.

19 CHAIRPERSON KOO: So, in the future, are
20 you thinking of using the sides, behind the annex,
21 if the school, the expansion?

22 KENRICK OU: No, The proposal is to
23 acquire the leased annex itself. And, as shown on
24 the site plan, it is only that lot, Lot eight that
25 we are proposing. We are absolutely not proposing
to displace any neighboring residence or other
uses. It is to take ownership of that property

2 that is already in use by the Department of
3 Education only.

4 CHAIRPERSON KOO: Do you know what is
5 the market rate; suppose you want to lease 10,000
6 square feet, around the area, how much would that
7 lease be, you know?

8 KENRICK OU: The--

9 CHAIRPERSON KOO: [interposing]
10 Commercial lease?

11 KENRICK OU: As part of our initial
12 efforts in terms of a proposed lease renewal, we
13 did have a market analysis completed, which
14 basically indicated that the rental amount that we
15 are currently paying is at or slightly above
16 market. And, that in part is, I believe, where
17 there was a disagreement with the ownership as to
18 what an appropriate rent would be to continue a
19 lease.

20 CHAIRPERSON KOO: Okay. Thank you very
21 much.

22 COUNCIL MEMBER DICKENS: So, I just want
23 to piggy back on the question that Council Member
24 Koo asked in terms of market rate. You were,
25 maybe, at or above market rate in the lease term.
What about in terms of the purchase price, will you
be at or will you be paying a little more?

2 KENRICK OU: The offer that's on the
3 table, and Mr. Ambachen can confirm, I believe, was
4 made based on an appraisal of the property of the
5 specifics of that property.

6 JENSEN AMBACHEN: Yes. It was
7 consistent with the appraisal of the offer that we
8 made of two million dollars.

9 COUNCIL MEMBER DICKENS: Okay. Thank
10 you.

11 CHAIRPERSON KOO: How did you get the
12 appraisal; did you get it from three different
13 appraisers?

14 KENRICK OU: No, the SCA has, I think,
15 it's four real estate appraisal firms under
16 contract and assignments are basically rotated and
17 distributed among the firms. So, the firm that was
18 selected, completed an appraisal, which was the
19 basis for our offer.

20 CHAIRPERSON KOO: I am not an appraiser,
21 but based on the lease rent of 370,000 per year.
22 If you only offer them two million dollars, that
23 doesn't sound like a really good price, you know.
24 Because it's not even ten times that.

25 KENRICK OU: That is as Mr. Ambachen
said, that was based on the appraisal. And, we
certainly are open to negotiation, which is why we

2 put an offer on the table to begin that
3 conversation and we look forward to discussing
4 that.

5 CHAIRPERSON KOO: Okay. I just want to
6 let everyone know that this Committee is only for
7 approving the site. We are not here to negotiate a
8 price for the owner or approving the eminent domain
9 here. We are only approving the use of the site as
10 a school. Steven?

11 COUNCIL MEMBER LEVIN: Thank you, Mr.
12 Chair. One other question would be, has there been
13 an alternative appraisal done? Did the owner do an
14 appraisal?

15 KENRICK OU: I would defer to the owner
16 to answer that question. We have not heard about
17 another appraisal.

18 COUNCIL MEMBER LEVIN: Okay, great.
19 Thank you.

20 KENRICK OU: Thank you.

21 CHAIRPERSON KOO: Now, we want to call
22 on the land owner, Mr. Frank DeLeonardis. You have
23 three minutes to speak before us.

24 FRANK DELEONARDIS: Good afternoon,
25 ladies and gentlemen. I have owned the--

[off mic]

2 FRANK DELEONARDIS: Frank DeLeonardis,
3 the owner of 2392 Jerome Avenue. I own a half
4 dozen commercial, small commercial properties in
5 the Bronx, so I'm somewhat familiar with values and
6 so forth. This is not my only property. But I
7 have owned this property since 1982. It had been
8 an A&P Supermarket from 1940 until 1970, in answer
9 to one of the questions from before. From 1980
10 until 1995 it was a State of New York Department of
11 Labor Employment Center. In 1998 the School
12 Construction Authority reimbursed me for a minimal
13 cost, it was only 250,000 dollars for renovating
14 10,000 square feet. So, that's only 25 dollars a
15 foot. With respect to eminent domain, I don't know
16 whether this Committee is going to deal with the
17 appropriateness of this process, but I definitely
18 think it's inappropriate, only because I have no
19 problem as far as continuing to have a school in my
20 building. And, it could be for the next 15 or 30
21 years, but what I am attempting to do with a
22 fifteen year lease is to cover the loss and the
23 value of the rental dollar. This is the big issue.
24 You can't just go by CPI because that is seriously
25 flawed, and asking for three percent increases each
year as opposed to what was offered, which was
about 2.1 in the first couple of years, and then it

1 drops to about 1.4. I mean, in the real world,
2 inflation is probably closer to four percent. It's
3 just that the methodology used by the Commerce
4 Department really is not appropriate because, in my
5 opinion, the Federal Government wants us to believe
6 that inflation is not as big an issue as it is.

7 But the school system is able to get out of the
8 lease with relatively short notice, and yet, I am
9 required, if I enter into a 15 year lease to allow
10 them to stay for that entire period, even if the
11 increases are minimal. Now, with respect to the
12 valuation of the property, I mean, I could get
13 appraisal reports from two or three or four
14 different appraisers, and as long as I am paying
15 the bill, I could, to some extent, direct what the
16 outcome is going to be. With respect to the value
17 of this property, directly across the street, there
18 are five shabby wood framed buildings, directly
19 across from the PS 33 main building. Those five
20 buildings are under contract right now. They will
21 be demolished by the purchaser. At 2.7 million
22 dollars is the value of the contract, and will
23 come--it will cost another 300,000 to demolish
24 those five small multi-mixtures buildings. If we
25 take three million dollars for the vacant land, and
then the School Construction Authority--

2 [off mic]

3 FRANK ELEONARDIS: School Construction

4 Authority has to do their construction at that site
5 for a one-story building, right across the street.

6 It will probably run between three to four million
7 dollars. Taking depreciation into account, maybe we
8 would add about two to three million onto the three
9 million dollars in land cost, and we are up to six
10 or seven million, never mind two million.

11 CHAIRPERSON KOO: You don't mind if I
12 ask you, how much did you pay for the property in
13 the beginning?

14 FRANK DELEONARDIS: Back in 1982 I paid
15 550,000 dollars.

16 CHAIRPERSON KOO: 550,000 dollars?

17 FRANK DELEONARDIS: That was a long time
18 ago though.

19 CHAIRPERSON KOO: Okay. So, you think
20 the SCA is not offering you a good price?

21 FRANK DELEONARDIS: No. And, I am
22 certain that a court will come to the conclusion
23 that the value is between four and five million,
24 based on comparables, never mind these appraisals.
25 Whether it be my appraisers, or the SCA's
appraisers, in the long run, they are going to have

2 to look at that building, I'm sorry, that land
3 right across the street.

4 CHAIRPERSON KOO: Yes, but we are not
5 here today to debate--

6 FRANK DELEONARDIS: [interposing] Sure.

7 CHAIRPERSON KOO: how much the right
8 price is.

9 FRANK DELEONARDIS: Absolutely. I just
10 think it's an extremely bad move to force the sale
11 of this particular property when the landlord is
12 willing to continue for another fifteen or so years
13 to have the Department of Education as his tenant.

14 CHAIRPERSON KOO: I sympathize with your
15 position. I am also a property owner, myself, you
16 know. I don't want them come in and take my
17 property, but if it is for public good, building a
18 school or highway, etcetera--

19 FRANK DELEONARDIS: [interposing] To
20 some extent, this is true, but if we have to put a-
21 -widen the street, or something of that nature, or
22 if the property owner is not willing to continue to
23 allow for the current use, but this isn't the case
24 at all.

25 CHAIRPERSON KOO: Now, I said before,
our Committee here--

FRANK DELEONARDIS: [interposing] Sure.

2 CHAIRPERSON KOO: today is not to debate
3 that. We are only approving the use of the site as
4 a public school.

5 FRANK DELEONARDIS: It has been a public
6 school for the last fifteen years. That's not even
7 an issue.

8 CHAIRPERSON KOO: Thank you very much.

9 FRANK DELEONARDIS: You're welcome.

10 CHAIRPERSON KOO: Any members have
11 questions? No? Sir, thank you.

12 FRANK DELEONARDIS: Thank you.

13 CHAIRPERSON KOO: Anyone else in the
14 public want to testify? Otherwise, we will close
15 the hearing. We are here to vote for the approval
16 of this Land Use item. We want to say Council
17 Member Cabrera approved this item. So, I want the
18 Council to call for the vote.

19 COUNCIL CLERK: Chair Koo?

20 CHAIRPERSON KOO: Yes.

21 COUNCIL CLERK: Council Member Arroyo?

22 COUNCIL MEMBER ARROYO: Yes.

23 COUNCIL CLERK: Council Member Palma?

24 COUNCIL MEMBER PALMA: Yes.

25 COUNCIL CLERK: Council Member Levin?

COUNCIL MEMBER LEVIN: Yes.

COUNCIL CLERK: Council Member Barron?

2 COUNCIL MEMBER BARRON: Permission to
3 explain my vote?

4 CHAIRPERSON KOO: Yes, go ahead.

5 COUNCIL MEMBER BARRON: With the
6 understanding that this is, in fact, just for the
7 decision of whether or not this should be sited as
8 a school, and not, in fact, looking at the issue in
9 question of eminent domain, I vote yes. Thank you.

10 COUNCIL CLERK: Council Member Kallos?

11 COUNCIL MEMBER KALLOS: Permission to
12 explain my vote?

13 CHAIRPERSON KOO: Go ahead, yeah.

14 COUNCIL MEMBER KALLOS: On a slightly
15 different tack than my colleague, whose opinion I
16 do respect, we have seen a city and an
17 administration that has used eminent domain to
18 destroy neighborhoods and replace it with stadiums.
19 Something that I have been advocating strong for,
20 is to use eminent domain when absolutely necessary
21 to provide public benefits. Public benefits are
22 parks, they are schools, and this is right in that
23 nexus, and I for one will be supporting any use of
24 eminent domain that will provide us with more
25 schools. Our city is growing. We do not have
enough locations for schools, as long as it's a
fair price, which is not actually something we are

2 supposed to deal with, I think this is a great
3 site. That's evident by the fact that it has been
4 used as a school for so long. So, that being said,
5 I vote Aye.

6 COUNCIL CLERK: By a vote of six in the
7 affirmative, zero abstentions and zero negatives,
8 land use Item Number 56 is approved and referred to
9 the Full Land Use Committee.

10 CHAIRPERSON KOO: Meeting adjourned.

11 [gavel]

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Date 05/14/2014