

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

LAND USE SUBCOMMITTEE ON PLANNING, DISPOSITIONS AND
CONCESSIONS

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February 23, 2009

Start: 1:16pm

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HELD AT: Committee Room
City Hall

B E F O R E: DANIEL R. GARODNICK
Chairperson

COUNCIL MEMBERS:
Maria Baez
Sara M. Gonzalez
Inez E. Dickens
Vincent Ignizio
Diana Reyna

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

Theresa Arroyo
NYC HPD

Hardy Adasko
Senior Vice President for Planning
NYC Economic Development Corporation

Peter Geis
Cozen O'Connor Attorneys
Tribeach Development

Joe Restuccia
Co-chair, Housing, Health and Human Services
Manhattan Community Board 4

Anna Levin
Co-Chair, Land Use Committee
Manhattan Community Board 4

Barbara Flynn
Chief of Staff, Intergovernmental Affairs
NYC HPD

2 CHAIRPERSON GARODNICK: Good

3 afternoon, everybody. Welcome to the Subcommittee
4 on Planning, Dispositions and Concessions. This
5 is a Subcommittee of Land Use of the New York City
6 Council. Today's date is Monday, February 23rd.
7 My name is Dan Garodnick, and I have the privilege
8 of chairing the Subcommittee. We've been joined
9 today by Council Member Vinny Ignizio of Staten
10 Island; Council Member Inez Dickens of Manhattan,
11 and Council Member Diana Reyna, who we're
12 delighted to have here participating in our
13 subcommittee here today. And we are going to get
14 right into our agenda. We have a number of items,
15 and we're going to start with Land Use number 851,
16 295 Jefferson St., Brooklyn Community Board 4,
17 20095009HAK in the district of Council Member
18 Diana Reyna. And I think Ms. Arroyo, come on up.
19 And as you get comfortable I'll let you know we've
20 been joined by Council Member Sara Gonzalez, a
21 member of the subcommittee. And you can go right
22 ahead as soon as you are ready, and we'll get
23 going.

24 THERESA ARROYO: Good afternoon,

25 Council Members. LU 851 consists of the proposed

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2 modification of a previously approved UDAAP, and
3 seeks approval of an Article 11 tax exemption. On
4 October 11th, 2006, the Council approved
5 resolution number 564, the disposition of one
6 city-owned vacant lot located at 295 Jefferson
7 Street. The original project proposed to
8 construct one four-story building with eight
9 residential units under the New York State Housing
10 Trust Fund Program. Under the currently proposed
11 project, the sponsor, the Jefferson SPI Housing
12 Development Fund Corporation, an affiliate of
13 Ridgewood Bushwick Senior Citizens Council,
14 Incorporated, will merge this lot with their own
15 vacant lot, acquired through HPD's third party
16 transfer program, to construct this identical
17 project. However, in addition to New York State
18 Housing Trust Funds, the project will also be
19 funded with a loan from HPD's Participation Loan
20 Program and a full Article 11 tax exemption. When
21 completed the project will provide eight units of
22 rental housing for individuals or families whose
23 incomes do not exceed 60% of the area median
24 income. The income targets will be in effect for
25 a period of 40 years, as per the regulatory

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2 agreement between HPD and the HDFC. And Council
3 Member Reyna has reviewed the project and
4 indicated her support and is here--

5 CHAIRPERSON GARODNICK:

6 [Interposing] Thank you, and we certainly will
7 give her an opportunity to say that for herself if
8 she wishes. And before we do, let me just make
9 sure that I have-- unless-- you were finished,
10 right, Ms. Arroyo? I just want to make sure I
11 understand the facts here. You said that the
12 Council approved this project as a UDAAP on
13 October 11th, 2006.

14 THERESA ARROYO: Correct.

15 CHAIRPERSON GARODNICK: And it was
16 a proposed eight-unit development. It's now being
17 merged with a vacant lot next door under the Third
18 Part Transfer Program, and it remains an eight-
19 unit development?

20 THERESA ARROYO: Yes. It--

21 CHAIRPERSON GARODNICK:

22 (Interposing) So just explain to those of us who
23 are not familiar with the contours of the block
24 and the layout as to, you know, why you need to
25 merge with the unit next door to create the same

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2 number of units?

3 THERESA ARROYO: They are two small
4 lots, as a matter of fact. So together, the
5 configuration originally was intended also to use
6 the two lots, but there wasn't enough, there was
7 financial difficulties, to actually develop the
8 project, which is why we have now entered through
9 this, at this time, to seek the Article 11 in
10 order to protect the original intention for the
11 affordability of the project at 60%, we need the
12 extra tax exemption.

13 CHAIRPERSON GARODNICK: Okay. And
14 you noted that these units will be available for
15 people earning up to 60% of the area median
16 income.

17 THERESA ARROYO: Correct, which
18 ranges for, like one person, a single would be--
19 cannot earn more than \$32,280 and a household of
20 six, for example, would be a maximum of \$53,460.

21 CHAIRPERSON GARODNICK: Okay, and
22 these are rental--

23 THERESA ARROYO: [Interposing]
24 Rental, yeah.

25 CHAIRPERSON GARODNICK: --units?

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And that obligation will last for 40 years.

THERESA ARROYO: Yes.

CHAIRPERSON GARODNICK: Okay. And after that time it goes to market.

THERESA ARROYO: After that if we need to revisit it again to refinance, we'll deal with that eventually.

CHAIRPERSON GARODNICK: But in terms of the rental obligations, they could be rented to anybody of any income?

THERESA ARROYO: It could. It could. Because the mandatory agreement, the regulatory agreement only requires the 40 years.

CHAIRPERSON GARODNICK: Does it go to rent stabilization rules at that point?

THERESA ARROYO: At eight units it would be rent stabilized.

CHAIRPERSON GARODNICK: Thank you. And now we're going to hear from Council Member Diana Reyna.

COUNCIL MEMBER REYNA: Thank you, Mr. Chair. I wanted to just find out, exactly when did the Article 11 application go in?

THERESA ARROYO: Unfortunately that

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I do not know.

COUNCIL MEMBER REYNA: That's important information that I'd like to go on record. If there's a way that we can find that out.

THERESA ARROYO: And I can get back to you in the morning before land use. Would that be--

COUNCIL MEMBER REYNA: [Interposing] Barbara Flynn was here. Is she gone? Can you find that out now?

CHAIRPERSON GARODNICK: Okay, that's--

COUNCIL MEMBER REYNA: [Interposing] The proposed eight units on two lots, one which was merged with another--

THERESA ARROYO: [Interposing] Will be merged.

COUNCIL MEMBER REYNA: Will be merged.

THERESA ARROYO: Upon approval of this will be merged with the others. That's 51 and 52.

[Off Mic]

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2 THERESA ARROYO: --the actual maps.

3 COUNCIL MEMBER REYNA: Chair, if
4 it's easier for you to move on to the next item, I
5 can certainly wait for this line of questioning.

6 CHAIRPERSON GARODNICK: I would be
7 happy to. Let me ask that question of HPD. Would
8 that make your lives easier if we move on to the
9 next one and come back to this?

10 THERESA ARROYO: That would be
11 fine, sir, so there's enough time to get the
12 information.

13 CHAIRPERSON GARODNICK:
14 [Interposing] I'd be happy to do that. Fine, why
15 don't you guys use this time to find out the
16 answer. Were there any other questions that you
17 think they might need to research while we move
18 on? If not, then we'll just carry on.

19 COUNCIL MEMBER REYNA: I think that
20 one question would perhaps answer many other
21 questions. And so I just want to make sure that
22 that particular question is answered.

23 CHAIRPERSON GARODNICK: No problem.

24 COUNCIL MEMBER REYNA: Thank you.

25 CHAIRPERSON GARODNICK: So we'll

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 2 hold on for a moment on Land Use number 851 at 295
 3 Jefferson. We will open the hearing on Land Use
 4 number 981, which is the Puerto Rican Traveling
 5 Theatre Company, Manhattan Community Board 4,
 6 C090072PPM. This is an application from DCAS, for
 7 disposition to 303 W. 46th Street of a negative
 8 easement. And we're going to invite them to join
 9 us. Let's see here we have Hardy Adasko, and we
 10 have representatives from Cozen O'Connor, and
 11 we're going to invite everybody up to make the
 12 presentation. And as soon as you're ready please
 13 introduce yourselves, and we can get started.

14 HARDY ADASKO: Good afternoon. My
 15 name is Hardy Adasko. I'm Senior Vice President
 16 for Planning at the New York City Economic
 17 Development Corporation. I'm here to speak about
 18 the Puerto Rican Traveling Theatre Project. The
 19 action is designed to accomplish two public land
 20 use objectives, first to continue to make the
 21 firehouse available to the Puerto Rican Traveling
 22 Theatre for a long time, and secondly to release
 23 the economic value of the property, by which I
 24 mean the job and development potential, and to
 25 increase revenues to the City. The transfer of

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2 development rights is an ideal solution to these
3 two problems. It enabled us to enter into a 25-
4 year lease at a nominal rent for a valuable
5 Theatre District property. In principle this has
6 an analogy to the nearby special Theatre District
7 provisions of the zoning resolutions. Although
8 additional public benefits could be attached to
9 the transaction, we believe that they would
10 needlessly complicate it. As the Council knows,
11 development rights are a unique and complicated
12 situation. They aren't real estate and are
13 therefore not subject to ULURP review. The
14 negative easement, a promise by the City not to
15 use the floor area, and in this case a ULURP
16 easement for light and air, provide the
17 opportunity for public review. These actions are
18 the subject of the ULURP action before you. The
19 receiving site must use the development rights
20 within the very specific regulations of the
21 Clinton Special Area District, where the project
22 is as of right. There is a developer's
23 representative next, who will describe these
24 plans. I'd be happy to answer any questions, and
25 the developer's representative can answer others.

2 CHAIRPERSON GARODNICK: Thank you.
3 Go right ahead and introduce yourself, please.

4 PETER GEIS: Good evening,
5 afternoon. My name is Peter Geis.

6 CHAIRPERSON GARODNICK: Yeah, let's
7 just move that. Okay, that may work.

8 PETER GEIS: I'm a partner in the
9 law firm of Cozen O'Connor, and we represent
10 Tribeach development, the developers of this site.
11 We strongly encourage support of the Council on
12 this action. It's going to allow, as EDC has
13 testified, to gain value from an asset that is not
14 a fungible asset; it's an asset that really has
15 value to very few people due to zoning laws. It
16 has value to my clients as people who are adjacent
17 to the property, and we're prepared to complete
18 this transaction and give the City money for use
19 of this asset. This will take an area of 8th
20 Avenue and 46th Street that had seen three adult
21 uses, an open-air parking lot and a few under-
22 performing eating and drinking establishments, and
23 have it transformed into a transient hotel,
24 moderate income housing, low-income housing and
25 some retail. It's going to be, from a Land Use

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2 standpoint, it's definitely going to be a
3 significant improvement to the area. There are no
4 zoning waivers sought in this; it's a fully zoning
5 compliant project. There's no variances, there's
6 no special permits sought. This will comply fully
7 with all the zoning requirements, including any of
8 the Special Clinton District that may apply to
9 this property. And again too this is a project
10 that would be-- result we've had an interest from
11 three major national flags in terms of operating
12 the hotel at this site, and we feel that this is
13 certainly a meritorious project. We understand
14 the Community Board has raised certain concerns,
15 not so much with the ULURP transaction, but with
16 other aspects of our development. We'd like to
17 update and make sure you understand that the
18 remaining tenant who had lived on the corner of
19 this property has accepted a buy-out, has already
20 received a down payment to move; and so there are
21 no remaining tenant issues on this site, and we
22 are continuing to work with the community and the
23 Speaker's Office on any other issues outside of
24 the ULURP.

25 CHAIRPERSON GARODNICK: Okay.

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2 Thank you. So that was the only Community Board
3 concern, the one about the last tenant?

4 PETER GEIS: Well no. The other
5 Community Board Concerns, there was a concern,
6 again, non-ULURP related, about the nature of the
7 Cure Housing that was being placed on the corner
8 of the property. And we're still in discussions
9 with Catholic Charities, who is right now the
10 developers are relying on to operate this Cure
11 Housing. And the question relates to whether or
12 not the Cure Housing will be for general low-
13 income housing as opposed to targeted low-income
14 housing for a specific population from Catholic
15 Charities. And again, that issue has not been
16 fully decided, and we're still having discussions
17 with Catholic Charities and the Speaker's Office
18 as to whether or not we can work out a resolution
19 on that.

20 CHAIRPERSON GARODNICK: Thank you.
21 And with that I mind, we are of course going to be
22 laying over this item at the conclusion of the
23 hearing today, for the purpose of your sorting out
24 those issues. I wanted to note that now. Other
25 issues that surfaced at the Community Board level

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2 that have or have not been resolved?

3 PETER GEIS: Again there are issues
4 about whether or not-- the viability of the
5 project as a whole. And I think it's fair to say
6 that week-to-week the viability of any real estate
7 project in New York City changes. And just since
8 we've had our Community Board hearings on this
9 shortly before Christmas, I think the real estate
10 market in New York City is changing. But
11 certainly, Tribeach is committed to developing
12 this project. We still have loan commitments from
13 major lenders, and we certainly want to get this
14 project built, and we think that it makes sense
15 for the City to go forward with approving this
16 project now, while the market is in flux. And
17 then when the market and the financing are fully--
18 we don't have to restart a two, three-year public
19 review process. I think it makes sense to have
20 this in place now so that this project, when
21 everybody including the developer and any banks or
22 lenders are poised to construct, we don't have to
23 say, okay, now let's start a public discourse.
24 The issues are still the same. The issue of
25 affordable housing is still the same. And so in

2 that regard, like I said, we have financing in
3 place, we just don't have all financing in place,
4 and we certainly-- Tribeach intends to construct
5 this project.

6 CHAIRPERSON GARODNICK: Anything
7 else on the Community Board?

8 PETER GEIS: I don't believe so.
9 Like I had said, the issues from the developer's
10 standpoint were the tenant, the nature of the Cure
11 Housing and the viability of the project as a
12 whole. And then there was a question about, oh,
13 there was one other-- there was a question about
14 targeting of the development rights that are
15 attributable to the sale, whether or not they
16 should be limited in to how they can be used,
17 limited to some kind of community facility type
18 use. That was not at all the nature of the
19 bargain or the transaction. To restrict the
20 manner in which these-- to some kind of non-profit
21 use would radically devalue them to our client,
22 and we would not be interested in pursuing a ULURP
23 in that regard.

24 CHAIRPERSON GARODNICK: Okay. And
25 to that point you are asking the City to sell

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2 their rights or to allow for a negative easement,
3 and I'm going to ask you just to describe the--
4 what exactly is going on here since that's a
5 complicated legal construct here, which just is
6 worthy of a little explanation, which would allow
7 the development to add two stories to it, as I
8 understand it.

9 PETER GEIS: Yeah--

10 CHAIRPERSON GARODNICK:

11 [Interposing] Is that right?

12 PETER GEIS: Yeah, with the site as
13 designed, it roughly equates to two stories and
14 what would be the hotel tower. And the air rights
15 them-- the development rights or the floor area
16 attributable to the theatre, which is not the
17 ULURP, that's what would generate those two
18 floors. The light and air easement that we're
19 talking about, the negative easement, ensures that
20 as the building, which is the green L-shaped
21 building, as it looks across over Lot 37, the City
22 property, that the City would not be permitted by
23 any means to expand the height of that building.
24 So the idea is that if you have windows that
25 project northward from there over Lot 37, they

2 would not be at risk of having to be closed at
3 sometime in the future.

4 CHAIRPERSON GARODNICK: So it's two
5 things; it's a transfer of air rights and a
6 negative easement.

7 PETER GEIS: That's correct.

8 CHAIRPERSON GARODNICK: Okay.
9 Question for the City. One, why is this a good
10 deal, and number two, is there any reason to think
11 that the City would have any interest in
12 developing above the Theatre Company's space at
13 some point in the future.

14 HARDY ADASKO: In regards to the
15 second one, we don't think so. It's a very small
16 site. It has now been landmarked, obviously,
17 certificates of appropriateness can be achieved
18 for landmark expansions, but it would require a
19 setback on a small site, and the operations of the
20 currant tenant, the 25-year tenant, don't require
21 it and so we don't expect to need to expand.

22 CHAIRPERSON GARODNICK: Let me just
23 probe you on that for one second. So it's a
24 landmarked building.

25 HARDY ADASKO: Correct.

2 CHAIRPERSON GARODNICK: Is that
3 right? So, in order to do additional development,
4 you would have to essentially slice off a portion
5 of the back of the building to have the setback to
6 meet the setback requirements?

7 HARDY ADASKO: It's not the setback
8 requirements; it's the customary solution to
9 expansion on top of a landmark, and it would be
10 setting back in the front that would be the most
11 likely scenario that would be satisfactory to the
12 landmark issues.

13 CHAIRPERSON GARODNICK: But there
14 are no plans or not desire or any expression of
15 interest in developing that site further on behalf
16 of the City or on behalf of this theatre company?

17 HARDY ADASKO: That's correct.

18 CHAIRPERSON GARODNICK: Okay. Now
19 go to the other question about the sale of air
20 rights and the granting of a negative easement,
21 why it's a good deal for the City.

22 HARDY ADASKO: Well, we have what
23 in the marketplace, at least when this negotiation
24 started, would have been a valuable asset. There
25 was a public judgment that it should remain with

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 2 the Puerto Rican Traveling Theatre, an inestimable
 3 contribution to the culture of the City. So how
 4 do we get the value, the economic value in terms
 5 of job production and cash and tax revenues
 6 without adversely affecting the current occupant,
 7 preserving both potentials? And the transfer of
 8 development rights is a great solution to that.
 9 We get the economic value, but the tenant remains
 10 in place for a very long term at a very low rent,
 11 \$2,500. So we feel that that solves both
 12 problems, and that's the public benefit of this
 13 solution.

14 CHAIRPERSON GARODNICK: I'm sorry,
 15 and the \$2,500 was for what period of time?

16 HARDY ADASKO: 20--

17 [Pause]

18 CHAIRPERSON GARODNICK: So \$2,500
 19 per year for 25 years, okay.

20 HARDY ADASKO: I'd like to clarify
 21 on the terms of transfer of development rights a
 22 little bit. It's-- it is technically a zoning lot
 23 merger, which can only be accomplished to an
 24 adjacent property, or in the case of a landmarked
 25 building, and it wasn't a landmark when we started

2 the conversations, directly across the street. So
3 it has a limited distance one can transfer. It's
4 a zoning lot merger, and then a distribution of
5 the combined air rights without regard to the
6 former zoning lot lines. And that is not a ULURP
7 action, it's not a land use, it's not a real
8 estate transaction, basically. And so over time
9 the public review of that type of transaction has
10 evolved into this negative easement, a promise by
11 the City that it will not use the development
12 rights it had before the merger, and that we won't
13 sort of double-- we won't play the Producers and
14 sell them twice. It's an appropriate analogy for
15 this district. So, it is technically this zoning
16 lot merger and transfer without distribution, and
17 it's memorialized in the negative easement. In
18 this particular case, there is also a real
19 easement in the sense of a promise that we won't
20 build above and block the light and air of the
21 adjacent property.

22 CHAIRPERSON GARODNICK: Okay. And
23 in terms of the actual deal between EDC and the
24 developer here, this was an agreement that was
25 reached a number of months ago, is that right?

2 HARDY ADASKO: Correct.

3 CHAIRPERSON GARODNICK: How far
4 back?

5 HARDY ADASKO: About two years ago
6 it started.

7 CHAIRPERSON GARODNICK: Is it fair
8 to say that if the City were to endeavor to sell
9 those air rights today it might get a different
10 price than what was negotiated at the outset?

11 HARDY ADASKO: That's likely, yes.

12 CHAIRPERSON GARODNICK: And likely
13 meaning it would be less valuable to the City if
14 we were to endeavor to do it now from scratch?

15 HARDY ADASKO: Most likely. But
16 it's not a pure market situation in that there
17 really is only one potential buyer in the adjacent
18 property.

19 CHAIRPERSON GARODNICK: And there
20 is also transfer to this building, to this
21 retail/residential/hotel development from other
22 lots as well, is that right?

23 HARDY ADASKO: They have merged
24 with other zoning lots.

25 CHAIRPERSON GARODNICK: Lots 35 and

2 36, is that-- those are the ones on the corner of
3 47th Street and 8th Avenue?

4 PETER GEIS: 35 is done, but 36 is
5 still in negotiation.

6 CHAIRPERSON GARODNICK: You're
7 negotiating to transfer air rights.

8 PETER GEIS: It may or may not.
9 You know, but that's something again we can do or
10 we may or may not do.

11 CHAIRPERSON GARODNICK: Okay. And
12 Lot 26, just to be clear here, this is one of the
13 lots on 46th Street between 8th and 9th, that's
14 the-- you have it listed here as inclusionary in
15 market rate housing.

16 PETER GEIS: Well, just to be
17 clear, when you look at that first sheet, lot 26A
18 and B used to be one lot, and now it's being split
19 so that the eastern portion that's in green is
20 part of the high-density property, and the western
21 portion is in a lower density zoning district, and
22 that's where there'd be a smaller building that
23 would be-- right now we're proposing there would
24 be some kind of inclusionary housing building.

25 CHAIRPERSON GARODNICK: I see, the

2 lot 26 B is in the C1-5 District and 26A is in the
3 C6-4; is that right?

4 PETER GEIS: Yes.

5 CHAIRPERSON GARODNICK: Okay.

6 Okay, well I know that there are negotiations
7 ongoing on this one, and do--

8 [Off Mic]

9 CHAIRPERSON GARODNICK: And we do
10 have members of the public wishing to testify on
11 this, so we're going to give them an opportunity
12 to do that now. We thank you for your testimony
13 today, and I am going to call up Anna Levin of
14 Manhattan Community Board 4, and Joe Restuccia,
15 nice to see you again, also from Manhattan
16 Community Board 4. Welcome, and as soon as you're
17 settled you can introduce yourselves and go right
18 ahead. Welcome.

19 ANNA LEVIN: Welcome. Thank you.

20 Good afternoon. Thanks for having us. My name is
21 Anna Levin. I'm Co-chair of Community Board 4's
22 Clinton/Hell's Kitchen Land Use Committee. I'll
23 be speaking today, give you an overview of the
24 Community Board's basic position on this. I'm
25 joined by my colleague, Joe Restuccia, who is co-

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2 chair of our Housing, Health and Human Services
3 Committee, who will also speak to some of the--
4 particularly to the housing issues involved here.
5 If the development rights to this project were to
6 be used in a project with a positive land use and
7 social and economic impacts that we would support,
8 Board 4 would enthusiastically support this
9 transfer, because it results in an approximately
10 \$3 million in sale proceeds for the City, and it
11 would support preservation of the historic fire
12 house. But our opposition to this project is
13 rooted in what we believe are the fundamental
14 problems in the development proposal. It's a
15 convoluted project. It's supposed to be with two
16 separate hotels, although we heard just now that
17 it is likely to be only one hotel, which
18 contravenes zoning; two separate inclusionary
19 housing projects, all on one site, and they're
20 planned that way in order to get around the zoning
21 restrictions that encumber the site as a result of
22 the special rules that apply in the preservation
23 area of the Special Clinton District. They're not
24 being designed that way because it makes any
25 development sense. And we think we have a project

1 here that is just too complicated to succeed.
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3 There are problems with the existing tenant, which
4 we heard just now have been resolved, but we need
5 to confirm that with advisors representing those
6 tenants, and one of the inclusionary housing
7 buildings, the one at the corner of 46th and 8th
8 will house teens aging out of foster care-- a
9 worth population, for whom we would love to find a
10 home in our district, but that's not what the Cure
11 provisions of the Special Clinton District are
12 meant to take care of. It's this last feature
13 that represents a policy change by HPD, using
14 inclusionary housing bonus for a special needs
15 population rather than the general population,
16 that the inclusionary housing program was intended
17 to serve. And finally, we're skeptical that this
18 project will ever get built as proposed for all of
19 the complexities of the real estate market that
20 have been alluded to by Mr. Adasko and Mr. Geis.
21 Since there are so many uncertainties surrounding
22 this project, we really believe that the City
23 should not participate in enhancing the value of a
24 development site for future sale, and if there's
25 any way to do it, the development rights should be

2 considered for transfer only when the many
3 problems associated with this project have been
4 resolved, and a concrete development proposal is
5 ready to proceed. And in closing I want to note
6 that this project has relatively, and in fact
7 nothing at all to do with the Puerto Rican
8 Traveling Theatre. The Theatre has in fact been
9 leased to a commercial tenant for the last at
10 least two years. Forbidden Broadway has been
11 running there, it's a commercial show. We
12 objected to this when the lease was first
13 presented to us in 2002. It seems really amazing
14 to us that the City would sign a lease for an
15 entire building for \$2,500 a year to an
16 organization that has had a grand history in our
17 neighborhood, but that is no longer really a
18 viable producing organization-- that's without
19 taking anything away from the wonderful things
20 that the Puerto Rican Traveling Theatre has done
21 in the past; but they are no longer active at that
22 site. I'd be happy to answer any questions.

23 CHAIRPERSON GARODNICK: Thank you.

24 Mr. Restuccia, do you have anything to add there
25 or are you just going to answer questions too?

2 [Off Mic]

3 CHAIRPERSON GARODNICK: Okay. Why
4 don't you go ahead and then we'll ask for both of
5 you.

6 JOE RESTUCCIA: So regarding the
7 long-term tenant, understand that we're dealing
8 with a site that has a Cure for Harassment
9 Provision under the Clinton Special Zoning
10 District. And first we need to know that evidence
11 is clear that this tenant has been resolved; it's
12 one family with three apartments. This has a
13 long-term history of harassment, this particular
14 corner, and in a related action there is a Cure
15 Harassment Plan being proposed by the developer.
16 Now as Anna said, what's extremely odd about this
17 is this is a loss of affordable housing, low
18 income housing. We have never had a Cure proposal
19 to us that has a special needs population, and it
20 was quite difficult in the Housing Committee to
21 confront Catholic Charities and say, honestly
22 wrong church-- wrong pew, right church, whatever
23 that is. You know, got my point? We could not
24 deal with it. We welcome supportive housing all
25 over our district, but at this site, where

1 families were violently harassed out, and there
2 was actually a finding, a legal finding by the
3 supreme court, it should just be regular
4 affordable housing for families as opposed to any
5 special needs population, which will exclude
6 neighborhood residents by its nature being special
7 needs. The last thing, I think it's important
8 that, as Anna noted, the hotel project has been
9 parsed into two hotels, and that's to create the
10 smallest lot possible in which the Cure exists,
11 will be required for. So therefore we have two
12 separate buildings being constructed side by side.
13 It is very disturbing to think that subsequent to
14 this project being approved that those hotels may
15 be combined, and the way around this whole issue
16 is to do it two to begin with and combining it
17 later. We've asked HPD to include a special
18 restrict to declaration-- disposition for the Cure
19 housing, that would prevent that combination
20 subsequently. And also as Anna said, the Puerto
21 Rican Traveling Theatre came to us. It is a very
22 odd proposal that an entire building, we have many
23 arts buildings in our district that have been
24 developed, \$2,500 a year for a building is an
25

2 absolutely ridiculous price. So this is not a
3 Puerto Rican Traveling Theatre issue. This is an
4 asset of the City and I would ask that considering
5 our market, this developer is actively marketing
6 this property right now. Brokers have called.
7 We've had many contacts with brokers. It's being
8 actively marketed. And one of the things that is
9 getting this disposition done to increase its
10 value to market it further. I think they have
11 made a good try. This developer probably doesn't
12 have the capacity, given the kinds of projects
13 he's done before, to actually accomplish this.
14 And it's an old idea that happened with EDC and I
15 think that we should probably revisit it.

16 CHAIRPERSON GARODNICK: Okay, thank
17 you. You've given us a lot of information here.
18 Perhaps, even slightly more than was attributed to
19 the Community Board before. I want to just make
20 sure I understand and clarify one point, which is
21 that this site, which I think is perhaps Lot 30 or
22 I think it's Lot 29, 30, was what was attributable
23 to the harassment situation at some point in the
24 past. It was not this developer who was harassing
25 tenants, is that right?

2 JOE RESTUCCIA: Correct. And how
3 the provision works is that the current owner
4 inherits any actions that happened before, and
5 there actually was a finding of harassment in a
6 Supreme Court case.

7 CHAIRPERSON GARODNICK: Okay.

8 JOE RESTUCCIA: For Lot 30.

9 ANNA LEVIN: Just Lot 30.

10 CHAIRPERSON GARODNICK: For Lot 30
11 there was established in the supreme court of the
12 State of New York that there was harassment, and
13 pursuant to the rules of this Special District, if
14 harassment is found, then you need to Cure. And
15 the Cure provisions as I understand it from you
16 historically have dealt with providing housing to
17 families and others, but not for the special needs
18 sorts of housing--

19 JOE RESTUCCIA: General population.

20 CHAIRPERSON GARODNICK: General
21 population, as you say it. And it is your
22 position that that's what it should be here as
23 well, is that right?

24 JOE RESTUCCIA: Yes.

25 CHAIRPERSON GARODNICK: And is the

2 rationale behind that that because individuals
3 were found to have been harassed out of their
4 homes, the Cure provision is such that it's
5 supposed to essentially compensate the City for
6 the fact that those units are now gone?

7 JOE RESTUCCIA: Yes. I personally
8 knew people in this building who were forced out
9 of their homes.

10 CHAIRPERSON GARODNICK: Okay.

11 JOE RESTUCCIA: Regular, everyday
12 people.

13 CHAIRPERSON GARODNICK: Okay. Let
14 me understand-- oh, go ahead. I'm sorry.

15 ANNA LEVIN: To clarify, we have
16 two kinds of inclusionary housing at work in this
17 development scenario. We have the Cure housing,
18 which relates to the corner lot, Lot 30; that
19 there is a requirement in zoning that if there is
20 a history of harassment on the site, you have to
21 produce affordable housing to the tune of 28% of
22 the residential development that was on the site,
23 or you have to produce 20% of the entire
24 development site. And what they're doing here is
25 insulating the corner lot, which is where the

2 harassment occurred, so that they don't have to
3 produce-- 20% of the entire development is a much
4 bigger number than 28% of the corner lot.

5 JOE RESTUCCIA: Of the square--
6 it's of the square--

7 [Off Mic]

8 ANNA LEVIN: Of the square footage.

9 CHAIRPERSON GARODNICK: Okay. So
10 wait, let me just make sure I understand. So it's
11 either 28% of Lot 30--

12 ANNA LEVIN: [Interposing] Yes.

13 CHAIRPERSON GARODNICK: Which is
14 where harassment was found to have taken place at
15 some point in the past.

16 ANNA LEVIN: Correct.

17 CHAIRPERSON GARODNICK: Or 20% of
18 the entire--

19 ANNA LEVIN: [Interposing] Of
20 everything on this page.

21 CHAIRPERSON GARODNICK:
22 Development.

23 ANNA LEVIN: Yes.

24 CHAIRPERSON GARODNICK: Okay. And
25 that is an option that is available to the

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developer.

ANNA LEVIN: Correct.

CHAIRPERSON GARODNICK: And what you're saying is that the developer here has carved out the site in a way so as to minimize the percentage or minimize the aggregate--

ANNA LEVIN: [Interposing] The number of square feet, yes.

CHAIRPERSON GARODNICK: Number of square feet that would have to be affordable?

ANNA LEVIN: Correct.

CHAIRPERSON GARODNICK: Now how can they do that if Lot 30 is Lot 30 is Lot 30; right? It would seem to me that, you know, whatever Lot 30 is, 28% of that would have to be affordable by the definition you gave me. How are they doing what you're suggesting that they're doing?

ANNA LEVIN: Because they're building a hotel above it as part of this. This is a very high-density site on the 8th Avenue corridor. So they're putting two-- they say they're putting two buildings on Lot 30; the cure building, which will be what, six, seven stories tall; and the hotel above.

2 CHAIRPERSON GARODNICK: Now--

3 ANNA LEVIN: [Interposing] And that
4 has to be a separate hotel from the hotel on the
5 rest of the development site, because they can't
6 be intermingled if they want to preserve this
7 zoning construct.

8 CHAIRPERSON GARODNICK: Okay. Now
9 is it your position, the position of the Community
10 Board that they are not allowed under the law to
11 add a hotel to that site where they have an
12 obligation under the Cure provisions--

13 ANNA LEVIN: [Interposing] No,
14 they're certainly allowed to do it, but it has to
15 truly be a separate hotel. And we think that what
16 they're really doing here is building one hotel
17 with the inclusionary. And they should just
18 acknowledge that that's what they're doing. I
19 understand why they're doing it. If I were in
20 their shoes I would be doing the same thing
21 because 20% of the square feet of the entire
22 development is an enormous amount of affordable
23 housing, and probably more than this project can
24 support. So of course they're trying to isolate
25 it to that one corner. I submit that the zoning

1
2 is broken, and that we really ought to be finding
3 a solution in between that is something more than
4 the 28% of the corner and something less than the
5 20% of the hotel-- 20% of the entire site. They
6 ought to be designing a single hotel-- well really
7 they ought to be designing residential housing,
8 because the hotel market is saturated, but that's
9 they're choice. It ought to be a single hotel
10 because I think in fact that's what they're
11 intending to-- how they're intending to operate
12 it. But with the proposal that's before you, they
13 have to maintain the reality that they're building
14 two hotels. And I think already in the testimony
15 we're hearing that's not even true.

16 JOE RESTUCCIA: I mean it is clear
17 we've gone through a lot of gyrations to get where
18 we're going. And by the absolute letter of the
19 zoning regulation, two separate buildings meets
20 every test. We've had serious meetings with HPD
21 Counsel, and it meets the test. However,
22 physically, it makes no sense, as a developer,
23 myself, to build two separate buildings like this.
24 And the truth is down the road-- that's why we're
25 looking to have a restrictive dec if this does

1
 2 proceed, because if you get it on the legal side,
 3 then you have to do it on the operational side.
 4 We also think it makes no planning sense. Two
 5 separate hotels on this very visible corner on
 6 Restaurant Row, we should have one very grand
 7 hotel with a certain amount of affordable housing
 8 that we figure out something in the middle. It's
 9 crazy to do it this way.

10 CHAIRPERSON GARODNICK: Okay, so I
 11 see. So your point is that to do it legally they
 12 have to be separate, but in reality what you're
 13 seeing is either a morphing of that proposal or
 14 you think that it should be acknowledged as that
 15 proposal. But if you did that then the greater
 16 number of square feet would be applicable here,
 17 and what you're proposing is something which deals
 18 with the fact that you have a 28% rule and a 20%
 19 rule and something which addresses the unique
 20 nature of this particular development site here.

21 JOE RESTUCCIA: And then at the end
 22 transfer those development rights from the Puerto
 23 Rican Traveling Theatre Company building at a
 24 competitive price. Yes, whatever the price was
 25 nine months ago would be less, but the truth is

1 when you have one owner, it actually works in your
 2 favor when you negotiate, because they're the only
 3 owner, and they want those development rights.
 4

5 And that seems to be an edge that would make this
 6 project work better financially. No matter how
 7 many square feet-- I've worked with these
 8 development rights transfers before, the more the
 9 better, and everybody wants it. I just think the
 10 City-- EDC is moving ahead in sort of a blind
 11 fashion, and that should be kind of pulled back--
 12 let's make the right deal.

13 CHAIRPERSON GARODNICK: Last
 14 question for you before we'll either go to
 15 colleagues or members, any other members of the
 16 public. On the point about the Puerto Rican
 17 Traveling Theatre Company, which is getting a
 18 rather positive benefit from the City at \$2,500 a
 19 year in rent, you're saying today that they have
 20 sub-leased the space, all of the space out to a
 21 commercial entity?

22 JOE RESTUCCIA: We have producing
 23 theatres, not-for-profit producing theatres in
 24 City deals with HPD that are paying \$2,500 to--
 25 thousands of dollars a month, not a year, and they

1
2 have in fact been operating Forbidden Broadway for
3 quite some time. The Puerto Rican Traveling
4 Theatre, like many other not-for-profits has been
5 around for a long time, and it's just no longer a
6 functioning producing theatre. They do some
7 workshops. Because they have a long history, like
8 other not-for-profits in our district, the actual
9 not-for-profits, they kind of tend to ride on
10 that. And therefore our job is always shaking out
11 what was real, imagined and what was from what is
12 today. And the Puerto Rican Traveling Theatre
13 falls into the category of what was, not what is
14 today.

15 CHAIRPERSON GARODNICK: So for how
16 long have they been renting out their space?

17 JOE RESTUCCIA: Minimum five years.

18 CHAIRPERSON GARODNICK: So there
19 has not been-- the Puerto Rican Traveling Theatre
20 Company has not been a-- has not been producing
21 theatre in that space for five years?

22 JOE RESTUCCIA: The Committee would
23 be able to document simply from playbills that
24 there has been no activity by the Puerto Rican
25 Traveling Theatre of its own productions in that

2 space.

3 CHAIRPERSON GARODNICK: And do you
4 know-- do you happen to know the terms of the
5 agreements between the Puerto Rican Traveling
6 Theatre and any of the entities with whom it has
7 sub-contracted?

8 JOE RESTUCCIA: No, but I did see
9 Forbidden Broadway there, many years ago,
10 actually.

11 CHAIRPERSON GARODNICK: Okay.

12 ANNA LEVIN: And our understanding
13 is that there's the theatre itself, which has been
14 used for the commercial theatre. There's office
15 space above, some of which we really don't know
16 who's in there. We do know that there are some
17 people who are not affiliated with the Puerto
18 Rican Traveling Theatre who are not using that
19 office space.

20 CHAIRPERSON GARODNICK: Okay. Well
21 thank you very much for your time. And seeing no
22 members of the public other than yourselves
23 wishing to testify on this item, we are going to
24 close the hearing and we're going to lay it over.
25 Obviously there are still plenty of issues to be

2 resolved between now and our next get together,
3 which of course is going to be Wednesday. March
4 4th, which is not Wednesday. March 4th, it's
5 another Wednesday, when we'll lay this item over
6 to. So we'll look forward to further
7 conversations and certainly encourage those-- oh,
8 sorry. Council Member Dickens has a question.

9 COUNCIL MEMBER DICKENS: I
10 apologize, but now who do you represent?

11 ANNA LEVIN: Manhattan Community
12 Board number 4.

13 COUNCIL MEMBER DICKENS: Oh, all
14 right. Now on Lot 30, is this lot, and I'm trying
15 to-- I'm looking at these submissions here, these
16 drawings, was there a creation of another lot or a
17 combining of lots?

18 ANNA LEVIN: Yes. There's a
19 combining of-- what is it, seven, eight lots.

20 COUNCIL MEMBER DICKENS: So, I'm
21 not talking just in construction now. I'm really
22 talking about was it combined as far as DOB and
23 Finance. Because I'm looking at Lot 30.

24 JOE RESTUCCIA: It's the zoning
25 lots, and that would be Finance.

2 COUNCIL MEMBER DICKENS: Yes.

3 JOE RESTUCCIA: Lot 30 stands
4 alone, and the other lots, 34, 33, 28, 26A, the
5 new lot, and the development rights of Lot 35 and
6 the proposed in front of you development rights of
7 Lot 37 would be combined into one new zoning lot.

8 COUNCIL MEMBER DICKENS: Because I
9 see a Lot 29 on here on page two of this.

10 JOE RESTUCCIA: That's right. I do
11 not believe, you would have to ask the developer,
12 if in fact all these-- well--

13 ANNA LEVIN: [Interposing] Lot 29
14 is the hotel.

15 COUNCIL MEMBER DICKENS: So then
16 that is-- that is the creation that they want to
17 separate out? Is that what you're talking about?

18 JOE RESTUCCIA: It would be, from
19 our understanding, a condominium, the base being
20 the affordable and the tower being the hotel after
21 this project happened.

22 COUNCIL MEMBER DICKENS: All right,
23 thank you.

24 CHAIRPERSON GARODNICK: Thank you.
25 And again, thank you both very much and we'll look

2 forward to seeing you again. And with that we are
3 going to close the hearing on Land Use number 982,
4 the Puerto Rican Traveling Company number
5 C090072PPM, Manhattan Community Board 4. As
6 noted, a couple times already, we will be laying
7 that over for the discussions that are ongoing.
8 And we're going to open the hearing on Land Use
9 number-- let's see, land use number 989, the New
10 Chance Development.

11 [Pause]

12 CHAIRPERSON GARODNICK: Brooklyn
13 Community Board 1, 20095302HAK. This is an
14 application from HPD. HPD? You're up.

15 [Pause]

16 CHAIRPERSON GARODNICK: Can
17 somebody grab-- there we go. Ms. Arroyo, welcome
18 back. We're on to Land Use number 989.

19 [Pause]

20 CHAIRPERSON GARODNICK: All right,
21 thank you.

22 THERESA ARROYO: Thank you, so
23 sorry.

24 CHAIRPERSON GARODNICK: That's all
25 right. 989, Yassky's district, 20095302HAK.

2 [Pause]

3 THERESA ARROYO: Okay. All right.
4 HPD seeks approval of an Article 11 tax exemption
5 for LU 989, located at 586A Morgan Avenue. This
6 project consists of the proposed preservation of
7 an eight-unit building through HPD's tax
8 incentives and inclusionary housing programs. The
9 sponsor, New Chance Housing Development Fund
10 Corporation, whose parent organization is St.
11 Nicholas Housing Preservation Corporation,
12 acquired the property through HPD's Community
13 Management Program. On April 17th, 1989, calendar
14 number 56, the Board of Estimate approved a 40-
15 year partial Article 11 tax exemption. However,
16 since July 1st, 2005, the property has accrued
17 \$14,171 in real property tax arrears. HPD seeks
18 approval of a full Article 11 tax exemption in
19 order to maintain affordability for a period of 40
20 years. The sponsor will also make substantial
21 repairs. And Council Member Yassky has reviewed
22 the project and indicated his support.

23 CHAIRPERSON GARODNICK: Thank you.
24 This is a complicated one. So the Board of
25 Estimate you said granted a partial--

2 THERESA ARROYO: [Interposing] Tax
3 break.

4 CHAIRPERSON GARODNICK: Article 11
5 tax exemption.

6 THERESA ARROYO: Correct.

7 CHAIRPERSON GARODNICK: And that's-
8 - since that time the property has accrued \$14,000
9 in tax arrears?

10 THERESA ARROYO: Since 2005.

11 CHAIRPERSON GARODNICK: And HPD is
12 seeking a complete tax exemption under Article 11?

13 THERESA ARROYO: Right.

14 CHAIRPERSON GARODNICK: And the
15 developers here, New Chance, with as a subset of
16 St. Nicholas, these folks are new into the
17 picture?

18 THERESA ARROYO: No, they--

19 CHAIRPERSON GARODNICK:
20 [Interposing] Or were they the developers all
21 along?

22 THERESA ARROYO: They were the
23 original. Right.

24 CHAIRPERSON GARODNICK: Okay. And
25 they acquired the property through the Community

2 Management Program?

3 THERESA ARROYO: Correct.

4 CHAIRPERSON GARODNICK: And that
5 was a competitive process?

6 THERESA ARROYO: Yes.

7 CHAIRPERSON GARODNICK: And so
8 essentially today HPD now along with the longtime
9 owners of the building are coming and asking for
10 help for-- to deal with the arrears and to--
11 what's the benefit to the City of New York in this
12 one?

13 THERESA ARROYO: The sponsor has
14 entered into another 40-year agreement, regulatory
15 agreement, to maintain the affordability, which is
16 where the full tax exemption comes into play, and
17 allows for that; it also allows for rehab of the
18 property, heating systems and so forth, windows
19 and things like that.

20 CHAIRPERSON GARODNICK: How much
21 money are they putting in to the building?

22 THERESA ARROYO: Now there I do not
23 have that either.

24 CHAIRPERSON GARODNICK: I mean are
25 they going to charge the tenants for this as an

2 MCI?

3 THERESA ARROYO: The rent will be--
4 the rents will basically stay there. The rents
5 pretty much stay almost the same--

6 CHAIRPERSON GARODNICK:

7 [Interposing] The rents may stay the same. But
8 the question is whether they are going to, whether
9 they are able to add a major capital improvement
10 onto the rent bill.

11 THERESA ARROYO: No, it's not going
12 to happen.

13 CHAIRPERSON GARODNICK: They're
14 not?

15 THERESA ARROYO: No. I have the
16 project, the proposed incomes. And the average
17 rent will be for all these units \$376.77, which is
18 an average of 26% of the AMI.

19 CHAIRPERSON GARODNICK: Are these
20 rent stabilized or rent controlled?

21 THERESA ARROYO: I want to stay
22 rent stabilized. I can't say--

23 CHAIRPERSON GARODNICK:

24 [Interposing] I want you to say whatever is
25 accurate.

2 THERESA ARROYO: There I don't have
3 that.

4 CHAIRPERSON GARODNICK: Okay.

5 THERESA ARROYO: But I do know they
6 were originally intended to be lower income
7 housing, and this is preserving exactly that.

8 CHAIRPERSON GARODNICK: See, what I
9 don't understand here is if there's-- if the
10 developers here have money to invest in the
11 building, how come they're in arrears in their
12 taxes?

13 THERESA ARROYO: They weren't-- not
14 supposed to accrue any taxes, that taxes, those
15 taxes.

16 CHAIRPERSON GARODNICK: That was an
17 error in accounting from the City?

18 THERESA ARROYO: I would have to--
19 again, you want affirmative. I don't have that.
20 I do know that what we're trying to do is secure
21 the affordability. We're not going to reimburse
22 the sponsor for any taxes that have been paid.
23 But the thing is that it cannot obviously continue
24 accruing arrears because that will affect the
25 viability of the project.

2 CHAIRPERSON GARODNICK: Okay. So,
3 they're going to continue to owe the dollars in
4 taxes, the money in taxes that they owe.

5 THERESA ARROYO: What they have
6 paid has been-- give me one second, let me just
7 look at the letter. We're going to-- we're
8 seeking termination of the prior exemption. The
9 effective date would be-- we're looking for a tax
10 exemption effective from June 27th, 2008. So
11 we're not-- prior resolution, regulatory
12 agreement. Okay. I apologize, we are-- We are
13 not seeking forgiveness of the taxes from 2005 to
14 2008, which is the effective date of what we're
15 seeking, the Article 11.

16 CHAIRPERSON GARODNICK: Okay, but I
17 guess-- so you're not seeking forgiveness. That
18 means they still have it as an obligation.

19 THERESA ARROYO: They have to pay,
20 yes.

21 CHAIRPERSON GARODNICK: But they
22 are also committing to you, HPD, that they're
23 going to do certain improvements to the building.

24 THERESA ARROYO: Yes.

25 CHAIRPERSON GARODNICK: Now the

1
 2 point that I don't understand is where the, you
 3 know, the resources to be able to do the
 4 improvements come from when they actually have an
 5 obligation to pay taxes that they have not paid.
 6 And, you know, unless they're planning on passing
 7 the costs for the improvements on to the tenants,
 8 in which case they're the ones who are going to
 9 have the burden of having to deal with all those
 10 improvements rather than the developer, that's a
 11 point of I think some concern.

12 THERESA ARROYO: No, I understand
 13 that completely, but I'm looking at the income and
 14 the rents for the new project, as underwritten
 15 with the Article 11 exemption, there is really no
 16 change, something like a \$20 change in the rent.
 17 Because being that it is low, they have to be
 18 Section 8 eligible. So there's not going to be--
 19 as far as payments--

20 CHAIRPERSON GARODNICK:
 21 [Interposing] But also nobody's applied for an
 22 AMCI as to day. Okay, what we're going to do is
 23 we're going to lay this one over because I think
 24 we have some ongoing questions about it and I
 25 think we need to confer with Council Member

2 Yassky. So we're going to lay over Land Use 989,
3 let us very quickly deal with Land Use number 983,
4 which is in Council Member Ignizio's district, non
5 ULURP 20095294HAR, at 668 Sycamore Street. And
6 then we'll move on to Land Use 985, then we'll go
7 on to all of the Council Member Reyna items that
8 are on the calendar today. And Ms. Arroyo, go
9 right ahead. 983.

10 THERESA ARROYO: Right. 983
11 consists of the proposed disposition of an
12 occupied City-owned building located at 668
13 Sycamore Street, through HPD's Asset Sales
14 program. The proposed purchaser, Paul R.
15 Genevieve [phonetic], will conserve the two-family
16 home. The current tenants, who did not attempt to
17 purchase the home, will remain there for two years
18 at the current HPD rent. Thereafter the purchaser
19 intends to occupy the home. And I defer to you.

20 CHAIRPERSON GARODNICK: Go ahead,
21 Council Member Ignizio.

22 COUNCIL MEMBER IGNIZIO: Yeah, I
23 just want-- no, I'm in favor of the proposal.
24 I've talked to HPD and I think everybody's happy.

25 CHAIRPERSON GARODNICK: Okay, it's

2 very rare we see one of these coming out of your
3 district.

4 COUNCIL MEMBER IGNIZIO: Extremely
5 rare.

6 CHAIRPERSON GARODNICK: So we're
7 glad to have your support and we thank you for
8 that. We'll close the hearing on Land Use 983
9 Non-ULUPR 20095294HAR, and open the hearing on
10 Land Use number 985 20095296HAK on the district of
11 Council Member Stewart.

12 THERESA ARROYO: 985 consists of
13 the proposed disposition of one occupied City-
14 owned building, located at 1073 Utica Avenue,
15 through HPD's Asset Sales Program. The proposed
16 purchaser, Linda Solomon [phonetic], will conserve
17 the four-unit building. Council Member Stewart
18 has been briefed and indicated his support.

19 CHAIRPERSON GARODNICK: So, this is
20 one building with four units you said?

21 THERESA ARROYO: Correct.

22 CHAIRPERSON GARODNICK: And that
23 will be-- you said conserved by?

24 THERESA ARROYO: Conserved,
25 basically. So there's no real rehab involved.

2 CHAIRPERSON GARODNICK: So
3 nothing's really happening--

4 THERESA ARROYO: [Interposing]
5 Right.

6 CHAIRPERSON GARODNICK: Other than
7 just a transfer from the City to the current
8 resident.

9 THERESA ARROYO: Right.

10 CHAIRPERSON GARODNICK: Okay. And
11 that's-- the four units are all occupied?

12 THERESA ARROYO: Two occupied
13 residential, one vacant residential, and the
14 fourth unit is actually a commercial unit.

15 CHAIRPERSON GARODNICK: Okay. And
16 the vacant residential unit will go to whom?

17 THERESA ARROYO: Whomever the
18 purchaser deems to rent it to.

19 CHAIRPERSON GARODNICK: So it's
20 just-- and there's no obligations?

21 THERESA ARROYO: It's just a
22 regular-- yeah, they purchase it and rent it.

23 CHAIRPERSON GARODNICK: Regular old
24 market rental.

25 THERESA ARROYO: Yes.

2 CHAIRPERSON GARODNICK: Okay.

3 Thank you. With that we'll close the hearing on
4 Land Use 985, Non-ULURP 20095296, and we're going
5 back into the district of Council Member Reyna,
6 where we have a number of items. It looks like we
7 have four of them. Let's go back. Should we go
8 back to 851? Is that an appropriate moment now,
9 Council Member? Okay. We're back to Land Use
10 number 851, which is at 295 Jefferson Street; a
11 reminder, this is Brooklyn Community Board 4,
12 20095009HAK. And this was a pre-approved UDAAP
13 back in October of 2006; merger of a vacant lot
14 and eight units of rental housing. So Ms. Arroyo,
15 I think you were proposed a couple of questions
16 from Council Member Reyna, now is an appropriate
17 time to address.

18 THERESA ARROYO: Okay. In question
19 as to when they began a dialogue or trying the
20 application process with HPD, began March of '07
21 that they began this dialogue. And our submission
22 was in 2008, 16th.

23 COUNCIL MEMBER REYNA: I'm talking
24 about the application itself, submitted.

25 THERESA ARROYO: This is the

1
2 information we've been given buy the program, it
3 was March '07.

4 COUNCIL MEMBER REYNA: Okay. I
5 just wanted to go on the record that at no moment
6 was I against affordable housing, and this
7 particular process has raised several levels of
8 concerns. You know, HPD's actions or the failure
9 to act on applications, wherever it was,
10 preference one agency over another. I do hope
11 that this has been a learning experience for both
12 the agency as well as my office in order to
13 process these applications. I had three different
14 non-profits applying for these particular
15 benefits. And dating back to December of '07.
16 You mentioned March of '07 a dialogue.

17 THERESA ARROYO: Right, began a--

18 COUNCIL MEMBER REYNA:

19 [Interposing] But I'm talking about an application
20 process being submitted. So therefore I could
21 understand where HPD refuses to answer the
22 question appropriately, because it wouldn't look
23 good to mention that this particular application
24 was fast-tracked in about three months. The issue
25 here is that I am moving forward eight units of

1
2 brand new affordable housing construction, despite
3 all the protests and inaccurate information that
4 this particular non-profit has been issuing to my
5 community. The leverage I had was to hold this
6 particular application for an Article 11 to get
7 HPD as an agency to give due process to the
8 previous two applications that had been filed,
9 that were in motion to actually increasing rents
10 on rent-stabilized apartments, where J 51 had
11 expired. The two different sites I'm talking
12 about are Land Use number 987 and Land Use number
13 988. Therefore those two particular applications
14 today have been reviewed and approved because of
15 delaying 295 Jefferson Street. I hope this will
16 be the last time that I will have to deal with
17 this and that we can both work towards preserving
18 the affordable housing market that is vivid in my
19 district, and the new construction that is now on
20 the way will continue to service my district. So,
21 the Land Use number 851, after much delay
22 necessary to deal with the other two sites, I will
23 approve and work with HPD on making sure that I
24 get information concerning the marketing of those
25 eight units, because as you can see there is no

1
2 dialogue with the housing non-profit that HPD
3 approves this application for. Thank you very
4 much, Mr. Chair.

5 CHAIRPERSON GARODNICK: Thank you,
6 Council Member Reyna. Okay. With that we'll
7 close the hearing on Land Use number 851 at 295
8 Jefferson Street, 20095009HAK. And as you noted
9 before, there are a couple of other items pending
10 here, and we will go right to them. They are in
11 your district; Land Use number 987, 101-105 South
12 8th Street, in Brooklyn Community Board 1,
13 20095300HAK. Ms. Arroyo?

14 THERESA ARROYO: Yes, sir. HPD
15 seeks approval, as we already are familiar with at
16 this point, of an Article 11 tax exemption for
17 987, LU 987, located at 101-105 South 8th Street.
18 The project consists of the proposed preservation
19 of two multiple dwellings with a total of 25
20 residential units, through HPD's tax incentives
21 and inclusionary housing programs. The sponsor,
22 Catholic Charities Progress of Peoples Development
23 Corporation, has entered into a regulatory
24 agreement since June of '08, 2008, and will make
25 substantial repairs. The proposed Article 11 tax

2 exemption will replace the existing J 51 benefits
3 and maintain affordability, basically lower income
4 housing, for a period of 40 years. And the
5 Council Member has expressed..

6 CHAIRPERSON GARODNICK: We'll let
7 her say that. But what's the income ban for the
8 low-income units?

9 THERESA ARROYO: Up to 80%, so for
10 one person, from \$43,040 is the maximum income
11 they can earn to a household of six would be
12 \$71,280.

13 CHAIRPERSON GARODNICK: Thank you.
14 Council Member Reyna?

15 COUNCIL MEMBER REYNA: Can you just
16 go over this again?

17 THERESA ARROYO: Sure.

18 COUNCIL MEMBER REYNA: The proposed
19 project is 25 units of preservation or new
20 construction?

21 THERESA ARROYO: Preservation. No,
22 it's not new construction. These are existing
23 buildings.

24 COUNCIL MEMBER REYNA: How many
25 units are occupied and how many are vacant?

2 THERESA ARROYO: All-- of the 25
3 only one is vacant.

4 COUNCIL MEMBER REYNA: So again, I
5 just want to make sure that my colleagues in the
6 City Council understand my position as far as
7 leveraging the previous Land Use application for
8 an Article 11, this particular project is a
9 perfect example of the preservation of affordable
10 housing and my commitment to it. And therefore it
11 was important that 24 families remained in
12 affordable housing units, of which HPD had not
13 acted expeditiously on. Thank you.

14 CHAIRPERSON GARODNICK: Thank you.
15 And so you are supporting Land Use number 987?

16 COUNCIL MEMBER REYNA: I apologize.
17 I am in favor.

18 CHAIRPERSON GARODNICK: Terrific.
19 And now we're going to close the hearing on Land
20 Use 987, 20095300HAK and open the hearing on Land
21 Use 988, at 176 South 8th Street, 20095301HAK,
22 also in Community Board 1, also in the district of
23 Council Member Reyna. Ms. Arroyo?

24 THERESA ARROYO: LU 988 consists of
25 the proposed preservation of one multiple dwelling

2 with 30 residential units, through HPD's tax
3 incentives and inclusionary housing programs. The
4 sponsor here is also Catholic Charities Progress
5 of Peoples Development Corporation, who has
6 entered into a regulatory agreement and will also
7 make substantial repairs. The proposed Article 11
8 tax exemption here also replaces the existing J 51
9 benefits and will maintain affordability for a
10 period of 40 years. Same thing-- income
11 guidelines are exactly the same. The target's up
12 to 80% of AMI.

13 CHAIRPERSON GARODNICK: Thank you.

14 And Council Member Reyna?

15 COUNCIL MEMBER REYNA: And the
16 magic question is how many units are vacant and
17 how many are occupied?

18 THERESA ARROYO: We have five
19 vacant, so 25 occupied.

20 COUNCIL MEMBER REYNA: So in the
21 name of 25 families, that was important for the
22 delay of the previous project, Land Use number
23 851, to maintain and preserve affordable housing,
24 we have this application being coupled along with
25 the others. Thank you. I'm in favor of this

2 project.

3 CHAIRPERSON GARODNICK: Thank you
4 very much. We'll now close the hearing on Land
5 Use 988, 176 South 8th Street, 20095301. We'll
6 open the hearing on Land Use number 997, Union
7 Court, Brooklyn Community Board 1, 20095327HAK.
8 Ms. Arroyo?

9 THERESA ARROYO: Okay. I'm sorry.

10 CHAIRPERSON GARODNICK: Go right
11 ahead. We're on 997.

12 THERESA ARROYO: All right. I'm
13 sorry. 997 consists of HPD seeks the approval of
14 an Article 11 tax exemption for this property
15 located at 306 Union Avenue, known as Union Court.
16 The project consists of the proposed preservation
17 of two multiple dwellings, with a total of 21
18 residential units, also through HPD's tax
19 incentives and inclusionary housing programs. The
20 sponsor, Brooklyn Neighborhood Housing Development
21 Fund Corporation, whose parent organization is St.
22 Nicholas Housing Preservation Corporation, has
23 entered into a regulatory agreement and will make
24 substantial repairs. The proposed Article 11,
25 again, in this case will replace the existing J 51

2 benefits and maintain affordability for a period
3 of 40 years. I defer to the Council Member.

4 CHAIRPERSON GARODNICK: Thank you.
5 You said it was 80% of AMI as well on this one?

6 THERESA ARROYO: Absolutely.

7 CHAIRPERSON GARODNICK: Okay. I'm
8 sensing a theme. Okay. Council Member Reyna?

9 COUNCIL MEMBER REYNA: I just
10 wanted to find out, out of the 21 units, and how
11 many occupied?

12 THERESA ARROYO: One vacant.

13 COUNCIL MEMBER REYNA: And so this
14 particular application rises to the level that I
15 have just expressed multiple time. This is a
16 total of 76 units that exist in need of
17 preservation, with an unnecessary delay on behalf
18 of HPD. I needed to make certain that 76 units
19 would maintain in our affordable housing stock, of
20 which, you know, just trying to-- 69 are occupied
21 units. These particular projects were already
22 running arrears due to the lack of processing.
23 And so now we have a moment to celebrate four
24 different properties of combination of 76
25 preserved units and eight new construction units.

2 I am in favor of this project. Thank you, Mr.
3 Chair, for indulging us and I appreciate my
4 colleagues' support.

5 CHAIRPERSON GARODNICK: You are
6 very welcome, and thank you for your comments.
7 And we'll close the hearing on Land Use number
8 997, Union Court, 20095327HAK. I understand that
9 we do have answers to some of our questions back
10 on Land Use number 989, the New Chance
11 Development, in the district of Council Member
12 Yassky. Ms. Arroyo, if you could go ahead and
13 address those?

14 THERESA ARROYO: What I have
15 confirmed is the fact that the sponsor will be
16 responsible to pay back the tax arrears, from the
17 period of 2005 to 2008. All right? That's it.
18 Excuse me one second.

19 [Pause]

20 CHAIRPERSON GARODNICK: The second
21 question, of course, was related to MCIs.

22 [Pause]

23 I was told that--

24 BARBARA FLYNN: CHAIRPERSON
25 GARODNICK: [Interposing] Please go ahead and

state your name before you speak.

BARBARA FLYNN: Barbara Flynn, Chief of Staff of Intergovernmental at HPD. I was told that the developer would be paying back, the owner would be paying back the taxes between '06 and June of '08, in addition to doing the rehab, and that from June of '08 until now, the taxes would be forgiven, because there is then a regulatory agreement.

CHAIRPERSON GARODNICK: Okay. I understand where we are on the taxes. Where I don't understand is the point that in this particular one item we have both an arrears and a proposal to rehabilitate at the same time. And what I don't understand is whether this owner will be able to apply for a major capital improvement under the rent stabilization laws to pass on the cost of that rehabilitation to tenants, and if they are so entitled, then, you know, what the story is here and if they have the ability to pay for it themselves, why they're in arrears. That's the question I didn't understand. So do you have an answer to that one?

BARBARA FLYNN: I have to get back

2 to you. I have-- well I don't have an answer for
3 you right this second.

4 CHAIRPERSON GARODNICK: Council
5 Member Dickens?

6 COUNCIL MEMBER DICKENS: Yes. With
7 the J 51 in place, even though it's under rent
8 stabilization, are they eligible to apply for MCI?

9 BARBARA FLYNN: I don't know,
10 Councilwoman.

11 COUNCIL MEMBER DICKENS: Thank you.
12 Will you get back to my Chair with that? Thank
13 you.

14 [Pause]

15 CHAIRPERSON GARODNICK: Just give
16 us one moment.

17 [Pause]

18 CHAIRPERSON GARODNICK: Okay we
19 have a legal-- there's a specific legal question
20 which is, this is perhaps my own interest in the
21 subject of major capital improvements, and I
22 realize that it crosses over any number of items
23 today or in the future. I do ask that you come up
24 with the answer to that question, because I think
25 it's an important one as a matter of policy for

1
 2 the City and for rent stabilized tenants. I
 3 certainly have enough rent stabilized tenants in
 4 my district who are hit with MCIs, who constantly
 5 have to pay for them, not just during the time
 6 period in which the capital improvements are
 7 underway, but well beyond that point and forever
 8 and ever and ever into the history of time. So
 9 it's something I'm particularly sensitive to. But
 10 it's not something specific to these items here.
 11 And since we do have the support of the local
 12 Council Members, I'm going to defer to them and
 13 their support, particularly Council Member Reyna
 14 and Yassky, in whose districts these properties
 15 sit. So I am going to with that couple these
 16 items together for the purpose of voting today and
 17 I just, since we did it in a somewhat back and
 18 forth order, I'm just going to recap. Okay?
 19 We're voting today on Land Use number 851, 987,
 20 988, 989, 997, 983 and 985. We are laying over
 21 Land Use 982, which is the Puerto Rican Traveling
 22 Theatre Company, and on the recommendation of my
 23 colleagues in whose districts these properties
 24 sit, I will recommend and Aye vote on these items,
 25 and I will also lay over all of the other items on

2 the calendar today that we did not hear at all, at
3 the request of the individual members in whose
4 districts these properties sit. Recommending an
5 Aye vote, I will ask the Counsel to call the roll.

6 CAROL SHINE: Carol Shine, Counsel
7 to the Subcommittee. Chair Garodnick.

8 CHAIRPERSON GARODNICK: I vote Aye.

9 CAROL SHINE: Council Member Baez.

10 COUNCIL MEMBER BAEZ: Aye.

11 CAROL SHINE: Council Member
12 Gonzalez.

13 COUNCIL MEMBER GONZALEZ: Aye.

14 CAROL SHINE: Council Member
15 Dickens.

16 COUNCIL MEMBER DICKENS: Aye.

17 CAROL SHINE: Council Member
18 Ignizio.

19 COUNCIL MEMBER IGNIZIO: I vote
20 Aye. I want to also point out the fine work that
21 Council Member Reyna has done in her community to
22 support affordable housing, to continue to have
23 affordable housing in her district grow. And
24 never does it go before a day in this Committee
25 where she's talking to us about affordable housing

2 in her community, and she has ably represented her
3 community here today. Congratulations to you.

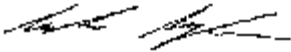
4 CAROL SHINE: By a vote of five in
5 the affirmative, none in the negative and no
6 abstentions, the aforementioned items are approved
7 and referred to the full Committee.

8 CHAIRPERSON GARODNICK: Thank you.
9 And with that I want to add my voice of
10 congratulations to Council Member Reyna for her
11 advocacy and for looking out for the tenants in
12 her district. And with that, we are adjourned.
13 Thank you, everybody.

14

C E R T I F I C A T E

I, Erika Swyler certify 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.



Signature_____

Date March 2, 2009_____