

Develop Don't Destroy Brooklyn

contacts:

Daniel Goldstein: 917-701-3056

Matthew Brinckerhoff: 212-763-5020 (office), 917-881-6844 (cell)

Jennifer Levy: (718) 246-3274 (office) or (917) 543-7201. (cell)

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Brooklyn Property Owners and Tenants File Federal Eminent Domain Lawsuit Against Ratner, Pataki, Gargano, Bloomberg and Doctoroff

*Plaintiffs' Suit Seeks to Halt the Abusive and Unconstitutional Use of
Eminent Domain for Ratner's Atlantic Yards Development Proposal*

NEW YORK, NY— Today ten plaintiffs—property owners and tenants from the site targeted for Forest City Ratner's (FCR) proposed Atlantic Yards project in Prospect Heights, Brooklyn—filed a Federal lawsuit, in the Eastern District, to stop the State of New York from taking their properties for the developer's private benefit through an abuse of its eminent domain powers. The suit says that the defendants' use of eminent domain for the "Atlantic Yards" project is unconstitutional.

Governor George **Pataki**, FCR's President Bruce **Ratner**, Empire State Development Corporation (ESDC) Chairman Charles **Gargano**, Mayor Michael **Bloomberg**, Deputy Mayor Dan **Doctoroff**, Forest City Ratner Companies and its parent Forest City Enterprises, amongst others, are named as defendants in the suit.

Develop Don't Destroy Brooklyn (DDDB) has organized a stellar legal team to represent the plaintiffs: lead counsel is [Matthew D. Brinckerhoff](#) of the constitutional law firm [Emery, Celli, Brinckerhoff & Abady](#) (ECBA); counsel for tenant-plaintiffs is Jennifer Levy of [South Brooklyn Legal Services](#); co-counsel is DDDB attorney [Jeffrey S. Baker](#) of [Young, Sommer, Ward, Ritzenberg, Baker & Moore](#); and a team of dedicated volunteer attorneys.

"This lawsuit presents a textbook example of what the Fifth Amendment expressly prohibits: the taking of one citizen's property in order to benefit a powerful and influential private citizen. Our case is strong—the sham process employed by defendants to justify the taking of plaintiffs' property for Bruce Ratner's 'Atlantic Yards' is precisely what was forbidden by the majority in last year's controversial Supreme Court Case -- *Kelo v. New London*," lead attorney Matthew Brinckerhoff said. "The 'Atlantic Yards' proposal is premised upon the abuse of eminent domain. Plaintiffs will not stand idly by while their properties are seized by the State and given to Bruce Ratner to maximize his enrichment. We seek a court order prohibiting the State from abusing its eminent domain power in violation of the Fifth Amendment."

Property owners and tenants in the proposed development have the right to keep their homes and properties. New York State has no legal right to take those properties for a private, favored developer when there is no comprehensive development planning process, no bidding process for the condemned land, a phony "blight" finding and when that project is wholly conceived and driven by that private developer for that private developer's benefit. This is the case with Forest City Ratner's "Atlantic Yards" proposal.

Tenant attorney Jennifer Levy said, "I represent low-income renters and most of my clients in this case are rent-stabilized tenants who will be removed from their long-term homes, distanced from their families, and removed from their communities, if this Project is permitted to proceed. This case represents an unjustifiable use of the State's eminent domain powers, which only permit the

use of eminent domain where there is a resulting public use. It is not permissible to use eminent domain for the benefit of a private developer displacing vulnerable populations.

“We are calling on the Public Authorities Control Board–Silver, Bruno and the Governor–to postpone any vote on the proposed 'Atlantic Yards' project until the courts have ruled on eminent domain,” said DDDDB attorney Jeffrey Baker. "There is much that is illegal with the Ratner ‘Atlantic Yards’ proposal and its process. Its abuse of eminent domain, which we will show with this case, is at the very foundation of the project’s numerous violations of the law."

“We want to stay in our homes, keep our businesses, and keep our properties. Our case, at its core, is very simple: Bruce Ratner does not have the right to ask Governor Pataki to take my home and give it to Bruce Ratner, and the Governor does not have the right to oblige Mr. Ratner. We are sure that most people agree with us on that,” said plaintiff and DDDDB spokesman Daniel Goldstein. “With our suit here in Brooklyn we are standing up for millions of people across the United States who understand that the abuse of eminent domain can impact anyone and has gone too far. We are excited that our case may rein in eminent domain abuse here in New York City and across the country.”

Lead DDDDB legal volunteer Candace Carponter said, “We fully support, congratulate, and deeply respect the courage of these owners and tenants in defending their fundamental constitutional rights. As the Ohio Supreme court said in its ruling for owners in the [City of Norwood](#) eminent domain case, 'although the judiciary and the legislature define the limits of state powers, such as eminent domain, the ultimate guardian of the people's rights...are the people themselves.'”

The 8.8 million square foot, \$4.2 billion “Atlantic Yards” project was first conceived by Forest City Ratner and unveiled in December, 2003, at which time it was made clear that private property (homes and businesses) would be condemned, seized and transferred to the developer to construct his project and bring enormous profits to the development corporation. The City of New York and the State of New York never had any plan for the proposed project site, and thus, “Atlantic Yards” and its dependence on eminent domain abuse is entirely driven by the developer, and the private goals of the Forest City Ratner corporation. The Supreme Court’s *Kelo* decision in the summer of 2005 forbade this kind of favoritism in takings.

ECBA and the lawyers who work there have developed a national reputation in the field of constitutional litigation, winning important victories in landmark matters such as *Morris v. Board of Estimate*, the US Supreme Court case that struck down the previous form of New York City government as a violation of one-person/one-vote principles, and *Gasperini v. Center for Humanities*, the US Supreme Court case that upheld a litigant's right to a jury award. The Firm currently has an active constitutional docket, including two other Fifth Amendment Takings Clause cases, and numerous Equal Protection Clause, Free Speech Clause and other constitutional cases.

The mission of South Brooklyn Legal Services (SBLS) is to seek equal justice for low-income people in Brooklyn by providing a broad range of legal advocacy and information. In pursuing this goal, SBLS tries to work respectfully with individual clients and client groups to identify and address their legal needs, to help empower poor people to identify and defeat the causes and effects of poverty in their communities, to focus on matters that will have the greatest impact for low-income people, and to work cooperatively with the private bar and with other agencies and organizations serving poor people.

The complaint can be found here:
<http://dddb.net/php/reading/legal/eminentdomain>

DEVELOP DON'T DESTROY BROOKLYN leads a broad-based community coalition fighting for development that will unite our communities instead of dividing and destroying them