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Public hearing of the New York City Council Committee on Economic Development on the proposed Brooklyn Atlantic Yards project

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My name is Bettina Damiani, Project Director of Good Jobs New York, a joint project of the Fiscal Policy Institute with offices in Albany and New York City and Good Jobs First, based in Washington, DC. Good Jobs New York promotes accountability to taxpayers in the use of economic development subsidies. Our website, (www.goodjobsny.org) contains the only publicly available database of the city's large corporate "retention" deals, and last year we released a report *Know When to Fold `Em: Time to Walk Away from NYC's "Corporate Retention" Game,* detailing the failure of commercial subsidy agreements negotiated by the New York City Industrial Development Agency (IDA) in the 1990s to produce job growth.

Thank you for the invitation to speak to you today about the proposed Brooklyn Atlantic Yards (BAY) project. Good Jobs New York strongly supports the goal of development on the Atlantic Yards site, particularly development that offers housing opportunities for working New Yorkers, access to living wage jobs and job training, and an improved neighborhood environment for local residents. However, as it stands, the proposed BAY project unfortunately embodies much of what is wrong with New York City's economic development and planning processes today. We would like to touch on a few of our concerns and urge the Council to support an improved process going forward for this and all other major development projects.

Transparency

The negotiations surrounding the development of the BAY project have been marked by secrecy, with elected officials providing privileged access to one developer for the site. Rather than working with local stakeholders to create a vision for community-driven development and then issuing a Request For Proposals (RFP) to locate the developer that can best meet those community needs, the city instead chose to pursue one idea – that of a sports arena coupled with a prime residential real estate opportunity – that fails to take many local concerns into account and partnering with one development company, Forest City Ratner Company (FCRC), to put that idea into action. Unsurprisingly, this process has contributed to a fragmentation of community responses, as some groups have been able to work with the "designated developer" to advance their concerns while others have not.

In addition to community groups, other developers and designers have been marginalized by the process thus far. FCRC has been party to lengthy negotiations and has received enthusiastic public support from elected officials as it seeks to realize the Brooklyn Atlantic Yards project. By contrast, other developers had to wait until just yesterday, Wednesday, May 25th, to see an RFP released on the website of the Metropolitan Transit Authority (MTA) for all or part of Vanderbuilt Yards, which is central to development on the site. The bids must be in by July 6th, just over a month from the time of the RFP's issuance.

The site proposed for the BAY project is now very valuable real estate, given the growth and increasing prosperity of the surrounding neighborhoods, the public transit hub, and the intense demand for housing at all income levels. Because of its high potential, the site represents a major opportunity for private developers to make a profit and for the local community to reap much-needed economic benefits. Elected officials bear a responsibility to act as honest brokers of community needs in pursuing economic development projects. In light of this responsibility, the city's focus on one site use and one developer is especially troubling.

Subsidies

Without a real RFP process, it is difficult to say whether or not the public is getting the best possible results from its economic development efforts. This is particularly true when it comes to providing subsidies in order to induce development. The public is being asked to pay for part of a project that it has not had a chance to compare with alternatives. And the public price tag on the current FCRC proposal seems likely to be large. After private negotiations, on February 18, 2005, the city and state signed a Memorandum Of Understanding (MOU) with FCRC that called for $200 million in public infrastructure expenditures. However, this relatively recent disclosure of the amount of public cash to be committed to the project fails to capture the whole picture. Good Jobs New York's experience tracking city and state economic development subsidies leads us to conclude that $200 million is a gross underestimation of the total cost. Subsidies for the current proposal may include:

- Forgone property and possibly sales tax revenue due to "Payment in Lieu of Taxes" that FCRC will use to pay back the money borrowed for construction;
- Possible additional infrastructure costs and public contribution to arena financing;
- Property tax breaks through the Industrial & Commercial Incentive Program (ICIP);
- Any discretionary property, sales, and mortgage recording tax breaks plus energy cost savings likely to be offered to commercial buildings through the New York City Industrial Development Agency (IDA);
- Discount on ground rent for any property held by the Empire State Development Corporation and leased back to FCRC;
- Increased cost of public services including schools, libraries, sanitation, and fire and police protection due to increased residential and commercial population

For such a desirable site, deep commercial subsidies should not be necessary. Furthermore, any of the current subsidies proposed should be clearly presented to the public as soon as possible so that community members can make informed choices about how best to leverage benefits from the project.

It is important to note that subsidies given in the name of job creation must be especially closely scrutinized. The link between subsidies and new jobs is tenuous in the best case, as our previous research has shown, and the job numbers thrown around for large development projects can often seem to come off the back of an envelope. The proposed BAY project would include jobs at the arena, residential towers, commercial towers, and ground-level retail. Questions remain about the extent to which local residents will truly benefit from the jobs resulting from the project. Most jobs are likely to be either “high-end,” requiring extensive, specialized education and training, or else “low-end” retail and service jobs that may not pay enough to lift people out of poverty. One important source of middle-income jobs would be prevailing-wage construction work. However, local residents will only benefit from this opportunity if agreements are in place to guarantee first-source hiring and apprenticeship programs that draw from designated areas.

Community Benefit Agreement (CBA) issues

The BAY project is the first project we know of in New York City in which the developer has advertised that he seeks to participate in a Community Benefits Agreement (CBA). As a sponsored project of Good Jobs First, which provided support for the CBAs negotiated in California and continues to act as a clearinghouse for information on CBAs, we feel it is important to draw the Council’s attention to several major differences between CBAs as they have been used in other parts of the country and the series of negotiations that FCRC is calling a CBA. Perhaps the most striking is that elsewhere CBAs are negotiated by one broad coalition of groups that would otherwise oppose a project, a coalition that includes labor and community organizations representing a variety of interests. The coalition hammers out its points of unity in advance and then each member holds out on settling on its particular issue until the issues of the other members are addressed. This way, the bargaining power of each group is used for the benefit of the coalition as a whole. In the BAY case, several groups, all of which have publicly supported the project already, have each engaged in what seem to be separate negotiations on particular issues.

While certainly a win in the fight for affordable housing, the agreement announced last week between FCRC and ACORN is one example of this piecemeal approach. Significantly, the housing agreement is in the form of a Memorandum of Understanding (MOU), rather than a legally binding contract with strong enforcement mechanisms. While the developer is also reportedly negotiating with some community groups on jobs and local hiring, it remains to be seen what kind of agreement will be reached. Community residents who have not been part of the negotiation, but have expressed concerns about educational facilities, open space, and traffic, have not had a way to include these concerns in the negotiation process that has taken place so far. We do not mean to say that negotiations on affordable housing and local hiring are without value. Housing and jobs are among the most important reasons to pursue development projects of any kind. However, to use the "CBA" model set forth by the landmark STAPLES Center agreement in Los Angeles for a series of non-binding side agreements between already-supportive community groups and a developer can only set a low bar for future attempts to negotiate for broad-based benefits from major development projects. Without broad, cross-cutting organizing, such "CBAs" can become a mechanism for dividing the community rather than uniting it, and devolve into a mere publicity tool for developers of controversial projects.

A recently updated publication on CBAs around the country is now available and is attached to our testimony. This publication outlines the experiences of communities since the implementation of CBAs. As more time passes for evaluation, the benefits and limits of this particular accountability tool will become clearer. The BAY project has so far demonstrated one of the major weaknesses of CBAs – in terms of "community" input, they are only as broadly representative as the groups that negotiate them.

The process problems apparent in the BAY project as well as others such as the proposal for Manhattan's Far West Side seem to call for wholesale changes in the city's approach to major economic development projects in order to enhance accountability and transparency. These changes may need to include a shift in the current balance of power regarding such projects among development authorities, and the executive and legislative branches of city and state government.

For the present, we encourage the Council to continue its push for greater transparency and accountability for major development projects by:

- Demanding a fair RFP and bidding process that is driven by the economic and social needs of the community;
- Once a developer is selected, requiring a full public accounting of all the subsidies proposed;
- Where possible, using its role in the zoning change approval process to act as brokers between developers and local residents and workers;
- Working with the Economic Development Corporation, Department of Small Business Services, and City Planning to encourage developers to respond to the challenges and opportunities outlined in community-driven planning processes such as 197a plans; and
- When it becomes available, use the information from the newly improved subsidy disclosure law initiated by this committee and passed earlier this month to hold companies and the administration accountable for using subsidy dollars to leverage good, local jobs.

Thank you for considering our comments.