

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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EAST HARLEM ALLIANCE OF RESPONSIBLE  
MERCHANTS, UPTOWN HOLDINGS, LLC,  
HERON REAL ESTATE CORP., YORY, LLC,  
and HEE NAM BAE,

Petitioners,

-against-

CITY OF NEW YORK, CITY COUNCIL OF THE CITY  
OF NEW YORK, CITY PLANNING COMMISSION  
OF THE CITY OF NEW YORK, CITY OF NEW  
YORK DEPARTMENT OF HOUSING PRESERVATION  
AND DEVELOPMENT, NEW YORK CITY ECONOMIC  
DEVELOPMENT CORP., and DEPARTMENT OF  
SANITATION OF THE CITY OF NEW YORK,

Respondents.  
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NOTICE OF PETITION

Index No. 08117242

**FILED**  
DEC 26 2008  
NEW YORK  
COUNTY CLERK'S OFFICE

UPON the annexed Petition of Petitioners dated the 24<sup>th</sup> day of December 2008, and upon all the papers and proceedings had herein, an application will be made to this Court at an IAS Part before a Justice assigned at the New York County Courthouse, 60 Centre Street, New York, New York on the 29th day of January, 2009 at 9:30 A.M. or as soon thereafter as counsel can be heard for a Judgment, pursuant to CPLR Article 78 granting the relief demanded in the Petition against the Respondents, CITY OF NEW YORK, CITY COUNCIL OF THE CITY OF NEW YORK, CITY PLANNING COMMISSION OF THE CITY OF NEW YORK, CITY OF NEW YORK DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT, NEW YORK CITY ECONOMIC DEVELOPMENT CORP., and DEPARTMENT OF SANITATION OF THE CITY OF NEW YORK, and awarding the following relief:

- (1) A declaratory judgment, declaring the Resolutions of the New York City Planning

Commission of August 27, 2008: a) approving the 15<sup>th</sup> Amendment to the Harlem-East Harlem Urban Renewal Plan; b) Finding that the FEIS meets the requirements of 6 NYCRR §617; and c) Recommending the Petitioners' properties as appropriate for Urban Renewal, and the related actions approved under ULURP Application Numbers C080331HAM, C080332HUM, M850772(d)ZAM, N080334ZCM, and N090083HGM are null and void and of no effect, for the reasons set forth in the causes of action herein;

(2) A declaratory judgment, declaring the resolutions of the New York City Council of October 7, 2008: a) approving the 15<sup>th</sup> Amendment to the Harlem-East Harlem Urban Renewal Plan; b) Finding that the FEIS meets the requirements of 6 NYCRR § 617; c) Approving the designation of the Urban Renewal Area; and d) approving the Decision of the City Planning Commission relating to the related actions approved under ULURP Application Numbers C080331HAM, C080332HUM, M850772(d)ZAM, N080334ZCM, and N090083HGM, are null and void and of no effect, for the reasons set forth in the causes of action herein;

(3) A declaratory judgment, declaring that the Defendants' actions, in failing to restrict the occupancy of the proposed housing of the E125 Project to low income households violated the New York State Constitution, Article XVIII, Section 6, and that Defendants actions were therefore unconstitutional;

(4) A declaratory judgment, declaring that actions of the Defendants, in failing to comply with the required review provisions of the NYC Charter § 384(b)(4), were improper and that the disposition of city-owned property by Defendant HPD was improper, in that, the E125 Project was not primarily an affordable housing project and any approvals issued pursuant to the illegal circumvention are null and void and of no force and effect;

(5) A declaratory judgment, declaring that the actions of the Defendants, in failing to

disclose the developer and specific plans for the E125 Project, was unlawful, and in violation of the intended review procedures pursuant to NYC Charter § 197-c (e);

(6) A declaratory judgment, declaring that Defendants' actions, in violation of the New York State Constitution, and in including Plaintiffs' properties in the Urban Renewal Plan, solely for the purposes of enabling condemnation, were unlawful, and enjoining Defendants from taking any further steps to acquire the Plaintiffs' properties by eminent domain;

(7) A determination that the actions of the Defendants, as set forth in each cause of action herein, under CPLR, Article 78, were affected by an error of law, lacked a foundation in the record or constituted an arbitrary and capricious action in violation of lawful procedure and constituted an abuse of discretion;

(8) A declaratory judgment, declaring that the environmental review of the E125 Project violates the substantive and procedural requirements of SEQRA and CEQR and any approvals of same are null and void and of no force and effect;

(9) A declaratory judgment, declaring that the installation of the salt pile to City-owned property is unlawful and in violation of lawful procedure as well as the substantive and procedural requirements of SEQRA and CEQR;

(10) A declaratory judgment, declaring that the salt pile constitutes a public nuisance and a permanent injunction requiring the Defendant City and DSNY to remove the salt pile and permanently abate the nuisance created thereby;

(11) A permanent injunction pursuant to GML §51, preventing the Defendants from continuing to take any and all steps in furtherance of any and all approvals granted by the CPC on August 27, 2008 as aforesaid including specifically those approved under ULURP Application Numbers C080331HAM, C080332HUM, M850772(d)ZAM, N080334ZCM, and

N090083HGM, and by the City Council on October 7, 2008 as aforesaid, as well as from taking any and all steps in furtherance of the proposed acquisition of private-owned property in furtherance of the E125 Project, and a permanent injunction freezing all allocations and payments regarding the E125 Project, together with such other relief as to this Court is just and proper.

A Verified Answer and supporting Affidavits if any must be served at least five (5) days before the return date of this application.


**PLEASE TAKE NOTICE**, that pursuant to CPLR 7804(e) you are directed to file with the Clerk of the Court your Answer, and answering Affidavits, together with a certified transcript of the record of the proceedings under consideration, together with the entire file containing the records herein held by the Respondent and referred to in said proceedings as being the record as official records kept by the Respondent herein.

New York County is designated as the venue of this proceeding on the basis of the location of the subject property and the headquarters of the Respondents herein.

Dated: December 24, 2008  
South Nyack, New York

Yours, etc.

FEERICK, LYNCH MacCARTNEY PLLC

By:   
J. David MacCartney, Jr.  
Attorneys for Petitioners-Plaintiffs  
96 South Broadway  
South Nyack, New York 10960  
(845) 353-2000

**DEFENDANTS-RESPONDENTS' ADDRESSES:**

CITY OF NEW YORK  
260 Broadway  
New York, New York.

CITY COUNCIL OF THE CITY OF NEW YORK  
260 Broadway  
New York, New York 10007

CITY PLANNING COMMISSION OF  
THE CITY OF NEW YORK  
22 Reade Street  
New York, New York 10007

CITY OF NEW YORK DEPARTMENT  
OF HOUSING PRESERVATION  
AND DEVELOPMENT  
100 Gold Street  
New York, New York 10038

NEW YORK CITY ECONOMIC  
DEVELOPMENT CORP.  
110 William Street  
New York, New York 10038

DEPARTMENT OF SANITATION  
OF THE CITY OF NEW YORK  
44 Beaver Street  
New York, New York 10004

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COUNTY OF NEW YORK

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~~VERIFIED~~  
~~COMPLAINT AND~~  
PETITION

INDEX NO.:

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The Plaintiffs-Petitioners, as and for their Petition and Complaint against the Defendants-Respondents, respectfully allege as follows upon information and belief:

**NATURE OF THE CASE**

1. This case is about the Defendants-Respondents' illegal, improper, and unconstitutional use and manipulation of the provisions of the New York City Charter, General Municipal Law, and State and City Environmental laws and regulations to push forward a development project in East Harlem. As set forth herein, the actions of the Defendants-Respondents' in, among other things, enacting the 15<sup>th</sup> Amendment to the Harlem East Harlem Urban Renewal Plan and the approving the East 125<sup>th</sup> Street Project subvert the public good for the Defendants' political benefit, constitute a gross waste of taxpayer funds, and illegally purport