



NEW YORK STATE SENATOR

Velmanette Montgomery

Senator Montgomery, Assemblyman Mosley and Assemblywoman Simon send joint letter to Empire State Development to request an update on the affordable housing promised at the Atlantic Yards project.

VELMANETTE MONTGOMERY May 6, 2019

| ISSUE: ATLANTIC YARDS, AFFORDABLE HOUSING, EMPIRE STATE DEVELOPMENT, STATE TAX ABATEMENTS, CORPORATE WELFARE



Senator Montgomery, Assemblyman Mosley and Assemblywoman Simon send joint letter to Howard Zensky, President and CEO of Empire State Development to request an update on the affordable housing promised at the Atlantic Yards project.

May 3, 2019

Dear Mr. Zemsky:

Dear Mr. Zemsky:

We write regarding the obligation of Greenland Forest City Partners (GFCP), Greenland USA, and Forest City Ratner Companies (FCRC) to build affordable housing in connection with the development of the Atlantic Yards project in Brooklyn—particularly the obligation to complete 2,250 units of affordable housing by 2025. To date, approximately 786 units have received certificates of occupancy, leaving 1,464 remaining to be built. Assuming that all of the project's remaining buildings were to contain affordable units sufficient to qualify for State tax abatement, the project would have to complete eleven buildings over the next seven years, a level of performance Atlantic Yards has not experienced since its approval in 2006. Construction is well behind the schedule published following the approval of the 2014 Modified General Project Plan, and GFCP has not provided an updated timeline for completion of the remaining affordable apartments.

We are therefore concerned that the 2025 deadline for completion of Atlantic Yards' affordable housing may not be met. As you are aware, under the amended project agreements with Empire State Development, GFCP, Greenland USA and FCRC are subject to liquidated damages of \$2,000 per month for each apartment that is not completed by the deadline. We understand that GFCP intends to transfer the rights to Atlantic Yards development sites B12, B13 and B15 to third parties. We further understand that while the development rights may be transferred to others, the obligation for completion of the required affordable housing will continue to rest with GFCP, Greenland USA and FCRC, as

will liability for damages under the project agreements.

We would therefore appreciate your response to the following questions, including documents about the transfer of interests between FCRC, GFCP, Greenland USA, TF Cornerstone, and the Brodsky Organization:

1. What number of affordable apartments has been committed by the transferees to be included in buildings on lots B12, B13 and B15, and how will ESD enforce that commitment?
2. Are the transferees expected to indemnify GFCP, Greenland USA and/or FCRC for liquidated damages resulting from their failure to fulfill commitments for affordable apartments in the buildings they construct, and will ESD be an additional indemnified party?
3. What other provisions to ensure fulfillment of Atlantic Yards' affordable housing commitments will be included in the transfer agreements?
4. Will the terms of the transfer agreements be provided to the Atlantic Yards Community Development Corporation (AYCDC) for review in advance of the closing of such transfers?
5. If the required 2,250 affordable apartments are not completed by 2025 and GFCP, Greenland USA and/or FCRC is then insolvent, what recourse for liquidated damages will ESD have to transferees whom have received development rights? What other recourse would ESD have for collection of damages?
6. Are GFCP, Greenland USA, TF Cornerstone, Brodsky Organization, and other transferees of FCRC's rights in the Atlantic Yards project considered "project sponsors" under the terms of the June 25, 2014 letter from ESD to Fifth Avenue Committee, Inc. and Prospect Heights

Neighborhood Development Council?

7. Will GFCP, Greenland USA, TF Cornerstone, and Brodsky Organization assume any of FCRC's obligations under the terms of the 2014 settlement and, if so, which obligations?
8. What are the current percentages of ownership held by FCRC, GFCP, and Greenland USA in the Atlantic Yards project, and what will be the ownership percentages be following the closing of the rights transfers that have been announced?

We note that Greenland USA, which now owns 95% of GFCP, is actively marketing its interest in uncompleted development projects in Los Angeles and San Francisco, and its parent company is in the process of issuing short-term high-yield debt to finance operations. Under these circumstances, and with Atlantic Yards' affordable housing deadline growing nearer, there may be additional rights transfers in the future. The present proposed transfers will set a precedent for others that may come later, and as such, we believe it is critical to ensure that the public's rights in Atlantic Yards' affordable housing are protected to the greatest extent possible.

Thank you for your prompt reply.

Sincerely,

Assemblyman Walter T. Mosley

Assemblymember Jo Anne Simon

Senator Velmanette Montgomery