

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

PENN COMMUNITY DEFENSE FUND, 251 WEST  
30TH STREET RESIDENTIAL TENANTS, CITY CLUB  
OF NEW YORK, and RETHINKNYC,

*Petitioners-Plaintiffs,*

- against -

NEW YORK STATE URBAN DEVELOPMENT  
CORPORATION d/b/a EMPIRE STATE DEVELOPMENT  
and NEW YORK STATE PUBLIC AUTHORITIES  
CONTROL BOARD,

*Respondents-Defendants.*

Index No.  
IAS Part

AFFIRMATION OF  
CHARLES WEINSTOCK

CHARLES WEINSTOCK, an attorney admitted to practice before the courts of the State of New York, affirms under penalty of perjury:

1. I am an attorney for Petitioners-Plaintiffs (“Petitioners”) and am fully familiar with the facts of the case. I submit this affirmation in support of their challenge to (1) the plan by Respondent-Defendant (“Respondent”) New York State Urban Development Corporation, doing business as New York State Empire State Development (“ESD”), to override the City’s zoning laws and grant 18 million square feet of development rights to the owners of eight parcels surrounding Penn Station; and (2) the resolution issued by Respondent Public Authorities Control Board (“PACB”) authorizing ESD to enter into a revenue-sharing agreement with New York City in connection with the financing of the project.

2. In their Request for Judicial Intervention, Petitioners marked this proceeding as related to an Article 78 Freedom of Information Law (“FOIL”) case, currently pending in

this Court, in which I am the petitioner: *Weinstock v. N.Y.S. Urban Development Corp.*, Index No. 157448/2022 (Sup. Ct. N.Y. Co. 2022) (Billing, J.) (“FOIL Suit”). The decision whether two cases are related is within the discretion of the Court. *Morfesis v. Wilk*, 138 A.D.2d 244, 246 (1st Dep’t 1988).

3. In this instance, the two cases are related because they challenge the same governmental action—Respondent ESD’s proposed zoning override. In the FOIL Suit, I challenged the agency’s continuing failure to produce public documents relating to this plan, material that Petitioners believe is directly relevant to the claims they make here. *See* Verified Petition, Index No. 157448/2022, Dkt. 1 ¶ 1. I have attached as Exhibits F-1 to F-6 the documents that ESD has produced to date, which Petitioners cite at length in their brief. *See, e.g.*, Petitioners’ Memorandum of Law at 25-29. Petitioners believe that the documents ESD continues to withhold would also be relevant to central issues in the present case—in particular, “the scale of the buildings that ESD would allow Vornado and the other property owners to build; the environmental effects of the project; and, above all, the project’s questionable funding.” Verified Petition, Index No. 157448/2022, Dkt. 1 ¶ 9. Given the overlapping subject matter, it is in the interest of judicial economy and efficiency for this Court to hear them as related cases.

4. Petitioners also request that the Court set an early return date because PACB’s resolution authorizes ESD to continue taking actions to implement the plan—including the negotiation of development agreements with the property owners. Petitioners are concerned that, as the plan progresses, the owners will be more emboldened to demolish historic buildings on their properties, or take other irreversible actions that could impact Petitioners.

5. Petitioners also request that the Court permit them to submit a 60-page Memorandum of Law, exceeding the 30-page limit set out in Rule 14(b) of this Court's Rules of the Justices. Petitioners have good cause to file excess pages. The project plan that they challenge is dense and cannot be described quickly. Moreover, the supporting documents that ESD prepared in connection with the reviews under the State Environmental Quality Review Act ("SEQRA") and the Urban Development Corporation Act ("UDCA") are voluminous. The SEQRA Final Environmental Impact Statement alone is nearly 2,000 complex, often technical pages; the UDCA General Project Plan and its attachments run to just under 700 pages. They require detailed response on both the facts and the law.

6. In addition to this Memorandum of Law, I have attached (1) the affidavit of Richard Ravitch, the former Lieutenant Governor and former chair of both the Urban Development Corporation and the Metropolitan Transportation Authority, sworn to October 19, 2022; and (2) the affidavit of George M. Janes, principal of George M. Janes & Associates, an urban planning and zoning consultancy, sworn to October 24, 2022.

7. I have also attached true and correct copies of the following exhibits cited in the Verified Petition and Complaint and the Memorandum of Law:

*Exhibit A*

Empire State Development, *Pennsylvania Station Area Civic and Land Use Improvement Project, General Project Plan* (as modified July 21, 2022)

*Exhibit B*

Empire State Development, *Empire Station Complex Project, Final Scope of Work for the Preparation of an Environmental Impact Statement* (Dec. 2020)

*Exhibits C-1 to C-9*

Empire State Development, *Pennsylvania Station Area Civic and Land Use Improvement Project, Final Environmental Impact Statement* (June 2022)

*Exhibit C-1*

Forward

*Exhibit C-2*  
Executive Summary

*Exhibit C-3*  
Chapter 1 — Projection Description

*Exhibit C-4*  
Chapter 2 — Analytical Framework

*Exhibit C-5*  
Chapter 3 — Land Use, Zoning, and Public Policy

*Exhibit C-6*  
Chapter 8 — Historic and Cultural Resources

*Exhibit C-7*  
Chapter 9 — Urban Design and Visual Resources

*Exhibit C-8*  
Chapter 24 — Growth-Inducing Aspects

*Exhibit C-9*  
Chapter 26 — Response to Public Comments

*Exhibit D*  
Richard Ravitch, “Derail this Penn Redevelopment Plan,” *New York Daily News* (July 27, 2022)

*Exhibit E*  
Danielle Muoio Dunn, “‘This Isn’t Podunk’: A Cuomo-Era Plan to Dramatically Alter Manhattan Meets Resistance,” *Politico* (Apr. 10, 2022)

*Exhibits F-1 to F-6*  
Empire State Development Responses to Freedom of Information Requests by Charles Weinstock (Nov. 8, 2021 to Aug. 2, 2022)

*Exhibit F-1*  
Nov. 8, 2021 Documents

*Exhibit F-2*  
June 28, 2022 Documents (I)

*Exhibit F-3*  
June 28, 2022 Documents (II)

*Exhibit F-4*  
July 20, 2022 Documents (I)

*Exhibit F-5*  
July 20, 2022 Documents (II)

*Exhibit F-6*  
Aug. 2, 2022 Documents

*Exhibit G*  
Matthew Haag and Patrick McGeehan, “Penn Station Plan Makes a High-Stakes Bet on the Future of Office Work,” *New York Times* (Aug. 29, 2022)

*Exhibit H*  
Jessica Golden, “The Billion Dollar Makeover of Madison Square Garden,” *CNBC* (Oct. 25, 2013)

*Exhibit I*  
Steven Roth, Chairman’s Letter 2020

*Exhibit J*  
VHB, *Neighborhood Conditions Study* (Feb. 2021, July 2022)

*Exhibit K*  
Comments and Objections to Draft General Project Plan and Draft Environmental Impact Statement for Pennsylvania Station Area Civic and Land Use Improvement Project (Feb. 21, 2022)

*Exhibit L*  
Supplemental Comments and Objections to Draft General Project Plan and Draft Environmental Impact Statement for Pennsylvania Station Area Civic and Land Use Improvement Project (Mar. 30, 2022)

*Exhibit M*  
Empire State Development, *Pennsylvania Station Area Civic and Land Use Improvement Project, Design Guidelines* (July 2022)

*Exhibit N*  
Hana R. Alberts, “Four Plans for A New Penn Station Without MSG, Revealed!” *Curbed New York* (May 29, 2013)

*Exhibit O*  
Michael Kimmelman, “Penn Station Reborn,” *New York Times* (Sept. 30, 2016)

*Exhibit P*

Kathryn Brenzel, “Hochul Taps Team to Redesign Penn Station,” *The Real Deal* (Sept. 21, 2022)

*Exhibit Q*

Empire State Development, *Penn Reconstruction, Expansion and Public Realm & Transit Improvements: Project Cost Assumptions and Sources & Uses* (July 24, 2022)

*Exhibit R*

Larry Penner, “Op-Ed: Winners and Losers for Transportation Projects in Metro NYC Area,” *Mass Transit* (Apr. 1, 2022)

*Exhibit S*

*Empire Station Complex Funding and Financing Considerations*, presented to Community Advisory Committee Working Group Meeting (May 25, 2021)

*Exhibit T*

Letter of Mutual Agreement between City of New York, State of New York, and Empire State Development (July 18, 2022)

*Exhibit U*

Federal Railroad Administration, *Federal-State Partnership for Intercity Passenger Rail Program: Northeast Corridor Project Inventory* (June 24, 2022)

*Exhibit V*

Public Authorities Control Board, Notice of a Meeting and Agenda for July 27, 2022 (July 20, 2022)

*Exhibit W*

Public Authorities Control Board, Resolution No. 22-UD-1958 (July 27, 2022)

*Exhibit X*

Governor’s Office, “Governor Hochul Applauds PACB Approval of Landmark Funding Agreement to Redevelop Penn Station, Revitalize Surrounding Neighborhood” (July 27, 2022)

*Exhibit Y*

Empire State Development, *Empire Station Complex, Draft Environmental Impact Statement* (Feb. 2021)

*Exhibit Y-1*

Executive Summary

*Exhibit Y-2*

Chapter 1 — Project Description

*Exhibit Y-3*  
Chapter 2 — Analytical Framework

*Exhibit Y-4*  
Chapter 3 — Land Use, Zoning, and Public Policy

*Exhibit Y-5*  
Chapter 9 — Urban Design and Visual Resources

*Exhibit Y-6*  
Chapter 21 — Alternatives

*Exhibit Z*  
Memoranda from Eric Gertler to ESD Directors, with Directors Meeting Agenda (Feb. 20, 2020)

*Exhibit AA*  
Memoranda from Eric Gertler to ESD Directors, with Directors Meeting Agenda (July 15, 2021)

*Exhibit BB*  
Memoranda from Eric Gertler to ESD Directors, with Directors Meeting Agenda (Mar. 26, 2021)

*Exhibit CC*  
Letter from Anita Laremont, City Planning Commission, to Hope Knight, Empire State Development (Jan. 27, 2022)

*Exhibit DD*  
N.Y.C. Independent Budget Office, *On Track or Off the Rails? New York State's Plan to Use New Development to Fund Penn Station Improvements Leaves Many Open Questions for New York City and State* (May 2022)

*Exhibit EE*  
Letter from Nelson R. Sheingold, Comptroller's Office, to Robert J. Mujica, Public Authorities Control Board (July 7, 2022)

*Exhibit FF*  
Clayton Guse, "NY to Spend Billions for NJ Train Commuters' Upgrades as Garden State Gov. Murphy Tries to Sink Congestion Pricing," *New York Daily News* (Sept. 6, 2022)

*Exhibit GG*

Office of Senator Leroy Comrie, Press Release, "NYS Senator Leroy Comrie Statement on Public Authorities Control Board Vote on Penn Station Area Redevelopment Project" (July 27, 2022)

*Exhibit HH*

N.Y.S. Comptroller, *Review of the Financial Plan of the City of New York, Report-6-2023* (Aug. 2022)

*Exhibit II*

Robert Frank, "Only 28 Percent of New York Office Workers Are Back in the Office," *CNBC* (Nov. 10, 2021)

*Exhibit JJ*

Jose Maria Barrero, Nicholas Bloom, and Steven J. Davis, "Why Working from Home Will Stick," *National Bureau of Economic Research Working Paper Series* (April 2021)

*Exhibit KK*

Empire Station Complex Community Advisory Committee Working Group, Meeting Minutes (Nov. 4 and 9, 2021)

*Exhibit LL*

Federal Railroad Administration, *FRA & NEPA Documentation* (2022)

*Exhibit MM*

Federal Transit Administration, *Preparing Environmental Documents* (2022)

*Exhibit NN*

Michael Kimmelman, "Moynihan Train Hall: It's Stunning. And a First Step," *New York Times* (Jan. 11, 2021)

*Exhibit OO*

Steve Cuzzo, "Developer Hustles to Build 'Bustle' in Penn Station Area," *New York Post* (Sept. 25, 2022)

*Exhibit PP*

Industrious West 30th, "Coworking Office Space at 251 West 30th Street, New York City" (2021)

*Exhibit QQ*

Mark Caswell, "Hilton's Martinique New York on Broadway Reopens Following Renovation Works," *Business Traveller* (Dec. 4, 2021)



*Exhibit RR*

Kathryn Brenzel and Rich Bockmann, “Vornado’s Penn Plan, Decades in Making, Reaches Inflection Point,” *The Real Deal* (Mar. 3, 2022)

*Exhibit SS*

Vornado Realty Trust, Press Release, “MSG Leases 428,000 SF at Vornado's Penn 2” (Nov. 15, 2021)

*Exhibit TT*

Matthew Haag and Nicole Hong, “Google to Spend \$2.1 Billion on Manhattan Office Building,” *New York Times* (Sept. 21, 2021)

*Exhibit UU*

Karen Weise and Matthew Haag, “Amazon Sticks with Office Expansion Plans in New York and Elsewhere,” *New York Times* (Aug. 18, 2020)

*Exhibit VV*

Clayton Guse, “MTA Officials for Years Misled the Public about Delays, Cost Overruns in Long-Stalled Project to Bring LIRR to Grand Central,” *New York Daily News* (Oct. 16, 2022).

*Exhibit WW*

Zach Williams, “Gov. Kathy Hochul’s Controversial Plan for Penn Station Overhaul Just Got a Big Boost,” *New York Post* (July 27, 2022)

New York, New York  
October 27, 2022



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CHARLES WEINSTOCK