



State Still Keeping Nine Big Secrets About Vornado/Penn Station Deal

Empire State Development and the Hochul administration continue to hide basic information about the Penn Station redevelopment project, including nine facts concerning the transfer of development rights (TDRs). Without this information, it is impossible for the public to know whether Vornado, who owns or controls four of the eight parcels (and part of a fifth) covered by the Penn Station [General Project Plan](#), is paying a reasonable and fair cost per square foot for additional building rights it will gain as part of its arrangement with ESD. This information is particularly important for sites 4 and 7, which are slated for development first.

In ESD's documentation, they have failed to release key information to the public, including:

1. **Development rights:** According to ESD's draft [Sources and Uses](#) document, \$200 million in development-related revenues will be available for the purchase of additional development rights (ADRs) on privately-owned sites. It remains unclear how this is calculated. Specifically, the amount of ADRs and the base cost assumption per square foot of the development rights remains unknown. Further, the range of comparable valuations from Hudson Yards and Greater East Midtown (\$260/sf to \$405/sf for TDRs) is too large to provide insight on a fair price for Vornado.
2. **Floor Area Ratio (FAR):** Assumptions for footprint floor area ratio (FAR) on project sites are estimated as 33 FAR (site 4) and 36.6 FAR (site 7). Assuming those FARs remain steady throughout the redevelopment process, the baseline zoning (10-12 residential and/or 15-18 commercial) will determine what the ADR amounts will be. We still have no assurances on what ESD considers a baseline from which to start the calculation.
3. **Schedule:** The schedule and projected build years are unknown, and already are not aligning with ESD's initial expectations in the General Project Plan (GPP). Does ESD know when the project will proceed? Has ESD had conversations with Vornado about their plans for development, and if so, why hasn't this been made available to the public?

4. **Public realm funding:** According to the GPP, a value-capture framework that includes Payments in Lieu of Taxes (“PILOT”), Payments in Lieu of Mortgage Recording Taxes (“PILOMRT”), Payments in Lieu of Sales Taxes (“PILOST”), and other revenues generated by the new development will fund public realm improvements, among other components of the project. However, it is unclear where exactly in the capital stack that funding resides and if PILOT, PILOMRT, and PILOST payments will be sufficient.
5. **Commercial vs. residential use:** The range of uses onsite for both sites 4 and 7 needs to be clarified as the TDRs/ADRs will be tied to a particular use, and the use will determine the cost of the rights. Site 4, in particular, has been listed for market residential, affordable, and supportive housing, as well as hotel use.
6. **Tax subsidies:** In other ESD projects, higher tax subsidies were awarded to earlier developers to incentivize construction. Is that still the strategy we expect to be used? Will ADRs and PILOTs be a part of that strategy?
7. **Managing risk:** Will there be any state intervention or recoupment on account of any or all of the following strategies for managing contracting costs: GMP (Guaranteed Maximum Price); Contractor at Risk or Contractor as Builder; owner-controlled insurance programs (OCIPs) or contractor-controlled insurance programs (CCIPs), or will these things be dictated to developers?
8. **Assumptions for growth:** In the proposed deal with Vornado, ESD based prospective ADR revenues on 2020 appraised values with 3% annual growth. What metric should be used when/if analysis resumes in April 2023, and towards what build year?
9. **Worst case scenarios:** What will the RWCDs (Reasonable Worst Case Development Scenario) look like from a height and density perspective?

If ESD’s relationship with Vornado is not a sweetheart deal, then there is no reason for secrets. We call on ESD and the Hochul administration to be fully transparent with the public and release this critical information.