



**Hearing before the New York City Council
Subcommittee on Zoning & Franchises
Seaside Park and Community Arts Center
December 17, 2013**

**Testimony by: Larry Scott Blackmon, Deputy Commissioner for
Community Outreach**

Good morning Chair Weprin and members of the Subcommittee on Zoning and Franchises. I am Larry Scott Blackmon, Deputy Commissioner for Community Outreach at the Parks Department. Thank you for allowing me to speak on the Coney Island Seaside Park and Community Arts Center project.

This proposed project involves the development of approximately 2½ acres of publicly accessible open space in Coney Island, Brooklyn including a 5,100-seat seasonal amphitheater for concerts and other events.

Over the past year, Parks along with City Planning and Public Design Commission have worked with the applicant to improve upon and influence the design before you today, including incorporating standard Parks details and specifications. This open space will extend between West 21st and West 23rd Streets along Riegelmann Boardwalk, and will include passive and active recreational areas. The design includes landscaping and playground amenities located at the northwestern corner. The defining feature of the open space would be a large landscaped lawn area that would serve as a place for lawn seating and passive recreation. A stepped path extending off the plaza will lead visitors down to Riegelmann Boardwalk and to new public restroom facilities. The open space will also feature a planted entry garden with native plantings and bench seating at the southwestern portion of the development site.

The proposed amphitheater would operate between May and October. During the concert season, the amphitheater would be fully accessible to the public except during ticketed events. Temporary screening around the seating area would allow other areas of the open space to be used while events are taking place. The proposed amphitheater and other project elements are expected to be completed by Summer 2015.

As part of the 2009 Coney Island Rezoning, the portion of the project area west of West 22nd Street was designated as an approximately 1½ acre neighborhood park. The tax lots that comprise Highland View Park are privately owned and have not been formally established as public parkland. This project will create new open space in that area.

The open space will be maintained and managed at the applicant's cost for the next decade. Upon conclusion of the 10-year special permit, the Highland View Park portion of the site will be transferred to Parks for operation as a public park. This parkland will include the expansive lawn and playground amenities mentioned earlier and we anticipate that this parkland will be a well-used addition to the NYC Parks portfolio.

I would also like to address the status of Block 7071 Lot 142, the location of a previously decommissioned community garden. Block 7071 Lot 142, referred to as "Boardwalk Garden", was assigned to Parks from DCAS on July 15, 1997. A community garden was licensed for the site through GreenThumb until 2004 when it was decommissioned as

part of the Coney Island Comprehensive Rezoning Plan approved in 2009. On August 20, 2013, the Parks Department surrendered Block 7071 Lot 142 to DCAS as part of the Coney Island rezoning proposed development. It is important to note that this property is not, nor was it ever, mapped parkland.

In 2002, there was a settlement agreement with the NYS Attorney General's Office over development of community garden sites. The agreement specified that gardens under Parks' jurisdiction would be overseen by the GreenThumb Program unless the City determined that it intended to sell or develop any such garden lot. It was also established by the settlement agreement, that development of any licensed garden site was required to undergo review in accordance with a garden review process.

The garden review process for this earlier Coney Island ULURP required that the gardener of record be notified and provided a list of available city-owned vacant land, if any, within ½-mile of the existing garden to provide for an alternate gardening site. Parks worked with the gardener to provide for an alternate garden location. In August 2004, the gardener of record agreed to relocate to an alternate site in Coney Island on West 28th Street and Surf Avenue and informed the GreenThumb Office of this decision in writing. The garden was then relocated to the alternate site.

Since the City had reached agreement with the Gardener of Record to previously surrender and relocate to a new site, under section 6(E)(3) of the Settlement Agreement, there was no requirement that the City comply further with the Garden Review Process. Since that time, Block 7071, lot 142 has not been licensed by the GreenThumb program and no authorized garden activities have taken place there.

Although not a registered GreenThumb garden and not subject to the Garden Review Process, Parks, as a sign of good faith, has worked with the developer iStar, to make improvements at an existing garden to accommodate additional gardeners. Additionally, any member of the community who wishes to garden can avail themselves of any one of the five community gardens in Coney Island and we are happy to take memberships at those gardens at anytime.

I thank you for the opportunity to speak before you today.

NYAQUARIUM



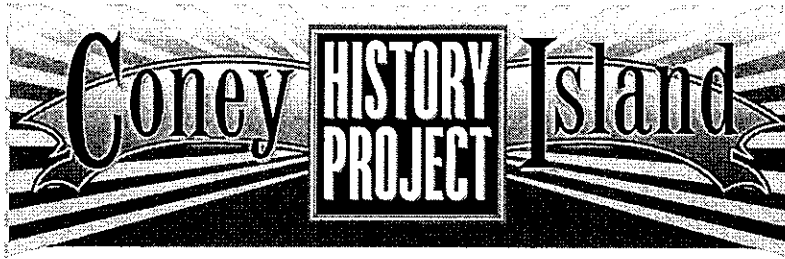
SUPPORT·REBUILD·TRANSFORM
BROOKLYN 2016

Good Morning,

I am Nicole Robinson-Etienne, Assistant Director for Government and Community Affairs at the WCS New York Aquarium. I am here today to express our support of the Seaside Park and Community Arts Center.

This project which includes the construction of an amphitheater and a public park, will further the goals of making Coney Island a year-round, world-class recreational oceanfront destination. This proposal will enliven the western end of the Coney Island boardwalk and create new facilities for passive and active recreation, outdoor and indoor entertainment, dining and catering and employment opportunities for Coney Island residents. In addition, the project will finally restore the historic Childs Restaurant building, giving new life to a beautiful but neglected landmark, becoming an active venue for catered events and year-round indoor entertainment. Just as the Aquarium provides a year-round anchor to Coney Island community on the Eastern end of the amusement district, this project will do the same to the western end.

The Seaside Park and Community Arts Center will be an economic catalyst for the community by diversifying and expanding permanent employment opportunities to neighborhood's residents, providing public amenities to residents and tourists, and spur city investment into addressing the community's infrastructure needs. The Amphitheater is a critical part of the continued economic health of Coney Island and further bolsters Brooklyn's reputation as the cultural hotspot of New York City.



December 12, 2013

To: New York City Council
Re: Seaside Park Community Arts Center, Coney Island

I want to express my support for the Seaside Park Amphitheater and Childs Building restoration project (Seaside Park and Community Arts Center). The developers of this project have promised community involvement and participation in the programming and usage of the proposed facility. This project will become an important asset for the community and will bridge the gap between the residential West End of Coney Island and the amusement zone.

- The historic Childs Building has become a crumbling ruin and the new development promises to preserve, restore, and repurpose this landmarked architectural gem, the last of its kind on the boardwalk.
- The site of the amphitheater has been underutilized for the last 40 years, and the Seaside Park proposal will bring new life and vitality to the area and increase public access.
- The developers have promised to address the sound and traffic issues and to help relocate the community garden that currently occupies a portion of the site.
- The developers have shown good faith by helping with the relocation and refurbishing of a new site for the Green Garden currently next to the Childs Building.

I am a Coney Island native and the author of three books on Coney Island. I've seen and documented the best and the worst of Coney Island development. If the developers follow through with the promised mitigation (sound, traffic, open space, affordable community participation and access), this ambitious project will greatly improve the neighborhood and provide much needed jobs for the community.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles Denson".

Charles Denson
Executive Director, Coney Island History Project
3059 West 12th Street
Brooklyn, NY 11224
crdenson@earthlink.net

**STATEMENT IN FAVOR OF THE PROPOSED
SEASIDE PARK AND COMMUNITY ARTS CENTER (C 140063 ZSK)**

By Juan Rivero, Save Coney Island

**New York City Council Subcommittee on Zoning And Franchises
Tuesday, December 17, 2013**

I submit this statement on behalf of the advocacy group Save Coney Island in support of the Seaside Park and Community Arts Center. Save Coney Island is an all-volunteer, non-profit organization committed to restoring Coney Island as a world-class amusement destination. We work to raise awareness of the issues facing Coney Island and promote discussion about how to turn Coney's amusement area once more into the "Playground of the World".

Development in Coney Island sometimes feels a little like pouring water into a bucket with a hole in it. You build a stadium; you lose the most unique of roller coasters. You build a new amusement park; you lose another. You update the zoning; and speculators swarm in, demolish historic buildings, and replace them with eyesores.

The proposed Seaside Park and Community Arts Center is an opportunity to show that it does not have to be this way. This is a project that could be beneficial to everyone. It promises the reactivation of one of the few remarkable buildings left in Coney Island—a building that, though landmarked, might otherwise become compromised by neglect. The project also offers a public park, public concerts, and a top-notch concert facility.

These are all wonderful things. That said, local residents have raised legitimate concerns that should and could easily be addressed. Foremost among these is the loss of the community garden. The work that people have put into that garden and the functions that it serves in the community compel its preservation. But it does not have to be a question of one or the other. These days, community gardens all over the city have programming that attract visitors. Passive park uses and community gardens are perfectly compatible and should be allowed to work together in this instance. If for some compelling reason not all garden space can be accommodated, **complementary** and **permanent** space should be found elsewhere in the vicinity.

Secondly, there are understandable concerns about whether this project will cater exclusively to visitors and not to residents. To allay those concerns, there must be an advisory board with sitting community residents that has input into the arts center's programming. We understand that the project applicant made a commitment to create such a community advisory committee to the Borough President and the City Planning Commission, and the City Council similarly should similarly request the creation of the advisory committee.

These commitments would make a huge difference in addressing community concerns for what is a commendable project that we respectfully encourage the Council to approve.

**NEW YORK CITY COUNCIL
SUBCOMMITTEE ON ZONING AND FRANCHISES
December 17, 2013**

**SEASIDE PARK AND COMMUNITY ARTS CENTER
Coney Island, Brooklyn**

STATEMENT IN SUPPORT

My name is Myron Winiarsky. My family for over the last 30 years has owned approximately 2/3 of West 22nd Street and West 23rd Street, the block where part of the Seaside project will be developed. Two of the lots I own are unimproved and the other lots are improved with residential rent regulated buildings consisting of 40, 21, 15, 6, 4 and 3 apartments. With the exception of our 40 unit building that we constructed in 2005, the other buildings date back to the 1930's.

I support the proposed project. I believe it will bring life to what is mostly a desolate end of the Boardwalk. For over the last 30 years we have been hearing of different projects that will be undertaken by various developers to rehabilitate this area, unfortunately, none of these projects have come to fruition. If you come to our block today, you would see a block that looks no different than it did 30 years ago - other than a rent regulated building that I built in 2005. Actually, it looks worse than it did 30 years ago because our block was severely damaged by Super Storm Sandy. The sidewalk is still full of sand and the side walk trees are dead. Also, our block is still infested with crime and prostitution.

We desperately hope that this project will help our block turn a new page. We need to bring life to our block and the surrounding area. The status quo, which includes garbage on the streets, crime and prostitution, is not acceptable.

I believe that the restoration of the Childs Restaurant, the development of a new park and the operation of an amphitheater during the outdoor concert season will provide an incentive for the development of the properties in Coney West which have not seen construction activity despite the Coney Island rezoning other than the building that I built in 2005. I believe the project will help restore this block and be a benefit to the community.

The amphitheater will be an exciting addition to our neighborhood. Restoring Childs to a year round restaurant and catering establishment is what we

need on this end of Coney Island to bring real economic activity. And I am excited by the mere thought of having a top rate neighborhood park on our block. Finally, I can see the light at the end of the tunnel.

I know that some people fear that the amphitheater will bring unwanted noise to this end of Coney Island. I disagree. I know that the amphitheater is being designed to comply with the City's noise codes. If the facility is operated in accordance with the law, then we have nothing to be concerned about regarding extreme noise impacts. The Seaside Summer Concert events have been taking place at West 21st Street for two years now in an entirely open lot and I must say that I do not believe the neighborhood is any the worse for these summertime concerts.

If this project comes to fruition, and our block is improved, I will -- not may, but will -- continue to invest in our properties that are over 70 years old by continuing to build affordable housing. And our block will be a great example of the Coney Island Rezoning Project. Accordingly, this project is a more than welcomed development and the City Council should join the City Planning Commission in approving the project.

December 17, 2013

The Council
250 Broadway
16th floor
New York, New York 10007

Dear Council members:

I support the proposal as passed by the Community Board 13 joint Economic Development/Land Use Committees with the following comments.

Due to the hard work of The Friends of Terra Cotta and other community groups, in February 2003, the CHILDS Building on the Riegelmann Boardwalk and West 21st Street was declared a landmark.

The landmarking, although a public relations high point is a community and development nightmare. The hazardous materials on the site preclude the use of the building by residents or groups for amusement or entertainment of any sort (Addendum A). The stringent landmarking requirements under which construction and remediation would take place make the rehabilitation of the building unaffordable. That is why Taconic Investment Partners could not pursue its modernization and that is why New York City had to step in to transfer ownership.

The building continues to lie empty, decades after it has gone out of use. The exterior may be pleasing to the eye, but the building itself poses an environmental hazard. What of the interior: rotting, decaying, and filled with hazardous substances such as asbestos containing material, polychlorinated biphenols, and fuel oil residue? Damage from Hurricane Sandy leaves in question whether or not mold abatement was or may have successfully been performed on a vacant building. Even though boarded up, how long will it take to become a refuge for the homeless, for drug use, and a haven for those who have no desire to see a revitalization in the west end of Coney Island.

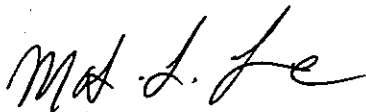
One of the mandates of the Redevelopment Plan for Coney West is to stimulate increased use of that area on a 12 month a year basis. This is beneficial to not only encourage growth in the local economy, but to reduce crime. The perfect example of this is the eastern end of the Riegelmann Boardwalk where restaurants and pedestrian traffic flourish, and where a 12 month a year sustainable neighborhood local economy and entertainment venue has developed. It is time that the people who live in the west end are presented with the same opportunity to recreate themselves and to enjoy in safety the magnificence of Coney Island as a year round residence.

The plan to enable the CHILDS Building as a twelve month a year facility with an outdoor amphitheater is not without its criticisms.

- There needs to be an agreement in place to relocate those community gardeners that will be displaced. There are seven (7) existing community gardens registered with the NYC Parks Green Thumb in the immediate area (Addendum B). Those active gardeners at this site must be given access to any of those other grounds.
- Sound abatement with acoustic curtains alone may not be sufficient. All outdoor speakers must face the boardwalk.
- If this is truly to be a community arts center, there must be a Community Benefits Agreement in place with the developer, the not-for-profit operator, and representatives of various community groups for the use of the facility for educational and cultural benefits for the residents. It should be negotiated with the assistance of an organization such as The Partnership for Working Families (Addendum C).
- The agreement with the not-for-profit operator should have strict parameters set for the implementation of community cultural and educational uses (as per a Community Benefits Agreement), and after the first five (5) years, should be subject to review and renewal every two (2) years thereafter.
- Parking and traffic are a major concern that has plagued overall development at every step. The MTA must push up the timetable for establishing express train service to Coney Island on the B and F Lines year round. Express Bus service must be increased year round. A plan to create shuttles for off site parking has been proposed since 1999. It is long overdue and must be submitted along with a schedule for implementation.

Thank you for your time and for the opportunity to speak.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Martin L. Levine". The signature is written in a cursive, flowing style.

Martin L. Levine

Enc.

ADDENDUM* *A

Phase I ESA Results

Development Site

(FORMER) CHILDS RESTAURANT BUILDING (LOT 130)

This portion of the development site consists of a 25,400 sf (0.58 acre) lot improved with a two-story (plus partial basement) warehouse building known as the (Former) Childs Restaurant Building, containing two full floors, a partial basement and a partial mezzanine area located on the 2nd floor. The lot is 100 by 248 feet and the building footprint covers the entire lot. The total square footage of the *Seaside Park and Community Arts Center DEIS 7-3* building is 60,000 square feet. The (Former) Childs Restaurant Building was constructed in 1923. The building was used as a bathing pavilion and restaurant until it was converted to an industrial warehouse

sometime between 1950 and 1966. A chocolate manufacturing business, Tell Chocolate Novelties Corp., operated in the building between the 1960s and the late 1990s. Currently, the building is being used to store relief supplies for victims of Hurricane Sandy. According to the ESA, indications of the possible presence of an aboveground fuel oil tank were observed in the basement of the building. However, full access to the boiler room was not possible, due to flooding at the time the site visit was conducted. The water in the basement was observed to be clear and there was no sheen, petroleum odors or other evidence of petroleum impact on the water in the boiler room. The ESA also indicates that numerous floor drains, pits and a sump were observed in the basement of the building during a prior Phase I ESA conducted in 2007. These structures were not visible during the site visit conducted for the June 2013 ESA due to flooding in the basement. A concrete utility trench was observed in the first floor of the building; however, no drains were observed in this trench.

No stressed vegetation, discolored soils or pavement, odors or other evidence of contamination was observed during the site visit. The Phase I ESA also included a preliminary evaluation of specific potential environmental issues or conditions that are, according to ASTM E 1527-05, considered non-scope considerations, such as asbestos-containing material (ACM), polychlorinated biphenyls (PCBs) light ballasts and caulking materials, and exterior lead-based paint (LBP). The ESA indicated that fluorescent light fixtures were observed in the building; and that the date of installation of the light fixtures is uncertain and based on

the age of the building (it was built in 1923), the light fixtures may use PCB-containing light ballasts. The ESA also observed that painted surfaces were in poor condition throughout the building, and based on the date of construction, it is likely that the building contains LBP. While a survey for asbestos is not included within the scope of work defined in ASTM E 1527-05, a limited survey was conducted of the interior of the building to identify certain friable and non-friable materials, which may contain asbestos. Based on the date of construction (1923), it is likely that the building contains ACM. The ESA indicated that at the time of the site visit, small quantities of suspect asbestos-containing pipe insulation was observed on pipes in the stairways and in the basement. Other potential ACM in the building include wall and ceiling surfacing materials and roofing materials. No samples were collected as part of this limited survey. The ACM, typical of many older buildings in New York City, is usually dealt with at the

time of construction. Lot 130 contains an (E) designation (E-229) for hazardous materials that may require special activities coordinated through the New York City Office of Environmental Remediation (OER) to be performed at the time of site redevelopment. Such activities may include subsurface investigations, preparation of remedial action work plans, site specific health and safety plans and others. Properties where intrusive soil work would be needed as part of development would need to satisfy the (E) designation in order to obtain building permits from the New York City Department of Buildings. For properties where existing buildings would be converted with no intrusive soil work, a copy of the development plans must be provided to OER, prior to receiving a Notice of No Objection, which would enable the New York City Department of Buildings to issue the conversion permit. This (E) designation is identified as a recognized environmental condition (REC).

ADDENDUM B

As discussed, below is a list of our gardens in CD13. Please let us know if you have any other questions.

Garden Name	Address	Jurisdiction
Cyclones Community Garden	1918-1924 Mermaid Avenue	DCAS
Santos White Garden	2110 Mermaid Avenue	DPR
Senior Citizens Block Association of Mermaid Avenue	2917-2923 West 20th Street	HPD
Surf Side Garden	2829 Surf Avenue	HPD
Unity Tower Tenant Association	1917-23 Surf Avenue	HPD
Youth & Senior Citizen	3117-27 Surf Avenue	HPD

From: Becker, Karen (Parks)
Sent: Friday, December 13, 2013 12:09 PM
To: Chouloute, Roland (Parks)
Cc: Ernish, Elizabeth (BROOKLYNBP)
Subject: Re: list of registered community gardens in CB 13

Roland,

Would you please be able to confirm, and adjust if necessary, the list of gardens below?

Thanks.

From: Ernish, Elizabeth (BROOKLYNBP)
Sent: Friday, December 13, 2013 12:02 PM

Here is a list of licensed community gardens in CB 13:

Senior Citizens Block Association of Mermaid

address 2917-2923 West 20th Street, Coney Island, Brooklyn

Surf Side Garden

address 2829 Surf Avenue, Coney Island, Brooklyn

Santos White Garden

address 2110 Mermaid Avenue, Coney Island, Brooklyn

23rd Street Community Garden

address 2403 Neptune Avenue, Coney Island, Brooklyn

Unity Tower Tenant Association

Address: 1917-23 Surf Avenue (Btwn. Surf & Mermaid, in Coney Island)

Stefan Ringel

Office of Brooklyn Borough President Marty Markowitz

Communications Director

209 Joralemon Street

Brooklyn, New York 11201

718.802.3831 (office)

917.574.3277 (cell)

sringel@brooklynbp.nyc.gov

ADDENDUM C

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Welcome to the Community Benefits Law Center

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Community Benefits Agreements

Community Benefits Agreements (CBAs) are complex, multi-party contracts executed by several community-based organizations and one or more developers, including developers' commitments to provide a range of community benefits related to a proposed development project, and usually containing the community-based organizations' commitment to support approval of the project.

CBAs promote the core values of inclusiveness and accountability. CBAs promote inclusiveness by providing a mechanism to ensure that a broad range of community concerns are heard and addressed. They promote accountability by ensuring that promises made by developers, local government or other project proponents are made specific, legally binding and enforceable by the community.

Extensive information on CBAs is available on the Partnership's main website, including text of many existing CBAs.

The CBLC has assisted numerous community organizations in negotiating, drafting and implementing Community Benefits Agreements. The CBLC's Project Attorney, Julian Gross, drafted the nation's first, and most well-known, CBA for the Los Angeles Sports and Entertainment District (the "Staples" CBA). The CBLC's attorneys have published articles in legal journals and lectured at law schools and legal conferences on CBAs.

CBLC EMAILS

Sign up for our Listserv and receive new s and updates

**MADISON GLOBAL LLC
DBA/ NELLO RESTAURANT
696 MADISON AVENUE
NEW YORK, NY 10065**

December 16, 2013

Council Member Daniel R. Garodnick
211 E 43rd Street, Suite 1205
New York, NY 10017

Re: Madison Global LLC
696 Madison Avenue
New York, NY 10065
License #: 1334619

Dear Council Member Garodnick,

This letter serves as our agreement with the chair, Council Member Mark Weprin, and the encompassing members of the Subcommittee on Zoning and Franchises that we will commit to the following:

1. To the removal of the planters permanently unless a permit is obtained, in accordance with regulations for small unenclosed sidewalk cafes.
2. The tables will be set according to the approved plans by the Department of Consumer Affairs.
3. The restaurant's doors and windows will be closed every night at 11:30pm.
4. A direct phone number for any complaints is (212) 980-9099

Yours truly,



Thomas Makkos - Member



349 Broome Street
New York, NY 10013
P: 212.274.0667 / F: 917.463.0304
www.randolphnyc.com
FOLLOW @therandolphnyc

December 15, 2013

Attn: Council Member Chin
Members of the Zoning Subcommittee
Members of the Land Use Committee
New York City Council
1st Council District
250 Broadway, Suite 1804
New York, NY 10007

RE: Sidewalk Café for The Randolph at Broome (DCA License #1383186).

Dear Council Member Chin/Members of the Zoning Subcommittee and Land Use Committee,

My name is Hari Kalyan, and I am the owner/operator of The Randolph at Broome, a coffee and cocktail bar located at 349 Broome Street in the Nolita/Bowery neighborhood of Manhattan, which has been successfully operating since opening in 2007. This letter serves to address certain issues that have arisen regarding the sidewalk café for this establishment and to gain your approval for the renewal of the sidewalk café permit.

As a preliminary matter, I would like to note that my businesses have no history of complaints with the community board in which they operate (See EXHIBIT A, annexed hereto [letter from CB2 confirming no complaint history for The Randolph at Broome or Randolph Beer]). Further, I have played an integral role in the growth and beautification of the Nolita/Bowery neighborhood and seen and been a part of the neighborhood developing from dilapidated and crime-infested into a safe and thriving area with a booming local economy. In addition, I have opened two other Randolph locations in the City: Randolph Beer, a craft beer focused restaurant and bar located at 343 Broome Street in Nolita/Bowery, and Randolph Brooklyn, a bar and restaurant located at 104 South 4th Street in South Williamsburg, Brooklyn. You can learn more about my establishments by visiting our website, www.randolphnyc.com.

The following issues have arisen in response to the renewal application for The Randolph at Broome's sidewalk café permit. We have taken corrective action to solve these issues and have as indicated the same below:

- 1) ISSUE #1: Sidewalk Café alleged to take up more than 50% of the sidewalk



349 Broome Street
New York, NY 10013
P:212.274.0667/F:917.463.0304
www.randolphnyc.com
FOLLOW @therandolphnyc

- a. **CORRECTIVE ACTION:** railings have been tethered together and fixed to the storefront. This will ensure that the end of the café provides the correct amount of clearance as per our diagrams, in compliance with DCA regulations (See EXHIBIT B, annexed hereto [photo of tethered sidewalk café railings])
- 2) **ISSUE #2:** Wait service alleged to not be provided
 - a. **CORRECTIVE ACTION:** Our staff provides table service at all times the café is open and alcohol is served only to seated customers. The only times there would be standing customers would be at times when the café is closed (e.g. customers standing around outside having cigarettes at night). We have a signs posted clearly that informs our customers of our policies regarding table service, no smoking, respecting our neighbors and keeping voices down (See EXHIBIT C, annexed hereto [photos of signs currently posted at storefront of The Randolph at Broome]).
- 3) **ISSUE #3:** Sandwich Board being used to advertise
 - a. **CORRECTIVE ACTION:** We do not use a sandwich board and will not use one at any point in the future.

I hope this assists with your evaluation of this café permit renewal. You can contact me directly with any questions or if you need further clarification on anything. As always, I will do my best try to work with the community to reach an amicable resolution on any matter.

Sincerely,

Hari Nathan Kalyan, Esq.
The Randolph Group
917.653.0633
hari@randolphnyc.com

EXHIBIT A

David Gruber, *Chair*
Bo Riccobono, *First Vice Chair*
Jo Hamilton, *Second Vice Chair*
Bob Gormley, *District Manager*



Antony Wong, *Treasurer*
Susan Kent, *Secretary*
Keen Berger, *Assistant Secretary*

COMMUNITY BOARD NO. 2, MANHATTAN

3 WASHINGTON SQUARE VILLAGE

NEW YORK, NY 10012-1899

www.cb2manhattan.org

P: 212-979-2272 F: 212-254-5102 E: info@cb2manhattan.org

Greenwich Village ♦ Little Italy ♦ SoHo ♦ NoHo ♦ Hudson Square ♦ Chinatown ♦ Gansevoort Market

March 14, 2013

Gerald A. Esposito, District Manager
Community Board #1, Brooklyn
435 Graham Avenue
Brooklyn, NY 11211

**RE: 343 Broome Street Restaurant, Inc.
d/b/a Randolph Beer
343 Broome Street
New York, NY; and**

**Cherry Lane, Inc.
d/b/a The Randolph
349 Broome Street
New York, NY**

Dear Mr. Esposito

This letter is to certify that Community Board #2, Manhattan has no complaints on file regarding the above-referenced locations.

Sincerely,

A handwritten signature in cursive script that reads "Bob Gormley".

Bob Gormley
District Manager
Community Board #2, Manhattan

BG/fa

EXHIBIT B



EXHIBIT C





Raymond Figueroa-Reyes
President

Sean-Michael Fleming
Mara Gittleman
Aresh Javadi
Charles Krezell
Mark Leger
Magali Regis
Eric Thoman
Kate Temple-West
Vandra Thorburn
Karen Washington
Haja Worley

December 17th 2013

ZONING SUB-COMMITTEE, NEW YORK CITY COUNCIL

Dr. Robert R. Kulikowski, Assistant to the Mayor
New York City Mayor's Office of Environmental Coordination
and

Amanda Burden, FAICP, Chair and Commissioners
New York City Planning Commission

Re: Need for Supplemental Environmental Impact Statement on Seaside Park & Community Arts Center - CEQR NO. 13DME014K, LU 994, LU 995; APPLICABLE LAND USE APPLICATIONS

Dear Dr. Kulikowski, Madam Chair Burden, and Esteemed Commissioners, and HONORABLE MEMBERS OF THE ZONING SUB-COMMITTEE

My name is Raymond Figueroa. I am President of the New York City Community Garden Coalition on behalf of the Boardwalk Community Garden. I am writing to request the preparation of a Supplemental Environmental Impact Statement based on the existence of newly discovered natural resource information that has arisen and the consequential significant adverse effects that was not previously analyzed as a result in relation to the proposed Seaside Park & Community Arts Center project.

Before proceeding to elaborate, I would first like to establish unequivocally and in the strongest possible terms that we are not opposed to the "Seaside Park and a Community Arts Center" per se. And we certainly are not opposed to the revitalization of the Coney Island community. I want to be very clear on this point.

Please note that none of the EIS's for this proposed project contain a chapter on "Natural Resources". What we surmise as the reason for this is that the proposed project's initial Environmental Assessment Statement, which established the Analysis Framework for subsequent EIS's, was based on irrelevant information. Furthermore, the limited information that was gathered and, in turn, used in the EAS and subsequent EIS's is dated and has grown stale vis-à-vis the relevance and accuracy of the proposed project's environmental impact as a result.

By way of following up with you more substantively on these CEQR-related concerns, I've taken the liberty of sharing documentation of relevant environmental impact information from the case of the Boardwalk Community Garden vis-à-vis the proposed project in Coney Island for your perusal. Collectively, these documents shed light on the lack of accurate detailed analyses of environmental impacts as called for and stipulated in the CEQR Technical Manual.

I beg your indulgence as I attempt to summarize some of its more salient aspects and their ramifications.

CEQR EIS PROCEDURAL & SUBSTANTIVE ISSUES

The Final Environmental Impact Statement (FEIS), based on our consultation with legal experts, improperly cited Section 6(E)(3) of the 2002 Garden Agreement between the State of New York and the City of New York:

According to the FEIS, the Boardwalk Community Garden located at Block 7071, Lot 142 was decommissioned by the City in 2004. The FEIS claimed that the City followed a process for decommissioning gardens that was authorized under Section 6(E)(3) of the 2002 Settlement Agreement between the City and the New York State Office of the Attorney General ("2002 Agreement").

But the FEIS overlooked a key piece of information.

The 2002 Agreement created two lists of community gardens: (1) gardens that were owned by the Parks Department were on a list titled "Parks Open Space"; and (2) gardens that were owned by various other City agencies (e.g., HPD, DOE, etc.) were on a list titled "Subject to Development". The Boardwalk Garden was owned by the Parks Department, and was therefore on the "Parks Open Space" list.

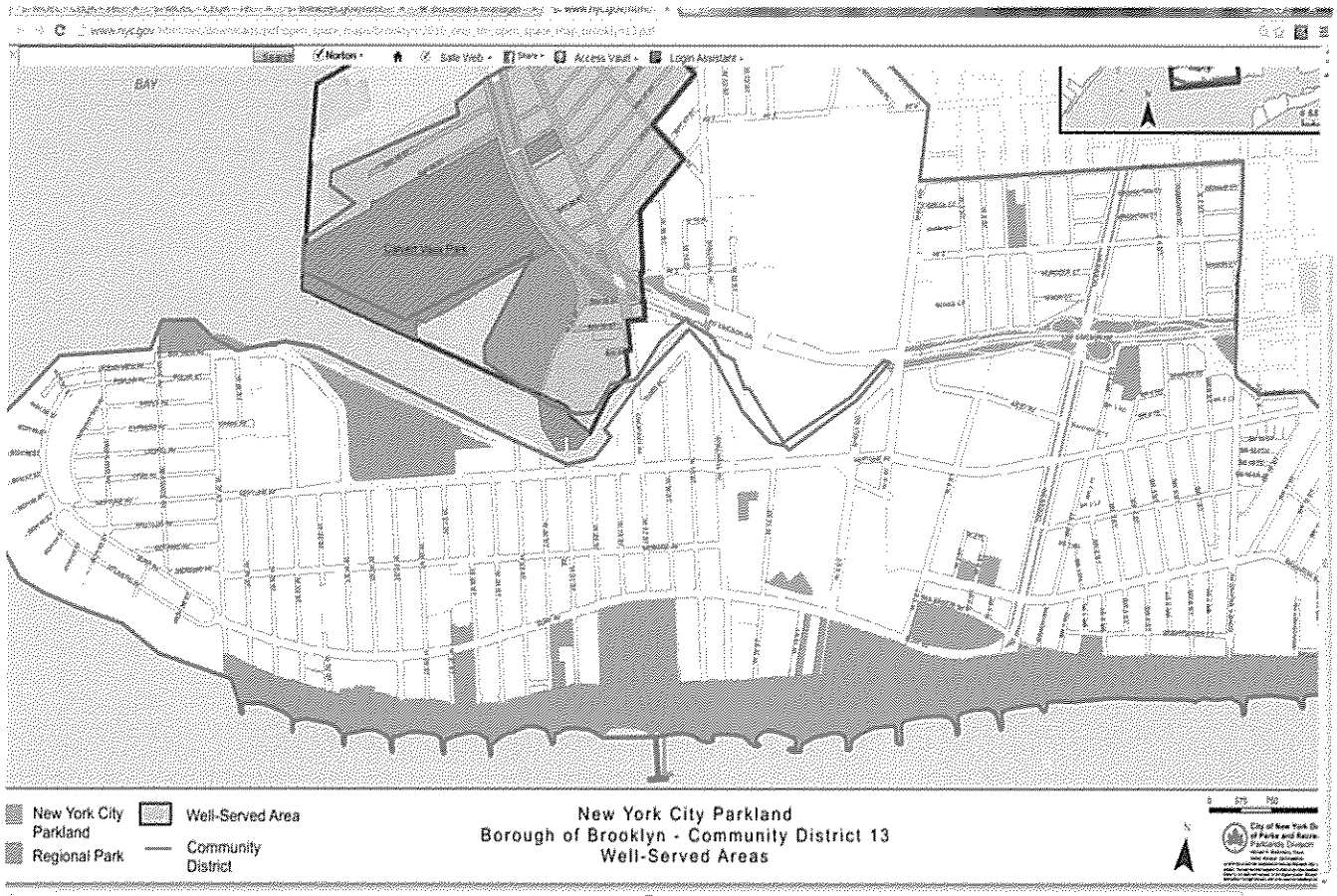
Section 6(E)(3) only applied to gardens that were on the "Subject to Development" list. So the City was never authorized to use Section 6(E)(3) of the 2002 Agreement to decommission the Boardwalk Garden.

AS PER AGREEMENT
BOARDWALK GARDEN
WE OBTAINED FROM THE CITY
RAB

Several parts of the FEIS were based on the assumption that the Boardwalk Garden was properly decommissioned in 2004, using the Section 6(E)(3) process. Because Section 6(E)(3) never applied to the Boardwalk Garden, these were improper assumptions.

As such, it is necessary according to relevant governing rules and regulations to prepare a new Environmental Impact Study which accounts for the fact that the garden was **not properly decommissioned in 2004, and remains in active use.**

Further, the Boardwalk Community Garden is a Public Trust Parkland based on the fact that the City's own documentation clearly show that this community garden is mapped as Parkland, please NYC map of the same below:



As per the State Handbook on Parkland Alienation, the Public Trust Doctrine case law recognizes this community garden as a formally dedicated Parkland and as such must go through the state legislature if any attempt is made to alienate.

Additionally,

1. this map represents the City's clear and unequivocal manifestation ^{of} intent to dedicate this particular Parkland
2. this Parkland has been accepted by the public for parks purposes, and
3. this Parkland has been used for park's purposes.

Taken together, these three conditions constitute an irrevocable dedication of this Boardwalk Community Garden as Parkland. An erroneous attempt on the City's part to de-commission this community garden is completely without any legal basis.

Please note photographs below from the Environmental Assessment Statement (EAS) for CEQR 13DME014K – not taken during peak growing season – in figures 5b & 5c respectively nonetheless show the community garden in the wake of Hurricane Sandy. The original EAS for CEQR 13DME014K, i.e., the first official document in the CEQR sequence is responsible for outlining the environmental impact analysis framework for all of the subsequent EIS's for the amphitheater project – as per the CEQR Technical Manual.



(2) View looking north from the Riegelmann Boardwalk to the decommissioned community garden occupying Lot 142 on Block 7071. The western facade of the former Childs Restaurant Building is visible in the foreground of the photograph. **Project Site Photograph Seaside Park and Community Arts Center Figure 5B**



3) View looking northwest from the Riegelmann Boardwalk to the decommissioned community garden occupying Lot 142 on Block 7071.
Project Site Photograph Seaside Park and Community Arts Center Figure 5C

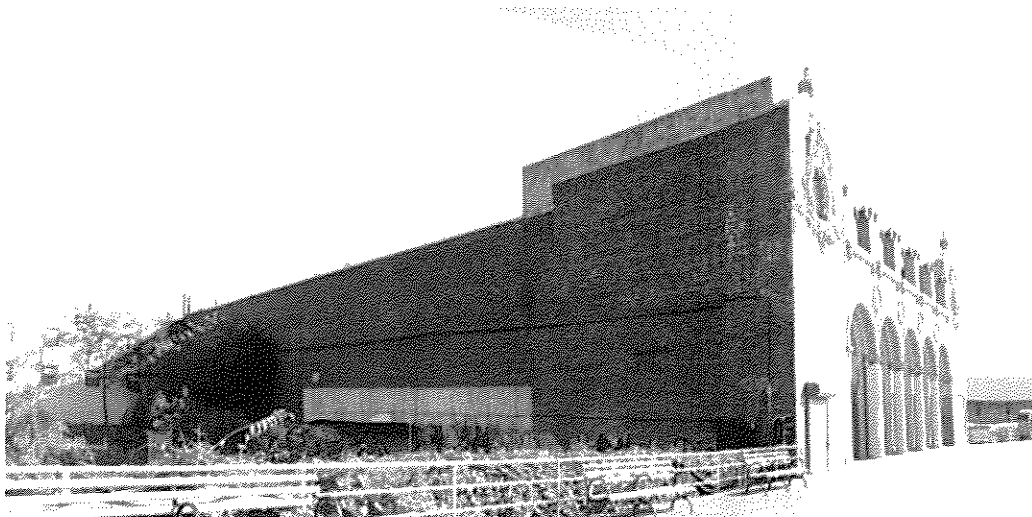
The formal Draft Environmental Impact Statement's (DEIS) remarks on Open Space Impacts do not accurately assess environmental impacts (please note the photograph below from the DEIS figure 3-1 was not taken during peak growing season as stipulated by the CEQR Technical Manual, which, from our perspective, nonetheless documents the community's efforts to repair & restore the Boardwalk Community Garden post-Sandy). **Section "D", EXISTING CONDITIONS, of the Open Space Chapter of the DEIS** acknowledge the following:

Although the community garden is decommissioned, field observations indicate that it is currently being used for gardening purposes.



Figure 3-1 The decommissioned community garden (Lot 142) Development Site Existing Conditions

Please note the July 9, 2013 photo below (courtesy NYC LANDMARKS PRESERVATION COMMISSION) reveals the Boardwalk Community Gardens' lush growth post-Sandy (during peak season) which speaks to the extraordinarily active dedication of the community gardeners to restore their garden after Hurricane Sandy devastated it (please also note that the perspective of the photo is the same as that of the previous photo in figure 5b of the EAS document only more zoomed out).



GKV Architects, PC
Higgins Quasebarth & Partners, LLC

Seaside Park and Community Arts Center
07/09/2013

West 22nd Street Elevation Photos

NTS
LPC-08

COURTESY NYC LANDMARKS PRESERVATION COMMISSION

It is our contention that the Environmental Assessment Statement – a document whose EIS analysis framework is of such crucial importance to the ensuing CEQR-delineated EIS process – was not executed in full compliance with CEQR Technical Manual, chapter on Natural Resources (please see selected excerpts along with comments below):

1. **CEQR TECHNICAL MANUAL – ESTABLISHING THE ANALYSIS FRAMEWORK**

CEQR requires all city agencies to determine whether discretionary actions they directly approve, fund, or undertake may significantly and adversely affect the environment..... Establishing the appropriate framework for analysis of the project allows the lead agency to make reasonable conclusions with regard to the project's likely effects. (emphasis added) To determine the framework, this chapter should be used in conjunction with the Environmental Assessment Statement (EAS) (emphasis added).

2. Here are the City's responses to questions in its original EAS form for this project:

- **NYC – CITY ENVIRONMENTAL QUALITY REVIEW – ENVIRONMENTAL ASSESSMENT STATEMENT (EAS) for Seaside Park and Community Arts Center [Amphitheater] Project – CEQR NO. 13DME014K –EAS FULL FORM**
 - **PART II: TECHNICAL ANALYSIS – 8. NATURAL RESOURCES – CEQR Technical Manual Chapter 11 – [question] (a) Does the proposed project site or a site adjacent to the project contain natural resources as defined in Section 100 of Chapter 11 [of CEQR TECHNICAL MANUAL]? [answer] No.**

- **PART III: DETERMINATION OF SIGNIFICANCE – IMPACT CATEGORY – Natural Resources:** [question]*the project may have a potentially significant adverse impact?* [answer] *No.*

As a result of this faulty, non-CEQR compliant Environmental Assessment Statement, the subsequent EIS's – i.e., the DEIS and FEIS that recently went before the City Planning Commission for approval – did *not* contain a chapter on Natural Resources and project-related environmental impacts on the same.

3. CEQR TECHNICAL MANUAL – NATURAL RESOURCES – 100. DEFINITIONS

A critical source of information on habitat communities present in New York City is the New York Natural Heritage Program's Ecological Communities of New York State [chapter on Terrestrial Communities]. In that chapter, it identifies in:

- Section *D. Terrestrial Cultural, sub-section 4. Flower/Herb Garden:.....horticultural land cultivated for the production of ornamental herbs and shrubs. This community includes gardens cultivated for the production of culinary herbs. Characteristic birds include American robin (Turdus migratorius) and mourning dove (Zenaida macroura).*
- in the same Section *D. Terrestrial Cultural, sub-section 1. Cropland/row crops:* it identifies the following: *an agricultural field planted in row crops such as corn, potatoes, and soybeans. This community includes vegetable gardens in residential areas.*

Consistent with this particular classification of natural resources in New York, Boardwalk Community Garden is a Terrestrial Cultural Ecological Community. It is, by definition, a natural resource.

4. CEQR TECHNICAL MANUAL – NATURAL RESOURCES – 322. Field Reconnaissance

Field observations are an early and critical step in determining the scope of a natural resources assessment (emphasis added). In limited cases, evidence gathered in initial field reconnaissance at appropriate seasonal times (emphasis added) may support an assessment showing that a resource is of limited value and/or that a project's disturbance would not be significant. Field reconnaissance of a project site and/or study area should be designed to include the following three considerations: (1) the level of effort (number of hours, days or seasons – (emphasis added); number and experience of observers should be consistent with the size and complexity of the study area; (2) reconnaissance should occur at a resource's biologically relevant periods (e.g., within the growing season.... (emphasis added)

Brief Comment: As per EAS photographs, it is apparent that field reconnaissance did not occur during Boardwalk Community Garden's biologically relevant periods, i.e., within the growing, which raises the question(s):

- Why not?
- Was there some sort of rush to complete the field survey?
- Why conduct a field survey and take photos at the worst time of the year and, at that, after the devastation of Hurricane Sandy?

5. CEQR TECHNICAL MANUAL – NATURAL RESOURCES – 321. Assess Existing Conditions

This task assesses a natural resource in order to understand its value for one or more functions, as determined by appropriate seasonal surveys (emphasis added) referenced in Section 300, including but not limited to habitat for flora and fauna, ecosystem services, ground water recharge, flood and storm control, erosion control, recreation, open space, and visual quality..... As with all technical analysis areas, the level of detail required corresponds to the anticipated effect of the project. Here, however, the resource is usually presumed to be important and valuable, absent any specific information to the contrary. The evaluation of the resource should either confirm this assumption or show the extent to which the presumption of value cannot be confirmed..... For most of the work outlined.....a certified ecologist, biologist or discipline-specific specialist should be used. (emphasis added);

Brief Comment: the question(s) raised here vis-à-vis the EAS photographs include:

- Who took those pictures?
- Were they taken by a certified ecologist, biologist or discipline-specific specialist?
- If so, again, why did they take these out-of-season photographs in the cold weather season in the wake of Hurricane Sandy?

6. CEQR TECHNICAL MANUAL – OPEN SPACE – 342.1. Field Surveys

Data collection should include field surveys of the open space resources if relevant data are not readily available (emphasis added). In these cases, it is recommended that information be obtained from at least two site visits, at least one of which is at the peak hour of use and in good weather. Information regarding the appropriate timing of a field visit may be obtained through conversations with community groups and facility operators. (emphasis)*

Brief Comment: the question(s) here:

- Why were the EAS & DEIS field survey photographs not taken at the peak hour of use and in good weather?
- Did any conversations take place with the community gardeners of Boardwalk Community Garden in order to coordinate field visit to the community garden?
- If so, why would the community gardeners suggest the taking of field survey photographs at such a non-peak hour and in the wake of such bad weather conditions as Hurricane Sandy?
 - It is doubtful that such a conversation with the community gardeners took place. It is extremely doubtful that information regarding the appropriate timing of a field visit was obtained through conversations with the Boardwalk Community Gardeners.

*** First Set of Extended Comments**

1. It is apparent that the City of New York overly subscribed to the "**relevant data**" clause – cited above – so much so that I surmise it resulted in a preponderant reliance on internal administrative documents in its files including, but not limited to, the following records: **a) the non-renewal of the community garden's Green-Thumb license, in 2004, b) the re-zoning of the Coney Island area in 2009 attempting to change the parkland use of the lot that the Boardwalk Community Garden is located on, and c) the Parks/DCAS transfer letter in 2013** – to the exclusion of properly executed field studies as called for in

the CEQR Technical Manual – all of which subsequently led to the official references to Boardwalk Community Garden in the various EIS reports as a “*decommissioned garden*”, a “*vacant lot*”, and/or an “*under-utilized garden*”, etc. – as the basis for assessing the environmental impacts of the amphitheater development project on the Boardwalk Community Garden, i.e., concluding that there will be no significant environmental impact as a result of this project. (Please see, for example, the above referenced attached EAS and DEIS.)

The over reliance on “*relevant data*” contained in these and other administrative documents – to the exclusion of other relevant EIS field-based considerations such as those delineated in the CEQRA EAS Full Form and in the CEQR Technical Manual Natural Resources Chapter regarding Field Reconnaissance has led to the erroneous environmental impact assessments contained in the proposed project EIS’s vis-à-vis Boardwalk Community Garden.

The Natural Resources chapter bears repeating:

CEQR TECHNICAL MANUAL – NATURAL RESOURCES – 321. Assess Existing Conditions

This task assesses a natural resource in order to understand its value for one or more functions, as determined by appropriate seasonal surveys referenced in Section 300, including but not limited to habitat for flora and fauna, ecosystem services, ground water recharge, flood and storm control, erosion control, recreation, open space, and visual quality. This includes learning what site or study area features would be present on a yearly seasonal basis in the future without the project (e.g., spring, summer, fall and winter), and determining which of these are most important to maintaining natural resource functionality. As with all technical analysis areas, the level of detail required corresponds to the anticipated effect of the project. Here, however, the [natural] resource is usually presumed to be important and valuable, absent any specific information to the contrary. The evaluation of the resource should either confirm this assumption or show the extent to which the presumption of value cannot be confirmed (emphasis added).

And note this also from this from the CEQR Technical Manual:

CEQRA TECHNICAL MANUAL – NATURAL RESOURCES – 350. ASSESSMENT ISSUES FOR SPECIFIC NATURAL RESOURCES – 353.3. Meadows or Old Fields, Woodlands, and Gardens

These habitats are usually considered to be common and therefore are not often protected by specific regulation. For these as well as all other habitats discussed in this section, the CEQR analysis begins by assuming that they are valuable (emphasis). Using the approach outlined in Sections 320 through 340, above, the resource is characterized according to its vegetation, potential for wildlife habitat, current use, and, as appropriate, the environmental systems that support it (emphasis).

2. It is also quite apparent that the analytical framework of the CEQR TM section on Open Space with respect to community gardens in general and the Boardwalk Community Garden in particular is conceptually skewed towards considerations that favor high volume (pedestrian and vehicular) traffic and high volume entertainment value/assessments of open spaces. NYC’s urban planners, policy makers, and real estate developers have all signaled their preferences for such development projects while destruction

of communities and their natural resources including community gardens are mere collateral damage considerations as evidenced by the city's recent "up-zoning" of the Coney Island West area that includes destroying the Boardwalk Community Garden. This would explain why they regard the proposed amphitheater development project as an open space improvement over the Boardwalk Community Garden albeit these two respective land uses (i.e., that called for by the proposed project and the current Boardwalk Community Garden's stewarding of natural resources) are significantly different.

This analytical framework is conceptually flawed given the narrow criteria with which it attempts to assess the qualitatively and distinctly unique contributions that community gardens make every day to the civic revitalization of local communities throughout our city, including Coney Island West. It is analogous to using a Phillips-head screwdriver to screw down a single slot flat-head screw – it doesn't work. The CEQR Open Space analytical framework is the wrong instrument for assessing the significance of environmental impacts on the Boardwalk Community Garden; it is conceptually biased against community gardens.**

It is not a coincidence that community gardens are often found in urban areas where the local population is suffering disproportionately from Depression-era levels of poverty and unemployment. Within this demographic context, community gardens serve as resonantly meaningful, communally cultivated places that facilitate individual and collective resistance to the ravages of poverty and unemployment including significantly mitigating against concomitant negative health consequences.

For struggling communities such as Coney Island West – living on the socio-economic periphery of our society – Boardwalk Community Garden facilitates the fundamental human right of people (despite their poverty and unemployment status) to be productively and creatively engaged with Mother Earth in a way that is viscerally self-determining and which restoratively honors their sense of human dignity. Certainly, to be peacefully and ecologically engaged in cultivating plants and growing food is a human right that must be protected particularly in light of the fiscal reality of across-the-board government cuts to social programs including the food stamp program. Historically, there are relevant precedents such as the Depression-era Relief Gardens and WW II Victory Gardens that made up for the social dislocation of mass unemployment and the shortfalls in the supply of food and good nutrition during times of great economic strain.

3. So, to re-iterate, the CEQR Open Space analytical framework for assessing environmental impacts is fundamentally conceptually biased against poor people, because it is environmentally biased against community gardens.

It fails to fully capture the socially responsible and environmentally sustainable outcomes of community gardens such as Boardwalk Community Garden. This failure results in the ripple effects over time – that insidiously exacerbate the environmentally adverse impacts on this West Coney Island community and similarly situated working-class poor communities of primarily – though not exclusively – people of color.

4. The following are just some of the Boardwalk Community Garden's natural environmental and socio-economic factors that stand to be adversely impacted by this amphitheater development project that have been conspicuously omitted in the current CEQR process as otherwise called for by the pertinent governmental regulations including those found in Executive Order 91, the New York Code of Rules & Regulations (NYCRR), as well as those stipulated in the CEQR Technical Manual.
 - a. Consider the socio-economic factors also being potentially impacted by the proposed project in this regard. The actual community gardeners of Boardwalk Community Garden, many of whom are either working low-wage jobs, unemployed, under-employed, on public assistance, living on fixed incomes, and/or even pension-less, for whom the community garden serves as a peace-filled

place that allows them to fulfill their most deeply rooted human needs and aspirations to be more fully and meaningfully engaged as human beings albeit not necessarily in the remunerative sense though in nonetheless a productive manner in garden-cultivation activities. What they have lacked in economic capital, the local community has richly made up for in social capital. For them, the garden has come to culturally define their community's character of civic engagement in ways that have steadily been growing collective efficacy. The community gardeners of Boardwalk Community Garden have been involved in a unique deep form of recreation – re-creating and resurrecting themselves from poverty and unemployment, and not allowing economic resources challenges to define themselves as a community. Through the Boardwalk Community Garden, the community is fully embracing its sense of human dignity. They have been celebrating the multiple harvests of their community's resilience as well as the harvests of flowers, herbs, nutritious fruits, and vegetables.

- b.** Further, from a natural environmental perspective, this community garden/parkland*** hosts a variety of ecological services, including, but not limited to, the following:
 - i.** planted trees which promote heat island mitigation and ambient air filtration of particulates and carbon gas emissions,
 - ii.** cultivated soil-based permeable surfaces that promote rainwater infiltration along with storm water run-off & erosion mitigation (a very ecologically sound resiliency practice consistent with practices recognized by the City of New York (please see PlaNYC Sustainable Storm Water Management Plan http://nytelecom.vo.llnwd.net/o15/agencies/planyc2030/pdf/report_10_2010.pdf) in light of the "new normal" of extreme weather events such as Hurricane Sandy),
 - iii.** natural resources conservation through:
 - 1.** rainwater harvesting
 - 2.** regeneration of soils both structurally and bio-chemically via:
 - a.** composting which promotes carbon sequestration (and, in the process, GHG mitigation)
 - b.** cover-crops planted in the off-season that are plowed back into the soil which in turn produce "green manures" in preparation for the Spring planting
 - iv.** organic growing techniques which are free of synthetic chemical pesticides & chemical fertilizers that are:
 - 1.** supporting bio-diversity into soils with composted organic matter (natural – ecologically based – pest control)
 - 2.** utilizing companion plants (natural – ecologically based – pest control)
 - 3.** promoting safe (pesticide-residue-free) pollination, mitigating against pollinator-habitat fragmentation and bee colony collapse,
 - 4.** promoting safe (pesticide-residue-free) pollination, mitigating against pollinator-habitat fragmentation and bee colony collapse,
 - 5.** producing organically cultivated fresh fruits & vegetables thereby militating against diet-related diseases stemming from poor nutrition in this community that is disproportionately suffering from Depression-era levels of poverty and unemployment.

- v. Boardwalk Community Garden is doing/growing a lot of good.

In view of the fact that the CEQR EIS process in this case has lacked substantial compliance in its application of criteria for environmental impact assessment – missing qualitatively significant impact assessment information, we're calling for a Supplemental Environmental Impact Statement (SEIS) to be accordingly initiated as per the CEQR Technical Manual SEIS & NATURAL RESOURCES Stipulations. Please note the following from the CEQR TM:

1. CEQR TECHNICAL MANUAL PROCEDURES AND DOCUMENTATION 420. Supplemental EIS (SEIS)

The SEIS is a flexible tool in the CEQR process. It is used to supplement or amend a previously prepared and circulated EIS. It provides decision-makers, interested and involved agencies, and the public with information about impacts not previously studied. The SEIS is used when:

- *Changes are proposed for the project that may result in a significant adverse environmental effect not anticipated in the original EIS;*
- *Newly discovered information arises about significant adverse effects that was not previously analyzed (emphasis added); or*
- *A change in circumstances related to the project has occurred.*

In considering the need to prepare an SEIS, in the case of newly discovered information (emphasis), the agency should weigh the importance and relevance of the information and the current state of information in the EIS. 6 NYCRR 617.9(a)(7). The scope of the SEIS is targeted to specifically address only those issues that meet these requirements. The need for an SEIS may become apparent after the acceptance of the DEIS and up to the time that agency findings are filed, following the completion of the FEIS. SEISs may also be prepared after findings have been made if changes are proposed for the project that requires additional discretionary approval. In this case, the assessment as to whether an SEIS is needed should also consider whether an aspect of the original EIS has grown stale, i.e., whether the passage of time since the original environmental review was conducted has resulted in a change of circumstances, such as the existing traffic conditions or neighborhood character, that may now result in the project, as modified, causing significant adverse environmental impacts that were not sufficiently disclosed in the original EIS. If the assessment indicates that the project may result in a new, previously undisclosed significant impact, an SEIS is appropriate and the agency would then prepare an SEIS. If the assessment indicates that it is unlikely that there will be new previously-undisclosed potential significant adverse impacts, the preparation of an SEIS is not required. The preparation of an SEIS is subject to the full procedures that govern the preparation of an EIS, including the scoping process and required public hearings. In addition, supplemental findings statements may be necessary.

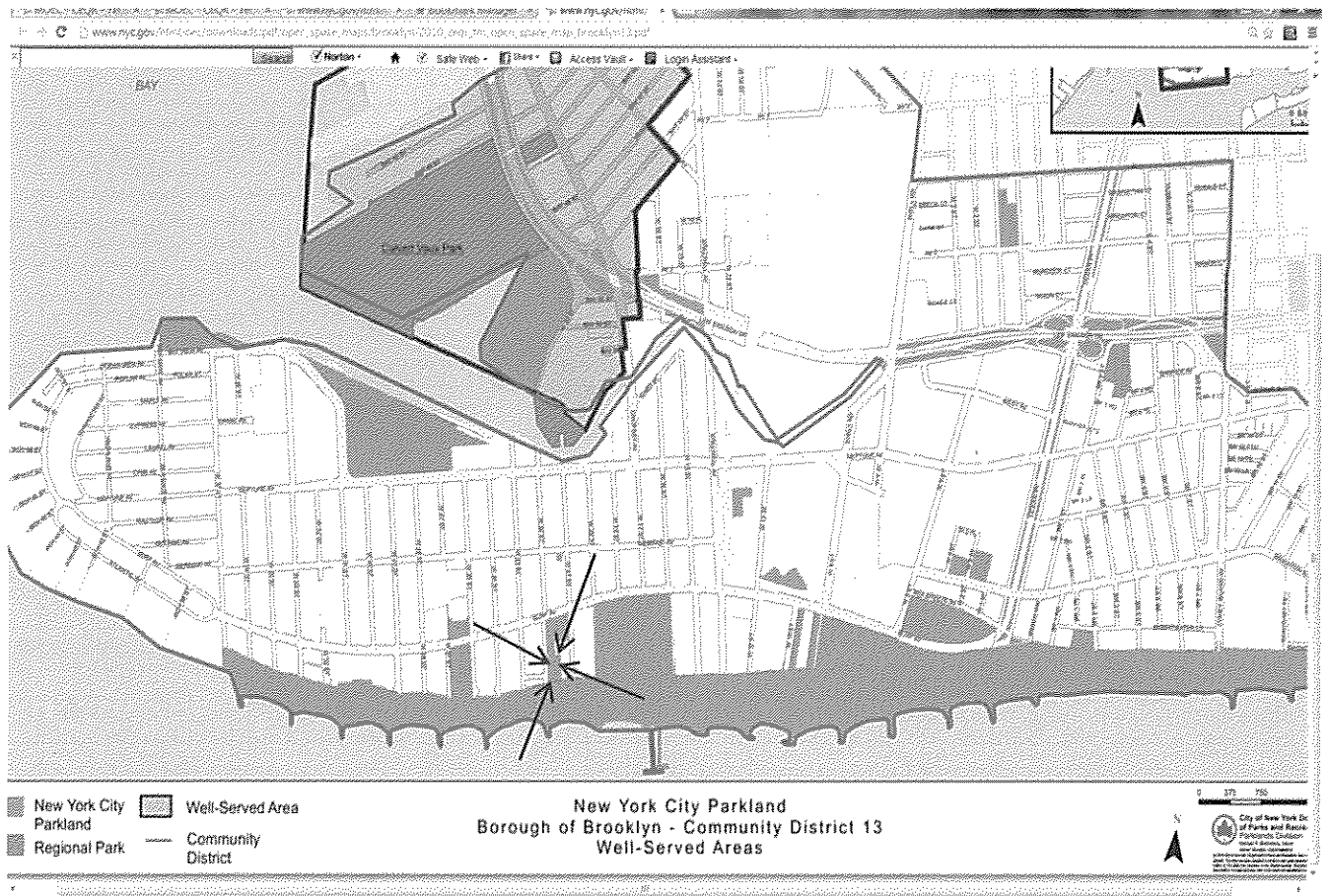
2. CEQR TECHNICAL MANUAL PROCEDURES AND DOCUMENTATION 421. Technical Memoranda

In the event that the lead agency determines that it is appropriate to consider whether an SEIS is necessary, it is recommended that the lead agency document this assessment in a technical memorandum. In the event the technical memorandum assessment indicates that the preparation of an SEIS is or may be warranted, the lead agency should prepare an EAS or, if appropriate, may proceed to the issuance of a Positive Declaration. In the event the technical memorandum

assessment indicates that the preparation of an SEIS is not warranted, no further documentation or analysis is needed. The technical memorandum should be prepared by the lead agency for its files and should bear the same CEQR number as that of the original EIS. A copy should also be sent to MOEC (i.e., the Mayor's Office of Environmental Coordination.)

***** Third Set of Extended Comments**

Finally, consider the fact that the Boardwalk Community Garden is mapped Parkland (please see NYC Parkland Document below where the red arrows are pointing):



As parkland, it is a public trust, and, as such, it would necessarily have to go through a formal process for Parkland Alienation as per the Public Trust Doctrine in order to be considered for real estate development.

When the above-referenced map/document was presented before the October 23, 2013 City Planning Commission Public Meeting, the response from one of the Commissioners was to deny that it (Boardwalk Community Garden) was mapped parkland. Furthermore, the City Planning Commission subsequently moved to change the CEQR rules at the November 20, 2013 CPC Public Meeting (when nothing remotely related to parks and community gardens was formally slated to be discussed, i.e., that particular public meeting was off our radar) – adding new rules that call for the elimination of certain “actions” from the CEQR review process – and doing so without providing adequate public notice owing to the use of a Supplemental Calendar (i.e., the last minute addition of an agenda item to the formal CPC Public Meeting Calendar agenda items for that date of the 20th/November) thereby foreclosing on the public’s right to review, prepare and present public comment on this very significant rule change:

....The following actions are not subject to review under City Environmental Quality Review.... Park mapping, site selection, or acquisition of less than ten (10) acres of open space or natural resources.....

Here is a quote from **page 10** of the *HANDBOOK ON THE ALIENATION AND CONVERSION OF MUNICIPAL PARKLAND IN NEW YORK*:

Does the size of the parcel being alienated make a difference?

*Even if the parcel of parkland being alienated is small, the requirements are the same. While the courts have not been asked specifically to exempt small parcels from the legislative process, it is clear they have been concerned with the nature and use of the lands rather than their size. In fact, one early case dealt with a building within a park. The relatively small size of the lands on which that building rested had no bearing on the court’s decision. **18 (footnote)** Indeed, the Legislature regularly passes alienation bills that involve small pieces of parkland. **19 (footnote)**.....*

*.....**18** Williams v. Gallatin, 128 N.E. 121, 122-123 (1920)(New York City prohibited from entering into lease for building in Central Park because foreign to park purposes).*

***19** See, e.g. 2004 N.Y. Laws Ch. 492 (easement alienation of 2/5 of an acre park parcel to water district for construction of well).*

Such a rule change has broad and sweeping implications for potentially adverse community and natural resource impacts vis-à-vis community gardens citywide – not just the Boardwalk Community Garden – if this rule is interpreted and applied in such a way as to eliminate community gardens.

Beyond its mapped parkland status, the Boardwalk Community Garden is also implicitly dedicated parkland by dint of all that goes on in this land – it is impressed with a *public trust* as per guidance provided by the state's *HANDBOOK ON THE ALIENATION AND CONVERSION OF MUNICIPAL PARKLAND IN NEW YORK*:

Chapter 1: All About Parkland Alienation

The requirement that a municipality obtain legislative authorization in order to alienate parkland is not found in a

statute, which is a law passed by the State Legislature. Rather, the basic principle for parkland alienation is founded in case law or “common” law.[] The courts have consistently held that “once land has been dedicated to use as a park, it cannot be diverted for uses other than recreation, in whole or in part, temporarily or permanently, even for another public purpose, without legislative approval.”[]

Formal dedication of parkland or implied dedication of parkland?

The dedication of parkland may be formal through an official act by the governing body of the municipality, such as the passage or adoption of a formal resolution or local law.[] However, dedication can also be implied. This may occur through actions which demonstrate that the government considers the land to be parkland or the public used it as a park. Examples include: a municipality publicly announcing its intention to purchase the lands specifically for use as a park, “master planning” for recreational purposes, budgeting for park purposes, “mapping” lands as parkland, or constructing recreational facilities.[] Dedication through implication can also occur when the common and accepted use of the land is as a park.[] Accordingly, in order for the principles of alienation to apply to municipal land, it need not have been formally dedicated, or even developed with amenities such as lawns, playing fields, or picnic tables.

Here is what the CEQR TM calls for when addressing alienation of parkland:

1. CEQR TECHNICAL MANUAL – OPEN SPACE – 500. Developing Mitigation

If the proposed project results in a significant adverse open space impact..... [s]ome ways in which open space impacts may be mitigated.....follow:

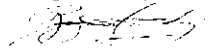
.....Mitigation for the alienation or conversion of public parkland typically involves the acquisition of replacement parkland (emphasis) of equal or greater size and value servicing the same community of users (emphasis).....

Again, in view of the fact that the CEQR EIS process in this case has lacked substantial compliance in its application of criteria for environmental impact assessment – missing qualitatively significant impact assessment information, we’re respectfully calling for a Supplemental Environmental Impact Statement (SEIS) to be accordingly initiated as per the CEQR Technical Manual SEIS & NATURAL RESOURCES Stipulations.

In order for this proposed project to avoid needless pain and destruction of a civically vital hub of community life *and* natural resources/cultural ecological community conservation, let’s not call ourselves revitalizing the Coney Island community while destroying it in the process for that would constitute a pyrrhic victory. In order for this proposed project to truly be a win/win for all concerned, a good hard look is needed in order to inform such desirable outcomes. There’s no need to rush when one does the right thing. A good hard look via the SEIS is the right thing to do.

Thank you for your thoughtful consideration.

Respectfully,


Raymond Figueroa, Jr.
President

Cc:

Lemuel M. Srolovic, Environmental Protection Bureau Chief
State of New York, Office of the Attorney General

Venetia Lannon, Regional Director
New York State Department of Environmental Conservation, Region 2

Steven Zahn, Regional Supervisor for Natural Resources
New York State Department of Environmental Conservation, Region 2

Leroy Comrie, Chair
Land Use Committee of the New York City Council

Brad Lander, Co-Chair
Progressive Caucus of the New York City Council

Melissa Mark-Viverito, Chair
Parks and Recreation Committee and Co-Chair
Progressive Caucus of the New York City Council

Letitia James, Member
New York City Council

Jumaane D. Williams, Member
New York City Council

Stephen Levin, Member
New York City Council

Margeret Chin, Member
New York City Council

Daniel Dromm, Member
New York City Council

Julissa Ferreras, Member
New York City Council

Donovan Richards, Member
New York City Council

Jimmy Van Bramer, Member
New York City Council

Deborah Rose, Member
New York City Council

Sheila Smalls, Member of the Steering Committee
The People's Coalition Of Coney Island

Don Riepe, Chapter Director
The American Littoral Society

Ida Sanoff, Executive Director
Natural Resources Protective Association

Geoffrey Croft, Executive Director
NYC Park Advocates

David Sherman, Chairperson
Green Guerillas

Steve Frillmann, Executive Director
Green Guerillas

Joel Kupferman, Executive Director
New York Environmental Law and Justice Project

New York City Community Garden Coalition

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THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. LU 994to

in favor in opposition

Date: 12-17-13

Name: RAY FIGUEROA, PRESIDENT
(PLEASE PRINT)
Address: NEW YORK CITY COMMUNITY GARDEN
COALITION

I represent: _____

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition Postpone

Date: 12/17/2013

Name: Sheila Smalls
(PLEASE PRINT)

Address: 2953 W 33rd St

I represent: C.I. Peoples Coalition

Address: SAME AS ABOVE

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 995 Res. No. _____

in favor in opposition

Date: _____

Name: Ann Valdez
(PLEASE PRINT)

Address: 3178 Bayview Ave

I represent: Self, Peoples Coalition of Coney Island

Address: _____

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

996

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 12-17-13

(PLEASE PRINT)

Name: ANTHONY HAYES

Address: 1350 DECATUR ST

I represent: 911 HOMESAVER'S LLC

Address: 1350 DECATUR ST

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

C140063
994
995

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 12-17-13

(PLEASE PRINT)

Name: Benjamin Hunter

Address: 2749 West 33rd St.

I represent: Coney Island Amusement

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. LU 994 Res. No. _____

in favor in opposition

Date: 12/17/13

(PLEASE PRINT)

Name: Nicole Robinson

Address: 602 Surf Avenue, Brooklyn

I represent: NY Aquarium

Address:

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL *Coney Island*
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 12/17/13

(PLEASE PRINT)

Name: SUZAN FRAZIER

Address: 347 A Grand Ave

I represent: GREENE ACRES COMMUNITY GARDEN

Address: 347A Grand Ave Bklyn 11238

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 994

in favor in opposition

Date: 12/17/2013

(PLEASE PRINT)

Name: CAROLYN MCCRORY

Address: 529 E. 13th St #1B

I represent: Self, garden, community, Coney Island

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 1002

in favor in opposition

Date: 12/17/13

(PLEASE PRINT)

Name: Harri Nathan Kalan, Esq

Address: 349 Bruce Street NY, NY 10013

I represent: The Randolph Group

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 994 Res. No. _____

in favor in opposition

Date: 12.17.13

(PLEASE PRINT)

Name: Anthony Butler

Address: 479 J 17 ST 11215

I represent: St. John's Bread + Life

Address: 795 Lexington Ave 11221

**THE COUNCIL
THE CITY OF NEW YORK**

Coney Island

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 994

in favor in opposition

Date: 12/17/13

(PLEASE PRINT)

Name: Wycliffe Wilkinson

Address: 1243 Prospect Park West, Brooklyn, NY

I represent: Futures In Education

Address: 243 Prospect Park West, Brooklyn, NY

**THE COUNCIL
THE CITY OF NEW YORK**

Coney Island

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Charles KREZEL

Address: 315 E 81ST NYC

I represent: LOISaida UNITED Neighborhood Garden

Address: _____

Please complete this card and return to the Sergeant-at-Arms

Madison Global LLC

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 12/17/13

Name: Philip Robertson (PLEASE PRINT)

Address: 11 Park Place

I represent: Madison Global LLC

Address: 696 Madison Avenue

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 25610E Res. No. _____

in favor in opposition

Date: 12/17/2013

Name: HARDY ADASKO (PLEASE PRINT)

Address: 170 WILLIAM ST

I represent: NYL CON DOUGRP

Address: 170 WILLIAM ST

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. CONLEY/SLAND Res. No. _____

in favor in opposition

Date: _____

Name: MARTIN LEWINE (PLEASE PRINT)

Address: 2944 W. 5 ST.

I represent: CB 13

Address: 2601 Saff Ave.

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card



I intend to appear and speak on Int. No. Coney Island Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: DICK ZIGON

Address: 2859 West 15th St Bklyn

I represent: Coney Island USA

Address: 1208 15th Ave Bklyn

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. Coney Island

in favor in opposition

Date: 12/17/2013

(PLEASE PRINT)

Name: Howard Weiss

Address: 605 Third Avenue

I represent: Coney Island Holdings

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Coney Island

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Scott Strunk

Address: 16 Court Street Brooklyn

I represent: MVA

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition *Coney Island*

Date: _____

(PLEASE PRINT)

Name: *Karl Freely*

Address: _____

I represent: *Coney Island Holdings 9*

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. *Coney Island* Res. No. _____
 in favor in opposition

Date: *12/17/13*

(PLEASE PRINT)

Name: *Jhanna Zaki*

Address: *Lease Liberty Ave, N Bergen, NJ 07047*

I represent: *Alliance for Coney Island*

Address: *1000 Surf Ave, BR, NY 11224*

ON CALL
NEEDS TO LEAVE
10:40

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: *December 17, 2013*

(PLEASE PRINT)

Name: *MARTY MARKOWITZ*

Address: *209 JERUSALEM STREET*

I represent: *Brooklyn Borough President*

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

LU 994-999

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 12/17/13

(PLEASE PRINT)

Name: GARRY Scott Blackmon, Deputy Commissioner

Address: The Arsenal

I represent: NYC Parks Dept.

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

Coney Island

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 12/17/13

(PLEASE PRINT)

Name: KEITH SUBER

Address: SUBER FOUNDATION

I represent: _____

Address: _____

Please complete this card and return to the Sergeant-at-Arms

CONEY
ISLAND

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[Empty box]

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

Name: PAUL CUSTER (PLEASE PRINT)

Address: _____

I represent: YMCA

Address: _____

◆ Please complete this card and return to the Sergeant-at-Arms ◆

Coney
Island

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[Empty box]

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 10/17/13

Name: Eddie Mark (PLEASE PRINT)

Address: _____

I represent: Community Board # 15

Address: _____

◆ Please complete this card and return to the Sergeant-at-Arms ◆