

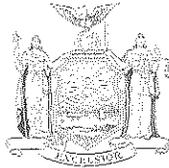
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OFFICE OF
NEW YORK STATE ASSEMBLYMAN
WALTER T. MOSLEY
57TH DISTRICT

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November 26, 2018

Mr. Daniel Whitehead
Chief Administrator
NYS Department of Environmental Conservation
625 Broadway
Albany, NY 12233

Re: Carmel Realty—46 Crown Street
Cornell Realty—931 Carroll Street
Continuum Company— 120-136 Montgomery Street

Dear Mr. Whitehead,

I write on behalf of my constituency regarding 46 Crown Street (Carmel Realty), 931 Carroll Street (Cornell Realty), and 102-136 Montgomery Street (Continuum Company) developments in Crown Heights. These development projects have raised concerns of air pollution, lack of sunlight, water and sewer infrastructure.

46 Crown Street (Carmel Realty,) formerly owned by Cornell Realty Management, LLC, originally a two-phase development in the Crown Heights, has been brought to my attention as it relates to its negative impact on residents within my district and the added density this project would bring. Ultimately, the applications for rezoning originally submitted by Cornell Realty were withdrawn. Since the purchase of the lot from Cornell Realty at 46 Crown Street, there has not yet been an announcement for any development plans by Carmel Realty. There is, however, the potential for a larger project that still exists as a result of Cornell Realty reportedly re-filing the rezoning application for later this calendar year for their remaining property, 931 Carroll Street.

A third project under another development company, Continuum Company, 120-136 Montgomery Street, is proposing a 42-story, 1,500 units apartments on the adjacent lot. If all three projects are approved, well over 3,000 residents and roughly anywhere between 1,500 and 2,500 units would be added to Crown Heights, an already densely populated residential neighborhood. Adding to the existing population could have a devastating impact on the water and sewer infrastructure. An approval of rezoning would also dramatically reduce the amount of sunlight for the surrounding buildings and local community.

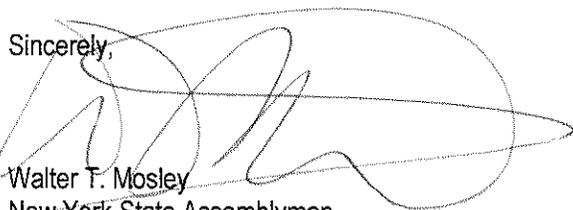
Going forward it is my recommendation that all applications be thoroughly reviewed and resubmitted with added transparency and more community outreach. It is critical for rezoning applications that have far-reaching impacts on the community, to have as much community input as possible. The community and those elected to represent the community, must be given the precise facts so that a proper assessment of the development can be done.

Furthermore, while assessing their applications for rezoning and development, I ask that you consider the following:

- Cumulative impacts from other proposed developments and all properties within the proposed rezoned area through an environmental impact review;
- Shadow impact upon the community;
- A Comprehensive water and sewage analysis for the area impacted by these proposed developments;
- Socioeconomic Conditions—specifically to address the issue of luxury developments being built in a low to moderate income community;
- A segmentation analysis (assuring that all properties that are being rezoned are analyzed); and
- Sun-Glare study in relation to its impact on the Brooklyn Botanical Garden.

I would request that you keep me apprised of your findings. I thank you in advance for your response and consideration of this request. If you have any further questions, please feel free to contact me at my district office at 718-596-0100.

Sincerely,



Walter T. Mosley
New York State Assemblyman
57th Assembly District

C: Hon. Letitia James, Public Advocate
Hon. Yvette Clarke, U.S. Representative, 9th Congressional District
Hon. Laurie A. Cumbo, Majority Leader, NYC Council, 35th District
Winston R. Von Engel, Director, NYC Department of City Planning
Woody Pascal, Deputy Commissioner, NYS DHCR
Patricia Baker, Chairperson, Community Board 9
Alicia Boyd, Movement to Protect the People (MTOPP)

WTM/gt

RANKING MINORITY MEMBER

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TECHNOLOGY & INNOVATION

DEMOCRATIC CONFERENCE

POLICY GROUP

DEMOCRATIC CONFERENCE

MWBE TASK FORCE



**SENATOR
KEVIN S. PARKER**

21ST SENATORIAL DISTRICT
STATE OF NEW YORK

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parker@ny.senate.gov

SEP 06 2018

August 22, 2018

Daniel Whitehead
Chief Administrator
NYS Department of Environmental Conservation
625 Broadway
Albany, N.Y. 12233

Re: Cornell Realty Hearing Comments – **Objections to Negative Declaration**
CEQR # 17DCPO67K
ULURP# 180347ZMK and N180348ZRK

Dear Mr. Whitehead:

I write on behalf of my constituency regarding the Brooklyn Botanic Garden (BBG) and the proposed capital projects that are being planned along its perimeter. It has come to my attention that there are two (2) proposed developments being considered within a four block radius of the BBG: all adjacent to each other and in a height limited zone of 6/7 stories.

One of the projects is being proposed by Cornell Realty, who is looking to build two 175ft story buildings. The other project is by The Continuum group who is proposing to erect a 42-story building that would be the largest residential building in Brooklyn. Both projects are proposing to add over 2,200 residential units within a four block radius.

However, after reviewing the Cornell Realty Environmental Assessment Statement (EAS) that is required by New York State law (SEQR), there appears to be gross errors or a serious misrepresentation of facts in the statement. This in turn has prevented their application from being subject to an environmental impact analysis to determine the negative environmental consequences to the community, the garden, and our water and sewage facilities.

For example, on Cornell Realty's EAS short statement form it asks if their project would create over 400 residential units. Cornell Realty responded "no." Thus, they did not perform an analysis of the water and sewage impact. However, on their application it clearly shows that their project will create

516 residential units, and another area that will also be rezoned will create an additional 47 residential units for a combined 565 units.

Additionally and as you may already know, cumulative impacts must also be considered under the SEQR law; especially when the projects are right next to each other and will be utilizing the same resources. In the case of these two proposed developments, they are in fact adjacent to each other. This makes me concerned that ultimately these developments will pose a serious environmental threat not only to the Brooklyn Botanic Garden, but also to the larger Brooklyn community.

Another issue that is of concern is the fact that the Cornell Realty Shadow Study shows signs of being defective. The CEQR manual that has been created by New York City to enforce the SEQR laws - to determine if a negative impact will occur and if an environmental impact statement is warranted, appears not to have been adhered to as is required. For example, there is evidence that the Cornell Realty application did not implement the worst-case scenario requirement when conducting their shadow study, as is required by the CEQR manual. That in fact, it appears that Cornell did not include the bulkhead of the buildings and any additional heights that they will be afforded regarding special permits, i.e. the FRESH program.

Pursuant to the Section 6 NYCRR 617.7 and .8 (State Environmental Quality Review), a lead agency must be chosen to ensure a proper analysis is done to determine if an environmental impact statement must be conducted and the New York City Department of City Planning (DCP), is the lead agency.

According to documents submitted to my office, the DCP has given this project a negative declaration and thus no further environmental review will be warranted from Cornell Realty.

According to Section 6 NYCRR 617.7 (e) any time before a final determination is made the lead agency may withdraw their negative declaration and issue another finding, especially if new information has been given to the lead agency to warrant such a reversal of its determination.

Thus, I request that Cornell Realty's application be reviewed for accuracy to determine if their EAS has been conducted appropriately, and that you keep me apprised of your findings - which should include, as SEQR requires, a description of the lead agency's rationale, and the qualitative data that informed the agency's determination.

Please consider the following environmental consequences when assessing the Cornell Realty application:

1. Cumulative impacts from other proposed developments and all properties within the proposed rezoned area.
2. Shadow impact and following the CERA manual directives.
3. Water and Sewage analysis
4. Socioeconomic Conditions – Especially in light of the fact that luxury developments will be built in a low to moderate-income community.
5. Segmentation (assuring that all properties that are being rezoned are analyzed)
6. Sun – Glare especially in relation to the Brooklyn Botanic Garden

Thank you in advance for your prompt response and favorable consideration of this request. If you have any further questions, please feel free to contact me at my district office at (718) 629- 6401.

Yours in Partnership.



KEVIN PARKER

cc: Bill de Blasio, Mayor, City of New York
Yvette Clarke, U.S. Representative, N.Y. 9
Eric Adams, Brooklyn Borough President
Walter Mosley, New York State Assembly Member, District 57
Diana Richardson, New York State Assembly Member, District 43
Bobby Carrol, New York State Assembly Member, District 44
Laurie Cumbo, New York City Council Member, District 35
Winston R. Von Engel, Director, NYC Department of City Planning
Patricia Baker, Chairperson, Community Board 9, Brooklyn, NY
Alicia Boyd, Movement to Protect the People (MTOPP)
Felice Robertson, Vice President, Washington Avenue Botanic Block Association

Affidavit

ARCHITECT/ENGINEER AFFIDAVIT FOR THE EFFECTS OF TWO PROPOSED DEVELOPMENT PROJECTS ON FRANKLIN AVENUE

Addresses: 124 and 130 Montgomery Street, 962 and 972 Franklin Avenue

Borough: Brooklyn

Block 1188, Lots 35, 44, 53, 54, 55, 56, and 58

Block 1189, Lots 31, and 60

Block 1190, Lots 26, 28, 29, 45, 46, 48, and 50

Block 1192, Lots 41, 46, 63, and 66

In connection with two proposed developed projects on Franklin Avenue. I, Julio Salcedo-Fernandez, certify, under penalty of perjury, that the following statements are true and correct to the best of my knowledge:

1. I am a Registered Architect licensed to practice and in good standing with the State of New York Department of Education. I am the principal of Scalar Architecture PC ("SA")
2. SA was retained by Movement to Protect the People ("Client") to provide the following service:

A: Shadow study to understand some of the environmental implications of a proposed increase in building heights on the above properties on Franklin Avenue and Crown and Carroll streets, particularly their effect on the neighborhood and the Brooklyn Botanic Garden.

As shown in Appendix A – "The Franklin Avenue Rezoning Shadow Analysis" prepared June 20, 2018, the proposed developments were by Continuum Company and Cornell Realty Management. Continuum Company did not submit an Environmental Assessment Statement (EAS); while Cornell Realty Management submitted a revised EAS on June 8, 2018, which included a shadow study.

3. The SA shadow study was based on building heights provided by the Client who consulted with Tom Angotti, Professor Emeritus of Hunter College Urban Policy and Planning and the Graduate Center, City University of New York on zoning restrictions and programs. For Continuum Company building heights, the Client stated that the SA shadow study use 441 feet as Continuum Company building height.

For Cornell Realty Management, the Client was originally informed that maximum building height was 190 feet (175 feet plus 15 feet bulkhead) but from it EAS, the maximum building height stated was 175 feet including bulkhead.

Affidavit

The SA shadow study comparison used Cornell Realty of 175 feet, based on Cornell Realty Management EAS.

- It was found that the main discrepancy between SA shadow study and that of Cornell Realty Management is in the interpretation of the worst-case scenario as defined by the 2014 CEQR Technical Manual, Chapter 8, Section 314.2. The resulting breakdown is as follows:

	Cornell Realty Management	SA
Proposed height	150 feet	155 feet*
Bulkhead	Did not include	40 feet**
FRESH program allowance	Did not include	15 feet***
Mandatory Inclusionary Housing program allowance	25 feet	25 feet
Total height used in shadow study	175 feet	235 feet

*Client advised height of 155 for SA shadow study

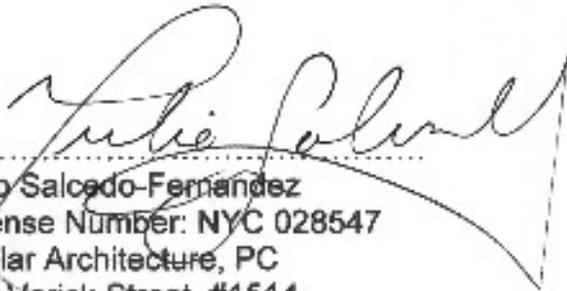
**Client advised that SA shadow study use the largest allowable allowance based on New York City Zoning Resolution Article II: Chapter 4: Section 24-51. Based on 175 feet building height, 40 feet is largest allowable allowance for bulkhead.

*** Client advised that SA shadow study include 15 feet allowance given Cornell Realty Management's intent to apply for the FRESH program.

- Based on the SA shadow study, the duration and coverage of incremental shadows on the Brooklyn Botanic Garden and Jackie Robinson Playground would be significant. Shadows from Continuum Development would have the most impact on both the Brooklyn Botanic Garden and Jackie Robinson Playground. Shadows from Cornell Realty Company, would impact the Brooklyn Botanic Garden but not the Jackie Robinson Playground.
- The Brooklyn Botanic Garden would experience shadow coverage from both developments the morning, with a maximum duration of 3 hours and 13 minutes (May 6/August 6). Shadow coverage has been shown to reach the Brooklyn Botanic Garden, specifically its greenhouse complex, Steinhardt Conservatory. Further study is recommended to determine the full impact of the shadow coverage, taking into account vegetation and activities.

Affidavit

7. The Jackie Robinson Playground would experience shadow coverage in the afternoon only from Continuum Development, with a maximum duration of 5 hours and 1 minute (June 21). According to the 2014 CEQR Technical Manual, all vegetation requiring direct sunlight has a recommended minimum of 4 to 6 hours of direct sunlight per day.
8. Even at this early stage, in our opinion, our study of the total development sufficiently points to potentially adverse conditions warranting further study in the form of an EIS (Environmental Impact Study). We recommend an EIS to determine the full impact of the shadow coverage, taking into account the various activities and vegetation that could be affected by loss of sunlight during all seasons, especially the growing season. In addition, the total development's final building form and envelope, as well as its material, will be required to fully ascertain shadow and other environmental impacts.
9. I further attest that the attached SA shadow study conducted for the Client was done to the best of our abilities and following best practices.


.....
Julio Salcedo-Fernandez
License Number: NYC 028547
Scalar Architecture, PC
180 Varick Street, #1514
New York, NY 10014
T 646 207 7444

STATE OF NEW YORK
COUNTY OF NEW YORK

Subscribed and Sworn to before me this 10th day of AUGUST, 2018




.....
Notary Public

MARY SARAGOUBSI
Notary Public, State of New York
No. 018A6262798
Qualified in Kings County
Term Expires May 29, 2020

The Movement To Protect The People and Flower Lovers Advocating for Communities

Att.: Daniel Whitehead, Chief Administrator,
New York Department of Environmental Conservation
625 Broadway, Albany N.Y. 12233

Att: Winston Van Engle
New York City Department of City Planning
16 Court Street, Suite 705

Att: Brian Paul
NYC Council Project Manager for Land Use Committee Brooklyn

November 22, 2018

Re: Cornell Realty Hearing Comments – **Objections to Negative Declaration**
CEQR # 17DCPO67K
ULURP# 180347ZMK and N180348ZRK

We are filing an additional complaint to the formal complaint against the New York City Department of City Planning (DCP), dated August 7, 2018 in regards to their Negative Declaration on the Cornell Realty Application sited above that was presented to Community Board 9, the City Planning Commission and other elected officials and government agencies.

Pursuant to the Section 5-07 of the Rules of Procedure of Environmental Review (CEQR) and 6 NYCRR 617.8 (State Environmental Quality Review), the New York City Department of City Planning (DCP), acting on behalf of the City Planning Commission (CPC) as CEQR lead agency, has determined that an Environmental Impact Analysis is not warranted for the Cornell Realty development.

The Cornell Realty Management LLC is seeking two discretionary actions in order to facilitate the redevelopment of two sites in the Crown Heights neighborhood of Brooklyn in Community Board 9 along the perimeter of the Brooklyn Botanic Garden along with a third one who's owners have not been identified.

1. A zoning map amendment in Section 16d of the Zoning Map to rezone portions of Blocks 1188, 1189 and 1190, including two Applicant-owned projected development sites from R6A, R6A with C1-E overlay and R8A zoning districts to an R8x district and R8x with C2-4-overlay.
2. A zoning text amendment to appendix F of the Zoning Resolution (ZR) to designate the northern and southern block ends of the Project Area as a Mandatory Inclusionary Housing (MIH).
3. Portions of 35 and 44, and lots 56, 26, 28, 46, 48, 53, 54, 55, 58, 29, 45, 50 will be changed from R6A to a R8x, and lot 31 from an R8A to an R8x.

Pursuant to Section of the 6 NYCRR 617.7 (f) of (State Environmental Quality Review) states that at anytime during the review process of a rezoning the lead agency may rescind their negative declaration if a change of circumstances which was not previously addressed is presented.

This letter is to give further notification of additionally findings that have been verified and proven regarding the Cornell Realty application and its non compliance with NYC's CERA and the New York City Zoning Resolution.

Failure of Lead Agency to Analyze the Negative Environmental Effects of the Entire Area Being Rezoned

Half of the Proposed lots are not considered within the EAS.

There is a combined total of 170,027 square feet being rezoned in the Franklyn Ave rezoning application, however less than half of this amount has been considered and analyzed within the Cornell Realty's EAS. Lots 53, 54, 55, 58, 29, 45 and 50 which total 81,165 square feet have been considered in the EAS, whereas a portion of 35 and 44 (unknown square footage); lots 56, 31, 26, 28, 46, and 48 which total 88,864 square feet has not been included in the EAS. What is clear is that (DCP) has extended these lots in this rezoning and yet they have not provided any environmental assessment of these lots being rezoned.

It is a known fact that CERA requires the worst case scenario to be employed when tabulating and assessing any possible negative environmental effects regarding a proposed rezoning. DCP has extended these parameters for unknown reasons, and has simply stated that these parcels don't have development potential. However, this is far from the truth. These parcels of land may be sold to adjoining property owners (i.e. lot 610, 31, 56); sold as air -rights (i.e. lot 35, 44, 56, 31, 60, 26, 28, and 46) and/or developed (i.e. lots 31, 46, and 48).

Thus all of these lots should have been included in Cornell's EAS because of the worst case scenario of these lots being rezoned.

As we stated in our second Objection to Negative Declaration dated August 7, 2018, we sited the SEQR law which insists that cumulative effects (assessing the impact of all the land being proposed to be rezoned) must be considered and that segmentation (separating the lots to reduce their impact) of a proposed rezoning is not allowed. All proposed lots that are being rezoned must be considered and their negative environmental effects must be analyzed to determine if they will have any adverse effects on the environment.

Additionally, according to SEQR it is the responsibility of the lead agency to make these determinations by analyzing, presenting their findings and rational for their decisions. This was not done by DCP.

Cornell Realty Lied On their Application Concerning Number of Residential Units To Be Created.

In our 2nd objection letter dated August 7, 2018, we miscalculated how the CEQR determines if an EAS is performed regarding the Water and Sewage analysis. It is actually determined by the development of the additional residential units after the non-action (the amount of residential units to be created without a rezoning) residential units are calculated.

According to the documents Cornell Realty's proposed developments will be in an R8x district, with a lot size of 81,165, which includes all three development sites identified within the rezoning parameters, and a FAR of 7.02 (MIH designation). The formula to make the determination of the

number of residential units that will be created is the lot size, times the FAR and divided by factor of the Zoning Regulation which is the average square footage of a residential unit.

The FAR is determined by the MIH program, in an R8x zone which is 7.02,
The Factor is decided by a table in section 23-22 of the NYC Rezoning Resolution.

Calculate Residential Units Development in R8x zone

Multiply the lot size (81,165 ft) by the FAR (7.02),
Divide the applicable factor of 680 (according to NYC Zoning Resolution) and you get
839 Residential units.

Cornell's EAS states that the proposed three developments will only create 565, which would create an additionally 274 residential units after the non-action developments are considered. We determined that Cornell Realty actually used 1000 for their factor and not the 680. Thus allowing them to state that their development will actually create a smaller number of units.

Calculate non-action Residential Units development in an R6A zone

Multiply the lot size (81,165 ft) by the FAR (2.70),
Divide that number by 680
Total Number of Units equal 322.

Thus the total number of additional units on top of the non-action, that will be produced by these three developments is **517** residential units. According to the CEQR manual 400 or more residential units created in Brooklyn warrants an EAS to be performed regarding the Water and Sewage.

So the hypothesis that we drew in our objection letter dated August 7, 2018 still stands regarding the lawful requirement of Cornell Realty to do an EAS on Water and Sewage for this project. We are simply substituting the rational and reasoning for our findings.

**Almost Half of the Proposed Development
Has Not Been Calculated and
Their Environmental Consequences Has Not Been Addressed.**

As we stated above more than half of the lots that are being rezoned have not been included in the EAS, additionally the increase in residential units these lots will generate have not been calculated, or examined within the EAS.

Below are the calculations of residential development on land that is being rezoned but was not included in the EAS analysis.

Calculate non-action Residential Units development in an R6A zone

Lots 56, 26, 28, 46, and 48 have a combined total of 27,755 sf.
Multiply the lot size (**27,755** sf) by the FAR (2.70),
Divide that number by 680
Total Number of Units equal to **110 residential units**

Calculate non-action Residential Units development in an R8A zone

Lot 31 has 19,024 sf

Multiply the lot size (19,024 sf) by the FAR (5.40),

Divide that number by 680

Total Number of Units equal to **151 residential units.**

Determining the total number of units created if no action took place.

Add 110 (R6A) plus (R8A) 151 residential units

Thus the total number of residential units contained in the lots in a non-action development is

261 residential units.

Calculate Residential Units Development in R8x zone

Lots 56, 26, 28, 46, and 48 have a combined total of 27,755 sf.

Lots 31 has a combined total of 19,024 sf.

Multiply the lot size (**46,779** sf is all lots except for lots 35 and 44) by the FAR (6.02),

Divide that number by factor 680

Total Number of Units equal to **414 residential units.**

Determining the number of units created by these rezoning lots

Take away 261 (non-action) from 414 (rezoning)

the **total number of units created by this development** (excluding Lots 35 and 44) are

153 residential units.

However, this number is still **incomplete** because the application does not state clearly how many square feet of lots **35 and 44 will be rezoned**, thus we can not do these calculations until they are given to us.

Rezoned Area Has Potential for Development and Air-right Transfer

We are aware that the DCP included over 80,000 sf into Cornell Realty's rezoning application and then has decided that they will not have any environmental consequences because they don't have development potential.

However, what is faulty about this reasoning is that they do. All of the lots being rezoned have the potential of being sold off to a developer via air-rights, giving that developer the right to build up to increase sf that is created by the rezoning. Because the law requires that air-rights must be connected to the land mass that it is being transferred to, then the same resources will be effected.

Secondly, Lot 31 is a large lot owned by the MTA, which according to a recent law Public Authority Law 1266(8) maybe developed into residential units and not be subject to NYC zoning resolutions such as the MIH program. This will now allow MTA to develop residential and not be subject to the MIH laws. Additionally, it is known fact that MTA has and continues to sell or develop their land to increase revenue for themselves.

Conclusion

The total number of Residential Units being created by this rezoning is **670 (plus the portion of lot 35 and 44!)**

In total this development will create over a 1,000 residential units.

This amount is a very significant increase in residential units in our community and thus the impacts of this rezoning warrants an EAS that looks at Water and Sewage, Community Impacts, Shadow impacts, Transportation, and Air, Sun glare and other environmental factors such as displacement and an EIS that is done on these factors.

Sincerely,

Alicia Boyd, MTOPP

Cc: Senator Kevin Parker
 Borough President Eric Adams
 Assemblyman Walter Mosely
 Congresswoman Yvette Clark
 Councilwoman Laurie Cumbo
 Marisa Lago, Chair of City Planning Commission
 Hillary Semel, Director Mayor's Office of Environmental Coordination
 Chairman of City Council Land Use Rafael Salamanca Jr.
 Brian Paul, Project Manager for City Council Land Use Division for Brooklyn
 Community Board 9 members
 Pat Baker, Chairperson of Community Board 9

Senator Kevin S. Parker
 3021 Tilden Ave, 1st and Basement, Brooklyn N.Y. 11226-5107

Borough President Eric Adams
 208 Joralemon Streets Brooklyn, N.Y. 11201

Assemblyman Walter Mosley
 55 Hanson Place, Brooklyn N.Y. 11217

Congresswoman Yvette Clark
 222 Lenox Rd Suites 1 & 2, Brooklyn N.Y. 11226

Majority Leader, Councilwoman Laurie Cumbo
 250 Broadway Suite 1792, N.Y. N.Y. 10007

Marisa Lago, Chair of City Planning Commission
 120 Broadway 31st Floor, New York N.Y. 10271

Chairwoman of Community Board 9, Pat Baker
 890 Nostrand Ave, Brooklyn N.Y. 11225

Save The Brooklyn Botanic Garden!



FLAC - Flower Lovers Against Corruption started this petition to [New York City Councilwoman Laurie Cumbo](#) and [1 other](#)

Action Alert :

Come to Town Hall Meeting Being Conducted by Council Woman Laurie Cumbo. Thursday, December 13, 2018 at 6 pm - Medgar Evers College Preparatory School 1186 Carrol St, Brooklyn N.Y. 11225

6,774 have signed. Let's get to 7,500!



-  Alicia Boyd signed this petition
-  terri pigford signed 21 hours ago
-  Aden Norash signed 2 days ago

Brooklyn, 11238
United States



- Please share my name and email address with FLAC - Flower Lovers Against Corruption, so that I can receive updates on this campaign and others.
- Display my name and comment on this petition

 [Sign this petition](#)

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