



## Legislation Text

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**File #:** Res 0927-2015, **Version:** \*

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### Preconsidered Res. No. 927

Resolution authorizing the Speaker to file or join an amicus brief on behalf of the Council in the litigation captioned *Avella, et al. v. City of New York, et al.*, currently on appeal at the New York Court of Appeals, No. APL-2015-00298, to support the prior approval of the Willets Point development plan by the City Council.

By The Speaker (Council Member Mark-Viverito) and Council Members Koo, Koslowitz and Lander

Whereas, On November 13th, 2008, the Council passed resolutions to approve land use applications for an amendment to the zoning map, designation of an urban renewal area, disposition of city property, and an amendment to the City Map, to facilitate the comprehensive planning, zoning and redevelopment strategy for the Willets Point area of Queens; and

Whereas, On October 9, 2013, the Council passed resolutions to approve applications for four special permits and a zoning text amendment to facilitate the implementation of the initial phase of the 2008 plan; and

Whereas, The 2008 and 2013 Council approvals were the culmination of a detailed planning process to determine the future development of the Willets Point area that dated back to 2002; and

Whereas, Following the 2013 approvals, a group of individuals and organizations (collectively, “Petitioners”) filed suit against the City, the City Council, other City defendants, and the project developers (collectively, “Respondents”), seeking a declaration that, among other things, the Council’s approvals were arbitrary and capricious and that a portion of the development violates Admin. Code §18-118 and the public trust doctrine; and

Whereas, The Supreme Court of the County of New York rejected all of Petitioners’ claims and entered judgment on August 21, 2014 dismissing the Petition; and

Whereas, On appeal, the New York Appellate Division, First Department reversed the judgment of the

Supreme Court; and

Whereas, On November 23, 2015, the Court of Appeals granted the developer respondents' request for leave to appeal the First Department's decision;

Whereas, The New York Court of Appeals should reverse the decision of the First Department, and allow the City to proceed with the development plan for Willet's Point; now, therefore, be it

Resolved, That the Council of the City of New York authorizes the Speaker to file or join an amicus brief on behalf of the Council in the litigation captioned *Avella, et al. v. City of New York, et al.*, No. APL-2015-00298, currently on appeal in the New York Court of Appeals, to defend the City Council's approval of the Willets Point development plan and support the position of the Respondents-Defendants-Respondents that the development on designated park land does not violate Admin. Code §18-118 or the public trust doctrine.

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DSC