

MUCHNICK, GOLIEB & GOLIEB, P.C.

ATTORNEYS AT LAW
200 PARK AVENUE SOUTH
NEW YORK, NEW YORK 10003

February 9, 2009

(212) 315-5575
FACSIMILE: (212) 977-5133

To the Parties on the Attached Distribution List:

Re: Dock Street proposed development by Two Trees Management, Inc. ("Two Trees")

Dear Sir/Madam:

I am writing on behalf of a group of concerned residents of the DUMBO, Fulton Fairy Landing, Vinegar Hill and Brooklyn Heights communities regarding the above-captioned proposed development. The purpose of this letter is to express their concern about the apparent lack of due diligence on the part of the Department of Education and the School Construction Authority in independently evaluating both safety issues and alternative sites for a middle school within District 13.

The safety concerns fall into 2 broad categories:

1. Pedestrian Safety. Carolyn Konheim and Brian Ketchum, environmental consultants for the past 40 years, reviewed the Environmental Assessment Statement (the "EAS") submitted by Two Trees and the Dock Street area and made the following comments.

(a) The EAS ignores critical intersections where the project will impact traffic such as the entrances to the Brooklyn-Queens Expressway/Old Fulton Street, Furman Street, and the exit from the BQE onto Old Fulton St., most of which are already at capacity for much of the day. The effect of the project on the BQE itself (again at capacity for much of the day) is also ignored entirely;

(b) The area studied includes the intersection of Old Fulton Street with Furman Street but ignores project impacts at this intersection. The study area also ignores the high volume intersections along Old Fulton Street that are already at capacity and (because of this) will be heavily impacted by this project. **"This project will create enormous traffic congestion in the area";** and

(c) Children walking from the A and 2/3 subway stops and from surrounding neighborhoods will have to cross Prospect St., Cadman Plaza West, Old Fulton St. and intersections with cars entering and exiting the Brooklyn Bridge and the Brooklyn Queens Expressway. The EAS does not consider the danger that these heavily trafficked, high-speed intersections pose for middle school students. The EAS reports low accident rates on Henry St. and Old Fulton Street, because they currently have relatively low pedestrian use. To knowingly select a school site that puts the majority of students in harms way contravenes City policy for Safe Routes to Schools. Schools sites should not be selected as an afterthought to private development. **"Dock Street is a very unsuitable location for a school."**

2. Air Quality. The EAS predicts that the potential impact on air quality from vehicular traffic

will not be significant at the project site. This prediction is made possible by the adoption of the dubious premise that there will be no significant traffic congestion as a result of the project. Even if the traffic presumption were accurate, the conclusion reached in this section of the EAS is counterintuitive.

The proximity of schools to major roadways is a major public health concern that should be given serious consideration in future urban development, transportation planning and environmental policies. To protect the health of young children with developing lungs, new schools should be built further from major highways.¹

A California law prohibits the building of new schools within 500 feet of a busy road. New Jersey is moving a bill through the legislature to require highway entrance and exit ramps to be at least 1,000 feet from schools.

Indoor air pollutants can cause or contribute to short- and long-term health problems, including asthma, respiratory tract infection and disease, allergic reactions, headaches, nasal congestion, eye and skin irritations, coughing, sneezing, fatigue, dizziness and nausea.²

Most of the City's air pollution comes from vehicular traffic.³ 68 residents per million are at risk of getting lung cancer from air toxins in NYC, compared to the national average of 41 per million.⁴

NYC children are already exposed to high levels of air pollution. That should mean that air quality standards for schools here should be more, not less, rigorous as the EAS implies. Just as the EAS grossly underestimates additional traffic congestion that will result from the Dock Street project, it shamefully belittles the impact of the project on area air pollution and our children. We are asked to believe that a project located next to the Brooklyn Bridge, above a 465-car garage in a heavily trafficked area will not have a deleterious effect on air quality at the site.

We ask that you consider these additional points regarding the EAS:

- The EAS cites data from a NYCDEC monitoring station in the South Bronx, a location largely irrelevant to the Dock Street area.
- The EAS notes that vehicular emissions from the Brooklyn Bridge traffic may affect the *receptors* located on the proposed development. In toxicology, a "receptor" is the organism being affected by a toxin (i.e. our children!). The EAS ignores this point.
- For the garage, the EAS states that the pollutants from a 465-car garage will cause pollutant levels to be elevated near the vents outside the garage. Our children, the receptors, will be above that garage. The EAS ignores this point.

¹ Grinshpun, PH.D., Sergey, *Journal of Environmental Planning and Management*, Sept 2008, presenting findings of a recently conducted University of California national study.

² From the web site of the United States Environmental Protection Agency (the "EPA")

³ NYS Department of Environmental Conservation

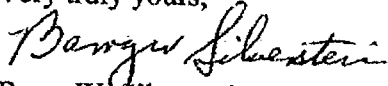
⁴ The EPA

- Dock Street is in a flood zone. An expert testifying at the Community Board 2 hearing warned us that a category 3 to 5 hurricane will probably hit NYC in the near.

With this letter, we respectfully put your agencies on notice that there are serious safety issues inherent in the choice of the Dock Street site as a middle school. Are you prepared, if the situation arises, to demonstrate and defend your efforts to determine that a middle school at the Dock Street site will be safe for middle school children? If so, are your conclusions based on professionally conducted, independent studies or have you relied on the Two Trees EAS as submitted?

Inasmuch as the ULURP approval process for the Dock Street development project is rapidly progressing, I respectfully request that the issues raised herein be expeditiously addressed.

Very truly yours,



Barry W. Silverstein
Of Counsel

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March 13, 2009

To the Parties on the Attached Distribution List:

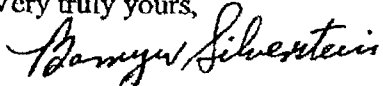
Re: Dock Street proposed development by Two Trees Management, Inc.

Dear Sir/Madam:

On February 9, 2009, I sent each of you a letter in which I expressed on behalf of a group of concerned citizens misgivings about the selection of Dock Street as a safe and appropriate site for a middle school and setting forth detailed reasons for those concerns. My letter also asked each of you whether or not the Department of Education, the School Construction Authority or the Division of School Facilities had conducted sufficient, independent, environmental investigation in order to choose this site; or had these agencies simply relied upon the self-serving EAS submitted by Two Trees.

Frankly, I am astonished that not one of you had the common decency to respond to my letter. The only logical conclusion that I can draw is that you cannot honestly answer my question without exposing your agencies to the precise criticism that they apparently deserve. Rest assured that ignoring this issue will not make it go away.

Very truly yours,



Barry W. Silverstein

cc: Council Members
David Yassky
Letitia James
Bill de Blasio
Tony Avella