



May 27, 2022

Basil Seggos, Commissioner
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233

Rohit T. Aggarwala, Commissioner
New York City Department of Environmental Protection
59-17 Junction Blvd.
Queens, NY 11368

Eric Ulrich, Commissioner
New York City Department of Buildings
280 Broadway
New York, NY 10007

Dear Commissioners Seggos, Ulrich, and Aggarwala:

We write to express our concerns about the unanticipated pile driving activity that began on Thursday, May 19, 2022 at 475 and 463 Smith Street in Brooklyn, Parcel 3, the former Citizen's Manufacturing Gas Site, a known polluted area which is both a state brownfield site and part of an Environmental Protection Agency (EPA) designated Superfund Site. The pile driving caused intense vibrations, intense noises, and emitted a coal tar smell. No advance notice of pending construction was received by any elected officials, EPA, Community Board 6, or the community from any agency or entity. The public deserves to know when any aspect of construction is taking place in an environmentally fragile area—particularly a highly toxic marshland full of coal tar which spreads in every direction through the site—and what oversight measures have been made to protect them from the toxicity at the site.

On Thursday, May 19th, Assemblymember Jo Anne's Simon's office began receiving calls from residents whose homes were shaking, reporting constant vibration, the smell of coal tar, and intolerable noise levels. Her staff went to the site and were told by the workers that permits were posted, but they were not posted until Saturday, May 21st. They confirmed the pile driving extremely close to the perimeter fence on Smith Street, felt the ground shaking beneath them, and captured the activity on video and audio.

Assemblymember Simon's office reached out to the EPA, who had no knowledge of the activity although they are responsible for the integrity of the Superfund remedy. They contacted the NYC Department of Buildings (DOB), who sent an inspector on Saturday, but the pile driving was not taking place at that time. They reached out to the State Department of Environmental Conservation (DEC) representatives who attend the Gowanus Community Advisory Group (CAG) meetings, but could not

reach them. They also reached out to the City Department of Environmental Protection, who did not respond. As community complaints and fears poured in, the fact that we could not get a response from various agencies also frustrated us and the community, as we could not confirm the purpose or the environmental impacts of the construction.

Pile driving 90 feet down into the property started Thursday, May 19, continued Friday, May 20, began again on Sunday May 22, continued on Monday, May 23rd until 6:50pm, and reportedly finished on Tuesday, May 24th. The site is across the street from a playground which is frequented by children and pregnant women. We were also informed by community members that the site workers told them they had not been informed that they were working in a contaminated site. We were also told that the pile driver broke at one point. Empire Management is listed on DOB permits as the site owner.

On May 24th, DEC informed us that they don't issue permits even on brownfield sites, but that they had sent an acknowledgement letter to the developer in response to the "change of use" letter that the developer submitted to DEC, including listing safety protocols that the developer must follow. We have learned that the developer aimed to sink in the pilings before June 15, 2022 to take advantage of the State's expiring 421-a tax abatement program for affordable housing. We appreciate the speed at which DEC responded to our questions once contact was made.

At the Gowanus CAG meeting on May 24th, EPA's Superfund project manager reported being unaware of the pile driving and expressed concerns about the stability of EPA water and other site equipment due to vibrations; EPA made a request on Friday, May 20th to suspend the activity until more information could be gathered; that request was rejected. The EPA also reported that they were informed by an attorney for the developer that the city and state agencies had been notified and that the developer had allegedly received necessary approvals. We are also concerned that the five DEC representatives at the CAG meeting did not respond to several requests made from CAG members and meeting attendees to answer questions or discuss DEC's role; eventually a DEC representative provided limited information and explained that she was new and not the project manager. The DEP did not send a representative to this meeting.

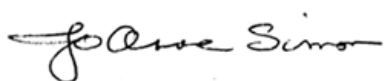
This community is about to undergo the development of many new buildings as a result of a major rezoning. The Gowanus rezoning was approved contingent upon a list of conditions the community expected to be fulfilled, especially with regard to the integrity of the Superfund remedy to ensure the health and safety of existing and future residents. Failure to communicate about this recent pile driving does not bode well for the public trust which needs to be repaired. Competent and transparent communications are critical for the accountability demanded by the Community Board and local residents and agreed to by the City.

Correspondence between the EPA, DEP and DEC indicates a long history of the City violating many of the orders issued by the EPA which has overall authority at this site.

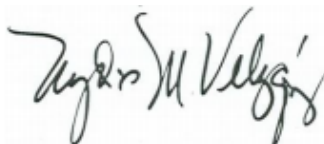
Developers shouldn't be able to make massive noise and vibrations in a contaminated site into the weekend with no notice to the public or to EPA, and NYC should not have approved such permits without notifying the community, elected officials and the agencies charged with oversight of the clean-up. That it did so shows a reckless disregard for our community and its health and safety.

We are requesting timely information on the outreach made by the developer to any city, state and federal agencies and your response. We are also requesting increased transparency, communication and accountability on this matter as we move forward. In addition, it is unclear to us what the DEC means by a "change of use" and we ask that the community and elected officials be fully briefed on those criteria and the steps to be followed for any future pile driving and other construction activities. We also would like you to identify a point person from your agency who is available to collaborate on this matter. Lastly, we also want assurances that this will not happen again in this district for any construction activity, regardless of Superfund or brownfield status.

Sincerely,



Jo Anne Simon
NYS Assemblymember
AD 52



Nydia M. Velázquez
Congresswoman



Jabari Brisport
NYS Senator
SD 25



Shahana Hanif
NYC Council Member
District 39



Lincoln Restler
NYC Council Member
District 33

Cc: EPA
Empire Management
Community Board 6 - Brooklyn
Gowanus Community Advisory Committee