



***The New York Times* and Forest City Ratner's Atlantic Yards: High-Rises and Low Standards**

A Pattern of Inadequate, Misleading, Mostly Uncritical Coverage

By Norman Oder

September 1, 2005
(updated Sept. 5, 2005)

Contact: TimesReport@hotmail.com
Online version: www.dddb.net/times

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Introduction

The New York Times & Atlantic Yards

Developer Forest City Ratner’s proposed \$3.5 billion Atlantic Yards development at an at least 22-acre site in Brooklyn—recently revised with taller versions of at least 17 high-rise towers and an arena for the Nets NBA basketball team—“may be the most important urban development plan proposed in New York City in decades,” according to *New York Times* architecture critic Nicolai Ouroussoff (Seeking First to Reinvent the Sports Arena, and Then Brooklyn; 7/5/05). According to the developer, Atlantic Yards would be the largest project in Brooklyn’s history and the third-largest ever in New York City. Those are reasons enough for the project to merit exacting scrutiny from the newspaper of record.

There’s another reason: Forest City Ratner (FCR) is The New York Times Company’s development partner for the new Times Tower on Eighth Avenue between 40th and 41st streets, scheduled for occupancy in 2007. For that project, the Times Company agreed to guarantee a \$100 million loan to FCR for its portion of the structure. FCR President Bruce Ratner and Vice President Jim Stuckey helped choose architect Renzo Piano for the Times Tower. Given the parent company’s connection to FCR, it might be expected that the *Times*—the company’s flagship newspaper—would offer thorough coverage, taking care to dispel any hint of conflict of interest. Indeed, Public Editor Byron Calame has noted that the *Times* must avoid both bias and any perception of tilt toward Ratner (see item 10.2).

Unfortunately, since FCR’s announcement of the Atlantic Yards project in December 2003, the *Times*’s coverage has been inadequate, misleading, and mostly uncritical of FCR. An assessment of the *Times*’s coverage of Atlantic Yards unearths numerous stories missed, legitimate critics ignored, issues downplayed, and mistakes uncorrected. The *Times* seems to have abandoned its responsibility to look carefully at Bruce Ratner, Brooklyn’s largest developer, while several political leaders unquestioningly support his latest project.

This report concludes that the *Times*’s cumulative coverage of FCR’s Atlantic Yards project does not meet the paper’s own standards. As the newspaper’s Guidelines on Integrity state, “Our greatest strength is the authority and reputation of *The Times*.”

Evidence of the newspaper’s failure to follow the Atlantic Yards story is overwhelming. Other media outlets (including the *New York Daily News*, the *New York Post*, *The New York Sun*, *Newsday*, *The New York Observer*, *The Brooklyn Papers*, *Brooklyn Downtown Star*, *Brooklyn Daily Eagle*, *The Brooklyn Rail*, and WNYC radio) have reported crucial information that the *Times* has omitted. The *Times* has even ignored the recommendations of its own Public Editor, the ombudsman



View of Prospect Heights neighborhood along south side of potential site (much of the block with the tallest building is sectioned out of the plan)

The coverage does not meet the paper’s own standards

position established in 2003 to independently critique newsroom operations after the fabrications of reporter Jayson Blair suggested widespread institutional failures.

The flaws in the *Times's* coverage of the Atlantic Yards development plan don't prove that there's any directive to go easy on Forest City Ratner. However, given the two companies' corporate relationship, the *Times* newspaper should report on FCR exactly. That has not been the case. That institutional failure shapes public policy and public opinion.

As the newspaper's own "credibility committee" said in a report issued earlier this year, "when numerous articles use the same assumption as a point of departure, that monotone can leave the false impression that the paper has chosen sides." Although that sentence was written in regard to "emotional topics" like abortion, it also applies to the coverage of FCR's Atlantic Yards proposal.

This report raises numerous questions about how the *Times* has handled this major story and identifies dozens of errors that require correction (see Chapter 11). It also identifies multiple articles for which disclosure of the relationship with FCR was warranted, but never made (see Chapter 10). Those disclosures should be added to the archived versions of those articles. In an interview with Public Editor Byron Calame (*A Conversation With the Standards Editor*, 8/28/05), Standards Editor Allan Siegal said: "I also believe... that we can save ourselves a lot of pain if we don't do anything that we would be embarrassed to have readers know about, that everything we do ought to be something we're willing to describe to readers and tell them about." Public Editor Calame, as well as editors at the *Times*, owe the public a thorough examination of the newspaper's coverage of Forest City Ratner and its Atlantic Yards project.

Pages following the Executive Summary elaborate on each item in greater detail, with sources.

That institutional failure shapes public policy and public opinion



Site plan as it appeared in *The New York Times* 7/5/05

About This Report

Norman Oder

Norman Oder, the volunteer author of the report, has been a journalist for more than 20 years. As a freelancer, he has contributed to a wide range of publications, including *Columbia Journalism Review*, *American Journalism Review*, *New York Newsday*, *the New York Daily News*, *The Village Voice*, *The New York Press*, and *Gotham Gazette*. He earned a Master of Studies in Law as a journalism fellow at Yale Law School. A licensed New York City tour guide, he has also operated a part-time tour business in Brooklyn since 2000.

Author's Note and Acknowledgements

This project began July 5, 2005. Outraged by the inadequacies of the *Times* article published that day (Instant Skyline Added to Brooklyn Plan), I decided not to send another letter to the *Times*—three previous ones criticizing coverage of Forest City Ratner had generated no response—but instead e-mailed a critique of the article to Develop Don't Destroy Brooklyn, an organization with which I had had no previous relationship. Shortly afterward, I suggested writing an analysis of *Times* coverage, and immersed myself in articles and reports about the Atlantic Yards plan. After I completed a draft, several people volunteered significant help. Patti Hagan did most of the factchecking, applying her 15 years of factchecking experience at *The New Yorker*; in the process, she served as a sounding board and debating partner. Michael Decker designed the report, making a text-heavy document far more readable, under severe time pressure. Abby Tannenbaum copyedited most of the report, also under severe time constraints. Danila Oder offered crucial editing and organizational advice. Schellie Hagan also performed vital editorial and factchecking work. I and especially Stuart Sachs contributed most of the photos. (Rights to Tom Callan's photos were purchased.) Others who volunteered help include: Pamela Ford, Steve Soblick, and Summer Starling, as well as several other readers. Some of the volunteers are opponents of the Atlantic Yards project; I welcomed their comments on news coverage, though I didn't agree with all of them. The final responsibility for the report remains mine.

Executive Summary

The *Times* Fails to Adequately Cover Forest City Ratner’s Atlantic Yards

1. The *Times* has overlooked basic facts behind the deal proposed by FCR. The idea of the Nets arena and basketball team at the Atlantic Yards site is a lure to reel in politicians, businesses, and residents behind a massive real estate development of at least 17 skyscrapers covering at least 22 acres. Forest City Ratner titles its web site for the project “Bring Basketball to Brooklyn.”

The most recent major *Times* story (7/5/05) on the expanded design, as a \$2.5 billion project became a \$3.5 billion one, reads as if the reporter never noticed that the initial announcement included the tallest building in Brooklyn. Nor did the *Times* explain why the project had to grow from 4,500 housing units to 6,000 or 7,300 units, with towers taller and bulkier than previously projected. The answer points to the need for more market-rate housing to ensure sufficient profits for the entire project. The *Times* has not explained that “affordable” relies on an average income well above the average in Brooklyn, that “affordable” consists mainly of “middle income” housing, and that the “affordable housing” will last only 30 years.

The answer points to the need for more market-rate housing to ensure profits

2. The *Times*—as well as most other media outlets covering the project—hasn’t questioned FCR’s projections about jobs. However, FCR has lowered its own estimate for permanent jobs from 10,000 to 6,000—and there might be even fewer jobs. Also, a significant percentage of those jobs would likely be “retained” rather than new to the city. Also, FCR and government officials promise “15,000 construction jobs,” but that standard industry term actually means 1,500 jobs a year over 10 years.

3. The *Times* has failed to examine the true public cost of the project. FCR and supporters say it will require \$200 million in direct state and city subsidies. However, the company acknowledges that the total public cost over 30 years would be well over \$1 billion. Independent studies suggest the cost of public support would be higher. The *Times* has failed to fully analyze these reports. It has failed to analyze FCR’s rosy projections of new revenue, even though they’re contradicted by the New York City Economic Development Corporation. The *Times* has not explained that the project would be financed via methods that bypass the City Council. In addition, the *Times* has barely considered the effect on local traffic, including the economic impact, much less other increased demands for public services.

4. The *Times* has neglected to analyze the Community Benefits Agreement (CBA), which experts consider to be of dubious legitimacy compared to CBAs elsewhere. Nor has it reported that an FCR ally with a questionable ethical record, State Assemblyman Roger Green, helped conceive the CBA as well as the job-development group Brooklyn United for Innovative Local Development (BUILD), which sprang up solely to negotiate the agreement. The newspaper has done no analysis of BUILD. Nor has the *Times* analyzed the manipulation of racial politics in the debate.

5. The *Times* has mischaracterized and minimized opposition to the project. It has reported that the opposition is “local residents” while ignoring the elected officials who oppose the project. The newspaper conducted a poll that showed most city respondents—not just local ones—oppose a taxpayer-supported arena, but it reported those results only on its web site, not in the print edition. Unlike other daily newspapers in New York City, the *Times* ignored results from a 2004 Quinnipiac University poll that revealed majority opposition to a taxpayer-supported arena. The *Times* has not reported that, in public debates, Norman Siegel, a candidate for Public Advocate, has challenged incumbent Betsy Gotbaum regarding her position on eminent domain at Atlantic Yards.

6. The project has been plagued by a lack of transparency and a subversion of local government control, with little reporting on this from the *Times*. Unlike other media outlets, the *Times* did not cover the only City Council hearing on the project in 2005. It missed the testimony of watchdog groups who called the process of approving this plan deeply flawed. It even missed new information from FCR. The *Times* has ignored criticisms of FCR’s influence by members of Brooklyn community boards.

7. The *Times* has missed many chances to delve into FCR’s tactics for winning project approval. In May 2004, FCR sent a questionable mass mailing to Brooklynites, offering a souvenir if respondents endorsed Atlantic Yards. The mailing misleadingly quoted the *Times* and inappropriately used the *Times*’s own logo. FCR requires its partner in its housing agreement to speak positively of the plan. The *Times* has not reported these stories. In addition, when FCR buys property

The Times ignored results from a 2004 Quinnipiac University poll



Model view of latest version of Frank Gehry’s plan for Atlantic Yards, as published in *The New York Times*, 7/5/05 (proposal shaded for emphasis)

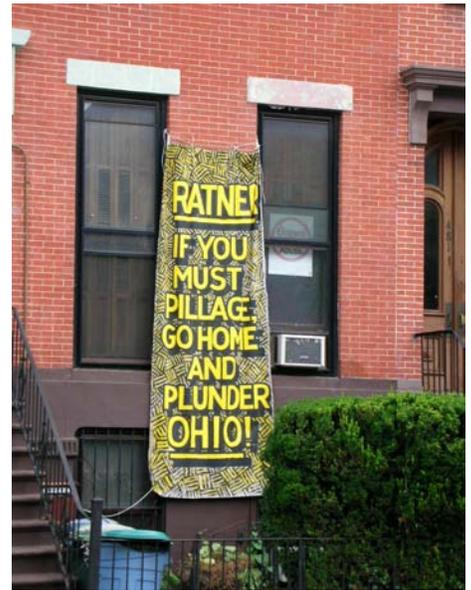
within the footprint of its plan, sellers are contractually required to speak positively of the company and give up their right to criticize the development. The *Times* has mentioned this once, in passing, and in a Real Estate section story rather than a Metro section story. FCR published and distributed a newspaper-like promotional sheet, *The Brooklyn Standard*, which contains misleading information about the project. The *Times* reported on *The Brooklyn Standard* 10 weeks after its appearance.

8. The *Times* has soft-pedaled FCR’s track record of gaining subsidies for its projects and failing to fulfill the visions promised. All of FCR’s major Brooklyn projects—the MetroTech office development and the Atlantic Center and Atlantic Terminal malls—have relied significantly on subsidies and/or government tenants. However, the *Times* has portrayed those projects positively, ignoring many of their critics. The *Times* has not, since the announcement of the Atlantic Yards project, printed a profile of the company, the largest real estate developer in Brooklyn, and only the sketchiest profile of its billionaire president.

9. The *Times* has downplayed the threat of eminent domain in the Atlantic Yards project, although it has covered the issue outside Brooklyn in greater detail. It has not run a substantial analysis of the use of eminent domain in the Atlantic Yards plan, and it has printed self-serving and unsubstantiated statements issued by FCR. It has not reported that the eminent domain threat has already forced some tenants out of the projected site footprint. Its editorials have soft-pedaled the impact of eminent domain in Brooklyn. It covered a nationally-important eminent domain case before the U.S. Supreme Court, in which the city of New York and both FCR supporters and opponents filed briefs, without mentioning the potential effect of the case on the Atlantic Yards project.

10. The *Times* has been inconsistent in disclosing its ties to FCR, though both of its Public Editors, Daniel Okrent and Byron Calame, have recommended more disclosure. FCR is a development partner with The New York Times Company to build the new Times Tower, in Midtown. As a company, the *Times* has an interest in FCR’s reputation and overall success, especially since FCR must find tenants for half of the tower. A *New York Times Magazine* interview with FCR President Bruce Ratner did not mention his ties to the newspaper’s parent company. Public Editor Calame chastised the paper in his Web Journal, but the *Times* did not publish a correction or letter. In addition, the *Times* has not disclosed its ties to FCR in at least 13 other substantial articles about the developer, including a tribute to the initial Atlantic Yards design by former architecture critic Herbert Muschamp (who served with FCR officials on the selection committee for the architect for the Times Tower), as well as articles about two FCR malls adjacent to the Atlantic Yards site. The *Times* for nearly five years has not mentioned that FCR’s Bruce Ratner and Jim Stuckey helped choose the Times Tower architect. The *Times* should immediately add disclosure of the parent company’s relationship with FCR to relevant articles in its archive.

11. The *Times* has not published corrections of obvious misinformation. The newspaper has twice portrayed the project footprint as an open railyard, both in a photo caption and in an article by former architecture critic Herbert Muschamp. This error suggests the area is uninhabited and furthers the notion that FCR would work on a blank canvas. However, only 8.3 acres of the project—which would cover at least 22 acres—constitute the railyard, while the rest consists of city streets, private homes, and private businesses. The *Times* has regularly, and incorrectly, described the project as being located in “Downtown Brooklyn.” This report documents more than 50 errors.



A building on Dean Street, a block slated for the skyscraper plan

The Times has regularly, and incorrectly, described the project as being located in “Downtown Brooklyn”

12. The *Times* has failed to fulfill its role as a forum for readers' opinions. Since the Atlantic Yards project was proposed at the end of 2003, the *Times* has ignored critical letters and it has printed one that contains dubious assumptions. It has shunted critical letters to the City Weekly section, which does not circulate nationally. Thus, *Times* readers outside the five boroughs are less able to learn about public opinion regarding this Robert Moses–scale reshaping of Brooklyn.

13. *Times* editorials about the project have been inconsistent. This raises a question of whether the parent company's interests influence the newspaper's editorial page. A recent editorial suggested that the main opposition to the plan concerned its size. However, critics have long raised questions about eminent domain, the public costs of the plan, the subversion of an open process, and FCR's dubious tactics. Also, editorialists seem to have abandoned their previous call for an independent examination of the costs and benefits of the project, as well as their stand against using public subsidies for the Atlantic Yards project.

14. *Times* architecture critics have been cheerleaders for the project. Former critic Herbert Muschamp failed to disclose his own ties to FCR in his rapturous assessment of the Atlantic Yards proposal and failed to disclose the *Times*'s ties to FCR. Current critic Nicolai Ouroussoff has praised the project without considering its effect on the surrounding neighborhoods. Neither has tried to assess FCR's much-criticized architectural record in Brooklyn.

The Times architecture critics have not tried to assess FCR's much-criticized architectural record in Brooklyn

Afterword

A Questionable Track Record

A. The *Times* has trouble covering Times Square redevelopment

The *Times*'s coverage of the Atlantic Yards controversy must be seen against the backdrop of the newspaper's own coverage of The New York Times Company as a presence in Times Square. As Columbia University professor Lynne Sagalyn's thorough analysis of the Times Square redevelopment coverage shows (*Times Square Roulette: Remaking the City Icon*, MIT Press, 2001), the newspaper has trouble analyzing important cost-benefit questions about such complex projects.

B. The *Times* has trouble covering its own real estate deal with Forest City Ratner.

The New York Times's parent company, which owns several other newspapers, TV stations, and media properties in addition to the flagship newspaper, has an interest in FCR's success, as the two companies are partners in building the Times Tower, a project announced in 2001. The *Times*'s awkwardness in covering FCR began well before the Atlantic Yards project. The newspaper has not attempted to quantify the Times Tower subsidies beyond vague terms. It hasn't explained that FCR has had trouble finding tenants, in part because of its high rent rates. It hasn't explained that FCR refused to use Liberty Bonds because the company was unwilling to return some profits to the city. Nor has it reported that the Times Company's profit from selling its old building may have made public subsidies for the new Times Tower less plausible.

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Chronology

February 19, 2000: The *Times* reports that The New York Times Company has picked Forest City Ratner Companies to help negotiate with city and state officials to build the media company's new headquarters, which will also be the newspaper's home.

March 23, 2000: The *Times* reports that city and state officials have begun an exclusive 60-day bargaining process with the Times Company over the proposal to build the headquarters on Eighth Avenue between 40th and 41st streets, across from the Port Authority Bus Terminal.

September 14, 2000: The *Times* reports that four teams of architects have submitted proposals for the new building, and that the six-person design committee includes Forest City Ratner President Bruce Ratner and VP Jim Stuckey.

October 13, 2000: The *Times* reports that The New York Times Company has chosen architect Renzo Piano to design the new Times Tower.

October 22, 2000: *Times* architecture critic Herbert Muschamp recounts that, during the time the Times committee responsible for choosing an architect was meeting, he consulted with the committee.

February 28, 2001: The *Times* reports that a deal is reached to acquire land for the parent company's new headquarters on Eighth Avenue.

December 2, 2001: The *Times* reports that the Empire State Development Corporation has been authorized to acquire 10 properties by condemnation for the Times Tower site.

June 25, 2002: The *Village Voice* reports that the subsidy for land acquisition for the Times Tower could reach \$79 million. Critics say the Times got a sweetheart deal.

August 17, 2002: The *Times* reports that a state judge has refused to block the state from condemning 11 properties for the Times Tower.

February 27, 2003: The *Times* reports that the U.S. Supreme Court declines to hear challenges to the condemnations of property for the Times Tower.

Critics say the Times got a sweetheart deal

July 23, 2003: The *Newark Star-Ledger* reports that owners of the New Jersey Nets have been talking to developer Bruce Ratner, who wants to buy the NBA basketball team and build an arena for it, plus 5,500 housing units, in Brooklyn.

August 8, 2003: The *Times* first reports that Ratner may buy the Nets and move the team to Brooklyn as part of a much larger development project.

August 8, 2003–December 23, 2003: The *Times* runs 36 articles, plus a news summary, that mention Bruce Ratner and his effort to buy the Nets and move the team to a site to be developed in Brooklyn. All but six articles appear in the Sports section. All but one fail to disclose that the Times Company and Forest City Ratner are development partners in the Times Tower. Fourteen articles incorrectly locate the project in “Downtown Brooklyn.”

December 11, 2003: The *Times* reports on FCR’s announcement of a \$2.5 billion development plan called “Atlantic Yards,” with 17 towers designed by architect Frank Gehry, including a projected 2.1 million square feet of commercial space and 4,500 residential units. *Times* architecture critic Herbert Muschamp praises the project lavishly and incorrectly refers to the site as an open railyard. He neglects to disclose that he has a prior relationship with FCR and that the newspaper’s parent company has a partnership with FCR. In a separate story, Bruce Ratner says that the project “will be almost exclusively privately financed.” FCR press materials use different terms: “The Arena will be primarily privately funded.”

January 22, 2004: The *Times* reports that Ratner and a group of partners have the OK to purchase the New Jersey Nets. Though the deal concerns real estate more than basketball, the *Times* places a brief profile of Ratner on page six of the Sports section. The profile neglects to examine the developer’s track record in Brooklyn.

April 1, 2004: Quinnipiac University releases a poll saying that New Yorkers, by a margin of 59 to 35 percent, oppose using tax dollars to build an arena for the Nets. Unlike other daily newspapers in New York, the *Times* ignores those poll results.

May 1, 2004: FCR’s paid consultant Andrew Zimbalist, a sports economist, issues the first of two reports, “Estimated Fiscal Impact of the Atlantic Yards Project on the New York City and New York State Treasuries” (aka Z-1). He projects that one-third of the estimated \$4.1 billion public revenues would be used to pay for construction and operating costs. He estimates that 60% of the promised permanent jobs would be new to the city.

May 4, 2004: The New York City Council Economic Development Committee holds a hearing on Atlantic Yards. The *Times* report the next day focuses on statements by FCR officials but downplays criticism of the project and ignores the difficulty citizens have in voicing their opinions at the hearing.

Memorial Day weekend, 2004: FCR, using the ambiguous name “Atlantic Yards” on its return address label, mails 350,000 copies of a flier to Brooklynites, offering recipients a basketball souvenir if they endorse the development project. The mailing inappropriately uses the *Times*’s logo and attributes a quote from architecture critic Herbert Muschamp simply to “*The New York Times*.” The *Times* neglects to write about the mailing.

Bruce Ratner says the project “will be almost exclusively privately financed”

An FCR mailing inappropriately uses the Times’s logo

June 16, 2004: The *New York Post* reports that people living in the project footprint who sell their residences to FCR must sign a gag order that requires them to refrain from criticizing the Atlantic Yards plan and compels them to praise the developer. The *Times* waits more than eight months to mention this requirement—as an aside in a Real Estate section article rather than in a Metro section news story.

June 18, 2004: The *New York Daily News* reports on a pro-FCR rally at Brooklyn Borough Hall, in which backers of the Atlantic Yards project are provided t-shirts, buttons, sandwiches, and water. The *Times* has not reported on how FCR helps manufacture support at such rallies.

June 28, 2004: Jung Kim and Gustav Peebles, an urban planner and an economic historian, respectively, issue a report that criticizes FCR consultant Andrew Zimbalist's projections on several fronts and says FCR's plan would be a drain on public finances. (See "Estimated Fiscal Impact of Forest City Ratner's Brooklyn Arena and 17 High-Rise Development on NYC and NYS Treasuries.") Unlike other daily newspapers, the *Times* neglects to put the projected public loss of \$506 million in a headline.

July 4, 2004: A *Times* editorial calls for an independent examination of the costs of the Atlantic Yards project. (Future *Times* editorials on the project do not repeat this call.)

October 2004: FCR sends Brooklyn residents a second mass mailing, "Frequently asked questions about the Brooklyn Nets and Atlantic Yards," which states that the project would be financed "[p]rimarily through private funds."

November 9, 2004: The *Times* reports that it has sold its current building to an office developer for \$175 million.

November 14, 2004: The *Times* runs an op-ed on the West Side Stadium proposal, which criticizes several aspects of the project: the circumvention of City Council, the use of a PILOT (payment in lieu of taxes), and questionable revenue projections. The op-ed's author, Andrew Zimbalist, does not point out those parallel issues at the proposed arena development complex in Brooklyn. He is described as a former consultant to FCR, although he does an updated report for the developer in 2005.

November 20, 2004: The *Village Voice* reports that the Times Company had predicted a profit half the size it actually received on the sale of its old building, and that this profit might have precluded taxpayer subsidies for its new headquarters.

February 10, 2005: Forest City Ratner withdraws from a planned presentation before a meeting of the Fort Greene Association, contradicting the company's pledge to meet with all members of the community likely to be affected by the Atlantic Yards plan.

March 2005: The Pratt Institute Center for Community and Environmental Development (PICCED) issues an independent report ("Slam Dunk or Airball? A Preliminary Planning Analysis of the Brooklyn Atlantic Yards Project") urging caution in the development of FCR's project, noting that the public costs and impact on traffic have not been sufficiently analyzed. The *Times* has not cited the PICCED report or quoted PICCED's criticisms.



Signage at Times Tower construction site

March 26, 2005: *The Brooklyn Papers* report on a telephone push poll conducted by arena proponents. Forest City Ratner refuses to comment to one journalist, though a spokesman had previously indirectly acknowledged the push poll to another journalist. The *Times* never mentions the push poll.

March 27, 2005: A *Times* editorial asserts that \$200 million in direct city-state subsidies for the Atlantic Yards project are unnecessary. Editorial writers do not repeat this position in future editorials on the project.

April 4, 2005: Forest City Ratner announces that construction is under way on the New York Times building on Eighth Avenue between 40th and 41st streets.

Spring 2005: *The Brooklynite*, a new quarterly magazine, puts the proposed Atlantic Yards development on the cover, with a skeptical article titled “Vanishing Vistas: Will the ‘borough of churches’ become a borough of skyscrapers?”

May 17, 2005: FCR signs a housing Memorandum of Understanding (MOU) with the New York affiliate of the national housing group ACORN, pledging to maintain 50% of 4,500 rental units in the development as “affordable.” The MOU requires ACORN to publicly support the project in the press and at public meetings. The *Times* has not reported on this.

May 20, 2005: The *Times* publishes an article about housing at Atlantic Yards. The article neglects to emphasize that the “affordable housing” will mainly help the middle class, including those earning over six figures. It ignores a clause in the MOU that suggests the developer will increase the number of units if it is “economically necessary.”

May 26, 2005: At a City Council Economic Development Committee Hearing, FCR VP Jim Stuckey announces a revised Atlantic Yards development plan, one that increases the price tag from \$2.5 billion to \$3.5 billion, and includes taller towers, higher density, less office space, and additional housing: up to 6,000 or as many as 7,300 units, from 4,500 units. Representatives from PICCED and Good Jobs New York raise numerous criticisms of the project. Although most other newspapers cover the hearing, the *Times* does not.

June 1, 2005: FCR’s paid consultant Andrew Zimbalist, a sports economist, issues the second of his two reports, “Estimated Fiscal Impact of the Atlantic Yards Project on the New York City and New York State Treasuries, Updated Report” (aka Z-2). While he estimates that potential project revenue would increase by nearly 50%, owing to additional housing, he neglects to change any of his assumptions regarding office space and public safety costs, despite the fact that the scale of the project has changed.

June 9, 2005: Two days after project opponents rally against Atlantic Yards, the *Times* publishes an article that concludes that the project is a *fait accompli*—although the developer hasn’t yet acquired the MTA property (Unlike Stadium on West Side, an Arena in Brooklyn Is Still a Go). The article also neglects to mention that, two weeks earlier, the developer raised the cost of the project by 40%, to \$3.5 billion, and increased the number of apartments, while at the same time slashing office space, thus jobs.



Times Tower construction site

Although most other newspapers cover the hearing, the Times does not

June 17, 2005: FCR distributes the first issue, dated June/July, of its promotional sheet *The Brooklyn Standard*, asserting a kinship with a newspaper from Brooklyn's past. The publication claims that the project would bring a \$6.1 billion 30-year revenue boost to the city and state—without explaining the basis for the figure or providing information about the concomitant \$1 billion-plus public costs the project would require. Unlike some other newspapers, the *Times* does not report on the initial appearance of *The Brooklyn Standard*.

June 19, 2005: The *Times* runs a special City Weekly section devoted to Brooklyn. Only two articles mention the proposed Atlantic Yards project and both are inaccurate, focusing solely on the Nets arena but ignoring the enormous project attached to it. An editorial notes that the Mets and Yankees baseball teams, building new stadiums in other boroughs, “will get a pretty good feeding at the public trough.” The editorial does not mention subsidies for the proposed Nets arena in Brooklyn.

June 26, 2005: The *Times Magazine* publishes a chatty feature interview with FCR President Bruce Ratner; its headline (Stadium, Anyone?) incorrectly refers to a stadium rather than an arena. The article fails to mention that Forest City Ratner is The New York Times Company's development partner on the new Times Tower.

June 27, 2005: FCR and eight groups sign a Community Benefits Agreement (CBA), a first in New York City. The *Times* has not pointed out that experts consider this CBA far less legitimate than those negotiated elsewhere.

June 27, 2005: The New York City Economic Development Corporation (NYCEDC) releases a previously completed memo, “Estimated Fiscal Impacts of the Proposed Atlantic Yards Project,” which undercuts several of FCR consultant Andrew Zimbalist's predictions. NYCEDC says Zimbalist erred in assuming that wealthy residents at Atlantic Yards would be new taxpayers to the city. The memo predicts that the project would bring a significantly smaller amount of revenue to the city than Zimbalist forecasts. The *Times* ignores the memo.

June 28, 2005: The *Times* publishes a brief article, apparently based on a mayoral press release, which says the Atlantic Yards project would generate 8,500 jobs. It neglects to point out that FCR had reduced the total estimate of office jobs to 6,000 a month earlier. The article states that the project would generate 12,000 construction jobs. It neglects to point out that FCR had previously promised 15,000 construction jobs, and that construction jobs are also calculated in job-years, so the actual figure is 1,500 jobs a year for 10 years.

June 29, 2005: In his web journal, *New York Times* Public Editor Byron Calame chastises the *Times Magazine* for not disclosing the FCR connection in its June 26 interview with Bruce Ratner. Calame observes that the *Times's* nondisclosure of ties to FCR “appears to be an unusual lapse.” However, the Magazine does not subsequently print a correction or editor's note. Calame also overlooks numerous other examples of nondisclosure in other *Times* stories involving FCR.

June 29, 2005: The *Times* runs an article based on the results of a recent poll it conducted with CBS News, asking New Yorkers about a wide range of issues, but it does not include responses regarding the proposed Nets arena project. The full poll results, which are available only on the *Times's* web site, show that 61 percent of those polled oppose the arena if it were to cost \$200 million—a very narrow interpretation of overall public costs—while 20% don't know and 18% favor the arena.

July 5, 2005: The *Times* publishes a front-page article about the Atlantic Yards project, in the wake of the exclusive release to the *Times* of architect Frank Gehry's new design sketches. The article neglects to mention FCR's reduction in office space and office jobs. A photo caption incorrectly portrays the site as an open railyard. No correction has been printed.

July 7, 2005: The *Times* reports on a bid for the railyard from Extell Development Company, which competes with FCR's bid for the same site. The article calls the Extell bid the first "significant obstacle" to FCR's plans, neglecting to mention the political and community opposition to the plan over nearly two years, longstanding legal obstacles, and the results from the two polls.

July 10, 2005: A *Times* editorial (Skyscrapers Grow in Brooklyn) ignores the editorial page's previous call for an economic analysis of the Atlantic Yards plan and the paper's previous opposition to the use of subsidies for the development. It incorrectly locates the project in "downtown Brooklyn" and gives FCR the benefit of the doubt—saying the company would build "as many as 3,000 affordable housing units"—without noting that "affordable" in this case helps mainly the middle class and that FCR has committed to supply only 2,250 such units.

July 19, 2005: The *Times* reports the Rev. Al Sharpton's support for FCR's plan. Unlike the *New York Daily News*, it neglects to quote any critics of Sharpton.

July 23, 2005: The MTA reveals that Extell's bid for the railyard is \$150 million, three times the size of FCR's \$50 million bid. The MTA announces that the development rights have been appraised at \$214.5 million.

July 25, 2005: *The New York Observer* reports that FCR is one of the top donors to the community group ACORN, its partner in the housing agreement. The *Times* has not mentioned this relationship.

July 27, 2005: The MTA votes to negotiate rights to the railyard with FCR exclusively, for 45 days, even though Extell has bid three times more money and both bids are well under the appraised value. The *Times* quotes Bruce Ratner as saying that his company's bid is worth far more than stated \$50 million. The article says nothing about similar commitments by Extell to spend beyond its stated bid, though *The New York Observer* has reported Extell's intention to do so.



South elevation of Gehry's December 2003 site model, according to FCR web site, www.bball.net (proposal shaded for emphasis)

July 30, 2005: A *Times* editorial chides the MTA for not having done enough to maximize bids for its West Side railyard. The editorial neglects to mention a similar situation in Brooklyn: the MTA's willingness to engage in exclusive negotiations with FCR rather than deal with high-bidder Extell or to open up the property to additional bids.

August 16, 2005: A *Village Voice* cover story reveals that the lease restrictions on the Times-FCR tower under construction on Eighth Avenue exclude fast food restaurants, medical uses, job-training centers, and discount stores, among other businesses—a newsworthy fact given that the state condemned the property via eminent domain, ostensibly for public use. The *Times* has not reported on the details of its new building's leasing policy.

August 29, 2005: Brooklyn's *Courier-Life* newspaper chain reports that the job-development group Brooklyn United for Innovative Local Development (BUILD), a signatory to the Community Benefits Agreement with FCR, has moved into a FCR-purchased building in the Atlantic Yards project footprint. The president of BUILD, observing the presence of homeless people living across the street on MTA land, criticizes Develop Don't Destroy Brooklyn, a coalition of FCR opponents, for not addressing the homeless problem.



The corner of Atlantic and Flatbush avenues looking southeast, from the Atlantic Terminal mall. The development site would extend two blocks below Atlantic Avenue and three blocks east of this intersection. The 2005 design includes at least 17 towers, up to 60 stories, with several more than 40 stories tall

Note on Methodology and Sources

The citations of news coverage (or non-coverage) are based on searches of both the Internet and also databases like Lexis-Nexis. When possible, hyperlinks to documents are also included.

Note that page references in PDF documents are to the page as numbered in the document, as printed out. For example, page 15 of a hard copy version of a document may be page 16 within the frame of the PDF file, when viewed on a computer.

Web addresses for all documents available on the Internet are listed in an appendix.

Full coverage by major newspapers can be found by doing a search of databases like Lexis-Nexis. For an extensive set of links to coverage, including local newspapers not indexed in databases, see NoLandGrab (www.nolandgrab.org/).

Local newspaper coverage includes:

- *The Brooklyn Papers* (www.brooklynpapers.com)
- *The Brooklyn Papers'* Brooklyn Nets archive (www.brooklynpapers.com/html/issues/columns/nets/n_netsguide.html)
- *Brooklyn Daily Eagle* (www.brooklyneagle.com)
- *Brooklyn Downtown Star* (www.brooklyn-downtownstar.com)

All text in *sans serif italics* has been excerpted from documents and news accounts. Quotes within those citations remain in quotation marks. Note that some quotations are from uncorrected hearing transcripts and thus may have missing or misheard words.

All citations in this report to a “newspaper reported” or “an article stated” are references to staff-written articles, not the official editorial positions, unless an editorial is specified.

Glossary of Acronyms

ACORN:	Association of Community Organizations for Reform Now
AMI:	Area Median Income, used to calculate eligibility for “affordable housing
BAY:	Brooklyn Atlantic Yards (or, more commonly, Atlantic Yards)
BUILD:	Brooklyn United for Innovative Local Development
CBA:	Community Benefits Agreement
DBLC:	Downtown Brooklyn Leadership Coalition
DDDB:	Develop Don’t Destroy Brooklyn
ESDC:	Empire State Development Corporation
FCR:	Forest City Ratner (aka Forest City Ratner Companies, or FCRC)
IBO:	Independent Budget Office
K-P:	2004 report by Jung Kim and Gustav Peebles critiquing Andrew Zimbalist’s economic report for Forest City Ratner
MOU:	Memorandum of Understanding
MTA:	Metropolitan Transportation Authority (aka M.T.A.)
NYCEDC:	New York City Economic Development Corporation
PICCED:	Pratt Institute Center for Community and Environmental Development
PILOT:	Payment in Lieu of Taxes
TIF:	Tax Increment Financing
Transcript04:	Transcript of May 4, 2004, City Council Economic Development Committee Hearing
Transcript05:	Transcript of May 26, 2005, City Council Economic Development Committee Hearing
Z-1:	2004 report for Forest City Ratner by sports economist Andrew Zimbalist
Z-2:	2005 updated report for Forest City Ratner by Andrew Zimbalist

Failing to Cover Atlantic Yards

The *Times* and the Forest City Ratner Project

Chapter 1

The *Times* has Overlooked the Basic Premise of the FCR Deal

As the financial analysis by both proponents and critics of the Atlantic Yards development plan shows, it's a real estate deal, not a sports arena project with a few buildings next door. But the *Times* has failed to explain why the project has been enlarged, how much office space has been cut, and the scope and definition of the much-touted "affordable housing" component.

Many initial stories about this important urban development project, including a profile of FCR President Bruce Ratner (see item 8.1), appeared in the Sports section, as if following the cue of the developer, whose web site for the project (www.bball.net) proclaims "Bring Basketball to Brooklyn." A front-page story about the sale of the New Jersey Nets NBA basketball team focused on the sports angle while mentioning, almost as an aside, the indispensable real estate component (Nets Are Sold for \$300 Million, And Dream Grows in Brooklyn, 1/22/04): *Without the team, Mr. Ratner has said, the \$2.5 billion commercial and residential complex designed by Frank Gehry, with the Nets' arena as the centerpiece, would be dead.*

But would the arena truly be a centerpiece? Forest City Ratner uses that term, for example, announcing on 12/10/03 (www.bball.net): *The Brooklyn Arena will be the centerpiece of a mixed-use development called Brooklyn Atlantic Yards.* However, as the design clearly shows, the arena hardly occupies the central location in the planned development; located at the western border of the site, it's more like a major appendage than the center.

Perhaps the arena is the *central piece* because the development, for political reasons, depends on the arena. But, as Bruce Ratner explained, the arena itself could not pay for itself (A Grand Plan in Brooklyn For the Nets' Arena Complex, 12/11/03): *"This started with basketball, a Brooklyn sport," Mr. Ratner said. "This was always the site. But it became clear it was not economically viable without a real estate component."*

In a December 2003 project fact sheet (www.bball.net/documents/pdf/Project%20Fact%20Sheet.pdf), Forest City Ratner noted that *Frank Gehry and his teams were conscious of the balance between the needs of the existing communities and those of the people who would live, work in or visit the new complex. Their goals for the project include:*

...To respect the scale of the existing neighborhoods surrounding the site.

The Brooklynite, a new magazine that debuted in Spring 2005, addressed the issue of scale. Its cover story understandably focused on development (Vanishing Vistas: Will the 'borough of churches' become a borough of skyscrapers? thebrooklynite.com/

*Many initial stories
appeared in the Sports
section*

brooklynite_issue1.pdf). The cover photo captured the Atlantic Terminal mall, its office tower, and the low-rise vista to the east that would be occupied by the proposed Atlantic Yards development. In the article, Francis Morrone, author of *An Architectural Guidebook to Brooklyn*, reminded readers of the basic facts: *The arena, of course, is to be but a relatively small part of a vast apartment and office complex.*

Morrone pointed out that previous neglect of Brooklyn’s row-house neighborhoods had set the stage for their revival: *As a result, they have attracted the interest of developers, who not only had nothing to do with the neighborhoods’ revival, but whose prior lack of interest actually helped them to flourish in the first place.*

...Atlantic Yards... straddles the boundaries of several beautiful 19th-century neighborhoods that have become boiling-hot real-estate markets.

Clearly, the Atlantic Yards area needs development. The proposals on the table, however, beg the question of whether Brooklyn’s urban success stories have taught us anything at all, or just paved the way for thoughtless mega-development

Brooklyn neighborhoods have succeeded because they retain a scale and a style from an age when city development reached a stage of optimal habitability.... Developing their interstices with mega-projects like the Atlantic Yards proposal would destroy the scale of neighborhoods that would, as a result, be edged and hemmed by phalanxes of outsize buildings.

Contrast *The Brooklynite’s* portrayal with the *Times’s* efforts in its 6/19/05 special City Weekly section devoted to “The New Brooklyns.” The *Times* cover line proclaimed: *In the last 25 years, from Riverdale to Tottenville, waves of change have washed over New York. But in Brooklyn, the transformation seems almost tidal. The borough is not utterly altered, of course, and not everything new is good. But the change is so powerful that it can vanquish even memory, replacing the roar of Ebbets Field with the riffs of punk rockers or the melodies of an imam’s call to prayer.*

Graphics and captions portrayed 10 symbols of change, among them Brooklyn’s own Zagat guide, the move of a “Sex and the City” character to Brooklyn, and t-shirts celebrating Brooklyn. The one symbol of development? “SKYLINE: A mini-city will rise in Greenpoint and Williamsburg.” Faced with symbolizing development issues, the *Times* chose the rezoning of northwest Brooklyn over Atlantic Yards, the largest project proposed in Brooklyn’s history. Shouldn’t the *Times* have chosen the latter?

The *Times* entrusted the overview article to Park Slope resident Suketu Mehta, whose web site (www.suketumehta.com/about.html) describes him as *a fiction writer and journalist based in New York*. Mehta’s 2,105-word article (The Great Awakening, 6/19/05; www.nytimes.com/2005/06/19/nyregion/thecity/19feat.html) only briefly — and inaccurately — touched on development issues:

After decades of disinvestment in Brooklyn, major projects are in the works, among them the development of 175 waterfront blocks, complete with 40-story luxury apartment buildings, along the Greenpoint-Williamsburg waterfront; the construction of an 800,000-square-foot sports complex for the Nets in the Atlantic Yards; and, in Red Hook, the return of cruise ships, including the Queen Mary 2 and the Queen Elizabeth 2, to a major new pier and passenger terminal.

Mehta ignored the rest of the proposed Atlantic Yards project, and inaccurately described the arena as being “*in the Atlantic Yards.*” Atlantic Yards — more precisely FCR’s Brooklyn Atlantic Yards — is the name of a development project that would include, only in part, a railyard. The proposed arena would sit not only on part of the railyard but mostly on land containing buildings that would have to be purchased or condemned, then demolished.

Also, his focus on the arena ignores that FCR initially proposed a development of 7.7 million square feet, including 17 buildings, and that the developer enlarged the proposal in its announcement at the 5/26/05 City Council Economic Development



View from Park Slope of Williamsburgh Savings Bank and Bank of New York (at Atlantic Terminal mall). At least 17 towers would be added to this skyline

“Mega-projects like the Atlantic Yards proposal would destroy the scale of neighborhoods”

—Francis Morrone, The Brooklynite, Spring 2005

Committee hearing that the *Times* failed to cover (see item 6.1).

Mehta did acknowledge potential traffic problems: *The Nets arena will sit in a spot that has among the best access to mass transit in the city—“every train but the F,” as my landlord proudly said when I was renting an apartment near there in 2002. Traffic, already hellish on Flatbush Avenue, may get still more hellish as several thousand fans converge at game time.*

Perhaps he would have said even more about traffic had he acknowledged the true scope of the development. Also, his use of the word “will” rather than the conditional “would” suggests that the writer believes the project is a done deal.

The article—and the entire section—drew a harsh response from one reader, Columbia University sociologist Herbert Gans. In his letter (Gentrification’s Victims, 6/26/05), Gans observed: *The entire section is framed in the language of revitalization, as if the old Brooklyn, and those who had to move, were lifeless. The lead article’s title, “The Great Awakening,” suggests old Brooklyn was sleeping.*

That kind of gung-ho journalism is usually reserved for the real estate pages.

Only one other short article in the special issue mentioned the Atlantic Yards project—and it was inaccurate, as well. The Brooklyn-reared writer, Michael Shapiro, described a party in Brooklyn (A Moment of Truth In Dodgerless Brooklyn): *The talk at the party got around to the arena that the developer Bruce Ratner hopes to build for his Nets basketball team at Flatbush and Atlantic Avenues. That is the same spot where Walter O’Malley, who owned the Dodgers, wanted to build a ballpark to replace aging Ebbets Field. O’Malley did not get his stadium, and in 1958 the Dodgers abandoned Brooklyn for Los Angeles.*

I assumed that my friend and his guests would be as thrilled as I was at the prospect of the borough’s redemption in the coming of a new team.

...My friend and his guests were appalled at the idea. The arena, they said, would mean traffic, noise and development too grand for a neighborhood whose great attraction was block after block of affordable brownstones, modest backyards and a communal life that faced out onto the street. Vindication for the Dodgers? That idea moved them not at all.

I was stunned, and grasped for an explanation. I suspect that I was the only Brooklyn native at the party; many of the other guests, like the host, were from somewhere else...

The answer, of course, was that my Brooklyn had been replaced by their Brooklyn. I let the matter of the arena drop.

Shapiro also ignored the fact that the arena is but a fraction of an enormous development, one criticized not merely for its scale but for its potential public costs and the absence of an accountable public process. Perhaps Shapiro is uninformed because he doesn’t live in Brooklyn or, as this report shows, the *Times* has done too little to inform readers. In a credit line, Shapiro was described as the author of “The Last Good Season: Brooklyn, the Dodgers, and Their Final Pennant Race Together.” It neglected to add that he lives on the Upper West Side of Manhattan, as the *Forward* reported (Calling for Forgiveness From Brooklyn Dodgers Fans, 4/18/03; www.forward.com/issues/2003/03.04.18/faces.html).

A letter to the editor the following week filled in some gaps (Say No to the Nets, 6/26/05). Brooklyn resident Shabnam Merchant observed: *When my borough president, Marty Markowitz, started advertising that he is going to ruin the Brooklyn my neighbors and I love, by bringing an enormous arena and up to 19 high-rises (some going up to 55 stories) in the midst of our low-rise neighborhoods, ostensibly in memory of the Dodgers, it made no sense to us.*

As if adding insult to injury, the *Times* editorialized in this City Weekly issue devoted to Brooklyn about stadiums for the Mets and Yankees, in Queens and the Bronx, respectively. The editorial observed (A Tale of Two Stadiums, 6/19/05): *The new stadiums will still require direct and indirect public subsidies of several hundred million dollars...the teams will get a pretty good feeding at the public trough.*

The editorial made no mention of the similar situation regarding the proposed Nets arena.

1.1 *Times* Amnesia About the Project Size

Even though the *Times* acknowledged the real estate component of the project in December 2003, the paper later downplayed that aspect of the proposal in major stories. One article focused mainly on the arena, and failed to mention that, about two weeks earlier, FCR had expanded the project from \$2.5 billion to \$3.5 billion and from 4,500 to at least 6,000 and possibly 7,300 residential units. The description in the article was vague enough to be meaningless (Unlike Stadium on West Side, an Arena in Brooklyn Is Still a Go, 6/9/05): *the Brooklyn arena and a large adjoining residential complex...*

In reality, the residential component vastly exceeds the size of the arena. The arena is about 10 percent, in terms of square footage, of the residential and commercial components combined.

The *Times*'s most recent major article (Instant Skyline Added to Brooklyn Arena Plan, 7/5/05) about the increase in project size misrepresented FCR's intentions, in both the headline and the text: *The project, the largest proposed outside Manhattan in decades, would include much more housing than originally announced in 2003, growing to about 6,000 units from 4,500, according to a plan made available to The New York Times. But the real impact would be in the size and density of the buildings, which are taller and bulkier than once envisioned.*

With 17 buildings, many of them soaring 40 to 50 stories, the project would forever transform the borough and its often-intimate landscape, creating a dense urban skyline reminiscent of Houston or Dallas.

The increase in project size did not suddenly "add" a skyline to the plan—a new skyline had been there all along. In December 2003, FCR announced a \$2.5 billion project with 17 towers, one slated to be the tallest building in Brooklyn; by mid-2005, it had become a \$3.5 billion project with at least 17 towers, many of them taller than previously announced. The *Times* article contained a line of faux naiveté: *But the design of the full plan shows that the arena itself is dwarfed by the scope and ambition of the development.*

It's as if *Times* reporters and editors had not read their own earlier coverage, or looked at the original plans.

Compare the 7/5/05 article with the more straightforward description of the real estate project in an earlier article about sports teams and their demands (What the Teams Want And What the City Gets, 1/16/05), which noted: *The Nets' \$430 million Brooklyn arena, in the Long Island Rail Road yard at Atlantic and Flatbush Avenues, is an eye-catching but ultimately modest element of a larger \$2.5 billion residential and commercial development next door.* Or another article (Deal Is Signed for Nets Arena in Brooklyn, 3/4/05): *Mr. Ratner led an investment group that bought the Nets a year ago with the intention of moving the team to a new arena in Brooklyn. He used the arena, in turn, as leverage for a large housing development.* Or compare it to the *Times*'s own editorial (A Triple Play for New York Teams; 3/27/05), which clearly

The Times editorialized in the issue devoted to Brooklyn about stadiums in Queens and the Bronx

Instant skyline as presented by FCR in 2003 (proposal shaded for emphasis)



stated *But the plan is really about offices, retail space and—most of all—housing.* Or Bruce Ratner’s 12/11/03 statement (see beginning of this section) that it was “not economically viable without a real estate component.”

Much news coverage of the plan has described it as 21 acres. However, after adding Site 5 (currently occupied by P.C. Richard and Modell’s) in May, the site increased by one acre, to 22 acres (see *The Brooklyn Standard*; www.dddb.net/FCR_brooklynstandard.pdf, p. 1). Given the potential for additional development (see item 6.4), the project might grow even more. Indeed, a little-discussed 1/22/04 document from the Mayor’s Office, “Notice of Intent to Prepare Draft Supplemental Environmental Impact Statement,” declares: *The Atlantic Yards Arena and Redevelopment Project is proposed for an approximately 24-acre site at the intersection of Flatbush and Atlantic Avenues at the southeastern edge of Downtown Brooklyn.*

1.2 Why Did the Project Grow? “Economically Necessary”

By ignoring previous coverage about the real aim of the project, the 7/5/05 *Times* article did not ask the central question: Why did FCR increase the project size? The article treated the increase in height and number of apartments mainly as a phenomenon of architectural design.

FCR had already announced an expanded plan with at least 6,000 apartments at the 5/26/05 City Council Economic Development Committee hearing the *Times* didn’t cover (see item 6.1). As the *New York Daily News* reported (Ratner quietly moves in, 5/27/05): *The revised plan will cost \$3.5 billion—\$1 billion more than originally announced—and now includes cutting back on office space and building as many as 7,300 rental apartments and condos.*

For six weeks, the *Times* missed the story—the increase in cost and housing. The only real news about the Atlantic Yards project in the *Times* in July was the release of architect Frank Gehry’s revised sketches, which were provided exclusively to the *Times* and appeared on the front page above the fold. The newspaper made no reference to the additional site added to the project footprint, Site 5 (currently occupied by two stores, Modell’s and P.C. Richard, on property partly controlled by FCR). And the *Times* did not report on the reasons why the project had grown.

Evidence points to FCR’s intention to increase its profits. FCR’s 5/17/05 Memorandum of Understanding with the New York affiliate of ACORN (Association of Community Organizations for Reform Now), the nation’s largest community organization of low- and moderate-income families, contains this passage (www.dddb.net/cba/HousingMou.pdf): *If the projected number of residential units should increase for any reason that the Developer determines to be economically necessary, both the Developer and ACORN will work towards developing a program that follows the same guidelines and principles set forth in this document.*

The MOU refers to 2,250 “affordable” units out of a projected 4,500 units of housing. Once ACORN was on board, FCR, at a City Council Economic Development Committee hearing nine days later, announced an increase in the number of planned housing units to at least 6,000 and possibly 7,300. See coverage in *The Brooklyn Papers* (Ratner site expands—into Park Slope, 6/2/05): *The presentation, shown at the May 26 hearing, indicated that the developer might increase the number of housing units from 4,500 to at least 6,000 or possibly 7,300.*

The increased density of the towers was likely not driven by any considerations of urban design but by FCR’s determination that it is “economically necessary.” In order

For six weeks, the Times missed the story—the increase in cost and housing

to make 50% of the original 4,500 units “affordable” housing, FCR apparently intends to build bigger and bigger to ensure it has enough market-rate units for sale or rent to provide an adequate profit for the company. However, the *Times* hasn’t attempted to analyze the potential profit FCR might make.

At the jammed City Council Economic Development Committee hearing, FCR VP Jim Stuckey explained the increase in housing from 4,500 units to 6,000 units in the “General Project Plan” (aka General Plan) as a consequence of being (Transcript05, www.dddb.net/times/ED052605_transcript.pdf, p. 43) “educated about, by [ACORN’s New York executive director] Bertha [Lewis], by ACORN and housing advocates, [that] there is a dire need for residential development in New York City.”

Yet just nine days earlier he’d signed an MOU with ACORN regarding only 4,500 units. Stuckey’s explanation for the even larger 7,300-unit plan was a non-explanation (Transcript05, www.dddb.net/times/ED052605_transcript.pdf, p. 44-45): “In addition to that, we’re also looking at alternatives, because as you know, when you go through a process, when you do environmental impact studies, you are asked to look at alternatives, and in fact we are looking at another alternative, which in fact may have additional residential space, as shown on this drawing here, which could have as many as 7,300 residential units in this area, and a slight reduction in the office space.”

Indeed, the additional 1,500 units are market-rate condominiums rather than apartments for ACORN’s constituency, and FCR has no obligation to build a matching number of affordable ones. Rather, Stuckey told the Council (Transcript05, www.dddb.net/times/ED52605_transcript.pdf, p.46-47): *But as you know, we have agreed to do 4,500 units of affordable, middle income and market rate housing, ten percent that we have allocated for seniors, and 1,500 condo units, which would be part of the project.*

In addition to the condo units, we have agreed with ACORN that we will try to do affordable and middle income co-op, you know, on-site or off-site as well, which [ACORN’s] Bertha [Lewis] again will talk about.

However, FCR won’t build as many affordable co-ops as market-rate condos. Also, the company hasn’t committed to a minimum number of the co-ops, and the units likely won’t help the poor. Though New York ACORN represents, according to Lewis (Transcript05, www.dddb.net/times/ED052605_transcript.pdf, p. 55), *thousands of low-income families in New York City*, the co-op housing contemplated is hardly aimed at Brooklyn’s poorer residents (www.dddb.net/cba/HousingMou.pdf): *Developer and ACORN will work on a program to develop affordable for-sale units, which are intended to be in the range of 600 to 1000 units, over the course of ten (10) years and can be on or off site. It is currently contemplated that a majority of the affordable for-sale units will be sold to families in the upper affordable income tiers.*

The upper-affordable income tiers, as noted in item 1.4 below, include families earning more than \$100,000 a year—surely not ACORN’s constituency.

Why did the *Times* fail to analyze this important change in FCR’s plans in its 7/5/05 article? A commentary by former Times Public Editor Daniel Okrent, writing in another context, can be cited to suggest that the *Times* was focused on its exclusive story; it was the first newspaper given the new architectural sketches. But exclusive stories sometimes read more like press releases, Okrent wrote: *But there are some telltale signs that could lead readers to draw their own conclusions [that a story derives from a questionable deal with a source]. The first tip-off, of course, is a string of words like “to be announced tomorrow,” “obtained by The Times and scheduled*

FCR won’t build as many affordable co-ops as market-rate condos

for release today,” or any other permutation that suggests this is in The Times, just The Times, and you won’t see it anywhere else for at least a day. Then, if the only people quoted in the article are those who benefit from spreading its substance, be wary. And be angry, too. You deserve better journalism than that. (EXTRA! EXTRA! Read Not Quite Everything About It!, 4/10/05; <http://tinyurl.com/dyrvz>)

Indeed, the 7/5/05 story came with exactly such a tip-off: *The project, the largest proposed outside Manhattan in decades, would include much more housing than originally announced in 2003, growing to about 6,000 units from 4,500, according to a plan made available to The New York Times.*

While the architectural sketches did represent new information, there was nothing exclusive about the increase in housing; in fact, FCR had announced that six weeks earlier, at the 5/26/05 City Council hearing (see above, and item 6.1).

The lengthy article did include token quotes from a FCR critic at the end. But the article never explained any motive for FCR officials to make the proposal available to the *Times*. It was the day before proposals to bid on the MTA railyard were due. It also was the day before a decision potentially granting the Olympics to New York City— with some events at the proposed Atlantic Yards arena— was to be announced. The exclusive, in this case, was the revamped set of sketches, so the *Times* report focused on the design.

There was no exclusive news about the increase in housing

1.3 Drastic Cuts In Office Space

It’s hard to track exactly how much office space FCR contemplates. Initially, on 12/10/03, the company announced 2.1 million square feet of office space, plus 300,000 square feet of commercial space, according to a fact sheet (www.bball.net/documents/pdf/Project%20Fact%20Sheet.pdf): *Four office buildings surrounding the Arena will place 2.1 million square feet of commercial space within a few blocks of the mass transit hub.*

At the 5/26/05 City Council hearing, FCR’s Jim Stuckey described a plan with *1.9 million square feet of office space and another alternative, which in fact may have additional residential space... which could have as many as 7,300 residential units in this area, and a slight reduction in the office space.* (Transcript05, www.dddb.net/times/ED052605_transcript.pdf, p. 44-45)

The “slight reduction” Stuckey described was actually a cut of more than 77% of projected office space, from 1.9 million square feet to a total of 428,800 square feet, as described in FCR’s promotional sheet, *The Brooklyn Standard* (www.dddb.net/FCR_brooklynstandard.pdf, p. 3).

But Stuckey’s figures were questionable. At the time he made his calculation, the company was predicting only 6,000 jobs. At 200 square feet per job (see item 2.4), those positions would require 1.2 million square feet of office space in the General Plan. Even so, going from 1.2 million square feet to 428,800 square feet represents a cut of more than 64%.

Another confirmation that office space would be reduced came from sports economist Andrew Zimbalist (a professor of economics at Smith College, Northampton, MA), who wrote two reports for FCR. Zimbalist writes in his second report (released in June 2005, just after Stuckey’s City Council testimony), “Estimated Fiscal Impact of the Atlantic Yards Project on the New York City and New York State Treasuries, Updated Report,” (www.dddb.net/public/ZimbalistReport2005.pdf, p. 24): *“The FCRC Atlantic Yards General Project Plan will eventually create 1.2 million square feet of first-class office*

space. *The Alternative Plan will create 259,078 square feet of new commercial space.*"

It's not clear why Zimbalist chose 259,078 square feet, rather than 428,800, for the Alternative Plan. The smaller figure is not readily available in FCR literature.

The *Times* didn't report on FCR's apparent reduction in office space to 1.2 million square feet. The latest major story on the project simply stated (Instant Skyline Added to Brooklyn Arena Plan, 7/5/05), *[T]he development would create 1.9 million square feet of office space and housing for roughly 15,000 people in an area where small businesses and multifamily houses now coexist with vacant land, automotive shops and empty industrial buildings. An alternate plan would cut the office space to roughly 429,000 square feet, and add 150 to 200 hotel rooms and 1,300 additional apartments.*"

The *Times* was wrong; the amount of office space should be corrected.

Why did FCR reduce the amount of office space? The *Times* didn't explain, though evidence suggests there's a lack of demand, and residential real estate is a better financial bet than commercial space. Also, evidence suggests FCR may not want to compete with Lower Manhattan office space in the district that's represented by State Assembly Speaker Sheldon Silver, one of three officials who controls state subsidies for the FCR project.

Zimbalist, in his May 1, 2004 report, "Estimated Fiscal Impact of the Atlantic Yards Project on the New York City and New York State Treasuries," optimistically claims there's a need for office space (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 22): *As of early April 2004, the vacancy rate of class A office space built in Brooklyn since 1985 was less than one percent.*

However, an independent study released June 28, 2004, by Jung Kim and Gustav Peebles, an urban planner and an economic historian, respectively, cites FCR's pattern of filling office space with government agencies or companies lured by subsidies (Estimated Fiscal Impact of Forest City Ratner's Brooklyn Arena and 17 High-Rise Development on NYC and NYS Treasuries; K-P, www.dddb.net/public/KimPeebles.pdf, sections 5.9-5.13): *A thriving commercial rental market would not require corporate handouts or government to occupy the space... We must either incorporate a much higher vacancy rate into [Zimbalist's] analysis or somehow determine how much subsidy and government tenancy will be required to fill office space at BAY [Brooklyn Atlantic Yards].*

In a valuable cautionary passage, they note that providing office space does not necessarily mean jobs will fill it (K-P, www.dddb.net/public/KimPeebles.pdf, section 2.5): *We emphasize that the job numbers are representative of commercial space rather than true job creation. This conversion of space to jobs only works when there is strong and proven demand for commercial space.*

A March 2005 report ("Slam Dunk or Airball? A Preliminary Planning Analysis of the Brooklyn Atlantic Yards Project") by the Pratt Institute Center for Community and Environmental Development (PICCED) confirms this statement (www.picced.org/pubs/bay-report.pdf, p. 41): *Most of the recent new office tenants at both the Atlantic Center mall (e.g. Bank of New York) and MetroTech (e.g. Blue Cross/Blue Shield) are businesses that moved from Manhattan to Brooklyn.*

Actually, PICCED meant the Atlantic Terminal mall, not Atlantic Center.

The New York Sun offered a plausible explanation for the cut in office space: State Assembly Speaker Sheldon Silver, one of three controlling members of the Public Authorities Control Board, could kill the state subsidies if he thought the Brooklyn office space would compete with lower Manhattan (Board That Nixed Jets Stadium

Could Also Sink Atlantic Yards, 6/8/05):

“Mr. Silver, who abstained from approving the Jets stadium on the basis it would create competition for the Lower Manhattan rebuilding process, could apply similar reasoning to the Ratner development, real-estate brokers said.

“It is the same commercial market, the same tenants would move to Lower Manhattan or Brooklyn,” [said] the president of commercial brokerage firm Greiner-Maltz...

Still, many experts said that those fears are overblown, particularly because Mr. Ratner would probably use his alternative plan if the amount of commercial development became a sticking point.

One day after *The New York Sun* article, a *Times* report did not mention the reduction in office space but made a cryptic allusion to the issue (Unlike Stadium on West Side, an Arena in Brooklyn Is Still a Go, 6/9/05): *Assembly Speaker Sheldon Silver... said yesterday that he would be far less likely to stand in its way, since it would not hurt business in his Lower Manhattan district.*

1.4 Affordable Housing—What’s the Definition?

The “affordable housing” component of FCR’s project has been crucial to the company’s effort to gain community and political support. As such, it deserves more scrutiny. The *Times* has repeated the 50% “affordable housing” figure that FCR and its supporters claim, without considering the revised project size or quoting critics who question the actual percentage of affordable housing and the definition of “affordable.”

For example, a *Times* article (Instant Skyline Added to Brooklyn Arena Plan, 7/5/05) stated: *In all, the project would provide at least 4,500 rental apartments, with half reserved for low- and middle-income residents, and 1,500 market-rate condominiums in a neighborhood where brownstones sell for well over \$1 million.*

An editorial praising FCR’s revised plan (Skyscrapers Grow in Brooklyn; 7/10/05) stated: *The far more ambitious \$3.5 billion Ratner plan deals with those issues, and has the very important advantage of carrying with it a commitment to create jobs for area residents, including minorities and women, and to build as many as 3,000 affordable housing units—50 percent of the total planned.*

Note the term “as many as;” the editorial gave the developer the benefit of the doubt, assuming an upper limit of affordable units, rather than a minimum. The memorandum that stipulates the 50-50 housing agreement between FCR and ACORN (www.dddb.net/cba/HousingMou.pdf) only covers 50% of the first 4,500 rental units. The revised project plan of July 2005 boosted the number of residential units to at least 6,000 and possibly 7,300, making the guaranteed affordable housing component only 37.5% (2,250 out of 6,000) or 31% (2,250 out of 7,300) of the units.

After the MOU was signed, the subsequent *Times* article provided some basic information about the agreement, but did not emphasize that the agreement would help the middle class more than the poor (Brooklyn Arena Plan Calls For Many Subsidized Units, 5/20/05): *The agreement concerns 4,500 rental apartments, half of them studios and one-bedrooms and half of them two- and three-bedrooms, in the 13 residential buildings of the 17 proposed for the project.*

Under the terms of the agreement, 30 percent of the apartments, 1,350 units, would be reserved for families with incomes from \$37,680 to \$100,480 for a four-person household paying 30 percent of its income in rent. An additional 20 percent of the apartments, 900 units, would be reserved for families making less than \$31,400 a year. Of that group, 136 units would be reserved for families making less

The editorial gave the developer the benefit of the doubt

than \$25,120 a year. The other half of the units could be rented at market rate. The *Times* did not mention that the definition of affordable housing—which helps FCR seem benevolent—depends on a regional area median income (AMI) of \$62,800 (for a family of four), rather than the \$35,000 AMI in Brooklyn alone or the \$28,000 AMI in Prospect Heights, the Brooklyn neighborhood most clearly in the footprint of the plan. In fact, the *Times* did not mention AMI at all. (The AMI of \$62,800 is noted in the MOU: www.dddb.net/cba/HousingMou.pdf.) The median income for Brooklyn is \$35,000 a year (see notation by Kim-Peebles below). The average middle-income household—occupying 30% of the total 4,500 units and 60% of the “affordable housing”—would earn \$75,000 (see www.dddb.net/public/ZimbalistReport2005.pdf, p. 19).

Indeed, FCR VP Jim Stuckey, testifying before the City Council Economic Development Committee on 5/4/04, had distinguished between “affordable housing” and “middle income housing” (www.dddb.net/times/ED050404_Transcript.pdf, p. 102): “[I]t is our intention to try and work with affordable housing, middle-income housing, working family housing, seniors and market rate housing.”

As noted below, the city has a plan that offers 50% market, 30% middle-income, and 20% low-income housing.

Testifying later in the hearing, pressed by Council Member Charles Barron, Stuckey did not use the term “middle income” when describing half of the residential units (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 151):

MR. STUCKEY: I think that 50 percent of this project—

COUNCIL MEMBER BARRON: Would be marketed.

MR. STUCKEY: —should be dedicated to affordable, low- income, working class family income.

Stuckey then noted (p. 153) that FCR’s unit allocation mirrored a city program with a 50/30/20 ratio, adding: *Thirty percent middle-income, 20 percent affordable.*

Later, Stuckey focused on people with incomes \$50,000 and below when defining affordable (p. 176): *“But if you have created a unit where somebody could, or a family could be earning 30, 40, 50 thousand dollars, that is very well an affordable unit.”*

Andrew Alper, president of the New York City Economic Development Corporation, also divided the housing into three categories, rather than subsuming “middle income” into “affordable” (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 50: *that would be 50 percent market rate, 30 percent middle income as defined, and 20 percent affordable.*

See further comments on the definition in item 6.2.

The allowable income levels make for huge contrasts. As the Kim-Peebles report pointed out (K-P, www.dddb.net/public/KimPeebles.pdf, p. iii, p. 9): *Given the undeniable housing crunch in New York City, why would we subsidize a massive real estate development that can turn an easy and hefty profit without our aid? FCRC projects in its report that “the average annual income of households in the new community will be between \$80,000 and \$90,000.” Keeping in mind that the median household income for all of Brooklyn is \$35,000, we must ask, why is the city supporting the use of eminent domain and offering substantial subsidies to ensure that a private developer can profit off of the construction of luxury housing?*

... [T]he city government defines its criteria for low and middle income families by turning to the median income of the NYC metropolitan area, including wealthy suburban counties such as Westchester.

Nor did the 5/20/05 *Times* article mention that there are three scenarios for affordable housing in the MOU (www.dddb.net/cba/HousingMou.pdf). The scenarios range from up to 140% of area median income (AMI) to 160% of AMI. Under the third scenario, 10 percent of the units could be rented to a family of six with an income of \$116,600. With rents limited to 30 percent of household income, the monthly rent for a family earning \$116,600 would be \$2,915, or \$34,980 annually.

Actually, a 50 percent commitment to affordable housing isn't new, according to the housing publication *City Limits Weekly* (*Cozy Quarters: ACORN and Ratner Sign Housing Deal*, 5/23/05; www.citylimits.org/content/articles/weeklyView.cfm?articlenumber=1723): *For the last two years the city Housing Development Corporation has financed a mixed-income housing program, with 20 percent of units going to the poor, 30 percent to middle-income tenants, and the rest renting at market rate...*

What's new, according to the article, is how ACORN, an advocacy organization for low-income people, has been able to help the middle class: *What ACORN won was a commitment to devote most of the middle-income units to households earning significantly less than the maximum HDC allows, and to limit rents to 30 percent of household income. Usually, HDC New Housing Opportunity Program apartments are open to renters earning up to 175 percent of area median income, or, averaging for household size, about \$94,500. Ratner agreed to lower the cap to 160 percent, and possibly as low as 140 percent, depending on project financing and market conditions as the new towers get built.*

What did the developer get in response? An opportunity to build taller, including more market-rate units. According to a 5/19/05 mayoral press release, "Mayor Bloomberg, Forest City Ratner and ACORN Announce Historic Affordable Housing Agreement for Atlantic Yards": *As part of the plan, the Administration worked with Forest City Ratner and ACORN to increase the amount of financing provided in order to construct larger buildings with more units and to make the apartments as affordable as possible to families with a range of incomes.* (See tinyurl.com/77uxe.)

Shortly after that agreement was announced, the developer announced even larger buildings and the re-allocation of previously planned office space into housing. See item 1.2.

In another article, the *Times* reported the Rev. Al Sharpton's claims that FCR's plan would help the poor, without noting that most of the affordable housing would actually help the middle class (Sharpton Backs Developer's Plan For Brooklyn Arena and Towers, 7/19/05): *Mr. Sharpton... argued that the building plan, designed by Frank Gehry, would provide needed jobs and lower-cost housing for largely poor and minority areas nearby. Mr. Sharpton praised Mr. Ratner... for signing an agreement with community advocacy groups. That agreement promises... to preserve half of the rental apartments for families earning less than \$100,480 a year.*

Actually, the upper income limit for those gaining "affordable housing" may be higher. See above.

Nor did the *Times*—or other media outlets—mention that FCR has agreed to offer affordable housing for only 30 years, according to the 6/27/05 Community Benefits Agreement: (See www.buildbrooklyn.org/pr/cba.pdf, p. 24): *Project Developer... will maintain income and rent restrictions on each unit of rental affordable housing in the Project so that such unit remains affordable for the income tier for which such unit was created... for a period of thirty years after such unit is first placed in service.*

While such time limits are not unusual in such projects, they still deserve mention.

What's new is how ACORN, an advocacy organization for low-income people, has been able to help the middle class

The *Village Voice* looked at FCR's plan (The Battle of Brooklyn, 7/19/05): *Even in the affordable-housing plan, critics see the devil in the details. As in all housing programs, the income tiers are based on regional statistics, which cite income levels much higher than Brooklyn's. The effect is that 10 percent of the apartments might be set aside for people making more than \$60,000 a year and who would pay rents that aren't much lower than market rate. Given those potential income levels, and the fact that the project includes 2,250 market-rate apartments and 1,500 condos, City Councilman Charles Barron calls Atlantic Yards "instant gentrification."*

After FCR revised and enlarged its original plan, *The New York Observer* (Ratner Is Gaining As the Nets Owner Nuzzles Advocates, 7/25/05) reported a fact not mentioned in the *Times*, that the result might be as little as 31% affordable housing: *But it's less clear about the condominiums and additional rentals that Mr. Ratner is suggesting he will build instead of office space, for which there is less of a demand. If Ms. [ACORN's Bertha] Lewis fails to win any more units through subsequent negotiations—a possible but unlikely scenario—Forest City would end up devoting just 31 percent of its rentals to non-market rates....*

Ms. Lewis, on the other hand, long ago sacrificed the scale of the neighborhood. If this debate, at heart, is about the "community"—the "brownstone people" versus the "brown and black people"—then Ms. Lewis' position is all the more curious, considering that the housing plan she had fought for will set aside 225 units for families making as much as \$94,200 a year—a tacit acknowledgment that the upper-middle class needs help also.

1.5 Are Nets Investors Pressuring FCR?

Another consideration in looking at FCR's proposed increase in project size may be the cost of the basketball team, which Bruce Ratner and other investors got the green light to purchase on 1/21/04. As the real estate newsletter *The Slatin Report* recently wrote (Yard Fight; 7/8/05; www.theslatinreport.com/top_story.jsp?StoryName=0708yards3.txt): *Sources have told The Slatin Report that the scale of Ratner's project is being driven not by the requirements of the district nor by a compelling urban vision, but rather by the high price being paid for the sports franchise and the need to create additional revenue streams. Indeed, the sources say that the project ballooned in size under pressure from Ratner's co-investors on the Nets, who are increasingly concerned that their investment pay off.*

While *The Slatin Report* did not cite sources, the *Times* still could pursue the issue. Peter Slatin wrote the *New York Post* profile of Bruce Ratner cited in item 8.1 (KING OF THE RETAIL DEALS A FORMER CITY COMMISH BECOMES NY'S TOP DEVELOPER OF COMMERCIAL SITES, 12/28/97).

The basketball team has indeed been losing money, as the *Newark Star-Ledger* reported (Nets leaving no stone unturned in effort to build ticket sales, 8/21/05): *The team finished last in the NBA the past season in average paid attendance with 10,769 fans per night, according to internal league documents. ... Those numbers help explain how Ratner, who bought the franchise for \$300 million last year, recorded a loss of roughly \$20 million last season.*

1.6 Times Interview Does Not Pursue Ratner's Evasions

In a *Times Magazine* Q&A with Bruce Ratner (Stadium, Anyone?, 6/26/05), interviewer Deborah Solomon suggested that the planned Nets arena *will boost the*

value of the apartments, condominiums and stores that make up your development in progress, the Atlantic Yards. Solomon failed to acknowledge that ground had not been broken. She also failed to mention that, by some accounts, the arena would lose money (see www.dddb.net/public/KimPeebles.pdf, section 3.7; www.picced.org/pubs/bay-report.pdf, p. 8: *The economic analysis backing the FCRC proposal relies on cross-subsidies from the residential units to offset the public subsidy costs of the Arena*). Thus interviewee Ratner could avoid the central fact of the development—that the market-rate housing, not the arena, would provide revenues—by saying that brownstone owners in Park Slope and Fort Greene have inflated local property values. Solomon did not follow up with any questions about the economics of the project but instead used her limited space (592 words) to ask Ratner whether he takes steroids or collects sports memorabilia.

Although this Magazine feature may not be hard news, the *Times* should have pressed Ratner more. The developer generally avoids press interviews (see item 8.1), making this interview a rare opportunity to serve the public interest. The story's headline further evidenced superficiality: Atlantic Yards would contain an arena, not a stadium.

1.7 The *Times* Makes the Project Sound Unstoppable

A recent article (Unlike Stadium on West Side, an Arena in Brooklyn Is Still a Go, 6/9/05) inaccurately suggested that the FCR project was a fait accompli: *As Mayor Michael R. Bloomberg's plan for a Far West Side stadium was going down to defeat this spring, another major plan for a sports arena was quietly coming to fruition in Brooklyn.*

The phrase “coming to fruition” is conclusory. Though FCR has signed a Memorandum of Understanding, a nonbinding agreement with the city and state, which spells out subsidies the city and state would provide, many obstacles remained to the project's success at that time. Among them were a potential competing bid for the MTA property (which came in the next month), property owners who have not sold their land to FCR and do not intend to, the threat of legal battles, an environmental approval process, and a decision by the state Public Authorities Control Board. At that point, the *Kelo v. New London* U.S. Supreme Court eminent domain case had not been decided (see item 9.4). Moreover, the process has hardly been quiet—witness the rallies for the plan (see item 7.7) and protests against it (see item 5.3).

In fact, less than a month after that June 2005 story (Brooklyn Plan Draws a Rival, And It's Smaller, 7/7/05), the *Times* reported that Extell Development Company had made a competing bid for the MTA railyard: *A rival of the developer Bruce C. Ratner submitted a competing bid yesterday to buy and develop the site of a proposed Nets basketball arena in Brooklyn, throwing up the first significant obstacle to Mr. Ratner's ambitious plan to create a dense urban hub at the eastern edge of Downtown Brooklyn.*

The plan, which would not include a sports arena, was drafted in close consultation with community advocates who oppose Mr. Ratner's project. It portends a potential replay of the heated and costly battle between Cablevision and the Jets football team over a proposal, now scuttled, for a stadium on the Far West Side of Manhattan.

It's conclusory to declare Extell's bid “the first significant obstacle,” given the elected officials opposed to the plan (see item 5.3), the public sentiment against it (see items 5.1 & 5.2), pending administrative reviews, and legal obstacles.

The *Times* also noted a significant difference in the Extell bid: *It would also not require public subsidies beyond \$200 million from the city and state to build a*

platform over the rail beds and would be subject to the city's rigorous land-use review process. Mr. Ratner's plan would undergo review by the state.

The *Times* published the latter article about Extell on its front page, signifying the story's importance, but it was only one column wide, while the 7/5/05 front page article about the increased size of the FCR project, was granted three columns, plus a graphic rendering of Frank Gehry's design and a map.

Similarly, the *Times* featured another positive article about the FCR plan (Unlike Stadium on West Side, an Arena in Brooklyn Is Still a Go, 6/9/05) at the top of the first page of the Metro section, over four columns. In contrast, an article mentioning that Extell's bid surpassed FCR's bid (Rival Bid Tops Ratner's Offer To Develop Brooklyn Site, 7/23/05) was located on the bottom half of the first page of the Metro section and, again, was only one column wide: *A rival bidder to Bruce Ratner, the developer, has made a \$150 million cash offer for development rights at the Atlantic railyard in Downtown Brooklyn, three times the amount Mr. Ratner bid for the property, where he proposes a \$3.5 billion tower complex that includes a basketball arena for the Nets, stores, parks and 6,000 apartments.*

Perhaps more importantly, the article noted: *an appraisal commissioned by the transportation agency and released yesterday put the value of the development rights at \$214.5 million, far more than either bidder is offering.*

The placement of news stories is an art, not a science, and it depends on other stories competing that day for space. Still, the *Times* seems to have taken the FCR bid far more seriously than the Extell one.

On 7/27/05, the Metropolitan Transportation Authority decided to negotiate exclusively with FCR for a period of 45 days, as the *Times* reported (M.T.A. to Deal Only With Ratner on Brooklyn Bid, 7/28/05; also see item 6.6). That negotiation may not lead to a contract; even if it does, other obstacles, including legal and legislative ones, remain to the "fruition" of FCR's project.

Chapter 2

FCR's Plan Would Yield Many Fewer Jobs Than Originally Promised

How many jobs would the project bring? It's hard for a reader of the *Times*—as well as most of the other media covering the project—to be sure, because journalists haven't fully examined FCR's statements. The developer has revised its estimate of the number of permanent office jobs to be created in the General Plan from 10,000 to 6,000—already a 40% drop. However, a careful analysis of FCR calculations suggests the number of total jobs could be much lower. Moreover, the number of jobs that would actually be new rather than “retained” would be even fewer. In addition, the number of construction jobs may have been lowered, and the calculations behind the construction jobs figure rely on an industry term that overstates a common-sense understanding of the number by a factor of 10.

2.1 10,000 New or Retained Office Jobs?

In its initial December 2003 proposal, FCR promised (www.bball.net/documents/pdf/Project%20Fact%20Sheet.pdf) more than 10,000 permanent jobs: *Brooklyn Atlantic Yards will bring a huge infusion of new jobs to the area – more than 15,000 construction jobs, over 10,000 permanent jobs created and/or retained in the commercial offices, 400 permanent jobs at the Arena and additional indirect benefits.*

Note the use of the term “retained.” As has been the case with FCR's previous Brooklyn projects, a good number of jobs would be relocated positions rather than new ones. FCR's own consultant, sports economist Andrew Zimbalist, estimates (www.dddb.net/public/ZimbalistReport2004.pdf, p. 24) that only 60% of the jobs would be new to the state: *The assumption that 60 percent of the Atlantic Yards office employees are new to the New York economy also is conservative.* This statement suggests that any jobs projection should be discounted by 40% in order to eliminate the jobs that are relocated. As a result, an initial projection by FCR of 6,000 new office jobs (60% of 10,000) would have been more accurate.

Still, Zimbalist's caution didn't stop FCR from overstating the number of projected jobs. In a spring 2004 mass mailing to Brooklynites (www.dddb.net/times/flier1.gif), FCR—posing as “Atlantic Yards” (see item 7.1)—promised *10,000 new, permanent jobs.* The document didn't mention the word “retained.”

In October 2004, in another mailing to Brooklynites titled “Frequently asked questions about the Brooklyn Nets and Atlantic Yards” (see www.dddb.net/times/

An initial projection of 6,000 new office jobs would have been more accurate

flier2.gif), FCR obfuscated the facts:

Q. *How many jobs will Atlantic Yards create and retain?*

A. *10,000 permanent jobs. 15,000 construction jobs.*

Forest City Ratner has a long history of creating and retaining jobs in Brooklyn—almost 27,000 since 1988. And it also has maintained a longstanding commitment to diversity...

Atlantic Yards will create and retain 10,000 new jobs in over 2 million square feet of new commercial and retail space, as well as 15,000 construction jobs....

FCR was no longer using the phrase “created and/or retained.” Its substitute phrase “create and retain” is misleading, as a job that is retained cannot be created.

Earlier, testifying 5/4/04 before the City Council’s Economic Development Committee, FCR’s Stuckey spoke more carefully (Transcript05, www.dddb.net/times/ED052605_transcript.pdf, p. 92): “*We have helped to create or retain 22,000 office jobs in New York City, and particularly in Brooklyn.*”

Note that FCR consultant Zimbalist actually estimated a smaller number of office jobs from the start: a figure of 7,599. Zimbalist assumes more office space per worker (250 square feet) in his calculations than FCR did (200 square feet). See item 2.5 for FCR’s estimate. Zimbalist notes he was using a *standard ratio of one employee per 250 square feet*. See Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 23.

The New York City Economic Development Corporation (NYCEDC), apparently also using the standard ratio, estimated fewer than 10,000 jobs from the start, according to the testimony of agency president Andrew Alper at a 5/4/04 City Council Economic Development Committee hearing (Transcript04, www.dddb.net/times/ED050404_transcript.pdf, p. 18): “*as many as 7,400 permanent jobs...*”

NYCEDC, in a memo released on 6/27/05 (Estimated Fiscal Impacts of the Proposed Atlantic Yards Project; www.dddb.net/public/NYEDC_AYardsImpact.pdf, p. 6), again uses the 250-square-foot standard and estimates 7,100 permanent jobs, acknowledging a 7% vacancy rate. (NYCEDC’s memo apparently reflects the agency’s testimony in 2004; it was released to Develop Don’t Destroy Brooklyn after a Freedom of Information Act request.) Neither FCR’s projections nor Zimbalist’s projections factor in such a vacancy rate—they simply assume that the presence of office space means all the space would be filled by jobs.

2.2 New Jobs or Recycled Ones? The *Times* Doesn’t Say

Besides not mentioning Zimbalist’s caveats, the *Times* didn’t mention that the March 2005 report by the independent Pratt Institute Center for Community and Environmental Development (PICCED) disputed Zimbalist’s estimate of new jobs as overly optimistic. The PICCED report states (www.picced.org/pubs/bay-report.pdf, p. 41): “*While [FCR’s consultant, sports economist] Zimbalist estimates that 60% of these jobs will be new, we believe that estimate is unrealistic. Most of the recent new office tenants at both the Atlantic Center Mall (e.g. Bank of New York) and MetroTech (e.g. Blue Cross/Blue Shield) are businesses that moved from Manhattan to Brooklyn. As a result, these jobs – by far the best permanent jobs created by the project– are much less likely to be new, and therefore less likely to be available to Brooklyn residents.* (As noted above, the Bank of New York is at the Atlantic Terminal mall.)

“These jobs... are much less likely to be new, and therefore less likely to be available to Brooklyn residents”
–PICCED report

A 3/4/05 statement by Governor George Pataki and Mayor Michael Bloomberg said (www.nylovesbiz.com/press/press_display.asp?id=556): “*The project is expected to create 15,000 construction jobs and over 10,000 permanent jobs.*”

The public officials did not use the term “retained.” The *Times* has not reported that the jobs may be “retained” positions rather than new ones. The newspaper should publish a correction.

2.3 How Many Jobs, Really? The *Times* Doesn’t Know

The figures the *Times* reported are not consistent, and thus should prompt further scrutiny. Most recently, the *Times* reported in a Metro Briefing (Developer Promises Benefits, 6/28/05): *The developer, Bruce Ratner ... president of Forest City Ratner, promised that he would give local residents the first chance at work on the \$3.5 billion development, which is expected to generate 12,000 construction jobs and 8,500 permanent jobs.*

First, despite praise for the developer from a local group like BUILD that professes a commitment to jobs (see item 4.3), there’s no guarantee that more than a small percentage of what FCR termed a “huge infusion of new jobs” would go to struggling area residents. City Council member Charles Barron quizzed FCR’s Jim Stuckey about the office jobs at the 5/26/05 Council hearing (Transcript05, www.dddb.net/times/ED052605_transcript.pdf, p. 73-74):

STUCKEY: Well, we’re not even sure who those companies will be yet, Council member. I can’t tell you who the employees will be.

BARRON: Those jobs won’t be controlled by you?

STUCKEY: Those jobs are controlled by the companies that --

BARRON: That’s right. So, those, they could hire whoever they want basically.

STUCKEY: Typically that’s what happens with businesses in our country.

Also, the figures cited above vary from previously cited amounts, which have mentioned 10,000 permanent jobs and 15,000 construction jobs. Also, in that 6/28/05 article, as in previous coverage, the *Times* did not raise the important caveat that many of those permanent jobs would be “retained” jobs and thus not net gains to the local economy.

Further, the *Times* had printed information clearly out of date. The 8,500 figure probably came from a 6/27/05 mayoral press release, which stated (<http://tinyurl.com/97zg8>): *The \$3.5 billion project will create 8,500 permanent new jobs, 4,500 mixed-income apartments, substantial new commercial, retail, open space and host the first major league sports team to play in Brooklyn since the Dodgers.*

The *Times* didn’t notice—or question—the disappearance of 1,500 jobs (the difference between 10,000 and 8,500).

Indeed, *Times* reporters should already have been questioning the changing job estimates. A month prior to the mayor’s press release, at the 5/26/05 City Council Committee on Economic Development hearing, FCR’s Jim Stuckey predicted 6,000 office jobs (Transcript05, www.dddb.net/times/ED052605_transcript.pdf, p. 45). Shortly afterward—and before the *Times*’s 6/28/05 article—in the June/July issue of FCR’s promotional Brooklyn Standard (www.dddb.net/FCR_brooklynstandard.pdf, p. 3), FCR also projected “6,000 new permanent jobs.” Again, FCR, misleadingly uses the term “new.” The reduction from 10,000 to 6,000 jobs can be attributed to the reduced amount of office space projected in the revised General Plan.

The *Times* has still not reported the 6,000 jobs figure, and it has never corrected the inaccurate 8,500 figure. The newspaper should publish corrections.

2.4 Job Estimates Keep Shrinking

In fact, the number of permanent jobs might be lower than 6,000. In the June/July 2005 Brooklyn Standard (p. 3), FCR describes a “General Plan” with 1.9 million square feet of office space and 6,000 residential units, and an “Alternate Plan” with 428,800 square feet of office space, 187,000 square feet of hotel space, and 7,300 residential units. (Both plans project 227,000 square feet of retail space.) On the same page, FCR also projects “6,000 permanent jobs.” That estimate of 6,000 jobs was apparently generated for the “General Plan.”

In his June 2005 report, FCR consultant Zimbalist confusingly projects a different number of new jobs: totals of either 1,461 employees or 311 employees (www.dddb.net/public/ZimbalistReport2005.pdf, p. 26): *The FCRC Atlantic Yards General Project Plan will eventually create 1.2 million square feet of first-class office space. The Alternative Plan will create 259,078 square feet of new commercial space...*

Using a standard ratio of one employee per 250 square feet, there would be 487 employees added [in the General Plan] at Atlantic Yards in 2008, 487 in 2010 and 487 in 2012. The Alternative Plan calls for 259,078 square feet of new commercial space. It is projected that the entire space would be built out in 2008, adding 311 employees.

Zimbalist’s numbers are 30 percent of the expected total; it’s not clear, but he may be multiplying the number of new jobs by the percentage of businesses new to the state (30 percent). Also, it’s unclear why he chose 259,078 square feet for the Alternative Plan, since FCR’s description, in The Brooklyn Standard, includes 428,800 square feet. This deserves further scrutiny.

FCR assumes more jobs than NYCEDC, because the company assumes 20% less space per employee. At the 5/26/05 City Council hearing, Stuckey said (Transcript05, www.dddb.net/times/ED052605_transcript.pdf, p. 71): *what we used in our analysis is that there is one job for every 200 square feet*

Using Stuckey’s formula of 200 square feet per employee—rather than the standard ratio of 250 square feet used by Zimbalist and NYCEDC—and the reduced amount of office space (see item 1.3), the potential total office job figures turn out to be:

- 10,500 employees for 2.1 million square feet
- 9,500 employees for 1.9 million square feet
- 6,000 employees for 1.2 million square feet
- 2,144 employees for 428,800 square feet
- 1,295 employees for 259,078 square feet

While the name implies that FCR considers the “Alternate Plan” a second choice, there’s evidence that the developer actually favors that plan. FCR’s promotional handout, The Brooklyn Standard, uses unconditional wording—“will,” not “could” (p. 3): *However, by substituting apartments for commercial space, FCRC will increase the number of residential units at the site by approximately 2,800. If 2,800 apartments are added to 4,500 apartments, the total is 7,300, as promised in the “Alternate Plan.”*

2.5 New Permanent Jobs: 3,600? 1,800? 1,286? 643?

FCR’s “General Plan” projects 6,000 permanent jobs. Multiply by Zimbalist’s projection that 60% would be new to the workforce of New York State (www.dddb.net/public/ZimbalistReport2004.pdf, p. 24), and the yield is 3,600 new jobs, at best.

The New York City Economic Development Corporation (NYCEDC), in its 6/27/05 memo (www.dddb.net/public/NYEDC_AYardsImpact.pdf, p. 6), estimated that only 30% of the project's jobs would be new: *The fiscal impact analysis, however, assumes that only 30% of these jobs... are new to the New York economy.* So, under that scenario, 30% of 6,000 permanent jobs would yield only 1,800 new jobs.

(NYCEDC actually calculated 2,000 new workers from a total of 7,100 permanent jobs. The agency's 2005 memo was based on 2004 figures: FCR's prediction of 2 million square feet of office space. NYCEDC, unlike FCR, used a 250-square-foot-per-worker ration and built in a 7% vacancy rate.)

Consequently, if there are 2,144 projected jobs, based on FCR's "Alternate Plan" scenario of 428,800 square feet and 200 square feet per employee, FCR's estimate of 60% new jobs would yield only 1286 new jobs. Under the NYCEDC scenario, 30% of 2,144 projected jobs would yield only 643 new jobs.

Under the NYCEDC scenario, 30% of 2,144 projected jobs would yield only 643 new jobs

2.6 The *Times* Hasn't Reported on Salary Levels

The *Times* has not investigated the veracity of FCR's assumptions about the salary levels for the projected office jobs. Indeed, there's evidence that those jobs would pay less than FCR's consultant suggests. PICCED's report (www.picced.org/pubs/bay-report.pdf) finds the projections in the Kim-Peebles study more credible than Zimbalist's: *FCRC says this will be class A office space. Since it may not be realistic to assume that all of the 10,000 jobs will be back office finance, a more likely scenario would be a mix of finance, professional and business services, administrative, and some government. A reasonable average wage range for these jobs then would be \$40,000 to \$45,000. Zimbalist used a \$66,000 figure, assuming most of them would be finance. Kim and Peebles used a more realistic \$44,200 figure... Most of the recent new office tenants at both [FCR's] Atlantic Center Mall (e.g. Bank of New York) and MetroTech (e.g. Blue Cross/Blue Shield) are businesses that moved from Manhattan to Brooklyn...*

The 6/27/05 NYCEDC memo assumes an average salary of \$64,800, closer to the Zimbalist estimate, based on the *average salary for non-finance related office-using employment City-wide*—but unlike PICCED, it does not try to predict the mix of businesses that the Atlantic Yards project likely would attract.

2.7 15,000 Construction Jobs? 12,000? Or One-tenth of that Total?

FCR has long promised 15,000 union construction jobs—a figure that has been widely quoted in the press. The 12,000 construction jobs figure in the 6/28/05 *Times* Metro Briefing suggests a failure by the *Times* to question why or whether FCR had cut its construction-jobs projection.

While the June/July issue of *The Brooklyn Standard* continued to promise 15,000 construction jobs, the 12,000 figure appeared earlier, in a 5/19/05 mayoral press release, "Mayor Bloomberg, Forest City Ratner and ACORN Announce Historic Affordable Housing Agreement for Atlantic Yards." (See tinyurl.com/77uxe.)

The newspaper owes its readers either a correction or more analysis. More fundamentally, construction jobs are temporary jobs, not permanent jobs. A construction job, in standard industry parlance, lasts for one year. So the actual projection means 15,000 job-years (1,500 jobs each year over 10 years). That means 1,500 people would be working each year. Or 1,200.

Andrew Alper, president of the New York City Economic Development

Corporation, acknowledged as much, at a 5/4/04 City Council Economic Development Committee hearing, where he assumed 14,400 construction jobs rather than 15,000 (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 23): *I should say that is construction people years, so it may not be 14,400 workers, it is that number of jobs for a year per person...*

The Brooklyn Papers (Numbers game over Ratner arena jobs, 6/26/04; www.brooklynpapers.com/html/issues/_vol27/27_25/27_25nets4.html) explained the figure: *From the beginning the project's developer, Bruce Ratner, has said the project will create 10,000 permanent jobs and 15,000 construction jobs.*

But critics of the plan are pointing out that the project will really only create 1,500 construction jobs, which will continue each year for 10 years.

"Fifteen-hundred jobs a year over 10 years is 15,000 jobs and it's 1,500 jobs a year in an area of high unemployment," said Forest City Ratner spokeswoman Beth Davidson.

The *Times* has not analyzed the Atlantic Yards construction jobs figure. It has printed FCR press releases (Hundreds Protest Plans for Brooklyn Arena, 3/29/04) such as *A statement passed out at the rally by a representative of Forest City Ratner said that the company had the support of elected officials and that the development would create thousands of jobs and include 4,500 units of housing.*

Also, as noted in item 2.3, the *Times* has printed a reference to 12,000 construction jobs.

The *Times*'s failure to analyze construction-job figures at Atlantic Yards suggests a double standard. In writing about other projects, the *Times* has used the more accurate job-years method to analyze actual numbers of construction jobs. In a *Times* article about the proposed West Side Stadium, the reporter questioned the proponents' data, noting (Mayor's Guess At Stadium Jobs Is Highest Yet, 4/10/05): *The mayor and the Jets contend that the project will generate 18,000 jobs. It actually means, the Jets acknowledge, that there will be an average of 4,500 jobs during the four years of construction.*

The budget office's estimate, however, was far lower than the Jets'—an average of 2,880 construction jobs per year, and it did not bother multiplying that figure by four, because construction jobs by their nature are temporary.

In an article about rail-link construction, the *Times* also used the jobs-per-year figure rather than the cumulative number of jobs (New Jersey Transit Is Set to Urge a New River Tunnel for a Commuter Link to Midtown, 2/9/05): *Over the 10 years that the study estimates the project would take to complete, it would create an average of 3,920 construction jobs each year, according to the report. During that period, the regional economy would grow by \$4.5 billion and the income of the region's residents would increase by \$2.7 billion, the report estimates.*

In keeping with the *Times*'s own journalistic standards, it should apply the same analysis to the jobs projections at Atlantic Yards as it has to other development plans. At the least, the paper should print a correction that informs readers that the potential number of construction jobs is calculated in job-years.

The Times's failure to analyze construction-job figures at Atlantic Yards suggests a double standard

Chapter 3

The *Times* Has Failed to Examine the True Public Cost of the Project

In its coverage of the Atlantic Yards development project, the *Times* has usually offered the narrowest interpretation of potential public costs and has even ignored developer Forest City Ratner's prediction that public costs would be well over \$1 billion, not to mention that critics believe public costs would exceed FCR's estimates. The *Times* has failed to analyze FCR's rosy projections of new revenue, which are contradicted by a city agency. In addition, the *Times* has barely considered the effect on local traffic, including the economic impact of congestion on local residents and businesses, much less other increased demands for public services.

3.1 \$200 MILLION OR OVER \$1 BILLION?

Times news coverage has stated that the project will demand only \$200 million in direct state and city subsidies. However, a number of studies, even those by FCR's own consultant, suggest that the overall cost of public support would be much higher. The *Times* has barely referred to these studies.

The *Times* initially quoted Bruce Ratner as downplaying any need for subsidies (A Grand Plan in Brooklyn For the Nets' Arena Complex, 12/11/03): *Mr. Ratner said that the project "will be almost exclusively privately financed," although taxes derived from elements of the project will be diverted to help pay for it.*

At the same time, however, FCR used different language on its web site (www.bball.net/documents/pdf/Project%20Fact%20Sheet.pdf): *The Arena will be primarily privately funded.*

FCR no longer uses the phrase "*almost exclusively privately financed.*" In addition, for several months, the company acknowledged that public funds would account for about one-third of the cost of what was then a \$2.5 billion project. A 2004 mailing to Brooklynites titled "Frequently asked questions about the Brooklyn Nets and Atlantic Yards" (see www.dddb.net/times/flier2.gif) contained this passage:

Q. How will Atlantic Yards be financed?

A. Primarily through private funds.

...A study by respected Smith College economist Andrew Zimbalist projects that Atlantic Yards will generate \$4.1 billion in new tax revenue for the City and the State over the next 30 years. About one-third of that will help pay for construction and operating costs, leaving New York with \$2.8 billion we didn't have before to help fund better schools and safer streets.

FCR no longer uses the phrase "almost exclusively privately financed"

That \$4.1 billion figure came from Zimbalist's 2004 study (referred to subsequently as Z-1), written a year before FCR increased the project size (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 33). See item 3.2.

Zimbalist's somewhat updated study in June 2005 (referred to subsequently as Z-2) estimates revenues of \$6 billion and leads to estimates of public costs of \$1.1 billion over 30 years. In that scenario, public funds would account for 18.3 percent of the cost of the FCR project.

(For the \$6 billion figure, see Z-2, www.dddb.net/public/ZimbalistReport2005.pdf, p. 35. For the \$1.1 billion figure, see FCR VP Stuckey's testimony in item 3.3.)

Zimbalist's biography shows that he specializes in the economics of sports, especially the impacts of stadiums and arenas, not broader questions of urban development (sophia.smith.edu/~azimbali/biography1.html). He has historically called new arenas and stadiums a bad economic bet for communities. In this case, he argues that the recapture of revenues from New Jersey for the arena and new taxes generated by the development make the Brooklyn project different (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 3–4). However, his estimates about benefits and costs remain questionable. See item 3.3, below. Most notably, the benefits come mainly from income-tax revenues from people new to the city and state. In both reports (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 33; Z-2, www.dddb.net/public/ZimbalistReport2005.pdf, p. 41), Zimbalist assumes that 60 percent of the households in Atlantic Yards are new to New York State. However, such a figure is highly speculative (see item 3.2). The more people who move to Atlantic Yards from other locations in the city and the state, the lower the new tax revenues on which the whole project's fiscal estimates depend.

Even in the wake of FCR's mailing, and despite information garnered from Zimbalist's studies, public officials have offered the narrowest interpretation of public costs. Mayor Bloomberg and Governor Pataki, in announcing a 3/4/05 Memorandum of Understanding (MOU) with FCR, stated: *Under the MOU, the State and the City will each contribute \$100 million in capital contributions to fund site preparation and public infrastructure improvements on and around the arena site, including streets, sidewalks, utility relocations, environmental remediation, open space and public parking.*

The *Times* has repeated the low \$200 million figure (Instant Skyline Added to Brooklyn Arena Plan; 7/5/05): *The plan calls for direct subsidies of \$100 million each from the city and state for site improvements to the area.* The article stated that critics accuse state and city officials of giving Mr. Ratner unfair concessions but did not cite the additional costs.

Another story (Unlike Stadium on West Side, an Arena in Brooklyn Is Still a Go, 6/9/05) set the "public investment" boundary at \$200 million: *Others noted important differences between the West Side stadium and the Brooklyn arena. For example, the Brooklyn arena would require a \$200 million public investment as opposed to the \$600 million investment the West Side plan was calling for.*

This deserves a correction. At the very least, the *Times* should have used the phrase "direct subsidies," since the public investment would undoubtedly be greater.

An earlier *Times* article, about the housing plan, had noted that the projected 2,250 "affordable" units would be subsidized beyond the \$200 million pledged (Brooklyn Arena Plan Calls For Many Subsidized Units, 5/20/05): *Tenants in the reserved units would have their rent payments subsidized by the New York City Housing Development Corporation, a state public-benefit corporation that has the authority to issue tax-exempt bonds.*



A 1908 entrance to Atlantic Avenue Station, behind which skyscrapers would be erected

Good Jobs New York, a watchdog group the *Times* has quoted in other contexts, also predicts much higher costs. According to the prepared testimony of the organization's Bettina Damiani, at the 5/26/05 City Council Economic Development Committee hearing the *Times* ignored (see item 6.1), public costs of the Atlantic Yards project over the 30-year period would be much higher (goodjobsny.org/testimony_bay_5_05.htm): *Good Jobs New York's experience tracking city and state economic development subsidies leads us to conclude that \$200 million is a gross underestimation of the total cost. Subsidies for the current proposal may include:*

- *Forgone property and possibly sales tax revenue due to "Payment in Lieu of Taxes" that FCRC will use to pay back the money borrowed for construction;*
- *Possible additional infrastructure costs and public contribution to arena financing;*
- *Property tax breaks through the Industrial & Commercial Incentive Program (ICIP);*
- *Any discretionary property, sales, and mortgage recording tax breaks plus energy cost savings likely to be offered to commercial buildings through the New York City Industrial Development Agency (IDA);*
- *Discount on ground rent for any property held by the Empire State Development Corporation and leased back to FCRC;*
- *Increased cost of public services including schools, libraries, sanitation, and fire and police protection due to increased residential and commercial population*

The *Times* has periodically quoted Good Jobs New York in stories regarding other projects: *Huge Projects Look to Silver For Support*, 5/13/05; *9/11 Aid Dispersal Downtown Said to Favor Corporate Interests*, 8/12/04; *Liberty Bonds' Yield: a New Downtown*, 5/30/04; and *Hearing Splits on Public Help For a Proposed Office Tower*, 11/21/03.

However, the newspaper has never quoted Good Jobs New York on the Atlantic Yards project.

3.2 The *Times* Doesn't Scrutinize FCR Consultant Andrew Zimbalist's First Study

FCR, in testimony by its officials and in its written materials, often quotes (though not always by name) consultant Andrew Zimbalist, a sports economist who teaches at Smith College, whom the company hired to make projections about the Atlantic Yards plan. Although the projected costs and benefits of the FCR proposal are speculative by their nature, it's clear that Zimbalist, in this and in his revised study, relies on some dubious assumptions, provides incomplete information, and has changed some estimates without explanation. Even so, Zimbalist admits that, under one scenario, public costs would be about one-third of the projected revenues.

According to Zimbalist, the main source of revenue from the project would come from increased taxes wealthy new residents of Atlantic Yards would pay.

Zimbalist has produced two studies for FCR, in 2004 and 2005. In them, he calculates the present value of projected revenues and costs. (Present value is the value today of an amount of money to be received in the future, according to the Concise Encyclopedia of Economics: www.econlib.org/library/Enc/PresentValue.html.)

In his first study (Z-1), Zimbalist concludes that the present value of public costs would be \$690.44 million, or nearly 46% of the present value of projected new tax revenues (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 33): *The present*

“\$200 million is a gross underestimation of the total cost”

–Bettina Damiani, Good Jobs New York

The main source of revenue from the project would come from increased taxes wealthy new residents would pay

value in 2005 of the estimated new tax revenues over a 30-year period to the city and state... is at least \$1.503 billion. On the cost side, the present value of direct fiscal contributions is estimated to be \$449.34 million, while the present value of the other operating costs associated with the project are estimated at \$241.1 million. The estimated present value of all public sector costs, then, is \$690.44 million.

By these estimates, there is a net positive fiscal impact with a present value of \$812.7 million.

Zimbalist also wrote: (Alternatively, the estimated aggregate tax revenues over the thirty years are \$4.1055 billion, while the estimated aggregate public costs are \$1.2865 billion, yielding a net aggregate tax gain in current dollars of \$2.819 billion over the thirty years.)

These numbers were referenced in the “Frequently asked questions” mailing cited in item 3.1.

However, Zimbalist’s statements about revenue are predictions, not facts, and, as such, rely on numerous assumptions. For example, Zimbalist assumes that 60% of the residents at Atlantic Yards would be new to New York State (Z-1, www.dddb.net/public/ZimbalistReport2005.pdf, p. 22), thus bringing in new income-tax revenue. However, as dictated by the development plan, a significant number of residents—between 31% and 50% (see item 1.4)—would be part of the “affordable housing” program that would be managed by the New York chapter of ACORN. Half the units, according to a 5/19/05 mayoral press release, would be dedicated to community residents: *As with all City-sponsored housing, there will be a lottery for the affordable units. In the lottery, 50% of the units will be set aside for community residents.*

As for the market-rate housing, Zimbalist provides no evidence to substantiate his claim—crucial to his projections—that most residents would be new to the state. A significant number of people who move to luxury housing in Brooklyn come from Manhattan.

Journalist Neil deMause, an authority on financing of sports facilities, raised numerous questions about Z-1 on his Field of Schemes web site (“Brooklyn arena study, at the buzzer, 5/3/04; www.fieldofschemes.com/news/archives/000539.html): *Is it legitimate to assume, as Zimbalist does, that 30% of the businesses renting office space from Ratner would otherwise not come to New York, or that 4500 new housing units would mean 4500 new families moving into the city? Would there be additional public costs to subsidize rents for office tenants, as has been the case at other Ratner projects in Brooklyn?... Who’s paying for the acquisition of development rights to the LIRR land? And if, as Ratner has suggested in the past, Atlantic Yards would be a “phased construction” built as the market demands, what guarantee is there to taxpayers that the developer won’t simply ditch the housing element if the rental market is soft, and leave taxpayers holding the bag for the money-suck of an arena? “I would never have undertaken this exercise,” Washington State University sports economist Rod Fort tells us. “In essence, Andy is trying to forecast 33 years hence, and he’s forecasting housing markets, which there are other people spending all their waking moments on. What you see is assumption after assumption after assumption after assumption.”*

Jung Kim and Gustav Peebles consulted Fort before they published their 2004 response to Zimbalist’s study (K-P, www.dddb.net/public/KimPeebles.pdf, section 1.10). Fort currently serves as VP of the International Association of Sports Economists (www.ses.wsu.edu/People/fort.htm).

The *Times* has not consulted an independent economist for comments on Zimbalist’s reports.

“What you see is assumption after assumption after assumption after assumption”

—Sports economist Rod Fort on Andrew Zimbalist’s report for FCR

Indeed, the Kim-Peebles report finds enormous potential public costs (K-P, www.dddb.net/public/KimPeebles.pdf, iii-iv): *[D]espite claims that it will bring the city and state \$812.7 million, in fact, this project will cause a net loss to New York City and State taxpayers of up to \$506 million. Our estimates relating to this loss reveal that taxpayers could easily be paying anywhere between \$674.9 million to \$1.027 billion in subsidies to the developer.*

The claim of a \$506 million net loss was news, since it stood in such stark contrast to FCR's projections. As *The Brooklyn Papers* reported (Ratner's Money Pit, 7/3/04; brooklynpapers.com/html/issues/_vol27/27_26/27_26nets1.html), *[Andrew Zimbalist], a sports economist commissioned by Ratner claimed the \$2.5 billion Atlantic Yards project would put \$800 million into city and state coffers. The Peebles and Kim report concludes that the project will be a net loss to taxpayers — to the tune of \$506 million.*

However, the *Times's* coverage of the Kim-Peebles study was perfunctory, as part of an article (A Plan Passes And an Arena Is Protested In Brooklyn, 6/29/04) that focused in its first half on a City Council zoning package. Also, the story's headline did not acknowledge the dramatic potential costs cited. Other newspapers devoted full articles to the Kim-Peebles study, and featured the potential loss in their headlines: *Newsday* (Study: Nets arena to cost up to \$506M, 6/29/04); *The New York Sun* (Nets' Move Could Dunk Taxpayers to Tune of \$500M, 6/29/04); *New York Daily News* (Study: Arena a big tax bust: Tab pegged at a possible \$500M, 6/29/04).

The Times's coverage of the Kim-Peebles study was perfunctory

The *Times* article made no attempt to evaluate the charges by Kim-Peebles that Zimbalist relied on several faulty assumptions. Instead, the *Times* quoted FCR as endorsing Zimbalist, and gave the economist the last word: *Barry Baum, a spokesman for Forest City Ratner (which is The New York Times Company's partner in developing its new headquarters on Eighth Avenue in Manhattan), said company officials had not yet fully reviewed the report and could not comment on the details. "However," he added, "Andrew Zimbalist is a respected economist who has not in the past generally supported this kind of project, but clearly sees a great benefit for the city and state from the Atlantic Yards arena and development."*

Dr. Zimbalist, for his part, said he had not seen the report and knew only what he had heard from reporters. Saying he was unsure whether Dr. Peebles or Mr. Kim had fully understood the economic issues, he added, "I was very careful in my use of numbers."

Perhaps Zimbalist was careful, but was he realistic? His study assumes few extra costs in police and fire protection for a sports arena, 4,500 housing units, and office space for thousands of jobs (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 32): *Based on conversations with former budget officials, FCRC concludes that the increment in fire and police budgets would be negligible.*

By contrast, PICCED (www.picced.org/pubs/bay-report.pdf, p. 31) warns of *significant new 24-hour demands on services.*

Indeed, Zimbalist seems unwilling to endorse the developer's conclusion in his own voice: *FCRC concludes...* Still, FCR's Stuckey told the City Council that it was not the company's report (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 122-123): *It is actually Andy Zimbalist's report. And I should make that clear because we retained Professor Zimbalist because we wanted somebody who historically have [sic] been against doing arenas and stadium [sic], because it was our view that we wanted to get the honest answers about this project. Not that we wanted to just hire a consultant who would sweep something under a rug, or who would just give us the answer that they expected us to hear. [errors in the transcript may be those of the transcriber, not the speaker]*

So let's just start with that from the beginning. It is really not our report, it is Professor Zimbalist's report.

Stuckey's statement is undermined by Zimbalist's acknowledgment that he relied on information supplied by FCR (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 6): *Many of the numbers used in this report concerning Nets attendance, ticket prices, construction costs and other items come from projections done by or for FCRC. I have discussed these estimates with FCRC and they seem reasonable to me.*

In the *New York Daily News*, a sports columnist, not an economist, commented on Zimbalist's conclusions with some skeptical common sense. Mike Lupica took the Kim-Peebles analysis seriously and acknowledged an obvious contradiction in FCR's own projections (Arena Foes Smell A Ratner; 6/27/04): *"Forest City Ratner projects in its commissioned report that the average annual income of households in the new community will be between \$80,000 and \$90,000. Kim and Peebles ask: 'Keeping in mind that the median household income for all of Brooklyn is \$35,000. . . why is the city supporting eminent domain and offering substantial subsidies to ensure that a private developer can profit off of the construction of luxury housing?'"*

The Brooklyn Papers took a standard journalistic tack and asked another economist to comment (Ratner's Money Pit, 7/3/04; brooklynpapers.com/html/issues/_vol27/27_26/27_26nets1.html): *Brendan O'Flaherty, an economics professor at Columbia University, also slammed Zimbalist this week saying the economist was "only arguing that any commercial and housing project makes money for the city," when all such projects turn profits for the city.*

He called the Peebles and Kim report "at least as plausible and maybe more plausible than the Zimbalist numbers."

O'Flaherty was also consulted by Kim-Peebles: K-P, www.dddb.net/public/KimPeebles.pdf, section 1.10. O'Flaherty has expertise in urban development, according to his web site (www.columbia.edu/~bo2/). It's not clear whether Zimbalist consulted other economists for their views.

Kim and Peebles lay out numerous questions in their report (K-P, www.dddb.net/public/KimPeebles.pdf) that deserve more discussion. They note (section 1.4) that *much of Zimbalist's data is culled from biased or unsubstantiated sources* and Zimbalist wouldn't provide citations. They point out (section 3.1) that Zimbalist fails to factor in *the various ways that people can claim tax credits and exemptions*, thus lowering potential income tax revenue from Atlantic Yards residents and workers.

They suggest (section 4.4) that Zimbalist overestimates the sales taxes that would be collected because wealthier people save a greater proportion of their income. They note (section 6.5) that Zimbalist has not factored in public costs for renovations to the sports facility—an important consideration that Zimbalist himself has chided other sports-facilities consultants for leaving out of their reports. They're skeptical (section 8.2) of Zimbalist's estimate that the new development would increase property values in the surrounding neighborhood, given the project's scale, effect on transportation, and local opposition. They also observe (section 3.5) that Zimbalist's estimates regarding the success of the arena for non-basketball events assume the eventual closing of Continental Airlines Arena (CAA) in New Jersey, the Nets' current home, and the absence of a new arena in Newark: *The problem with this scenario is that it allows no place for the New Jersey Devils to play ice hockey.*

Indeed, they note—contradicting Zimbalist's assumptions—that a new hockey arena is in fact planned, and officials plan to keep CAA and build Xanadu, a megamall. Recently, the *Bergen Record* reported that the complex was scheduled to open in the fall of 2007 (Giants lose court bid to stop Xanadu, 8/6/05).

Given the divergence of informed opinion about the project's economics, the *Times* should have questioned an announcement about the project by Governor Pataki and Mayor Bloomberg on 3/4/05 that relied solely on FCR's consultant for a fiscal analysis. The press release said (www.nylovesbiz.com/press/press_display.asp?id=556): *According to an economic analysis completed earlier this year for FCRC by the economist Andrew Zimbalist, the net fiscal benefit to the City and State from the Atlantic Yards project is estimated to be at least \$2.819 billion over thirty years, or a present value of at least \$812.6 million.*

A *Times* article (Deal Is Signed for Nets Arena in Brooklyn, 3/4/05), which appeared on the same day as the press release, did not mention that the mayor and governor were relying on Zimbalist's 2004 figures.

Zimbalist's figures were implicitly criticized by the New York City Economic Development Corporation (NYCEDC) in a 6/27/05 memo (Estimated Fiscal Impacts of the Proposed Atlantic Yards Project; www.dddb.net/public/NYEDC_AYardsImpact.pdf).

Neither the *Times* nor any daily newspaper has reported any of NYCEDC's criticisms, which address some assumptions behind the figures in both of Zimbalist's reports. For example, NYCEDC disagrees with Zimbalist's estimates of how many workers would live in New York City and pay city income tax. Zimbalist, in both of his reports (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 6 and Z-2, www.dddb.net/public/ZimbalistReport2005.pdf, p. 9), *assume[s] that 30 percent of the Nets players will live in the five boroughs. These players will pay New York City as well as New York State income tax. The remaining 70 percent will pay only New York State tax....I assume that...75 percent of the arena workers will live in the city.*

NYCEDC estimates that fewer players and arena workers would live in New York City (www.dddb.net/public/NYEDC_AYardsImpact.pdf, p. 3): *Based on figures from other area professional sports teams, it was estimated that 20% of the players, 35% of the executives and team staff, and 50% of the facility staff would reside in the City.*

Moreover, NYCEDC forecasts a total of 192 events each year at the arena (www.dddb.net/public/NYEDC_AYardsImpact.pdf, p. 2), while Zimbalist at first forecasts 224 events (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 6). NYCEDC forecasts an average attendance of 9,476 at events other than NBA basketball games (Z-2, www.dddb.net/public/NYEDC_AYardsImpact.pdf, p. 4). In Z-1, Zimbalist makes no attempt to estimate attendance. In Z-2, he does not try to forecast the number of events, much less attendance.

Most importantly, NYCEDC significantly discounts Zimbalist's projections of increased income-tax revenues. In Z-1, the sports economist estimates that 4,500 new residential units would yield a net present value of \$237.4 million in new income taxes to the city (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 39).

By contrast, NYCEDC estimates \$131.8 million (www.dddb.net/public/NYEDC_AYardsImpact.pdf, p. 5). That \$105.6 million difference represents a 44.5% drop.

Also, Zimbalist estimates that the new residential units would yield a net present value of \$109.1 million in sales taxes to the city (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 39).

By contrast, NYCEDC estimates \$67.5 million (www.dddb.net/public/NYEDC_AYardsImpact.pdf, p. 5). That \$41.6 million difference represents a 38.1% drop.

An announcement about the project by Governor Pataki and Mayor Bloomberg relied solely on FCR's consultant

NYCEDC significantly discounts Zimbalist's projections of increased income-tax revenues

The difference in the figures results from widely divergent assumptions about the income of new city residents whose presence could be attributed to the project. Zimbalist, in his first report (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 17), projects that the average annual income of households in the development would be between \$80,000 and \$90,000. By contrast, NYCEDC assumes that the new units (www.dddb.net/public/NYEDC_AYardsImpact.pdf, p. 6) *will represent an equivalent increase in households Citywide, either directly in the project itself or as infill in units vacated by households relocating to the project.*

Income tax revenue is based on an average income of \$45,000, the Citywide average for all industries.

NYCEDC's overall estimate for the fiscal impact of the project thus discounts Zimbalist's estimate significantly, even though NYCEDC's own analysis is flawed. The city agency estimates a 30-year fiscal benefit to the city of \$524 million. However, that estimate does not specify any costs to the city. It's not clear whether the agency incorporated costs into its fiscal impact forecast. If the city contributes \$100 million in direct costs and untold amounts for infrastructure, those costs would further reduce the fiscal impact of the project.

The lack of clarity seems to belie NYCEDC President Alper's testimony before the City Council on 5/4/04 (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 78): *"This will be a very open and transparent process."*

Still, NYCEDC's estimate of \$524 million revenue to the city, based on the 2004 iteration of FCR's plan, should be compared, roughly, to Zimbalist's estimate of a sum nearly three times larger to both the city and state: \$1.503 billion (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 30). Given that city and state revenues are roughly commensurate in certain tax categories, such as the fiscal impact of residential units (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 39), Zimbalist's estimates might be discounted by a significant factor.

Zimbalist's calculations deserve more exacting scrutiny.

3.3 The *Times* Hasn't Examined Zimbalist's Second Report

Neither the *Times* nor the rest of the press has analyzed Zimbalist's second report, released in June 2005. Based on projected increases in luxury housing and thus increased income-tax revenues, the economist increases his 30-year-revenue prediction, formerly \$4.1055 billion (see item 3.2), by about 50 percent (Z-2, www.dddb.net/public/ZimbalistReport2005.pdf, p. 35): *Considering only the new revenue sources that I was able to estimate, over thirty years the total addition to the city's and state's tax revenues from the Atlantic Yards project [for the General Plan] amount to \$6.0 billion... their present value is \$2.1 billion. The Alternative Plan will provide city and state tax revenues of \$6.4 billion over thirty years... their present value is \$2.3 billion.*

When calculating costs, Zimbalist focuses on present value (Z-2, p. 41-42): *On the cost side, the present value of direct fiscal contributions is \$200 million. The present value of the other operating costs associated with the project is estimated at \$321.4 million in the General Project Plan and \$356.4 million in the Alternative Plan, and the present value of the indirect costs is estimated at \$51.2 million in both plans. The estimated present value of all public sector costs, then, is \$572.6 million in the General Project Plan and \$607.6 million in the Alternative Plan. By these estimates,*

there is a net positive fiscal impact with a present value of \$1.55 billion in the General Project Plan and of \$1.66 billion in the Alternative Project Plan.

He doesn't estimate the ratio, but if the present value of projected revenues under the General Plan would be \$2.1 billion and the present value of costs \$572.6 million, public costs would be more than a quarter (27.3%) of the revenues.

The revenue projections, of course, should be treated skeptically, given the cautions in item 3.2. More importantly, Zimbalist's presentation suffers from a glaring lack of parallelism. While he estimates revenues in both smaller and larger figures—over 30 years and as present value—he does not estimate costs over 30 years. Thus, to estimate an overall impact for the General Project plan, he subtracts \$572.6 million in present value costs from \$2.1 billion in present value revenues to reach \$1.55 billion. He does not attempt to estimate overall costs over 30 years.

While present value may be the most important figure—to allow analysts to estimate cost in current dollars—the 30-year cost figure should be discussed as well, since developer Forest City Ratner regularly uses the 30-year revenue projection.

Only in testimony at the 5/26/05 City Council Economic Development Committee hearing did FCR's Jim Stuckey reveal a \$1.1 billion estimate for total public costs over 30 years: (Transcript05, www.dddb.net/times/ED052605_transcript.pdf, p. 45-46): *When you take out —this is done by Professor Zimbalist—when you take out the cost of this project, meaning whatever the public contribution is, the capital money that's subject to the Memorandum of Understanding, the additional funds that were referred to earlier in the discussion about education and all the other services that the City might have to provide, that's roughly \$1.1 billion.*

It's curious that a project that had increased by 40%—from \$2.5 billion to \$3.5 billion—would be projected to incur lesser total public costs. Zimbalist notes in Z-2 that he was no longer projecting payments included in his first report: *In my initial report of May 1, 2004, I estimated that the total public contribution would include \$9 million of annual payments each from the city and state for thirty years (with a present value of \$261.61 million) and \$187.73 million of other infrastructure contributions.*

Given the caveats raised by Kim-Peebles in their analysis of Z-1, it's safe to assume that the projected costs they calculate—*\$674.9 million to \$1.027 billion in subsidies*—would be vastly increased for a larger project. (See K-P, www.dddb.net/public/KimPeebles.pdf, p. iv.)

Moreover, given NYCEDC's caveats regarding the potential income-tax and sales-tax revenues from new residents in the city (see item 3.2), Zimbalist's projections should be significantly discounted.

3.4 Unexplained Contradictions Between Zimbalist's Reports

No media outlet, including the *Times*, has chosen to compare Zimbalist's 2004 and 2005 reports—a significant oversight. The sports economist does little to explain his methods to readers. He does explain how changed projections led to new calculations regarding lower public costs (see item 3.3), but in many other sections he makes changes or retains previously published data without any explanation.

In Z-2, even though the cost of the project had increased by \$1 billion and FCR increased the size of the towers and the number of housing units, Zimbalist uses the same language regarding public-safety costs (Z-2, www.dddb.net/public/

Public costs of the project would be more than a quarter (27.3%) of the revenues

Only in testimony did FCR's Jim Stuckey reveal a \$1.1 billion estimate for total public costs over 30 years

ZimbalistReport2005.pdf, p. 38): *Based on conversations with former budget officials, FCRC concludes that the increment in fire and police budgets would be negligible.*

In Z-2, despite FCR's May announcement of the 50-50 "affordable housing" program aimed at locals, Zimbalist still unrealistically assumes that 60% of the residents at Atlantic Yards would be new to New York State (Z-2, www.dddb.net/public/ZimbalistReport2005.pdf, p. 22): *Since I am assuming that 60 percent of the project's residents are new to New York State...*

In Z-2, despite FCR's plans to slash office space, Zimbalist uses the same language as he did in Z-1 to argue the need for such space (Z-2, www.dddb.net/public/ZimbalistReport2005.pdf, p. 25): *As of early April 2004, the vacancy rate of class A office space built in Brooklyn since 1985 was less than one percent.*

Also, Zimbalist makes some unexplained statistical leaps. For example, in Table One of Z-1, Zimbalist estimates that new income-tax revenues based on Nets players who relocated to New York City or State would be \$4.88 million in 2008. (See Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 9.)

In Table One of Z-2, Zimbalist adjusts that figure to \$7.47 million for 2009—a more than 50% jump in one year. (See Z-2, www.dddb.net/public/ZimbalistReport2005.pdf, p. 11.) He estimates similar leaps in income-tax revenues between 2008 and 2009 from Nets executives, staff, and arena workers.

In Z-1, Zimbalist assumes arena-worker salaries will total \$7.06 million. (See Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 7). In Z-2, he assumes those salaries will total \$16.4 million. (See Z-2, www.dddb.net/public/ZimbalistReport2005.pdf, p. 10.) He does not explain why he changed his assumptions.

Similarly, in Table Three of Z-1, Zimbalist estimates that new sales-tax revenue from the arena would be \$6.43 million in 2008 (Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 15). In Table Three of Z-2, Zimbalist estimates \$9.62 million in revenue for 2009—nearly a 50% leap (Z-2, www.dddb.net/public/ZimbalistReport2005.pdf, p. 17).

In Z-1, Zimbalist assumes that *10 percent of the workforce from among the Atlantic Yards households will work outside of New York City and, hence, not be responsible for paying New York City income taxes.* (See Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 18). In Z-2, he drops that assumption. (See Z-2, www.dddb.net/public/ZimbalistReport2005.pdf, p. 20.) He does not explain why.

In Z-2, a Spreadsheet Detailing Fiscal Impact of Nets and Arena (Z-2, www.dddb.net/public/ZimbalistReport2005.pdf, p. 44), inexplicably refers to "NETS / DEVILS WAGE TAXES." Did Zimbalist mistakenly think that the New Jersey Devils hockey team was also projected to move to Brooklyn? Or was he simply careless?

In Z-2, as noted above (see item 2.4), Zimbalist does not accurately calculate how many office jobs would fit in a specific amount of space.

If Zimbalist can't be trusted to perform or explain basic calculations, why should the rest of his projections be trusted?

Zimbalist makes some unexplained statistical leaps

3.5 Other Evaluations of the Project's Fiscal Impact

The Pratt Institute Center for Community and Environmental Development (PICCED) has raised major questions about the Atlantic Yards project, which were published in a March 2005 report issued after Zimbalist released his first set of estimates. (See *Slam Dunk or Airball? A Preliminary Planning Analysis of the Brooklyn Atlantic Yards Project*; www.picced.org/pubs/bay-report.pdf.)

The *Times* hasn't covered PICCED's study, though the *Times* has regularly quoted PICCED representatives when covering other issues regarding real estate and Brooklyn. (See, for example, *City Backs Makeover for Decaying Brooklyn Waterfront*, 5/3/05; *What Happens If It Bursts?*, 3/27/05; *City Sees Way to Get Mix of Homes on Brooklyn Waterfront*, 12/27/04.)

By contrast, other media outlets have reported on PICCED's March 2005 report. *The New York Observer* (Ratner Is Gaining as the Nets Owner Nuzzles Advocates, 7/25/05) reported: *A study by the Pratt Institute Center for Community and Environmental Development estimates that the true cost of Forest City's plan—including tax credits that the city and state offered under an exclusive agreement signed in March—might exceed \$1 billion.*

In addition, at the 5/26/05 City Council hearing, urban planner Mafruza Khan of PICCED testified that the public needed more information about subsidies to assess the project. According to her written testimony (www.picced.org/test-bay-update.php): *Given the wide divergence in [subsidy] estimates, from \$200 million to over \$1 billion, we do want to emphasize that it is impossible for the public to know whether this project is a good deal without knowing how much it will cost to taxpayers. It is being asked to buy something without knowing how much it will cost.*

PICCED's March 2005 report (www.picced.org/pubs/bay-report.pdf, p2-4) does not attempt to be definitive, but does raise significant caveats and cautions, a prelude to Khan's testimony: *And substantial public subsidies would likely be required—the City and the State have agreed to provide \$100 million each for site preparation and infrastructure development—and we estimate that total direct and indirect subsidies, including various tax breaks, could top \$1 billion. Given these substantial impacts, it is essential that the project be thoroughly reviewed.*

...[T]he process through which this development has been advanced has not been sufficiently fair or accountable. It should be opened up for consideration of real alternatives, to ensure that the public is getting the best deal for its land and money.

...[T]here is insufficient information on two key issues for the proposed Brooklyn Atlantic Yards development: traffic impacts and public subsidies. We find it impossible to render informed judgment on the project until this information is provided.

Though the *Times* has quoted PICCED staff in numerous other contexts, including one article about the Atlantic Yards plan, it has never cited this PICCED report. The Atlantic Yards reference appeared in an article about the “affordable housing” plan. (*Brooklyn Arena Plan Calls For Many Subsidized Units*, 5/20/05): *Brad Lander, director of the Pratt Institute Center for Community and Environmental Development, said the agreement was a shrewd political move for Mr. Ratner and a substantive accomplishment for Acorn.*

By contrast, when the *Times* has covered other large development projects, such as the West Side Stadium, it has featured skeptical views in the lead paragraphs (Mayor's Guess At Stadium Jobs Is Highest Yet, 4/10/05): *“Keep in mind that what this is about is jobs, jobs, jobs -- and people need those jobs now,” Mr. Bloomberg said the day the Metropolitan Transportation Authority voted to sell development rights to the Jets*

so that they can build a \$2.2 billion home on the Hudson.

But the mayor, in his eagerness to become a champion of the working class and draw union support for the project, appears to be exaggerating the number of blue-collar jobs that would be created by the project, according to everyone from the Empire State Development Corporation to the Independent Budget Office and stadium critics.

Also, the *Times* has not emphasized that the Independent Budget Office (IBO) has delayed its report. *The Brooklyn Papers* reported (Arena \$ analysis stalled, 12/11/04; brooklynpapers.com/html/issues/_vol27/27_48/27_48nets2.html) that *Five months after a city fiscal watchdog announced that it would analyze the cost to taxpayers of developer Bruce Ratner's proposed \$2.5 billion Atlantic Yards project work has yet to begin on the study. Officials with the Independent Budget Office, a publicly funded non-partisan agency..., agreed last July to study Ratner's plan to build a basketball arena, office skyscrapers and 14 residential-commercial high-rises after competing private studies alternately painted the Prospect Heights plan as a major boon to city coffers and a \$500 million drain to taxpayers.*

The IBO, which as of late August 2005 had not issued a full report, has a history of suggesting proponents' projections are overly optimistic. As the *Times* reported in a general article about sports teams and their demands (What the Teams Want And What the City Gets, 1/16/05), *"Nationally, many of these projects wound up costing more and delivering fewer public benefits than promised by their proponents," said Doug Turetsky, chief of staff for the city's Independent Budget Office.*

The article reported that the Jets estimated a net gain over 30 years of \$716 million. The city's Independent Budget Office, however, did its own study and pared the net gain of the Jets project by two-thirds, to an estimated \$200 million.

Given such a disparity between financial projections by the developers and the IBO regarding the Jets stadium, the public deserves an open and full evaluation of the costs involved in the Atlantic Yards project.

In an editorial (The Brooklyn Nets; City Weekly section, 7/4/04), the *Times* called for such an independent report, but since then—during a year in which the FCR project has seemingly gained momentum—neither the *Times's* reporters nor editorial writers have mentioned the need for this independent evaluation. (See item 13.1.)

An IBO staffer did testify at the 5/26/05 City Council hearing the *Times* neglected to cover (see item 4.1). According to the written testimony by the IBO's Ronnie Lowenstein (www.ibo.nyc.ny.us/iboreports/AtlanticYardstesticcmay05.pdf, p. 1): *"I expect that when IBO's analysis is complete, we will conclude that on the narrow question as to whether the project generates sufficient new tax revenue to offset the cost of the public investment, we will find that there is a net fiscal surplus."*

However, the IBO hasn't reported that net fiscal surplus and, as noted above, the IBO has a history of scaling back the projections made by proponents of development. So it's far from certain that the IBO will concur with Zimbalist's projections.

Also, Lowenstein mentioned \$289 million in benefits to FCR, a figure that has not been reported in the *Times*: The \$200 million in direct state and city subsidies would be augmented, Lowenstein noted, by tax-exempt bonds (www.ibo.nyc.ny.us/iboreports/AtlanticYardstesticcmay05.pdf, p. 4). *In present value terms, the savings from the tax-exempt bonds over 30 years is \$76 million. This subsidy is borne by taxpayers throughout the U.S.*

Lowenstein stated: *If we assume that a sports arena has a market value, excluding land, of approximately \$100 per square foot, then the savings have a present value of \$13 million in 2005 dollars. Since much of the land on which the arena would be built is currently owned by the Metropolitan Transportation Authority*

(MTA), and therefore tax exempt, the property tax savings for Forest City represents no new cost to the city budget.

Had the *Times* fulfilled its duty and covered the 5/26/05 hearing, the newspaper would have been obligated not merely to report the IBO figures, but to analyze them. As journalist Neil deMause reported on his Field of Schemes web site, many questions about the fiscal analysis remain, among them (www.fieldofschemes.com/news/archives/2005_05.html): *Should the Nets PILOT payments be considered a public subsidy? and What will the Nets pay the MTA for the land?*

City Council member Letitia James, who represents the area that includes the Atlantic Yards site, has repeatedly questioned the costs of the FCR project. In a 3/8/05 memo she wrote to her City Council colleagues regarding the Atlantic Yards Memorandum of Understanding (MOU), she asserted: *The central questions raised by the project are as follows: Will the fiscal benefits generated by the arena equal or exceed the public costs? I say no and independent critiques of this project confirm that position.*

See www.nolandgrab.org/docs/MOUmemo.pdf.

3.6 The *Times* Downplays the Project's Impact on Local Traffic

The *Times* has barely addressed questions of the impact of the immense FCR development—both arena and residential—on area traffic. One *Times* article (Arena Developer Rethinking Condemnation of Houses, 5/5/04) contained this aside: *Opponents say it will worsen traffic, ruin the hard-won character of revitalized neighborhoods and bring only transient jobs or those paying minimum wage.*

As noted in item 1, a City Weekly section overview article (The Great Awakening, 6/19/05) about Brooklyn in general, contained this line: *Traffic, already hellish on Flatbush Avenue, may get still more hellish as several thousand fans converge at game time.*

A letter writer (A Plan for Skyscrapers In Downtown Brooklyn; City Weekly section, 7/17/05) called the development site *a traffic and transit nightmare intersection.*

By contrast, other papers provided deeper coverage. The *Daily News* reported (Arena Concerns Hit Home, 2/29/04) that traffic engineer Brian Ketcham of Brooklyn-based Community Consulting Services *believes that even a widened Flatbush Ave. will be "overwhelmed" by cars from Ratner's development.*

The *New York Post* (Driving The Lanes To New Brooklyn Arena May Get Easier, 2/21/04) reported, *"It's unclear whether adding a lane of traffic to Flatbush would solve the gridlock," said Brian Ketcham, who did the independent analysis. "They widened Flatbush for the entire length of MetroTech and it's still gridlocked."*

The *New York Sun* (Danger Is Seen Of Crowding In Brooklyn, 5/12/05) quoted a Ketcham study regarding the effect of new development in Brooklyn, including Atlantic Yards: *The economic toll of the additional cars and density would be roughly \$76 million a year, the report said.*

Ketcham was also interviewed for the Kim-Peebles report (K-P, www.dddb.net/public/KimPeebles.pdf, section 8.8): *Though he has not undertaken a comprehensive study of the amount of money that will be lost to Brooklynites from BAY in terms of lost hours of productivity due to traffic, increased health costs and increased accidents, he estimated during a phone interview that this price tag could easily reach \$50 million per year. When told that Dr. Zimbalist hadn't included any such costs in his report, Mr. Ketcham responded that "my objective is to get some honest numbers on the table. These figures are part of the puzzle and they can't be ignored."*

*This price tag [for traffic] could easily reach \$50 million per year
—Traffic engineer Brian Ketcham*

The *Times* has never quoted Ketcham regarding the Atlantic Yards project. However, the newspaper has mentioned or quoted him regarding Brooklyn traffic in several other articles: *Disparate Visions for a New Park*; *Accord Is Sought Among Clashing Views in Brooklyn*, 12/12/99; *The Traffic Downtown Seems Worse Than Ever. Is the Verrazano the Villain?* 12/13/98; *Gowanus Expressway: Trouble Overhead*, 12/13/98; *For Downtown Traffic, Growing Pains May Turn Critical*, 11/24/96.

A City Council briefing paper prepared for the 5/26/05 hearing summarized concerns about traffic, citing PICCED and Ketcham (<http://tinyurl.com/csx99>, p. 12): *Traffic and transportation concerns are ongoing. The concern over the traffic impact has been identified as one of the top four issues for residents of Prospect Heights... "The [D]eveloper has thus far provided no public information on their estimates of traffic impact or their mitigation plans." Community Consulting Services, Inc. (CCS) cites the development occurring in downtown Brooklyn, nearly 40 million square feet of new office, retail and residential space as a failure of New York State DOT and the MTA to respond [to] the doubling traffic and transit volume in and around downtown Brooklyn. CCS predicts that all additional traffic will be forced to utilize local streets and that "the consequence will be gridlock on both Brooklyn's roads and in Brooklyn's subways."*

How many people would drive to the arena? What would be the impact on already crowded Atlantic Avenue? How would a new development affect the subway system? The issue deserves further discussion.

3.7 The Times Doesn't Explain the Financing

An important, though little discussed, feature of the Atlantic Yards proposal is the likely reliance on an unusual form of financing: the use of payments in lieu of taxes (PILOT) and tax-increment financing (TIF), which bypass the City Council. As *The Bond Buyer* stated in an article (Goldman, *BoA Eying Arena Deal: Ratner Cites Firms In Bid to N.Y. MTA*, 8/3/05): *The Brooklyn project is noteworthy not only for its size and scope but for its proposed use of payments in lieu of taxes, or PILOTs, to back the tax-exempt debt, a financing structure that officials and market participants say has not been used before in New York City. Under a memorandum of understanding signed in February by the developer, the city, and the state, the bonds would be issued by an as-yet-unnamed local development corporation and backed by dedicated PILOTs from revenue that the project generates.*

The *Times* has referred to this strategy vaguely. One article noted (*Bid for a Brooklyn Sports Complex Faces Challenges From All Sides*, 1/23/04): *Mr. Ratner has also proposed taking about \$28 million a year in sales and income taxes generated at the arena to help pay the bonds for its construction.*

The *New York Press* delved deeper, pointing out that tax increment financing could be a bad deal for the public (*Nets of Plenty*; 2/10/04; www.nypress.com/print.cfm?content_id=9596): *According to Theresa Divine, a senior economist with New York's Independent Budget Office, "TIF is supposed to be for blighted areas," which doesn't exactly describe the area slated for the BAY. "But in New York, as in most states, that definition is pretty vague." ...*

Tax increment financing is ideal for big-ticket items like the BAY. Unlike general obligation bonds, which are interest-bearing loans that count against the city's limited budget, TIF bonds are basically off the books. Because TIF dollars aren't secured by the full faith and credit of either the city or the state of New York, Ratner can ask the



Top: view of Atlantic and Flatbush Avenues in 2003 FCR model.

Bottom: Recent traffic at that intersection

city for amounts that far exceed the city's constitutional debt limit.

...Since TIF is not formally backed by New York's good credit, the additional risk may lead Ratner's investors to demand a higher interest rate. This means the BAY creates even more debt, and if ample property tax revenue doesn't start rolling in by the time the debt service begins, more borrowing will be necessary. If the debt goes into default, the state and city could end up bailing him out with tax dollars just to keep the peace. That's a risk Ratner and his friends in office seem willing to take.

The *Times* has not used the terms TIF or PILOT regarding Atlantic Yards, though the newspaper has mentioned the terms in other articles. See *New Urbanism in Denver*, 6/1/05: *To pay for most of these improvements, the Denver Urban Renewal Authority is using an increasingly popular program known as tax-increment financing, or TIF, backed by bonds to be repaid through the additional property and sales taxes generated by the project.*

Also see *MetroStars and Codey Settle Plans to Finance New Stadium*, 8/5/05: *As for Harrison, [NJ], the town will borrow \$40 million to acquire the land for the stadium and conduct any environmental cleanup required. That borrowing would be repaid by lease payments and payments in lieu of taxes from the MetroStars.*

However, such financing can be highly risky, as testimony at the 5/4/04 City Council Economic Development Committee hearing indicated. (The *Times* hasn't reported on this testimony.) Paul Gessing, director of government affairs with the National Taxpayers Union, testified (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 257-258): *It is expected that much of that project, this project will be financed via tax increment financing, better known as TIF. Using TIF as an integral part of financing public projects is a political, rather than an economic decision that often results from strong voter opposition to higher taxes. Large amounts of money, in this case 2.5 billion dollars are nonetheless transferred from productive taxpayers to unproductive recipients of corporate welfare under TIF financing schemes.*

In theory, TIFs are supposed to work in the following manner: A geographical area or district is designated and a development plan is crafted.

Bonds are then issued and the proceeds are used to pay for planned improvements, in this case, a basketball arena and several apartment buildings.

The improvements are then supposed to encourage local, private development, thus raising property taxes above previous levels, and increasing revenues enough to service the debt.

The reality of TIF is a bit different than the theory. Actual revenues often fall short of projections for several reasons:

Property values may decline or rise too little to cover costs.

Grants and tax abatements for properties in the district may further reduce revenues.

And often the original revenue estimates are simply based on unrealistic or politically motivated factors.

Although it has had a TIF Law in place since 1984, New York State has never used this type of financing mechanism. They are rather common elsewhere, however. In a 1998 study by the Public Policy Institute of California, found that only 10 percent, four out of 38 of the TIF products in the State generated enough revenue to pay off their loans.

In addition, Bettina Damiani of Good Jobs New York warned about TIF in written testimony at the hearing (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 429-430): *While some costs such as the estimated \$150 million in infrastructure improvements are more recognizable, the possible diversion of taxes*

“Often the original revenue estimates are simply based on unrealistic or politically motivated factors”

–Paul Gessing, National Taxpayers Union

from the arena, also known as *Tax Increment Financing*, must be followed very closely.

For example, if tax revenues are diverted from the City to repay the loans for this development, who will pay for the public services needed at the Nets Arena? Will public resources be diverted from other areas of the City to ensure that the area, that will have several thousand new residents and workers, is safe, has clean streets, has well-maintained infrastructure and schools?

Don't be fooled that tax increment financing is not a massive subsidy for any development project. History proves otherwise. As our parent organization, *Good Jobs First* reported in January 2003, several states' education funding was decreased in order to repay private subsidies.

...It should be noted that *Good Jobs New York* is not against subsidies for development in Brooklyn.

The city comptroller found in August 2005 an apparent abuse of PILOTs, as the *Times* reported (*Audit Shows City Diverted Tax Payments*, 8/4/05): *The audit found that the administration had violated city law by transferring \$22 million in special payments over three years to a city agency that spent the funds on a variety of mayoral programs...*

Comptroller William C. Thompson Jr. said that the city should have put the money in the treasury within 30 days of getting it, which would have made it subject to the normal City Council budget process.

...The use of the tax payments was an issue earlier this year when Council leaders objected to Mayor Michael R. Bloomberg's plan to divert some of the money to finance a \$300 million city subsidy for the Jets stadium. The leaders said the mayor treated the money like a "slush fund."

The *Times* didn't make the connection, but *The Brooklyn Papers* reported on the relevance of PILOTs to FCR's plan (Tax plan is said to be used as mayor's own slush fund, 8/13/05; www.brooklynpapers.com/html/issues/_vol28/28_32/28_32nets7.html): *Two big Brooklyn developments—Atlantic Yards and Brooklyn Bridge Park—are each largely dependent on PILOTs like the one that [Comptroller William] Thompson's audit says are roiled with a lack of accountability.*

The *Times* has not connected the potential funding for Atlantic Yards to the controversy over funding proposed for the West Side Stadium, though Neil deMause did so in *The Village Voice* (*The Man Who Would Be Kings*, 11/5–03; www.villagevoice.com/news/0345,demaude,48403,3.html): *Ratner and Deputy Mayor Dan Doctoroff have each publicly suggested using "incremental tax revenues," a kissing cousin to the tax-increment financing (TIF) that has generated so much criticism for Doctoroff's proposed Olympic Stadium in Manhattan. For a Nets arena, instead of property taxes, Doctoroff would simply take sales taxes on tickets and income taxes on Nets employees and turn them back over to Ratner so he could pay off his construction debt.*

The idea is that since the city can tax tickets only if the team moves here, these are "extra taxes that would not have existed otherwise," as Doctoroff has explained. It's an argument that doesn't hold much water with sports economists. "It may be a zero-sum game, where money spent at the ballpark is not spent somewhere else," says Joe Cortright, a former economist for the Oregon state legislature who scrutinized that state's plan to use incremental taxes for a big-league baseball stadium. "That has the effect of lowering tax revenues invisibly elsewhere."

Chapter 4

The Times Has Neglected to Analyze the Community Benefits Agreement

As at some large-scale urban developments in this country, the Atlantic Yards plan includes a Community Benefits Agreement (CBA), which FCR and representatives of eight community groups signed on 6/27/05. It was hailed in a mayoral press release as the first ever in New York City to accompany a major development project. (Mayor Michael R. Bloomberg, Forest City Ratner CEO and President Bruce Ratner and Civic Leaders Sign Community Benefits Agreement, 6/27/05; <http://tinyurl.com/97zg8>).

Actually, Mayor Bloomberg was merely a witness, not a signatory.

Experts from Good Jobs New York and PICCED consider the Atlantic Yards CBA to be of questionable legitimacy compared to CBAs elsewhere, a matter that the *Times* has not reported. Nor has it reported that an FCR ally, politician Roger Green, helped found BUILD, a group that sprang up expressly to negotiate the CBA. The *Times* has not done any analysis of BUILD. Nor has the paper analyzed the manipulation of racial politics in the Atlantic Yards development debate.

Also, the *Times* has not analyzed the misleading mayoral press release (<http://tinyurl.com/97zg8>), which suggests that permanent new jobs would be steered toward minorities and the poor. According to Mayor Bloomberg, “*The \$3.5 billion project will create 8,500 permanent new jobs...*”

The press release continues: *Public housing residents and low and moderate-income individuals in surrounding neighborhoods will get priority in available jobs. Also, a minimum of 35% of the jobs will be for minority workers and another 10% for women workers, with 35% of each category for journey level workers. FCRC will use existing CLE programs to require contractors to hire part of the workforce from low and moderate-income areas.*

FCRC will also develop a pre-apprentice training program to help new workers develop the kinds of skills that they can use beyond this project. Atlantic Yards will use union labor.

The key phrase is “available jobs.” The press release does not indicate that the only jobs Forest City Ratner controls are the construction jobs—1,500 a year (see item 2.7) and a smaller number of jobs at the arena and perhaps the retail development. As noted in item 2.3, the developer has no control over the office jobs, the lion’s share of the alleged “8,500 permanent new jobs” cited by Bloomberg.

4.1 The *Times* Ignores Criticism of the CBA

The watchdog group Good Jobs New York, whose parent organization serves as a clearinghouse for CBA information, provides a definition (www.goodjobsny.org/cba.htm): *A Community Benefit[s] Agreement (CBA) is a legally binding contract negotiated between a developer and a coalition representing a broad spectrum of community members impacted by the development. In exchange for community members' support for the project, the developer agrees to provide certain benefits. Existing CBAs include provisions such as funds for affordable housing and open space, card check neutrality for workers who choose to organize unions, and living wage goals for workers employed at the development.*

*In order to be meaningful, a CBA must incorporate concerns from a wide variety of stakeholders that come together as one coalition, and must lead to contributions from the developer and support for the project from coalition **members that would not have emerged in the absence of CBA negotiations.** [emphasis in the original]*

FCR and its supporters tout a CBA that purports to provide guarantees for “affordable housing,” “jobs development,” recreational access, and access to the arena. (See www.buildbrooklyn.org/pr/cba.pdf.) The *Times*'s vague mention did not even include the term “Community Benefits Agreement,” only that there are (Unlike Stadium on West Side, an Arena in Brooklyn Is Still a Go, 6/9/05) *promises of community involvement in the planning.* However, the *Times* has ignored authoritative testimony criticizing this CBA.

The *Times* has never analyzed the CBA, nor quoted any of its critics, such as Bettina Damiani of Good Jobs New York, who testified before the City Council Economic Development Committee on 5/26/05 that this agreement was atypical (goodjobsny.org/testimony_bay_5_05.htm): *“The BAY [Brooklyn Atlantic Yards] project is the first project we know of in New York City in which the developer has advertised that he seeks to participate in a Community Benefits Agreement (CBA). As a sponsored project of Good Jobs First, which provided support for the CBAs negotiated in California and continues to act as a clearinghouse for information on CBAs, we feel it is important to draw the Council's attention to several major differences between CBAs as they have been used in other parts of the country and the series of negotiations that FCRC is calling a CBA. Perhaps the most striking is that elsewhere CBAs are negotiated by one broad coalition of groups that would otherwise oppose a project.... In the BAY case, several groups, all of which have publicly supported the project already, have each engaged in what seem to be separate negotiations on particular issues.”*

Similarly, Mafruz Khan of PICCED criticized the CBA in 5/26/05 testimony before the City Council (www.picced.org/test-bay-update.php): *“A Community Benefits Agreement can only be successful if it truly represents a broad coalition of diverse interests that is representative of the larger community and that is legally enforceable. So far, neither is true for the proposed project.”*

Well before the City Council testimony, there were reports about the unusual nature of this CBA. *The Brooklyn Papers* noted that the two most prominent groups negotiating with FCR had a financial incentive to support the development project (POWER BROKERS: Community groups seek inside track to Ratner bucks; 12/25/04; www.brooklynpapers.com/html/issues/_vol27/27_50/27_50nets1.html): *Members of both BUILD (Brooklyn United for Innovative Local Development) and the New York chapter of ACORN (Alliance of Community Organizations for Reform Now)—which both support the Forest City Ratner plan—say they are already providing to the*

“Elsewhere CBAs are negotiated by one broad coalition of groups that would otherwise oppose a project”

—Bettina Damiani, Good Jobs New York

developer services for which they could later be hired, acting as community gateways to jobs and housing.

The Brooklyn Rail contrasted the CBA in Brooklyn with the one negotiated regarding the Staples Center in Los Angeles. The Rail article noted that, unlike the situation in Los Angeles, FCR wouldn't negotiate with opponents (One-Sided Debate Over the Stadium... Continues, 1/05; www.thebrooklynrail.org/local/jan05/stadium.html): *The Staples CBA, as it is commonly known, ultimately represents the 28 neighborhood and community organizations that joined together as the Figueroa Corridor Coalition for Economic Justice... The Atlantic Yards agreement, by contrast, is presently being cobbled together by the developer, subcommittees of Community Boards 2, 6, and 8, and a select few pro-arena groups. Opponents of the proposal were not invited to take part in the negotiations. According to Jim Stuckey, the rationale for this is that Forest City is "trying to work with groups that have a history of creating jobs," like ACORN. This has not precluded Ratner from including BUILD, despite the fact that the organization only came into existence following the announcement of the proposal last January—with the seemingly solitary purpose of speaking on its behalf.*

“Opponents of the proposal were not invited to take part in the negotiations”

—The Brooklyn Rail

A sign of qualms about the CBA in Brooklyn is that a group planning to negotiate a CBA for a project in Manhattan wants to avoid what they call the “Brooklyn model,” reported *The New York Observer's* blog *The Real Estate*. The report also found flaws in the statements made by those touting Ratner's CBA (Ratner-Style Deal with Columbia University? 8/15/05; www.observer.com/therealestate/2005/08/ratner-style-deal-with-columbia.html): *Forest City Ratner Cos. made a deal with a coalition of local groups (including a local chapter of the national group, ACORN) to include affordable housing and job benefits for the neighborhood in their plan. But, said Jordi Reyes-Montblanc, the chairman of Community Board 9, only eight organizations were a part of it.*

“We are avoiding the Brooklyn model,” he said. “...We are wanting to develop a wide coalition of organizations and people that will be properly represented...”

By the way, the coalition that signed the Brooklyn agreement sent out a press release Aug. 4...and at the time the coalition claimed that “more than 200 organizations have affirmed” the agreement since its signing in June—meaning they supported the idea even if they were not involved in negotiating the agreement or will be a part of enforcing it. The Real Estate asked for the list and counted fewer than 175; and that's only if “organizations” include elected officials, restaurants and real-estate agencies, as well as block associations and the like. But we were nonetheless surprised it had traveled so far, so fast. Why, there are groups from as far away as Queens and Manhattan on this list! (Are they part of the “community” in downtown Brooklyn?)

4.2 No Analysis of the Politics Behind the CBA

No *Times* news story has connected the CBA to veteran Assemblyman Roger Green, who has both a questionable ethical record and a long history with FCR. Also, the *Times* hasn't mentioned that a longtime aide to Green, Randall Touré, now works for FCR and that Green helped form BUILD, a “grassroots” group that joined the negotiations for a CBA (see item 4.3).

In a 6/27/05 mayoral press release, Green claimed credit for the CBA (tinyurl.com/97zg8): *“When I proposed a legally binding community benefits agreement, it was not because I doubted Forest City Ratner,” said Assembly Member Roger Green. “Rather, it was because I wanted this community benefits agreement to*

be part of a process that included community needs at the start of the project.”

Green already had a good relationship with Forest City Ratner. In the early 1990s, he helped create a high-tech small business incubator, the Latimer-Woods Economic Development Association, which had offices at MetroTech, a Forest City Ratner development. According to *New York Newsday* (Minority businesses get hand at Metrotech; 3/26/93), FCR provided office space at below-market value, as well as technical and marketing support. Green discussed it during the 2002 campaign season, according to the *Gotham Gazette* web site (www.gothamgazette.com/eyeonalbany/assembly/district57transcript.shtml, p.5): *I created an organization called Latimer-Woods Economic Development Association, which is in the heart of the Metrotech complex... That came about as we dealt with negotiations that my office entered in with Bruce Ratner, who is the developer of the Metrotech Center.*

Green has another connection to Ratner, one that raises further questions about this CBA. Randall Touré, who, for years served as Green’s community affairs director (Throop’s Scoop, 6/17/02; www.politicsny.com/archives/archives/scoop/6-17-02-scoop.shtml), was hired by FCR to work in community affairs (www.bball.net/). It seems reasonable to ask whether FCR hired Touré, in part, to work with Green to help organize the CBA.

As for Green, he resigned June 1, 2004, from the State Assembly—though only for the brief remainder of his term—after pleading guilty to billing the state for false travel expenses and, as the *Times* reported (Assemblyman’s Resignation Puzzles Many in Brooklyn, 6/4/04), *after the Assembly’s ethics committee issued a secret report recommending sanctions against him and after the Assembly speaker, Sheldon Silver, asked him to step down.* *Gotham Gazette’s* 7/20/04 Eye on Albany noted (www.gothamgazette.com/article/eyeonalbany/20040720/204/1044) that Green said he resigned to prevent (or at least forestall) *the release of the Assembly Ethics Committee’s report on his misconduct.*

Green, who remains on probation until 2007, subsequently ran unopposed for reelection in the Democratic primary, a move *Times* editorialists condemned (Casting a Meaningful Vote, 9/12/04). *Times* editorialists, however, have been silent on his role in the Atlantic Yards plan.

4.3 Does BUILD Represent the Community?

A major participant in the Community Benefits Agreement (CBA) is BUILD (Brooklyn United for Innovative Local Development), which regularly supplies van loads of supporters to public hearings to testify and hold pro-Ratner signs (see item 7.7). The *Times* has barely mentioned the group, much less investigated it—though Roger Green helped form it and it differs greatly from longstanding labor and community groups in other cities that have negotiated CBAs.

Green announced at a press conference on 1/23/04 that he had helped form BUILD (www.buildbrooklyn.org/index.php?sect_id=ay&page_id=post#012304): *This organization will serve as a voice for all of those concerned neighbors who seek to unite our communities towards an enlightened development. B.U.I.L.D. will work within the process that is being set-up by Brooklyn Borough President Marty Markowitz to ensure community input into this historic development.”*

Less than a week later, on 1/29/04, BUILD convened its first community meeting, according to BUILD’s timeline (www.buildbrooklyn.org/index.php?sect_id=ay&page_id=ays).

A week after that, on 2/5/04, BUILD met at FCR headquarters.

Four days later, on 2/9/04, BUILD announced its support for the project.

Green already had a good relationship with Forest City Ratner

Former BUILD offices on Vanderbilt Avenue



The Brooklyn Rail pointed to the contradictions in FCR's rationale for including BUILD in the CBA (see item 4.1). The *New York Press* made similar points (Same As the Old Boss; Why is Bruce Ratner Smiling? 8/4/05; www.nypress.com/18/31/news&columns/aaronnaparstek.cfm): *BUILD is what you call an "astro turf" organization. The group is designed to look, sound and feel grassroots, but it was conceived in the Forest City Ratner board room with the express purpose of providing the developer a "community organization" it could deal with. The mission of BUILD, ostensibly, is to create jobs for Brooklyn's unemployed. Yet, the organization has been in business for about a year and a half and the only jobs it has created are the staff positions at BUILD.*

While no evidence was cited that FCR conceived the organization—BUILD denies it on its web site (www.buildbrooklyn.org/index.php?sect_id=fact)—the subject is worthy of investigation.

Indeed, Brooklyn's *Courier-Life* newspaper chain reported that BUILD had moved into a FCR-owned building. The article cited a clause in the CBA (Ratner Supporters Get Rent-Free HQ At Atlantic Yards, 8/29/05): *Developers shall assist BUILD in finding suitable space within the community to operate this [workforce development] program.*

In the *Times*, the only mention of BUILD came in a story (Unlike Stadium on West Side, an Arena in Brooklyn Is Still a Go, 6/9/05) that said FCR *"also courted groups like Brooklyn United for Innovative Local Development, an employment advocacy group formed by James E. Caldwell, the president of the 77th Precinct Community Council, with promises of community involvement in the planning and a sizable share of the jobs."*

The *Times* did not explain that courtship: that BUILD was formed only after FCR announced the Atlantic Yards plan, and that BUILD was organized expressly to negotiate a Community Benefits Agreement (CBA), as BUILD's own web site acknowledges (www.buildbrooklyn.org/index.php?sect_id=fact). The *Brooklyn Daily Eagle* reported (Local Group Rolls Out Red Carpet For Ratner's Arena and Housing Plan, 2/13/04; www.brooklyneagle.com/categories/category.php?category_id=27&id=697) that organizers formed BUILD *in the hopes of earning a piece of the proposed economic and housing pie... The group is funded on private donations and has no connection to developer Ratner, organizers said.*

Is there a connection between BUILD and FCR? Given Green's past connections with FCR, the *Times* should have followed up on Green's connection to BUILD and, subsequently, any ties between BUILD and FCR.

The *Times* has mentioned Green only once in connection with FCR, shortly after the developer announced the project (Ratner Signs Contract To Complete Nets Sale, 1/24/04): *Assemblyman Roger Green, who represents the neighborhood, spoke about the relationship between Branch Rickey, the onetime executive of the Dodgers, and Jackie Robinson. Green said he hoped that Ratner would show the same racial sensitivity and sense of social responsibility in his construction plans.*

The *Times* made no attempt to tease out the absurdities of that analogy—how could one player be a proxy for today's diverse Brooklyn community? Although Green announced the formation of BUILD at that press conference (see above), the *Times* did not report that information.

Also, the *Times* has not raised questions about BUILD's chummy relationship with FCR, in which the organization supplies project boosters at rallies (see item 7.7). Good Jobs New York notes (see item 4.1) that organizations in CBAs have a more adversarial history: *Perhaps the most striking is that elsewhere CBAs are negotiated by one broad coalition of groups that would otherwise oppose a project.*

James Caldwell has a lively political history. For instance, *Courier-Life Newspapers* columnist Erik Engquist (Brooklyn Politics, 1/3/05; mysite.verizon.net/vze4mzty/id6.html) described him as *the mercurial James Caldwell, who in 2003 supported James Davis, then Geoffrey Davis, and finally Tish James, only to split with James after the election because she opposed Ratner. Caldwell seems to have a constituency he could rally for an opponent of James. Or perhaps Caldwell will run himself.*

Caldwell clearly serves as a cheerleader for FCR. In the *Brooklyn Daily Eagle* (Ratner Reveals Community Benefit Agreement with Wide Array of Programs, 6/30/05; www.brooklyn-eagle.com/categories/category.php?category_id=27&id=4391), he declared that *“Mr. Ratner is truly an angel sent from God.”* In another *Brooklyn Daily Eagle* article (We Control More Than Half of Atlantic Yards Site, Says Ratner, 5/30/05; www.brooklyn-eagle.com/categories/category.php?category_id=27&id=4238), Caldwell said, *“I would be for this project if it only provided 10 jobs.”*

In an article in Brooklyn’s *Courier-Life* newspaper chain about homeless people living at the Atlantic Yards site, Caldwell observed that Develop Don’t Destroy Brooklyn’s spokesman Daniel Goldstein lives across the street from the homeless enclave, then oddly criticized the activist and his group for not addressing the homeless problem (Homeless Encampment in Atlantic Yards, 8/29/05): *“How can you live right across the street from that and don’t try to address it with all the meetings the [DDDB] have had,”* said Caldwell.

Early in the CBA negotiation process, a former BUILD leader offered a reason for press and public skepticism about BUILD’s commitment to community betterment. *The Brooklyn Papers* (BUILD Der steps down, 3/20/04; brooklynpapers.com/html/issues/_vol27/27_11/27_11nets3.html) reported, *The president of the group Brooklyn United for Innovative [Local] Development, or BUILD, has stepped down, claiming the group he helped found has veered from its initial goal of securing jobs for the community from developer Bruce Ratner’s proposed Atlantic Yards development. In his resignation, Darnell Canada accused fellow BUILD leaders of seeking “financial self gain” out of the proposal to build a professional basketball arena and housing and office towers in Prospect Heights.*

Canada’s comments have not been reported in the *Times*.

More recently, the Downtown Brooklyn Leadership Coalition (DBLC) criticized the CBA and BUILD. DBLC Chair the Rev. Dennis Dillon said, as noted by Brooklyn’s *Courier-Life* newspaper chain (Ratner Supporters Get Rent-Free HQ At Atlantic Yards, 8/29/05): *“You’re talking about an organization with zero experience, and to me this [letting them oversee workforce development] is patronage in finding someone in the community and passing them off as representative of the community.”*

4.4 Overlooking the Politics of Race

The *Times* has not analyzed the way in which racial politics has entered the debate. By choosing a select number of minority-dominated community groups to sign a Community Benefits Agreement, FCR has allied itself with a selection of leaders and politicians who claim that the project will help poor and minority residents of Brooklyn. For example, a 7/21/05 press release from Borough President Marty Markowitz about the CBA, awkwardly headlined “Atlantic Yards Community Attracts Widespread Support,” included photos of the white borough president surrounded by a nearly all-black group. See www.brooklyn-usa.org/Press/2005/jul21.htm.

Most recently, the *Times* reported the Rev. Al Sharpton’s endorsement of the plan (Sharpton Backs Developer’s Plan for Brooklyn Arena and Towers, 7/19/05): *Mr.*

“Mr. Ratner is truly an angel sent from God”

–James Caldwell, BUILD

Former BUILD president Darnell Canada accused fellow BUILD leaders of seeking “financial self gain”

Sharpton, much as he did when he announced his support for the proposed Jets stadium on the West Side of Manhattan, argued that the building plan, designed by Frank Gehry, would provide needed jobs and lower-cost housing for largely poor and minority areas nearby.

The *Times* did not quote anyone who was critical of Sharpton or the Ratner plan, though the community's City Council representative, Letitia James, vocally opposes the plan, as do other African-American elected officials and many African-American clergy, including members of the Downtown Brooklyn Leadership Coalition (see item 4.3 and Atlantic Yards News, www.dddb.net/AYards_News.pdf, p. 8).

The *Daily News* (Sharpton Jumps on Nets Arena Bandwagon, 7/19/05) filled out the picture with a dissenting voice: *Members of the Brooklyn God Squad - a team of clergy who oppose the Ratner project - said they were irked by Sharpton's surprise backing of the 19,000-seat arena. "He should have called some of the preachers who were involved for the last two years," said the Rev. Clinton Miller of Brown Memorial Baptist Church. "It's misguided, and it makes it seem that African-Americans should be behind this project."*

This issue deserves discussion, because some FCR supporters play the race card, a tactic the *Times* has not reported. For example, *The New York Sun* (Ratner-Extell Fight Turns Ugly, 7/26/05) quoted BUILD president James Caldwell: *"If this thing doesn't come out in favor of Ratner, it would be a conspiracy against blacks," Mr. Caldwell said.*

Roger Green, a supporter of the FCR plan, criticized a competing bid for the railyard from Extell Development Company, noting the developer's association with the Carlyle Group. *The New York Sun* reported (Supporters of Project Vow To Fight If MTA Decides To Reject Ratner Bid, 7/25/05): *A state assemblyman whose district includes the rail yard, Roger Green, alleged Extell would set up a "corporate colonial factory" on the Vanderbilt Yards site. The Reverend Alford Sharpton joined Messrs. [the Rev. Herbert] Daughtry and Green yesterday in blasting Extell for its ties to the Carlyle Group, a private equity firm with ties to President George H.W. Bush. Last month, Carlyle and Extell joined to purchase a tract of land on the Upper West Side... A spokesman for Carlyle, Chris Ullman, told New York Newsday last week that his firm is not involved in the Brooklyn bid.*

Green, however, has not attacked the Carlyle Group's existing project in his district, the Atlantic Telecom Center (www.470vanderbilt.com/about.html), which is located adjacent to the railyard.

State Senator Velmanette Montgomery, a veteran black politician who has been quoted only once in the *Times* regarding Atlantic Yards (see item 5.3), has put into perspective what the *Times* has missed, as the *Brooklyn Downtown Star* reported (Big Man, Small Bid: MTA Gives Ratner 45 More Days, 8/4/05; www.brooklyndowntownstar.com/StoryDisplay.asp?PID=4&NewsStoryID=1750): *"This has been one of the most divisive struggles that we've had in this community. We've never been divided by race, by class, or by income before," said State Senator Velmanette Montgomery (D-18). "I'm ashamed of what has happened in my neighborhood and my district. I'm very sad about it."*

City Council member Charles Barron has also commented on this issue; see item 6.2.

Community newspapers have reported ugly exchanges at public meetings, in which the mostly minority-group members of ACORN have behaved scornfully toward those who oppose FCR's plan. As *The Brooklyn Rail* reported regarding a public meeting (One-Sided Debate Over the Stadium... Continues, 1/05; www.thebrooklynrail.org/local/jan05/stadium.html): *Members of ACORN were particularly vocal, chanting*



Brooklyn Borough President's 7/21/05 Community Benefits Agreement press release. Photograph by Lillian Ho

Some FCR supporters play the race card

and cheering when [FCR's] Stuckey punctuated his pro-stadium points and hissing down those who questioned their validity. A particularly telling moment came when the cheering squad responded to a question regarding the luxury condominiums on Pacific Street that would be demolished for the basketball arena with shrieks of "tear them down!"

City Council Member Letitia James, in the *Brooklyn Downtown Star*, analyzed the racial angle (Black & White Issue, Or Many Shades of Gray?, 3/17/05; www.brooklyndowntownstar.com/StoryDisplay.asp?PID=4&NewsStoryID=836): *City Councilwoman Letitia James was there, and she is both African-American and a staunch opponent of the Ratner plan. She acknowledged an 'unfortunate racial tension,' at the meeting, but insisted there was actually no racial divide. "What we see is the same small, small, small group of people, all of whom have signed onto the CBA." She also points out that just because they "all happen to be black," it doesn't mean such voices speak for the entire African-American community. James also called a construct with pro-job and pro-development African-Americans on one side and white NIMBY-ites on the other "a false dichotomy." As to why predominantly African-American groups like BUILD react so strongly to the arena opposition, James said, "perhaps it is because the community has been deprived for so long, so when you come up with a mega-project like this, they think it is a panacea for all the social problems that beset them."*

One recent article in the *Times* outlined FCR's political strategy to win approval for the plan, but the paper did not report on all the tactics involved (such as the mailer that used the *Times* logo and The Brooklyn Standard; items 7.1 and 7.2), nor did it analyze the racial issues involved (Unlike Stadium on West Side, an Arena in Brooklyn Is Still a Go, 6/9/05): *Using jealousy as a wedge, the developers enlisted the Association of Community Organizations for Reform Now, a group that has fought for low-cost housing.*

The *Times* has not reported that ACORN has signed an agreement that requires it to publicly support the FCR plan (see item 7.4). The *Times* should disclose this condition whenever it reports on ACORN's role in the plan.

In addition, the *Times* quoted a seeming authority—connected to ACORN—to analyze the reasons for the plan's support: *"It's when Ratner agreed to the housing that opportunity turned to support in low-income and working-class parts of the area," said Dan Cantor, executive director of the Working Families Party, which derives its support largely from housing and labor groups and has its headquarters in Brooklyn.*

The *Times* left out some important information about conflicts of interest: The Working Families Party (WFP) coalition, for which Cantor serves as director, includes ACORN as a member (www.workingfamiliesparty.org/history.html).

Also, ACORN's Bertha Lewis, who has conspicuously praised Bruce Ratner, co-chairs the WFP, and the two organizations share the same Brooklyn address (www.workingfamiliesparty.org/contact.html; acorn.org/contactus/state.php?st=NY).

The *Times* should run a correction that points out Cantor's connection to ACORN.

4.5 The *Times* Gives Ratner a Pass on Race

The *Times* didn't challenge Bruce Ratner in an article that touched on racial issues. An article about the developer's much-derided Atlantic Center mall (Rethinking Atlantic Center With the Customer in Mind; 5/26/04) quoted only Bruce Ratner himself to explain away the mall's design: *Although critics have long called the mall an eyesore and complained about its seemingly incoherent design, there are reasons for*



"Tear them down!" FCR supporters shouted about this 1926 building (renovated 2003) and others in the project footprint

The Times left out some important information about conflicts of interest

its structure and layout, reasons embedded in both the perception and the reality of race, class, economics and crime in late 20th-century Brooklyn.

Planned and built in the early 1990's, when the area there -- at the crossroads of Fort Greene, Prospect Heights and Downtown Brooklyn -- was just beginning to emerge from a cocoon of high crime and bleak prospects, the center was intended not as an oasis but as the target of a kind of consumer dive-bombing: customers would dart into one place, grab what they needed and quickly leave.

The isolation of stores and lack of gathering locations inside the building was intentional, said its developer, Bruce Ratner of Forest City Ratner, driven by the needs of skittish national retailers and the notion that urban malls had failed because they became magnets for loitering teenagers who frightened the shoppers away.

"It's a problem of malls in dense urban areas that kids hang out there, and it's not too positive for shopping," Mr. Ratner said. "Look, here you're in an urban area, you're next to projects, you've got tough kids."

Adding that it was not an issue of class or ethnicity, he said: "You know it's kids that cut school. In the burbs, a 15-year-old can't get to the mall without his parents. Here, it's a little different."

The *Times* did not quote any critic who might have argued, contradicting Ratner, that the mall's design did in fact involve issues of class and ethnicity.

4.6 Covering Race Better

The New York Observer recently published a more thoughtful analysis of the racial angle to the Atlantic Yards project (Ratner Is Gaining As the Nets Owner Nuzzles Advocates, 7/25/05): *[ACORN's] Ms. [Bertha] Lewis likes to characterize these opponents, as she did last month on WNYC radio's Brian Lehrer Show, as 'brownstone folk,' as opposed to the "black and brown people" in the public-housing developments about half a mile away whose cause she champions. She dismisses the black ministers who are opposing the project, or reserving judgment on it, as a mere handful of individuals out to get a piece of the action. (She also neglects to mention the congregations they represent.) The Brooklyn Eagle quoted her as saying: "Whenever you have a small group of white liberals running and screaming about something, people think it's important." When asked whether it's a conflict of interest if her organization gets paid to market the units, Ms. Lewis told The Observer, "Then again, I guess you could ask the same thing of the folks who oppose it. Isn't it a conflict of interest for people who have been part of the wave of gentrification to oppose something, wanting to protect that asset?"*

The *Times*'s failure to address the racial issues in Atlantic Yards contrasts notably with the newspaper's diligence pursuing other stories about race.

In the span of less than a week, the *Times* published several articles and columns in response to racially-based violence in Howard Beach, including: Restraint as Sharpton Visits Howard Beach Attack Site, 7/5/05; A Different New York (column), 7/4/05; Some Blacks in Howard Beach See Acceptance, With Limits, 7/3/05; The Pot And Kettle, Both Black (column), 7/2/05, Like Sharpton Himself, City and Its Fears Have Calmed Since '86, 7/2/05; 2 Men With Differences, And Many Similarities, 7/1/05; Bloomberg Vows Strong Response In Bias Attack; 2nd Man Charged, 7/1/05; It's Not '86, Residents Say, Seeing a River of Blame That Flows Two Ways, 7/1/05; and 3 Black Men Attacked in Howard Beach Hate Crime, the Police Say, 6/30/05.

Given that numerous people have already commented publicly on the racial issues at Atlantic Yards, how difficult would it be for the *Times* to address this topic?

Chapter 5

The *Times* Has Mischaracterized and Minimized Opposition to the Project

By failing to report results from two polls (one of them conducted by the *Times* itself), ignoring local neighborhood and political opposition, assuming Brooklynites are nostalgic for the Dodgers, and failing to file an article on a 500-person opposition march to a City Hall rally, the *Times* has presented the project in a falsely flattering light.

5.1 The *Times* Ignores a Poll

On April 1, 2004, a Quinnipiac University (Hamden, CT) poll of 1,159 registered voters in New York City asked, among other things, their attitudes toward a new arena for the Nets in Brooklyn. The results indicated that most people supported the arena, but only if it did not rely on public funding (www.quinnipiac.edu/x11370.xml?ReleaseID=282): *In Brooklyn, New Yorkers oppose 59–35 percent using tax dollars to build an arena for the Nets basketball team. But by a huge 75–19 percent margin, voters support the Nets arena if it is built without tax dollars.*

Those results were reported by the *New York Post* (Nets Arena Poll, 4/2/04), *The New York Sun* (Stadium for Jets is Not Popular, a Poll Discloses, 4/2/04), the *New York Daily News* (NO Standing O for Tax-Financed Sports Arenas, 4/2/04), and even *The Albany Times Union*, which ran an Associated Press story (Sports Arenas Big Losers Among City's Taxpayers, 4/2/04). At a later date, *Westchester's Journal News* also reported the results (Battle for Brooklyn, 6/18/04).

The New York Times did not report the poll results regarding the Nets arena. The *Times* did know of the poll; it reported on one aspect of it: voters' attitudes toward a new Jets stadium (Just Past the End Zone, a Site for Art Is Seen, 4/9/04): *Last week, a Quinnipiac University poll showed that 60 percent of New York City residents opposed using public money to build the Jets stadium on the West Side, while only 33 percent favored it.*

Clearly, the *Times* considers Quinnipiac polls valid.

5.2 The *Times* Ignores its own Poll

In reporting on a citywide poll the *Times* itself conducted with CBS News in June 2005, the *Times* article included two paragraphs about public attitudes toward sports

Poll results: 59–35 percent opposed to a taxpayer-funded arena

stadiums but did not discuss any poll questions about the Nets arena plans (Big Issues Lift Mayor’s Rating to a New High, 6/29/05; www.nytimes.com/2005/06/29/nyregion/metrocampaigns/29mayor.html): *Likewise, the mayor lost some support over an issue with which he became heavily identified, the proposed West Side stadium. Three-quarters of voters said he spent too much time and effort on the project, and a third of voters said his support for the proposal made them less likely to support him for re-election.*

Mr. Bloomberg’s drive for new sports stadiums was singled out the most by voters when they were asked about the worst feature of his administration. Nearly half of those surveyed approved of plans to build a new stadium for the Mets and the Olympic Games in Queens, but that support dropped to about a quarter when they were told the stadium could cost as much as \$180 million in public money.

(Note: The poll was taken before the *Times* reported in July 2005 that FCR’s plan would have taller towers and cost \$3.5 million, though FCR had already announced the updated figures at the 5/26/05 City Council hearing. See item 6.1.)

Because the *Times* article lacked any reference to the proposed Nets arena, only readers who viewed the article online AND chose to click on a link to full poll results (AND scrolled to the 15th page, of 18) would be able to learn the reaction to the arena plan:

73. *Do you favor or oppose building a new arena in Brooklyn for the Nets?*

	<i>Favor</i>	<i>Oppose</i>	<i>DK/NA</i>
<i>April 16–21, 2004</i>	45	42	14
<i>June 21–26, 2005</i>	37	45	17

74. *IF FAVOR, ASK: What if a new arena in Brooklyn cost \$200 million in public funds? Then do you think the city should or should not build a new arena in Brooklyn?* [note that the results are not percentages of the total sample; they are components, not percentages, of the 37% fraction]

	<i>Favor</i>	<i>Oppose</i>	<i>DK/NA</i>
<i>June 21–26, 2005</i>	18	16	3

As the poll shows, at least 45% of respondents oppose the arena outright. When the pollsters asked the supporters (37%) to factor in a projected \$200 million in direct public subsidies—the narrow estimate by FCR and its political supporters, but far less than the overall public costs—the opposition grows: Nearly half of the supporters oppose the plan. Overall, 61% (45+16) oppose the arena if it is built with public subsidies, 20% don’t know, and only 18% remain in favor. No story in the *Times* has stated the conclusion: At best, a small percentage of city residents favor building the Nets arena with public funding.

It’s likely that, had the poll asked what respondents thought about even higher public costs (see item 3.3), the support for an arena would be even lower. At the City Council committee hearing on 5/26/05, which was not reported by the *Times*, FCR’s Jim Stuckey described the company’s proposal for additional housing and acknowledged a public cost of \$1.1 billion (Transcript05, www.dddb.net/times/ED052605_transcript.pdf, p. 45-46): *when you take out the cost of this project, meaning whatever the public contribution is, the capital money that’s subject to... the Memorandum of Understanding, the additional funds that were referred to earlier*

At best, a small percentage of city residents favor building the Nets arena with public funding

in the discussion about education and all the other services that the City might have to provide, that's roughly \$1.1 billion. So, the net number to the City and to the state over 30 years is \$5 billion.

The *Times* is not obligated to report on responses to every item in its poll. However, it's notable that the *Times* considered attitudes toward the West Side Stadium and a new stadium in Queens newsworthy. Why should Brooklyn be excluded? Also, the failure to report poll results regarding the arena meant that *Times* reporters and the editors monitoring them did not accurately report public attitudes toward the project (see item 5.3, below).

Other local newspapers did not report on the Times/CBS News poll, either because they did not know about it or because they consider the poll to be proprietary—they don't want to rely on a rival news organization, rather than an independent entity like Quinipiac.

However, the *Times*'s omission did catch the attention of *The New York Observer's* blog The Real Estate, which observed (Fresh meat, 7/6/05, www.observer.com/therealestate/2005/07/fresh-meat.html): *A New York Times survey finds that just 37 percent of New Yorkers favor the plan. (Click on "Poll Watch: New York Times/CBS News Poll" for Javascript Pop-up; see questions 73 and 74.)*

And, once told the development will cost \$200 million in public funds, fewer than 50 percent of those yea-sayers like the idea.

The Times has yet to publish these results in its pages--61 percent against, 18 percent for, with a 3 percent margin of error--which were part of a June 21-26 poll on the mayoral race.

They didn't even make the cut in today's reaction story about how brownstoners would rather breast-feed in peace than face an influx of Frank Gehry titanium.

The public opposition suggests another reason for the press to explore independent evaluations of the projected costs and benefits of the project. A *Times* editorial once called for such an evaluation (see item 13.1). In fact, evaluations of FCR's first proposal have been done by independent researchers Jung Kim and Gustav Peebles, and by PICCED (see items 1.2, 3.2, and 3.5). It's likely those reports, which were skeptical of Z-1, would yield even higher costs than those Stuckey predicted based on Z-2.

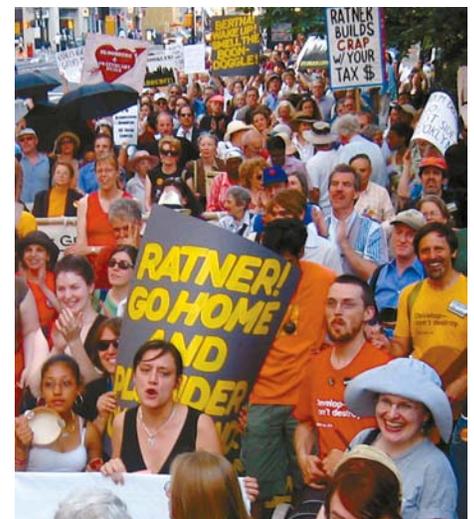
5.3 Is the Opposition only Local?

The most recent major *Times* article (Instant Skyline Added to Brooklyn Arena Plan, 7/5/05) minimized the scope of the opposition: *Most of the necessary city and state officials support it, and critics are largely centered in the immediate vicinity... Opposition is strong among some residents of the quiet surrounding neighborhoods.* It did not mention the local politicians opposing the FCR project, including City Council Member Letitia James, State Senator Velmanette Montgomery, and Rep. Major Owens (see www.nolandgrab.org/politicians.php), as well as other area politicians such as Council Member Charles Barron. Also, mayoral candidate Fernando Ferrer has criticized the process behind the plan.

The *Times* should correct these errors and omissions.

Furthermore, although other city newspapers noted Montgomery's opposition early in the process (*The New York Sun*: Nets Arena Proposal Getting Chilly Reception, 12/12/03; *New York Daily News*: NETS' FOES TO PROTEST ARENA, 3/28/04), the *Times* failed to tell its readers until the middle of 2005—when the State Senator testified publicly before the MTA (M.T.A. to Deal Only With Ratner on Brooklyn Bid, 7/28/05): *But State Senator Velmanette Montgomery, a Brooklyn Democrat, said the*

The 6/7/05 rally at City Hall, after march over the Brooklyn Bridge. Photo by Tom Callan as published in *The Brooklyn Papers*



project “seeks to overbuild and destroy the communities around it.” The article did not add that Montgomery has represented the area (www.nyssenate18.com/district_map.asp) in question since 1984 (www.nyssenate18.com/biography.asp). The *Times* should issue a clarification and correction.

Similarly, while other daily newspapers reported on Owens’s opposition to the Atlantic Yards plan (*Newsday*: Homefield Disadvantage in Nets’ Plan?, 12/22/03; *The New York Sun*: Nets Arena Proposal Getting Chilly Reception, 12/12/03; *New York Daily News*: B’klyn Nets’ Foes Sing Out, 3/8/04), the *Times* hasn’t mentioned that this Representative, in office since 1982, opposes the arena complex.

Similarly, while Ferrer’s criticism of the process behind the arena plan has been noted in the *Daily News* (BOROUGH POLS BOOST FERRER; MAYOR HOPEFUL QUERIES NETS ARENA PLAN, 5/6/05) and *The Brooklyn Papers* (Freddy: Bloomy a Brooklyn nightmare; 5/14/2005; www.brooklynpapers.com/html/issues/_vol28/28_20/28_20nets4.html), the *Times* has not done so.

The *Daily News* reported: “*To call that process not transparent is probably the understatement of the year,*” said Ferrer, referring to the city’s plans to build a \$430 million, Frank Gehry-designed arena at Flatbush and Atlantic Aves.

The lack of recognition of such opposition shows up in *Times* reports. In a *Times* article published in May (Brooklyn Arena Plan Calls For Many Subsidized Units, 5/20/05), the writer concluded: *Trying to build political support for his proposed \$2.5 billion sports and housing complex at the Atlantic Yards in Brooklyn, Bruce C. Ratner, the developer, signed an agreement yesterday to reserve about half of the rental apartments for tenants who make less than \$100,000 a year.*

The agreement, signed with the Association of Community Organizations for Reform Now, or Acorn, publicly aligns Mr. Ratner with a group known for tenacious advocacy of the poor, and it publicly commits him to an unusually large allotment of subsidized housing for a private development project. It also serves to marginalize his remaining political opponents, residents of the area who say they will be displaced by his project.

How could the *Times* dismiss the project’s “remaining political opponents” without acknowledging the poll results and the local politicians opposed to the project? Further, the article neglected to point out that reserving apartments for people who earn more than six figures does not necessarily fit ACORN’s goals. Again, the *Times* should issue corrections.

Just weeks before the *Times*/CBS News poll was released, but more than a year after the Quinnipiac poll was available, *Times* reporters offered an unsupported generalization about Brooklynites’ support for development (Unlike Stadium on West Side, an Arena in Brooklyn Is Still a Go, 6/9/05): *Manhattan also has an especially practiced antidevelopment movement on its West Side and is already home to Madison Square Garden and countless world-renown [sic] cultural institutions. Brooklyn, still smarting from the loss of the Dodgers nearly 50 years ago, is generally more welcoming to projects that could help put it on the national map.*

While Brooklyn politicians like Borough President Marty Markowitz (see item 5.5) may be more welcoming to future development, there’s no proof that the general public shares those assumptions. The borough of Brooklyn consists mainly of people born after the Dodgers left in 1957; how can they be wounded by the team’s departure? Also, given nationally famous institutions, architecture, attractions, sights, and restaurants, Brooklyn has long been on the national map.

In fact, the results from the 2004 Quinnipiac poll directly contradict the assertion in the *Times*’s 6/9/05 article. While 59% of city residents opposed a taxpayer-funded arena, and 35% supported it, Brooklyn residents expressed similar sentiments, with

56% saying no and 38% saying yes to a taxpayer-funded arena (www.quinnipiac.edu/x11370.xml?ReleaseID=282).

Finally, the *Times*, unlike other publications, did not publish an article about a 6/7/05 500-person march across the Brooklyn Bridge to City Hall, where participants held a rally against the FCR plan; instead, the *Times*'s mention of the march appeared as a photo caption accompanying an article that contained unsupported generalizations about the progress of the plan (Unlike Stadium on West Side, an Arena in Brooklyn Is Still a Go, 6/9/05). In contrast, *Metro NY* (Stadium rejection revives protest against Nets arena, 6/8/05; www.nolandgrab.org/archives/2005/06/all_eyes_in_bro.html), the *Bergen Record* (Brooklyn arena foes hold protest, 6/9/05; <http://tinyurl.com/83hfp>) and the *Daily News* (Ratner sweetens the deal, 6/8/05; www.nydailynews.com/boroughs/story/316728p-270951c.html) deemed the protest worth coverage in itself.

The development in Atlantic Yards is an issue in the race for Public Advocate. Candidate Norman Siegel, a lawyer who represents Develop Don't Destroy Brooklyn, states on his web site (www.norman2005.com/development): *Norman has publicly spoken out against the proposed Nets Arena, a taxpayer-subsidized sweetheart deal that still includes the possibility of eminent domain. As Public Advocate, Norman will fight for the rights of Atlantic Yards Residents against governmental encroachment in the name of a private developer.*

Siegel challenged incumbent Betsy Gotbaum on the issue in the first two debates among candidates for the office, but the *Times* ignored those comments in its reports (Rivals for Public Advocate Go After Gotbaum in First Debate, and She Returns the Fire, 8/24/05, and Rival Challenges Gotbaum To Publicize Her Schedule, 8/27/05).

By contrast, the Power Plays blog of the *Village Voice* reported how Siegel challenged Gotbaum on her support for the Atlantic Yards project (Is Gotbaum Master of Her Domain? Public Advocate candidates dispute what's eminent and imminent in the Atlantic Yards deal, 8/25/05; www.villagevoice.com/blogs/powerplays/archives/001203.php):

In March, Gotbaum told the Brooklyn Rail newspaper that she "will not support any project that is dependent on the use of eminent domain for private use," but then in July called the Atlantic Yards project—and its community benefits agreement that includes jobs for locals and affordable housing—"a wonderful, wonderful example of what development should be all about." She went on to say: "To bring all these different groups together to get everybody on board, to have negotiated like that, Bruce Ratner, I think we can only praise you to the highest."

So, Siegel asked, what gives? According to an unofficial transcript of the NY1 debate, Gotbaum replied:

"Well, Mr. Siegel, let me point out to you that I am against the use of eminent domain and . . . it is not my understanding that the developer at the Atlantic Yards is going to use eminent domain. I have been told in fact that that is not the case, so if you know something different that is something I don't know, but I am against the use of eminent domain in the northern part of Manhattan and at the Atlantic Yards. I am concerned about the project at the Atlantic Yards. I am concerned about the size and I am concerned about the traffic and I am also concerned if there is to be a use of eminent domain but I have been told there is not."

Perhaps Gotbaum has new information, but eminent domain's been in the Atlantic Yards mix since the beginning, and it remains part of the equation... Gotbaum's salute to the Atlantic Yards community benefits deal can't have hurt the public advocate when she asked for ACORN's endorsement, which she received.

A spokesman for Gotbaum's campaign says simply, "If eminent domain is part of the project she's not supporting it."



"Marginalized" local residents

Gotbaum's statement during the debate represented enormous ignorance about the largest development ever proposed in Brooklyn. Her spokesman's clarification suggests a policy shift. Both deserve widespread discussion and reportage.

The *New York Post* editorial columnist Robert George commented scathingly about Gotbaum's position (*Eminently Odd*, 8/30/05): *But she seems lost on another "stadium" issue — unquestioningly taking the word of one private individual over many residents of the city's most populous borough.*

5.4 The *Times* Quotes a Man-on-the-Street Connected to FCR

In an article headlined *Yo, Dodgers? No Way! Brooklyn Is Betting on the Nets for Revival*, (1/16/04), the *Times* quoted five supporters of the projected Nets move to Brooklyn, and only one local opponent, and thus offered an unsupported conclusion: *For many residents, politicians and economists, a move by the Nets to Brooklyn would crystallize the rejuvenation of the borough and repudiate a 50-year cycle of decline that saw the departure of the Brooklyn Dodgers in 1957, the closing of the Navy Yard, the loss of thousands of manufacturing jobs and the riots during the blackout of 1977.*

The article continued: *But elsewhere the idea of a professional team moving into Brooklyn is dazzling. Max Stephenson, manager of the nearby Modells sports store at Flatbush and Atlantic, envisions the team in a great crosstown matchup against the Knicks. "It would be great rivalry," Mr. Stephenson said. "We could have a subway basketball series."*

The *Times* neglected to point out that Forest City Ratner owns the property that includes Modell's (www.forestcity.net/projects_detail_commercial.asp?id=333), which sits across from its two malls and adjacent to the proposed Atlantic Yards site. (Since then, FCR has added Site 5, which includes Modell's, to its Atlantic Yards plan.) It would be unlikely that a management employee of a tenant there would criticize an FCR plan. The *Times* should clarify the facts and issue a correction.

The 1/16/04 article also illustrated the shallowness of the *Times*'s Brooklyn reportage, as the article missed multiple factors behind Brooklyn's late-20th-century revival. The article states: *Brooklyn Heights and Park Slope were among the first neighborhoods to turn around, benefiting from the resurgence of Lower Manhattan in the 1980's as young people, artists and Wall Street executives renovated brownstones.*

That may be true, but the report failed to acknowledge the historic preservation movement that began in the mid-1960s. A *Times* Real Estate section article was more accurate (If You're Thinking of Living In/Brooklyn Heights; 4/12/98): *And when, in 1965, Brooklyn Heights won designation as the city's first historic district, protection was assured for brick and brownstone row houses on streets sometimes little altered since the Civil War.*

...Hotels and rooming houses began a transformation that was halted in the 50's and 60's, when young families moved in to restore architecturally diverse but fading brownstone and brick row houses. By the 80's, hotels and apartment buildings were swept by co-op conversions.

5.5 Does Marty Markowitz Speak for Brooklyn?

Although the elected Brooklyn Borough President might be seen as articulating the interests of the borough, the *Times* has done little to examine Borough President Marty Markowitz's boosterism for this project and his relationship with Bruce Ratner.

Less than a year before FCR announced the Atlantic Yards plan, Markowitz actually supported a basketball arena in Coney Island, as the *New York Daily News* reported (Marty's Minding Our Manners, 1/23/03): *The borough president also goes to sleep dreaming of bringing a National Basketball Association team to Coney Island.*

In his 2004 State of the Borough address on 2/8/04, Markowitz enthused about how the Ratner plan would help him (www.brooklyn-usa.org/stateoftheborough04.htm) realize his *lifelong dream of bringing a major league team back to Brooklyn.*

In his 2005 State of the Borough address on 1/27/05, Markowitz repeated Forest City Ratner boilerplate (www.brooklyn-usa.org/stateoftheborough.htm): *It is estimated that Atlantic Yards will create about 10,000 permanent new jobs. That is above and beyond the 15,000 construction-related jobs that it will create over the next decade. And we can all be proud that 100 percent of those workers will be union employees.*

Under a proposed groundbreaking Community Benefits Agreement, as many as possible of those new jobs will be filled by Brooklyn residents, and I promise you, those jobs will go to those who need them most — particularly low income residents living in public housing nearby.

Markowitz's 2005 speech misleadingly suggested that both the permanent jobs and construction-related jobs could be filled by Brooklyn residents. However, as FCR's Jim Stuckey acknowledged under questioning in May 2005 (see item 2.3), the company has no control over the companies that would fill the office jobs. Also, after Markowitz's speech, FCR decreased the number of projected office jobs, to a maximum of 6,000 (see item 2.4).

In fact, had Markowitz, before his 2005 speech, read the most recent edition of *The Brooklyn Papers*, which is delivered to Borough Hall, where he works, he would have gained a preview of the more-housing, less-office space plan under consideration (Ratner's new plan, 1/22/05; www.brooklynpapers.com/html/issues/_vol28/28_04/28_04nets1.html): *The affordable and market-rate housing component in plans for the Atlantic Yards arena complex will likely expand by 1,300 units, a Forest City Ratner executive told The Brooklyn Papers this week.*

...By turning three of the four skyscrapers that surround the arena—at the intersection of Atlantic and Flatbush avenues—from office buildings into apartment high-rises, the official said the company could realize its goal of increasing the housing stock in Brooklyn while providing residential buildings in the first phase of construction and therefore become an immediately visible presence in the community.

The New Yorker, not the *Times*, suggested Markowitz's apparent eagerness to accommodate developer Bruce Ratner (MR. BROOKLYN: Marty Markowitz—the man, the plan, the arena, 4/25/05): *In the car, Markowitz's cell phone rang, and the voice of a female assistant announced that "Bruce" was on the line.*

"Yes, sir, how are you doing, Bruce?" Markowitz said, picking up the handset and falling silent as he listened. Bruce Ratner, it appeared from Markowitz's responses, had some urgent questions about the way discussions concerning waterfront development in Williamsburg and Greenpoint might affect his own project. Markowitz, whenever he could get a word in, tried to be both conciliatory and upbeat. "I understand," he said; and then, "I wish I knew, but I don't know"; and "It's hard for me"; and "That's absolutely right." Finally, he told Ratner to call someone in his office—better yet, he would have that someone call Ratner.

Later, at a 5/19/05 press conference announcing the Forest City Ratner housing Memorandum of Understanding signed with ACORN, Markowitz lauded Bruce Ratner (www.brooklyn-usa.org/Press/2005/may19.htm): *There are many responsible business executives and builders in this country.*

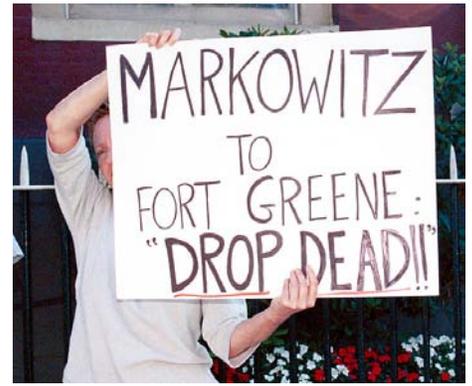


Marty Markowitz, former NBA player Sidney Green, and Bruce Ratner at 10/14/03 press conference. Photo by Tom Callan as published in *The Brooklyn Papers*

Markowitz actually supported a basketball arena in Coney Island

But through his unyielding devotion to working families—especially right here in Brooklyn—Bruce has proven that no developer in America has a greater social consciousness—and none has done more to ensure that everyone has access to the American dream.

The *Times* also has downplayed the impact of FCR's development—and other proposed developments—on the political scene. A 1320-word article about the mayoral race focused on the demographics of Brownstone Brooklyn with no mention of voter attitudes toward the controversial Atlantic Yards proposal. In fact, the article hardly mentioned issues at all (Mayoral Rivals Fight for Turf in Brownstone Brooklyn, 8/20/05): Bloomberg campaign officials say they are concentrating on this area because residents are likely to be receptive to the mayor's initiatives on education, crime and jobs.



Residents protest potential Nets arena and associated development, 9/14/03. Photo by Tom Callan as published in *The Brooklyn Papers*

“No developer in America has a greater social consciousness”

—Marty Markowitz on Bruce Ratner

Chapter 6

The Project Has Been Plagued by a Lack of Transparency and Local Government Control

The Atlantic Yards project would be under the auspices of the (state) Empire State Development Corporation, which means that the City Council's oversight role would be minimized, with no scrutiny under the city's Uniform Land Use Review Process (ULURP). The Metropolitan Transportation Authority has acted only belatedly to allow competitive bidding for the railyard site. The *Times* has not sufficiently examined these issues and, in fact, has barely covered important testimony on the subjects of transparency and oversight at the two City Council hearings.

For instance, *The New York Sun*, unlike the *Times*, noted the absence of oversight in both the West Side Stadium and Atlantic Yards projects (Board That Nixed Jets Stadium Could Also Sink Atlantic Yards, 6/8/05): *"In both cases the MTA has extraordinarily valuable property that they are giving it away without public oversight," a professor of political science at Baruch College, Douglas Muzzio, said. "The difference is that Ratner has been much more successful in working with the community, and there is no James Dolan and Cablevision to push the issue."*

The *Times* has not quoted Muzzio regarding Atlantic Yards. However, it appears that the newspaper does consider him a legitimate commentator. He was quoted recently regarding the West Side Stadium project (Before the Stadiums Come All the Games, 4/8/05): *"When you're dealing with big bucks, high-prestige venues, the political system is almost always inadequate to deal with it, so it ends up in court," said Douglas Muzzio, a professor of public affairs at Baruch College.*

6.1 The *Times* Ignores the 2005 City Council Hearing

Most New York media outlets, with the notable exception of the *Times*, covered the 5/26/05 City Council Economic Development Committee hearing that drew enormous public attention. Eyewitness News reported (abclocal.go.com/wabc/news/wabc_052605_brooklyndevelopment.html): *So many people showed up for today's hearing that at one point police refused to let anybody else inside.*

The hearing, a crucial one, included testimony given by Good Jobs New York (see items 3.1 & 4.1), the city's Independent Budget Office, and PICCED (see item 3.5). This lapse goes beyond any question of potential bias; the *Times* failed to fulfill its journalistic duty by not covering an important public hearing, at which public interest watchdogs raised questions about democratic processes being bypassed.

The Times failed to fulfill its journalistic duty by not covering an important public hearing

A city council briefing paper prepared before the hearing (<http://tinyurl.com/csx99>) lays out the important issues, including concerns attributed to the PICCED study about traffic, police, and subsidies: *Critical community concerns about neighborhood services, such as the quality and selection of schools, traffic and public safety have not been raised in current CBA discussions. Nor has there been a focus on the job quality issues, given that a large number of the potential jobs created by the proposed project will be retail, arena and comparable low-wage jobs. Finally, information about the extent of the subsidies is not yet available.*

Regarding traffic, the briefing paper notes PICCED's point that no study has been conducted about the impact of traffic, and cites a traffic engineer's warning of potential chaos: *The concern over the traffic impact has been identified as one of the top four issues for residents of Prospect Heights, one of the impacted neighborhoods. "The [D]eveloper has thus far provided no public information on their estimates of traffic impact or their mitigation plans." Community Consulting Services, Inc. (CCS)... predicts that all additional traffic [from this and other projects] will be forced to utilize local streets and that "the consequence will be gridlock on both Brooklyn's roads and in Brooklyn's subways."*

So who covered the hearing? Multiple media outlets, including ABC Eyewitness News, the *New York Daily News*, NY1, *New York Newsday*, and the *New York Post*, as cited on the web site No Land Grab (www.nolandgrab.org/archives/fight_over_atlantic_yards/index.html).

The *Times's* absence was all the more disturbing because the public was effectively barred from this important public hearing. Although such hearings are open to the public, space was limited, and, in this instance, many previously declared supporters of the Atlantic Yards plan monopolized the room, as *The Brooklyn Papers* reported (Council Won't Listen, 6/4/05; brooklynpapers.com/html/issues/_vol28/28_23/28_23nets1.html): *The only public hearing before a committee of the City Council on the Atlantic Yards project was held in a room so small that dozens of people — including, for a time, Borough President Marty Markowitz — were barred by police from entering. Even for those who did get into the May 26 hearing, there was little time for public input, although the committee allowed pro-development testimonials by elected officials and representatives of the developer, Forest City Ratner, to go on for more than two hours... The room was crowded early by organized proponents of the Ratner project, including trade union members and members of BUILD (Brooklyn United for Innovative Local Development). But even BUILD's president, James Caldwell, a staunch Ratner ally, expressed annoyance.*

At that hearing, Bettina Damiani, Project Director of Good Jobs New York, not only analyzed problems with the substance of the project (see item 3.1, above), but she also explained failures of the process (goodjobsny.org/testimony_bay_5_05.htm, p. 1-2): *Good Jobs New York strongly supports the goal of development on the Atlantic Yards site, particularly development that offers housing opportunities for working New Yorkers, access to living wage jobs and job training, and an improved neighborhood environment for local residents. However, as it stands, the proposed BAY [Brooklyn Atlantic Yards] project unfortunately embodies much of what is wrong with New York City's economic development and planning processes today.*

The negotiations surrounding the development of the BAY project have been marked by secrecy... Without a real RFP process, it is difficult to say whether or not the public is getting the best possible results from its economic development efforts. This is particularly true when it comes to providing subsidies in order to induce development.

*“The proposed project unfortunately embodies much of what is wrong with New York City’s economic development and planning processes”
—Bettina Damiani,
Good Jobs New York*

6.2 The *Times* Downplays the 2004 City Council Hearing

At the earlier Council committee hearing, in May 2004, many of the same problems had cropped up—and the daily media had left before project opponents testified. *The Brooklyn Papers* reported (Council fouls out; 5/8/04; brooklynpapers.com/html/issues/_vol27/27_18/27_18nets1.html): *After battling to have their voices heard in an official public forum, community members were left fuming this week when a City Council hearing on the Atlantic Yards arena proposal left them waiting nearly five hours to testify. The delay meant that their testimony was not heard by most daily news media, whose reporters left to file stories for the evening deadline, and even many council members and officials had long since departed the council chambers by the time the largely anti-arena testifiers spoke. By the last hour of the hearing, which ran until about 7:30 pm, only the chairman of the Economic Development Committee that hosted the hearing, Queens Councilman James Sanders, and Prospect Heights Councilwoman Letitia James, a member of the committee and a staunch opponent of the plan, remained out of nine members of the panel.*

Indeed, Norman Siegel, an attorney for Develop Don't Destroy Brooklyn (and a current candidate for Public Advocate; see item 5.3), testified (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 221-222) that public officials, including the Brooklyn Borough President, Public Advocate, and President of the New York City Economic Development Corporation, had left and thus would not hear testimony from any critics of the project.

The *Times's* report on that hearing focused mainly on FCR's announced plans to pull back on the need for eminent domain (Arena Developer Rethinking Condemnation of Houses, 5/5/04): *"We're working diligently to substantially reduce the amount of residential condemnation and eminent domain that will be part of this project," James Stuckey, executive vice president of the developer, Forest City Ratner, said at a hearing of the City Council's Committee on Economic Development.*

The *Times* article made no mention of the difficulty citizens had in speaking at the hearing; instead, it focused mainly on eminent domain. The article disposed of some enormously controversial topics aired at the meeting in two paragraphs: *Still, the hearing appeared to do little to assuage concerns over jobs, housing and financing for the project among the council members, who do not have much power over the process because it is likely to be controlled by the state.*

Andrew M. Alper, president of the city's Economic Development Corporation, told the Council that it was too early to know precisely how much the city would contribute to the project, or in what form, but that the cost of the city's contribution would be less than the projected revenues from moving the Nets to New York and from the arena itself.

The *Times* article neglected to explore the contradiction between the testimony of Alper, a supporter of the project, and figures supplied by the developer. Alper, who used the standard formula for calculating office space, estimated that the project could accommodate *"as many as 7,400 permanent jobs,"* not the 10,000 jobs that FCR announced. (See Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 18 and item 2.1.)

Nor did the article point out that Alper explained that construction jobs are calculated in job-years (see item 2.7) and that he projected 14,400 construction jobs rather than 15,000 (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 23): *I should say that is construction people years, so it may not be 14,400 workers, it is that number of jobs for a year per person...*

Nor did the article quote City Council Member Charles Barron, who described (and forecasted) some of the racial divisiveness noted in item 4.4 (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 148-149): *[T]his is an issue that has the potential, and I hope it does not, to divide our community...*

However, there are deep issues involved in this. And I just want to caution all of us, whether we are elected officials, basketball players, Rap stars, hip-hop stars, not to allow anybody to use us...

Nor did the article quote Economic Development Committee Chair James Sanders, who issued a caution about defining affordable housing (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p.181): *Let me say also, gentlemen, that they are using the AMA, the Area Median Income, in terms of housing is not a good standard. The AMA is skewed to, because we include Nassau County, we include Westchester and other great places.*

Nor did the article quote Borough President Marty Markowitz, who also questioned the definition of affordable housing, and came up with a figure well below the six-figure ceiling (see item 1.4) announced in 2005 (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p.204): *Well to me affordable housing, middle-income housing is somewhere in the area of 50 to 80 thousand dollars, affordable housing is below that.*

Nor did the article quote engineer and transportation planner Brian Ketcham, executive director of Community Consulting Services, who testified presciently that (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p.290): *There is no evidence that there is even a market for the two million square feet of office space that is proposed for the arena site.*

Nor did the article quote economic historian Gustav Peebles, who later more formally analyzed the first Zimbalist report (see item 3.2). Peebles noted that Zimbalist quoted FCR as concluding (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 307) *“that the increment in fire and police budgets would be negligible.” Is it truly conceivable, in our post-9/11 age, that taking care of the residents and workers of 17 new skyscrapers and a 20,000-seat arena that is filled 240 nights per year will not require one more police or fire workers [sic] than are currently allotted to the area?*

Nor did the article quote Brooklyn resident Shabnam Merchant, who observed that FCR’s tactics suggested the developer had no doubt that it would succeed (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 394): *Mr. Ratner is already making offers to buy homes that are in the way, in the path of his arena. He is making offers that are inordinately and absurdly above market rate. And here is the thing, there are not contingencies written into these offers. No contingencies that the offer will only be made contingent upon clearance. No, he is offering the money right out, right now. Would any sensible businessman be doing this, unless he was convinced that the proposal was a done deal?*

Nor did the article quote Daniel Goldstein of Develop Don’t Destroy Brooklyn, who testified about who would be displaced in order for the project to be realized (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 387): *[T]hey are 33 businesses, 235 employees, 209 tenants, 125 homeowners, for a total of 569 jobs and residents displaced. And let’s not forget that there is a homeless shelter in this footprint.*

Nor did the article quote Eric Reschke of Develop Don’t Destroy Brooklyn, who noted (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 414-415) that the proposal would have a dramatic effect on Brooklyn, and suggested a hiatus in decision-making until an independent budget analysis could be completed and the affected communities could participate in the process.

Nor did the article quote City Council Member Letitia James, who questioned

Marty Markowitz also questioned the definition of affordable housing

Andrew Alper of the New York City Economic Development Corporation about a statement in the press by Bruce Ratner that his company wanted at least 70 percent of the taxes generated by the arena returned (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 32). Alper said he hadn't read such press reports.

James apparently was referring to a *New York Daily News* Q&A with Ratner (THE NEWS INTERVIEW, 4/23/04):

Q. Polls show people favor the arena if it doesn't cost taxpayers. You say you can do that because the arena will generate new tax revenues. How is that possible?

A. We did analyses to show the tax from sales inside the arena and the income tax from players. For, example, the players don't pay income tax in New York State now. That's probably \$8 million to \$11 million a year, and the tax from tickets and sales in the arena is probably equal to that. We've been talking to the state and city about giving us a portion back to help with financing.

Q. How much would you want back?

A. A substantial portion. Let's say the revenue is \$16 million. We'd want 70% or 75% of it. The rest should go to the city and state. Will it happen? I don't know.

In light of this request, as Kim-Peebles pointed out in their report, an alternative project might be a better deal for the city (K-P, www.dddb.net/public/KimPeebles.pdf, section 1.1): *So-called "counterfactuals" are standard operations in economic projections, though Dr. Zimbalist hasn't highlighted them in his assessment. In the case of BAY, there are numerous potential counterfactuals that might show an increased gain to tax payers if we gave our money to another project instead of FCR's proposal.*

The testimony at the hearing could have been fodder for several articles.

6.3 The *Times* Ignores Tensions in Brooklyn

In April 2005, the Brooklyn Chamber of Commerce banned FCR critics from an event it sponsored. The *Times* did not report the incident, about which *The Brooklyn Papers* wrote (Chamber bows to Ratner, 4/23/05; brooklynpapers.com/html/issues/_vol28/28_17/28_17nets1.html): *Kowtowing to demands by developer Bruce Ratner, the Brooklyn Chamber of Commerce this week barred the public from an official Chamber function, a luncheon where Ratner's controversial Atlantic Yards project was discussed. The event had been advertised for three weeks as "free and open to all businesses"...*

Ratner, the article neglected to mention, is on the Chamber's board, according to a biographical sketch at the company web site (www.fcr.com/full_compmng.asp?brief=1).

Nor has the *Times* reported on tensions among community board members regarding the Atlantic Yards project. *The Brooklyn Papers* reported (Members: Ratner owns CBs; 11/20/04; brooklynpapers.com/html/issues/_vol27/27_45/27_45nets3.html): *Members of the community boards that encompass developer Bruce Ratner's planned Atlantic Yards complex condemned their respective chairpersons Wednesday. They charged that, wittingly or not, the board chairs have allowed the developer to co-opt the boards without having reviewed his plans.*

Nor has the *Times* reported on similar tensions in the City Council. *The New York Sun* reported (Rift Develops At City Council Over Ratner's Arena Project, 4/29/05): *Tension is brewing between City Council members who oppose Bruce Ratner's Atlantic Yards project at Brooklyn and Council Speaker Gifford Miller, who they said*

has ignored repeated requests to schedule a hearing on the contentious project.

Holding a hearing on the Atlantic Yards project, which includes an 18,000-seat arena for the Nets basketball team, is one of the few options open to the council. Because the state is overseeing the development, it is not subject to the city's Uniform Land Use Review Process.

6.4 The Times Downplays the Transparency Issue

The *Times* has barely addressed the lack of transparency in the process of FCR gaining approval for the Atlantic Yards development. A general article about sports teams and their demands noted of the Nets arena and other projects (What the Teams Want And What the City Gets, 1/16/05): *All three projects would be built on public land and use tax-free bonds for financing. All three are also designed to bypass the city's land use review process and a vote by the City Council, thereby avoiding potentially troublesome public hearings.*

The *Times* didn't report on testimony by PICCED's Mafruza Khan at the 5/26/05 City Council Economic Development Committee hearing, criticizing the planning process (www.picced.org/test-bay-update.php): *Finally, the process through which this development has been advanced has not been sufficiently fair or accountable. Planning for the project was initiated by the developer, considering the best site for a basketball team he was purchasing and a large-scale mixed-use development. No officially sanctioned public planning took place in advance to consider various alternatives for use of the site so that it emerged from genuine community input.*

The *Times* has published criticisms of the process mainly in letters. In a letter to the City Weekly section (7/17/05), Christopher A. Li Greci of Park Slope wrote: *The Times seems not to appreciate our anger over the questionable and secretive, though supposedly public, process through which this project was developed and approved as good for us. The urgency of developing this project seems more an issue of ego and profits than of good planning. The City of New York should be required to address the traffic and pollution issues first.*

But the City Weekly section circulates only in the five boroughs (see item 12.4), so many *Times* readers did not have the opportunity to read that criticism.

In August 2005, the group Develop Don't Destroy Brooklyn released an unpublicized Memorandum of Understanding (MOU), obtained under a Freedom of Information Act request, signed at the same time as the publicly released MOU, showed that city and state officials had agreed to let Forest City Ratner build on sites adjacent to the Atlantic Yards site, including the Atlantic Center mall, without having to undergo city review.

According to *The Brooklyn Papers*, public officials had little to say (DOUBLE DEALING: While heralding Atlantic Yards, city & state officials quietly agree to let Ratner build atop adjacent sites, 8/20/05; www.brooklynpapers.com/html/issues/_vol28/28_33/28_33nets1.html):

A mayoral spokesman declined to comment and the ESDC [Empire State Development Corporation] referred all questions to the city.

"We do not distribute MOUs, but this one's been available to anyone that requested it," said Janel Patterson, a spokeswoman for the city EDC [Economic Development Corporation].

Asked how anyone could have possibly known of its existence, and why the one MOU was widely publicized while the other was never mentioned, she declined to

"The process through which this development has been advanced has not been sufficiently fair or accountable"

*—Mafruza Khan,
PICCED*

comment.

Prospect Heights-Fort Greene Councilwoman Letitia James, a staunch opponent of Ratner's Atlantic Yards plan, said she had heard nothing about the second MOU before DDDDB released its finding this week.

The New York Sun put the story on the front page (PRIVATE MEMO GUARANTEES RATNER SPACE: Council Member Charges 'Monopoly', 8/18/05; daily.nysun.com/Repository/getFiles.asp?Style=OliveXLib:ArticleToMail&Type=text/html&Path=NYS/2005/08/18&ID=Ar00100): Council Member Letitia James, who has led the opposition to the Ratner project and whose district includes the rail yard, said the memorandum speaks volumes about the cozy relationship that Mr. Ratner maintains with city and state officials.

"It says that he is a favored developer, and it says to me that he's going to continue to have a monopoly on downtown Brooklyn and in my district without giving any other developer the opportunity to bid," she said.

The *Times* hasn't reported the story.

6.5 The *Times* Ignores Brooklyn's Lost Voice

The City Planning Commission may play a role in the Atlantic Yards development, so the role of Brooklyn's one appointee could be important. However, that appointee must recuse herself because of a conflict of interest. As *The Brooklyn Papers* reported, (REC-U-U-USE ME!; 3/19/05; www.brooklynpapers.com/html/issues/_vol28/28_12/28_12nets1.html): *Brooklyn's sole appointee to the City Planning Commission, one of only two city agencies with an official role in the proposed Atlantic Yards arena, housing and office complex will have no voice, the city said this week. Dolly Williams, Borough President Marty Markowitz's sole appointee to the planning commission, will have to recuse herself from any review or other official discussion of the borough's largest development proposal because, as first reported by The Brooklyn Papers last August, she owns a stake in the New Jersey Nets, a planning commission spokeswoman said this week.*

Also, the *New York Post* reported (Ethics Probe Over B'klyn Arena Plan, 10/14/04): *The city Conflicts of Interest Board is investigating a member of the Planning Commission because she is a business partner with a developer who wants to build an arena in Brooklyn for the New Jersey Nets...*

The *Times* has not mentioned Williams's relationship to the Nets or to FCR President Bruce Ratner.

6.6 The *Times* Fails to Scrutinize the MTA

The Metropolitan Transportation Authority (MTA) owns a railyard spanning 8.3 acres—a central element of the Atlantic Yards project, which would be at least 22 acres. Since FCR announced plans for its development project in December 2003, politicians and the press assumed FCR had the inside track, as the MTA board is controlled by appointees of Mayor Bloomberg and Governor Pataki, both supporters of FCR's plan. In addition, the *Times* did not editorially criticize the MTA's no-bid process. Nor has it tried to fully analyze the competing bids. Nor has it followed up on Bruce Ratner's astounding statement before his ownership group bought the Nets that he wanted the MTA to donate the land.

Ratner's comment was published at the end of an article in a *Times* Sports section article (Corzine in Bid to Buy Nets And Block Potential Move, 8/19/03): *But he [Ratner] faces obstacles, particularly because the project involves building over a rail*

Before his ownership group bought the Nets, Ratner said he wanted the MTA to donate the land

yard owned by the Metropolitan Transportation Authority. Ratner wants the authority to donate the land, while some senior M.T.A. officials maintain the authority must be paid.

The Brooklyn Papers reported that MTA officials had repeatedly said that FCR already had the rights to the land (MTA big covers air rights gaff, 12/22/03; www.brooklynpapers.com/html/issues/_vol26/26_51/26_51nets2.html): *Top brass at the Metropolitan Transportation Authority embarked on a mini cover-up after a spokesman on three occasions incorrectly told The Brooklyn Papers that the agency had sold Bruce Ratner the development rights over the Long Island Rail Road Yards in Downtown Brooklyn where he plans to build a professional basketball arena.*

In May 2005, some 17 months after FCR announced its project, the MTA finally agreed to put the property up for bid. The advertisement in the *Times* was hardly prominent; it ran on page C9, below the fold. (Note that the MTA officially calls the site Vanderbilt Yard. The Atlantic Yards name, which encompasses much more property, derives from Forest City Ratner's proposed project.)

MTA REAL PROPERTY - REQUEST FOR PROPOSALS

**Metropolitan Transportation Authority
Long Island Rail Road Company**

The MTA/LIRR is seeking proposals for the sale or lease of all or some of the air space and related real property interests in one or more of the three parcels known as Vanderbilt (VD) Yard, an active LIRR rail car storage facility located between Atlantic Avenue and Pacific Street, and 6th and Vanderbilt Avenues, Brooklyn New York.

Approximately 100,000 square foot parcel,
Approximately 119,000 square foot parcel, and
Approximately 148,000 square foot parcel.

For more information and a copy of the Request for Proposals, please contact:
METROPOLITAN TRANSPORTATION AUTHORITY - Real Estate Department
347 Madison Ave., 8th Floor, New York, NY 10017-3739
Telephone: 212-878-7049 or via WWW.MTA.INFO
Reference No. RK0505

MTA Metropolitan Transportation Authority



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The *Times's* report, in a tiny Metro Briefing, did not point out the obscure positioning of the solicitation for proposals (Atlantic Yards Proposals Sought, 5/26/05): *The Metropolitan Transportation Authority is seeking competitors for the development of its Atlantic Yards site, and has set a deadline of July 6 for proposals. A proposal by Bruce C. Ratner to build 6,000 housing units and a stadium for the Nets basketball team on the site has already won endorsements by the city and the state, which have each offered to pay \$100 million for site improvements.*

But Tom Kelly, a spokesman for the authority, said yesterday that the agency had decided to consider other proposals in part because of its experience with its West Side railyards, which became the focus of a bidding war before an agreement was reached to sell the property to the New York Jets.

By contrast, WNYC radio reported those tactics (MTA Solicits Bids For Atlantic Rail Yards, 5/20/05; www.wnyc.org/news/articles/47439):

REPORTER: In the back of the business section of The New York Times on Tuesday, the MTA quietly solicited bids for the Atlantic Rail Yards in Brooklyn. It says

proposals are due by July 6.

The highly publicized MTA solicitation for HUDSON rail yards, site of the proposed west side stadium, gave just three weeks for bids, and is now the subject of litigation for being unfair.

The *Times* reported criticism of the MTA bidding process only indirectly, as part of a larger story on City Council Speaker Gifford Miller's decision to back the Ratner project (Miller Backs \$3.5 Billion Plan For Brooklyn Sports Complex, 6/5/05): *Opponents of the Brooklyn project were not convinced.*

"It is the height of hypocrisy and inconsistency that Mr. Miller, a staunch opponent of the West Side Stadium boondoggle and a rigged M.T.A. bidding process, is now supporting the same kind of sweetheart Olympics arena deal and rigged M.T.A. process in Brooklyn," said Daniel Goldstein, a spokesman for Develop Don't Destroy Brooklyn, in a statement released yesterday.

Almost a year earlier, the *Times* had editorialized about the importance of a fair bid process (The Brooklyn Nets, 7/4/04): *Both proposed sports facilities in Brooklyn and Manhattan would be built over rail yards owned by the cash-short and debt-ridden Metropolitan Transportation Authority, which should not be pressured to give away its assets. The state-run authority -- which lacks other new sources of revenue -- should demand and get a fair market price for any land and air rights the developers at either site need.*

The *Times* has not editorialized about the process in 2005.

In reporting the MTA's decision to negotiate exclusively with FCR, the *Times* neglected to fully analyze and compare the financials of FCR's bid with that of rival Extell Development Company (M.T.A. to Deal Only With Ratner on Brooklyn Bid, 7/28/05): *Despite a higher cash offer from a rival bidder, the Metropolitan Transportation Authority voted yesterday to enter into exclusive negotiations to sell the developer Bruce C. Ratner the rights to build an arena for the Nets and office and residential buildings over a railyard in Downtown Brooklyn.*

Over the next 45 days, the authority expects to bargain with the developer over one major issue: money. Mr. Ratner, who heads the development company Forest City Ratner, had offered \$50 million in cash for the development rights, or one-third the amount offered by a rival, the Extell Development Company. But Mr. Ratner argued that his bid was actually worth \$329 million because he would build a new, larger railyard, pay for any increased operating expenses that the authority would incur, make several transit improvements and generate millions in tax revenues from the arena.

The *Times* said nothing about promised spending by Extell beyond the \$150 million bid. This should be corrected.

However, *The New York Observer* noted that Extell would actually spend more than \$150 million (Dark-Horse Brooklyn Bidder No Rookie in N.Y. Real Estate, 8/1/05): *Forest City has claimed that its bid actually represents \$329.4 million in revenue for the M.T.A. ... Extell's bid also represents much more than the \$150 million in cash.*

[Extell's] Mr. [Gary] Barnett pledges to maintain the new rail yards and abide by all other requirements set down by the M.T.A. He predicts that he can move and cover the rail yards for \$150 million—which seems unrealistically low compared to Forest City's plan, which sets aside \$281 million for the effort. Then again, the M.T.A.'s own appraiser thinks it can be done for a mere \$57 million. Mr. Ratner's supporters point to Extell's lack of specificity as a weakness—though Mr. Barnett had just six weeks, instead of a year and a half, to work up his bid and garner community support.

Almost a year earlier, the Times had editorialized about the importance of a fair bid process

The *Observer* article also noted the curious political circumstances: *Then again, who else but a lone wolf would dare upset the apple cart of prearranged subsidies and Mayoral endorsements to actually respond to the M.T.A.'s request for proposals? No one else bothered.*

The Observer article also noted the curious political circumstances

While the *Times* noted that an MTA appraisal had recently set the railyard's value at \$214.5 million, it did not emphasize the contradiction between that appraisal and FCR's bid of only \$50 million. Indeed, though it was not reported in the *Times*, FCR's Jim Stuckey had pledged a fair payment at the 5/4/04 City Council Economic Development Committee hearing (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 164): *[F]or the land, the public land, the MTA land, is that, what we have agreed to is that we will lease or buy that land at the fair market value ... by whatever independent process that they normally use.*

After the MTA board made its decision, *New York Daily News* columnist Michael Daly (If you see something, say a prayer, 7/31/05) noted the contradictions in the MTA's decision to negotiate with the low bidder: *The MTA says that by building its own platform it can sell the property at a premium. The idea sounds so good you wonder why the MTA does not also build its own platform over the railyards in Brooklyn, which it is apparently ready to sell at an unconscionable discount.*

Those contradictions were also noted in the *New York Press* (Same As the Old Boss: Why is Bruce Ratner Smiling? 8/3/05; www.nypress.com/1831/news&columns/aaronnaparstek.cfm): *[MTA Chair Peter] Kalikow, a real estate developer for 38 years, countered that he had never negotiated two leases for a property at once. That, he said, would be "immoral." But Kalikow isn't negotiating a lease. He is auctioning off an incredibly valuable piece of public property. You don't have to be an eBay PowerSeller to know that an auction works best when you've got more than one bidder.*

New York Post City Hall bureau chief and columnist David Seifman (FULL-COURT PRESS ON MTA DEAL, 7/31/05) suggested the decision was due to political pressure from the mayor and governor—an issue which was not mentioned in the *Times*: *THE MTA's decision to grant developer Bruce Ratner an exclusive 45-day window to clinch a deal for its Downtown Brooklyn rail yards came only after some last-minute intervention by Mayor Bloomberg. Sources said the mayor was infuriated by a report that the MTA planned to postpone a vote Wednesday on the mega-housing and basketball-arena project so it could hash out two competing bids, one by Ratner and another by Extell Development Corp.*

Other articles also have been critical of the MTA. For instance, *New York Daily News* columnist Michael Goodwin observed (SPITZER RAILS AT MTA SNAFUS, 8/3/05): *Every major deal smells of a fix. Al D'Amato, wired with both Pataki and the last two agency heads, including current boss Peter Kalikow, once made \$500,000 for a single phone call that helped seal a property deal.*

Is the MTA acting in the best interests of the public, especially the users of public transportation? Or is the agency controlled by political interests? If other media outlets take a close look, shouldn't the *Times* do the same?

Chapter 7

The *Times* Has Missed Many Chances to Dig Into FCR's Tactics for Winning Approval for the Project

Those tactics include a mailing that improperly reproduced the *Times* logo, an FCR promotional sheet, FCR's gag orders, and FCR's push poll, along with FCR's use of racial politics (see item 4.4). All told, the tactics suggest an aggressive public relations effort, one that other media outlets have questioned far more than the *Times* has done.

7.1 The *Times* Fails to Cover a Questionable Mailing

In May 2004, FCR sent a promotional mailing to Brooklynites, offering a souvenir to recipients if they endorsed the Atlantic Yards development project. Curiously, the developer didn't list its name with the return address, just a vague entity called Atlantic Yards, which—as a later mass mailing showed clearly—happens to be based at FCR's MetroTech offices.

The *Times* did not write anything about the pamphlet. In contrast, *The Brooklyn Papers* pointed out FCR's tactics. (Nets' Cracker Jack mailer, 6/5/2004; brooklynpapers.com/html/issues/_vol27/27_22/27_22nets1.html): *Drumming up support for his massive Atlantic Yards development project, real estate mogul Bruce Ratner sent out 350,000 glossy pamphlets to Brooklyn homes over Memorial Day weekend promising residents a free gift if they back his plan... In addition to photos of children and young families, the mailing includes a perforated tear-away postcard with the words — 'Yes! I support Atlantic Yards.' Residents who send the card back are promised 'a free Brooklyn Nets Souvenir.' Each card also contains a barcode that includes their address information. There is no place to indicate opposition to the plan.*

In addition, the pamphlet included a likeness of the *Times*'s logo, accompanied by a quotation that said of Atlantic Yards: “Almost everything the well-equipped urban paradise must have”—The New York Times. Readers might have concluded that the *Times* endorsed the Atlantic Yards project, which was not the case.

Critics of FCR's proposal contacted the newspaper. *Times* Assistant Managing Editor and Standards Editor Allan M. Siegal defended the quotation in a 6/21/04 e-mail to Develop Don't Destroy Brooklyn's Daniel Goldstein, writing: “The quotation used in the brochure, from [Times architecture critic] Herbert Muschamp, is accurately reproduced, and because it is brief, its use is within the rights of the Atlantic Yards people. But we have asked our corporate colleagues to get in touch with the sponsors and induce them to discontinue the use of our logo, which is

Atlantic Yards
Live. Work. Play...

"A GARDEN OF EDEN GROWS IN BROOKLYN..."

"THIS ONE WILL HAVE ITS OWN BASKETBALL TEAM. ALSO, AN ARENA SURROUNDED BY OFFICE TOWERS; APARTMENT BUILDINGS AND SHOPS; EXCELLENT PUBLIC TRANSPORTATION; AND, ABOVE ALL, A TERRIFIC SKYLINE, WITH SIX ACRES OF NEW PARKLAND AT ITS FEET."

ATLANTIC YARDS: "ALMOST EVERYTHING THE WELL-EQUIPPED URBAN PARADISE MUST HAVE..."

The New York Times
12/11/03

SEND BACK THIS CARD AND RECEIVE A FREE BROOKLYN NETS SOUVENIR!

YES! I SUPPORT ATLANTIC YARDS AND THE JOBS, HOUSING AND OPEN SPACE IT WILL CREATE.

NAME _____

EMAIL _____

Atlantic Yards
Live. Work. Play...

RECEIVE A FREE BROOKLYN NETS SOUVENIR!

303215343

Atlantic Yards
1 METROTECH CENTER NORTH, 11TH FL.
BROOKLYN, NY 11201
PRINTED ON RECYCLED PAPER

PRESORT STD
U.S. POSTAGE
PAID
CENTURY DIRECT

*BARCODE INCLUDES ADDRESS INFORMATION.

The Atlantic Yards return address, as shown in the May 2004 flier seen in the top two images, was replaced by the more accurate Forest City Ratner return address in a later flier, as shown in the bottom example

Atlantic Yards

1 METROTECH CENTER NORTH, 11TH FL.
BROOKLYN, NY 11201

PRINTED ON RECYCLED PAPER 2179-423

Live. Work. Play...

GUIDING PRINCIPLES:
MIDDLE-INCOME HOUSING

PAID FOR BY FOREST CITY RATNER COMPANIES
1 METROTECH CENTER NORTH, 11TH FL.
BROOKLYN, NY 11201

2179-423

indeed a registered trademark we control. We don't wish to be depicted as favoring any side in a civic disagreement that we strive to cover impartially."

Despite that statement, the *Times* has not reported on the pamphlet's misuse of the *Times* logo.

Though Siegal serves as the *Times*'s Standards Editor, responsible for maintaining the paper's ethics (www.corporate-ir.net/ireye/ir_site.zhtml?ticker=NYT&script=461&layout=-6&item_id=447253), his contention that the quotation was "accurately reproduced" can be challenged. FCR presented the quote in the mailer as if it were the editorial voice of *The New York Times*, rather than a statement by a single critic.

A more accurately reproduced quote would have said, "*Almost everything the well-equipped urban paradise must have*"—Herbert Muschamp, *The New York Times*.

There's another layer of non-disclosure involved in the quotation. In the article from which the quote was excerpted, Muschamp failed to disclose his own ties to FCR and failed to disclose the *Times*'s ties to FCR (see item 14.1, below). An "accurately reproduced" and honest quote would have included not only Muschamp's name but also two footnotes, disclosing both Muschamp's and the *Times*'s ties to FCR. The *Times* has not reported on the misuse of the quotation or on the absence of such footnotes.

7.2 The *Times* Does Not Initially Report on an FCR Promotional Sheet

FCR has produced a newspaper-like promotional sheet, *The Brooklyn Standard* (www.dddb.net/FCR_brooklynstandard.pdf), distributing copies widely, as the *New York Daily News* reported (Ratner rolls out tabloid to sell \$3.5B arena plan, 6/17/05; www.nydailynews.com/boroughs/story/319648p-273352c.html): *About 140,000 copies of the free paper will blanket the borough.*

While the tabloid mimics a newspaper in presentation, it also includes some enormously misleading financial information (p. 1–3): *Expected to generate \$6.1 billion over the next 30 years for the city and state, the 22-acre residential and commercial development will be created with a \$3.5 billion investment.*

What's the source of that \$6.1 billion figure, and is it legitimate? There's no citation, but it most likely comes from FCR's consultant, sports economist Andrew Zimbalist, who estimated a 30-year revenue figure of either \$6.0 billion or \$6.4 billion, depending on the amount of housing included (see item 3.3). However, as noted, Zimbalist did not choose to estimate the 30-year public costs. Even using his optimistic assumptions, the costs would be well over \$1 billion. In order to supply readers with accurate information, *The Brooklyn Standard* would have had to present the estimates using parallel figures, saying, for example: *Expected to generate \$6.1 billion in revenues over the next 30 years for the city and state, but absorbing well over \$1 billion in subsidies and other public costs...*

[There are also reasons to consider Zimbalist's revenue projections overly optimistic. See items 3.2–3.4.]

Though *The Brooklyn Standard* is marked clearly as a publication of Forest City Ratner, a notice from the publisher claims kinship with an independent newspaper of the past (www.dddb.net/FCR_brooklynstandard.pdf, p.4): *In the 1800s, New York began its ascent from farmland to one of America's great urban centers. Those days were full of excitement, dissent, and debate, as the City of Brooklyn and the nation worked to find its footing.*

Walt Whitman, the great Transcendentalist poet who would soon transform American literature with Leaves of Grass, was among those who spoke out.... he

The Brooklyn Standard includes some enormously misleading financial information

delivered his 25-essay “Brooklyniana” series to *The Brooklyn Standard*, another great newspaper of the time.

Notably, *The Brooklyn Standard*, as a promotional device, avoids the excitement, dissent, and debate promoted as a virtue of the 19th-century newspaper. As an FCR marketing vehicle, it does not mention, for example, the gag orders (see item 7.4) FCR has imposed on those who have sold FCR their real estate.

It contains unpaid ads that cross-promote the project, notably a picture (p. 2) of Bruce Ratner depositing a \$1 million check in Carver Federal Savings Bank. The largest black-owned bank in the country, according to the ad, Carver had just opened a branch in FCR’s Atlantic Terminal mall. The photo also included some of FCR’s partners in its Community Benefits Agreement: Bertha Lewis of ACORN, James Caldwell of BUILD, and the Rev. Herbert Daughtry of the House of the Lord Church in Brooklyn.

The *Times* ignored the initial appearance of FCR’s *Brooklyn Standard*, but other newspapers reported on it—and not favorably. *The New York Sun* pointed out that FCR provided free advertising and designed the *Standard* to resemble a newspaper (Ratner Publishes Tabloid Paper Pushing Atlantic Yards, 6/20/05): *Mr. Baum is careful to call The Brooklyn Standard a “publication,” rather than a “newspaper.” And in an editor’s note, Mr. Ratner said his publication is “not trying to compete with daily, weekly, or local papers.”*

Yet the 16-page debut issue has many of the trappings of a regular newspaper, including a small batch of letters to the editor—cheerful greetings from Mayor Bloomberg, a supporter of the development project, as well as from state Senator Martin Malave Dilan—a calendar page, and a “kids” page with events listings for young children and teens.

It even has advertisements, though at no cost to the advertisers...

The *Sun* suggested another purpose for the publication: competition with *The Brooklyn Papers*, a newspaper chain that has offered critical coverage of FCR: *The founder and president of The Brooklyn Papers, Edward Weintrob, said he suspected Mr. Ratner was frustrated by his chain’s critical coverage of the Atlantic Yards plans. The Brooklyn Papers have cast a dubious eye on the \$200 million in total subsidies that the city and state government have agreed to extend to the project. They have also called for more public involvement in the process.*

One public official quoted in FCR’s *Brooklyn Standard* suggests he was misled. The July/August 2005 issue of *The Brooklyn Rail* reported (Bruce Ratner Doesn’t Use Steroids, But His P.R. Machine Won’t Stop Pumping Up the Atlantic Yards Project; www.brooklynrail.org/local/july05/ratner.html): *In the ‘Letters to the Editor’ section of the publication, Mayor Bloomberg and State Senator Martin Malave Dilan each wrote letters welcoming what the Mayor referred to as a ‘paper.’...When asked if he was aware that The Brooklyn Standard was a release of Forest City Ratner for the purpose of promoting the Atlantic Yards, State Senator Dilan replied, “No, I was under the impression that it was a newspaper.” As to whether he would still have written his welcome, had he known better: “I don’t think I would have written a letter, no,” the Senator conceded.*

The *Daily News* also noted that FCR had issued *The Brooklyn Standard* after Atlantic Yards project critics published their own newspaper-like sheet, *The Atlantic Yards News* (Ratner rolls out tabloid to sell \$3.5B arena plan, 6/17/05; www.nydailynews.com/boroughs/story/319648p-273352c.html): *Just weeks after a group of Brooklyn clergy published a newspaper bashing the proposed downtown Brooklyn Nets arena complex, developer Bruce Ratner has gotten into the newspaper*

One public official quoted in FCR’s Brooklyn Standard suggests he was misled

game. *The Brooklyn Standard*, a glossy 16-page tabloid with information about the \$3.5 billion project, is scheduled to hit the stands today. “We said from the beginning that we are going to provide as much information as humanly possible,” said Ratner spokesman Joe DePlasco.”

An article attributed to Bruce Ratner himself restates that claim (www.dddb.net/FCR_brooklynstandard.pdf): “Our goal is simple: to share information about Atlantic Yards with the people of Brooklyn and to create an even greater dialogue as we go forward.”

The New York Observer's blog The Media Mob reported that hawkers had been hired to distribute the Standard (Extra! Extra! Ratner!, 7/19/05; www.observer.com/themediamob/2005/07/extra-extra-ratner.html): According to Joe DePlasco, a spokesperson from Dan Klores Communications representing Ratner, subway distribution has been going on for two weeks, with a team of 10 hawkers. They've distributed between 20,000 and 30,000 copies of the Standard's total circulation of 140,000. The team will rotate around the borough distributing copies at stations in Fort Greene, Carroll Gardens, Brooklyn Heights, Prospect Heights and Cobble Hill, DePlasco said.

Not every organization wants the free publicity. One community group, Rooftop Films, recently refused mention in the Standard, issuing a press release on 8/4/05 (www.nolandgrab.org/archives/2005/08/rooftop_films_p_1.html#more): *The purpose of the publication is to promote the Atlantic Yards project by creating the impression that the community—including arts groups like Rooftop Films—are in support of the project. Rooftop Films doesn't agree with FCRC's plan for the Atlantic Yards, and want to do what we can to stop the development from being built. We are not an activist organization, so we can't create a campaign of signatures or boycotts or the like. But we can refuse to partake in their ruse.*

Even the quarterly BKLN magazine reported on The Brooklyn Standard before the *Times* did. In its Fall 2005 issue, available in August, BKLN observed caustically that *it's propaganda... Apparently, Ratner doesn't think the laudatory coverage in the New York Times is enough.*

The *Times* finally ran a skeptical piece on The Brooklyn Standard some 10 weeks after its appearance (O.K., the Whole Paper is Basically an Ad, 7/3/05). However, the article did not mention the Standard's misleading economic projections. The story, with two pictures, was prominently placed on the front of the Metro section. Was this prominence a response to the initial appearance (9/1/05) of this report criticizing the *Times*? Or was it simply a good story—in the works before this report—on a relatively slow news day?

7.3 The *Times* Doesn't Analyze FCR's Claim to Want Dialogue

Does FCR truly believe in dialogue, as Bruce Ratner claims in The Brooklyn Standard? Although FCR has claimed it will meet with all affected community groups, that has not been the case. As the Fort Greene Association stated in a press release (www.nolandgrab.org/docs/Ratner_Withdraw021405.pdf): *On Thursday February 10, 2005, Forest City Ratner Companies [FCRC] withdrew its participation in a community forum organized by the Fort Greene Association [FGA] on February 28, 2005. The purpose of the meeting is to discuss issues, both pro and con, concerning the proposed development of the Brooklyn Atlantic Yards... FCRC's participation had*

been confirmed by its spokesperson, Randall Toure and additionally through the office of the Brooklyn Borough President, Marty Markowitz....

FCRC executive vice president Bruce Bender was quoted in *The New York Times* on Friday February 11, 2005 as saying “We’ve [FCRC has] gone above and beyond to meet with the community. We’ve met with all the community boards. We’ve never turned down anyone. We have been very open. To say we haven’t is wrong, deceitful and outrageous.” This assertion is contradicted by FCRC’s withdrawal from participation in the Fort Greene forum...

Moreover, the company, which has an extensive public relations operation, doesn’t always answer questions from the press. Asked to comment for a *Brooklyn Papers* article on a report on security issues at Atlantic Yards, which was distributed by FCR critics (Terminal Terror Fear, 7/16/05; www.brooklynpapers.com/html/issues/_vol28/28_28/28_28nets1.html): *Forest City Ratner’s spokesman declined to comment for this article.*

Similarly, FCR had no comment for another story on security issues, in *The New York Sun* (Report: Arena Vulnerable to Terrorists, 7/22/05; daily.nysun.com/Repository/getFiles.asp?Style=OliveXLib:ArticleToMail&Type=text/html&Path=NYS/2005/07/22&ID=Ar00301): *The high-rise urban hub and professional basketball arena proposed for downtown Brooklyn’s Atlantic Yards would be vulnerable to a devastating terrorist attack because of design flaws in architect Frank Gehry’s plans for the site, according to a recent report co-authored by a Defense Department analyst that was released to The New York Sun....*

A spokeswoman for Forest City Ratner, Lupe Todd, said that the firm had no comment on the white paper.

Nor has FCR been willing to discuss its push polling—see item 7.5.

FCR’s reluctance to provide information extends beyond the press. When planning analysts at PICCED requested information, they were rebuffed (www.picced.org/pubs/bay-report.pdf, p. 49): *We contacted the developer and relevant city agencies to obtain information on the public review process, before the MOU was signed. FCRC has not responded.*

7.4 FCR Controls Potential Opponents

FCR has required—in written agreements—that those selling their properties to the developer as well as those entering into the CBA to speak positively of FCR. The existence of these agreements is surely a legitimate subject for a news story.

The Brooklyn Papers reported that FCR requires its partners in the Community Benefits Agreement (CBA) to speak positively of the plan (Sealed With a Kiss, 5/28/05; brooklynpapers.com/html/issues/_vol28/28_22/28_22nets1.html): *The wheeling and dealing behind the scenes was evidenced in the wording in the memorandum of understanding [MOU], which included this paragraph: “As long as the Project [the Atlantic Yards] will include the ACORN/ATLANTIC YARDS 50/50 Program as described ... ACORN agrees to take reasonable steps to publicly support the Project by, among other things, appearing with the Developer before the Public Parties, community organizations and the media as part of a coordinated effort to realize and advance the Project and the contemplated creation of affordable housing.”*

For the original text of the MOU, see www.dddb.net/cba/HousingMou.pdf.

The *Times* has ignored this important issue. Had the *Times* written about it, other newspapers might have noticed. *The New York Observer* neglected to mention

When FCR buys housing within the footprint of its plan, sellers are required to speak positively of the Atlantic Yards project

ACORN's commitment to support FCR, which would have complicated the paper's assertion about ACORN's moral authority (Ratner Is Gaining as the Nets Owner Nuzzles Advocates, 7/25/05): *Ms. Lewis brings such moral authority to Mr. Ratner's plan...that it will be hard for city and state officials to do anything to block it.*"

When FCR buys housing within the footprint of its plan, sellers are required to speak positively of the Atlantic Yards project; *The New York Post* (Tout of Bounds—Ratner Forces Apt. Sellers To Hype Nets Arena, 6/16/04) wrote, *When homeowners sell out to Bruce Ratner, who is developing the Brooklyn Nets arena, they must agree to the terms detailed at right:*

"Remove ... any and all signs, banners, placards, flags or writings that evidence in any respect opposition to the project.

"Testify in favor of the project at hearings ... with statements to the effect that everyone has been treated fairly, honorably and decently.

"Withdraw, and remain withdrawn, from any organized or ad hoc group or association whose sole purpose, primary purpose, or one of whose purposes ... is to oppose the project."

The *Times* has mentioned the terms of these sales only once, more than eight months after the *Post* article, as an aside in a Real Estate section article rather than as the focus of a Metro section news story. A profile of Develop Don't Destroy Brooklyn's Daniel Goldstein, the last resident-owner in his condo building on Pacific Street, included such a gag (HABITATS/Brooklyn; Battling A Developer's Mammoth Plans; 2/27/05; query.nytimes.com/gst/fullpage.html?res=9F03E5DB173DF934A15751C0A9639C8B63): *Tenants signed a nondisclosure agreement for the sale of their apartments, which included a provision that they speak favorably about the deal. Mr. Klein, 34, the condo board president, who is a director of a nonprofit foundation, said in a conference call organized by a spokesman for Forest City Ratner that residents were extremely happy with their deals.*

A later *Times* article about the sale of two commercial buildings to Ratner did not raise the question of whether, as a condition of sale, the seller had to speak favorably about the project (Holdout Sells to Developer Of Brooklyn Arena Project; 4/2/05): *"Maybe some people are not going to be happy, but I'm not the one to block a big project that everybody wants to see going on," said Mr. Boymelgreen, who, in explaining his decision, cited the support of Gov. George E. Pataki and Mayor Michael R. Bloomberg for Mr. Ratner's project.*"

The gag orders may have extended to relocated rental tenants. However, in a WNYC radio report by Andrea Bernstein, FCR's Jim Stuckey said he was unaware that relocated rental tenants had been asked not to talk, and claimed that the company did not aim to gag anybody (Some Prospect Heights Residents Fear "Future Brooklyn;" 6/23/05; www.wnyc.org/news/articles/48683):

REPORTER: After a recent city council hearing, I asked Jim Stuckey, the Forest City Ratner VP, whether the developer had signed any relocation deals.

STUCKEY: I can't answer that without violating confidentiality.

BERNSTEIN: How are you violating confidentiality?

STUCKEY: People have asked us not to talk about this.

BERNSTEIN: You didn't ask any tenants not to disclose the terms of their agreement? You didn't?

STUCKEY: No, not that I'm aware of. Not that I'm aware of.

REPORTER: In an eleventh floor office at Metrotech overlooking the brownstones of Boerum Hill and Park Slope, Stuckey sat down with me a few weeks later. He said it's common practice for businesses to negotiate in private – but maintained there



Bruce Ratner and ACORN's Bertha Lewis celebrate the signing of the Housing Memorandum of Understanding on 5/17/05. Photograph by Tom Callan as published in *The Brooklyn Papers*

would be no repercussions if tenants disclosed the terms of their own deals.

STUCKEY: I'll be happy to put it in writing we're not looking to tell people they can't speak. We're very confident in what we're doing.

Such apparently contradictory information about the issue surely deserves journalistic follow-up.

7.5 The *Times* Doesn't Cover FCR's Push Poll

In the period since FCR announced the Atlantic Yards project, some Brooklyn residents have reported receiving phone calls from a vaguely named firm querying them about their attitudes toward the arena project. The *Times* has not mentioned these calls, which, rather than evaluate public attitudes toward the FCR project, may have been designed to influence those attitudes.

The Brooklyn Papers reported that FCR wouldn't confirm or deny the poll (Pollsters push Ratner arena, 3/26/05; www.brooklynpapers.com/html/issues/_vol28/28_13/28_13nets1.html): *Forest City Ratner Companies, when asked if they commissioned Pacific Crest Research to perform the study regarding their plans to build a 19,000-seat Nets basketball arena and 17 high-rises with more than 4,500 new units of housing and office space to Prospect Heights, declined to answer the question.*

"We don't discuss our internal research," said spokesman Barry Baum.

Patti Hagan, whom the newspaper called *the project's fiercest opponent*, taped and transcribed the poll, reporting it to *The Brooklyn Papers*. She said several of the questions featured "leading" or inaccurate and biased language, a key feature of "push polling." *Push polling attempts to influence — rather than measure — public opinion — by using questions worded in a manner intended to spread information that is often incorrect about people and positions that run counter to the position of the poll's client.*

"Supporters of this project say [it] will bring great benefit to Brooklyn. The project will create thousands of jobs and provide some badly needed housing space for people from all different income levels in Brooklyn. It will bring in hundreds of millions of dollars in extra tax revenue each year that could be used for schools and other vital services," the pollster read to Hagan from what she perceived to be a prepared script.

Hagan also noted the oddity of questioning residents about an unelected religious figure, a prime supporter of FCR's plan: *Sandwiched between questions gauging her opinion from "very favorable" to "very unfavorable" of Mayor Michael Bloomberg and District Attorney Charles Hynes was a question about the Rev. Herbert Daughtry.*

..."I thought it was bizarre that of all the public figures you're going to have an opinion of — the Rev. Herbert Daughtry? ...

"He's not running for any office that I know of," she said. "He's the only black person in that whole poll, and he has given his allegiance 110 percent to Ratner's project.

"Could it be they were trying to gauge if they had a black reverend supporting them it helped them?" she asked rhetorically, and pointed out, "Rev. Herbert Daughtry is not an elected official, he's not running for office and he lives in New Jersey."

John McCrory, another Brooklynite who received a similar call, wrote in his blog (4/9/2004; www.johnmccrory.com/wrote.asp?this=298) that the caller identified himself as being from "FCR Polling" (a name he couldn't trace to an existing polling company, but one that shares the same acronym as Forest City Ratner; McCrory may have confused that with PCR, the initials of the above-mentioned Pacific Crest Research).

FCR wouldn't confirm or deny the push poll

McCrorry added that, when he asked the caller who had commissioned the poll, the answer was evasive: *I then asked who they were conducting the poll for, and he paused, seeming uncertain how to answer, then said, "No one. I guess we're just doing this poll for ourselves."*

McCrorry observed: *The day after I was called, Forest City Ratner "announced" they planned to 'scale back' the plan to "save some homes at the project's southern end" — one of the questions the "pollster" asked me was specifically about the displacement of some 400 residents; Sounds as if they found through their weekend poll that this was one of the biggest objections to the plan.*

When queried about McCrorry's account, FCR's comments were vague. Columnist Erik Engquist of Brooklyn's *Courier-Life* newspaper chain got a response that claimed that the information was incorrect, but didn't deny FCR sponsorship of the poll (Brooklyn Politics, 4/12/04; www.lidbrooklyn.org/bp041204.htm): *We mentioned the alleged push-poll to Forest City Ratner's arena project press guy, a friend of ours from Boerum Hill named Joe DePlasco, and asked for the script, the cost, and the purpose of the poll. DePlasco e-mailed back only, "Hey Erik, how are you. You are wrong." We replied that the poll recipient had a very specific recollection of a 15-minute interview about the project. It didn't sound like he was making it up.*

DePlasco e-mailed back, "I didn't say there wasn't a poll that went out-and I'm sure you are busily reading through the Quinnipiac poll that is out there too, 79 percent favor Nets in Brooklyn proposal-I just said your information was wrong." The key word there is "too." That tells us there was another poll in addition to the Quinnipiac "Nets-Jets" one. So we knew we were on to something.

Actually, only 75% of respondents in the Quinnipiac poll supported the arena if it didn't cost the public anything (see item 5.1), and FCR spokesman DePlasco ignored the results that showed that a majority of respondents opposed the project if it were to require city subsidies. He also conflated two different polls: the Quinnipiac Poll gathered a cross section of attitudes for a statistical sample, while the goal of the push poll was apparently to serve FCR interests.

The *Times* does consider push polls legitimate news. A recent story about the mayoral campaign focused on a such a poll (Mayoral Race Has Whodunit: The Anti-Ferrer Pollster Calls, 8/30/05): *Some New York City voters have reported getting such telephone calls from professional pollsters during this year's mayoral campaign, but it is unclear who hired them and for what purpose.*

7.6 The *Times* Ignores FCR's Donations to Politicians and Community Groups

It's not uncommon for developers to contribute to politicians and community groups, and FCR is no exception. Still, that doesn't mean the press shouldn't examine the potential effect of those donations. The *Times* has ignored this aspect of the FCR story.

Earlier this year, the *Daily News* reported on FCR's charitable donations to a mayoral fund aimed at public-private partnerships (Apple Polishers Fatten Mike Fund, 1/16/05), *"THE BLOOMBERG administration has discreetly raised \$36 million in private money over the last three years to help ease the city's budget crunch, the Daily News has learned.*

Donors to the Mayor's Fund to Advance New York City range from celebrities like Nicole Kidman to companies such as Goldman Sachs and the Mets to charities like Forest City Ratner Companies Foundation....

Ratner donated more than \$60,000 from his company and his foundation for, among other things, a long-stalled statue of Brooklyn Dodgers greats Jackie Robinson and Pee Wee Reese. Aides to Ratner and the Mets declined comment."

(For information on the Mayor's Fund to Advance New York City, see www.nyc.gov/html/dycd/html/resources-mayorsfund.html.)

Nor has the *Times* reported on FCR's donations to ACORN. *The New York Observer* (Ratner Is Gaining As the Nets Owner Nuzzles Advocates, 7/25/05) reported: *But ACORN succeeded, then and in subsequent meetings, in convincing Forest City—which is one of ACORN's top donors, giving about \$20,000 a year for its fund-raiser, according to Ms. Lewis—that it could both make a profit and set a model for public policy.*

Nor has the *Times* reported on Ratner's past donations to Governor George Pataki. *The New York Sun* reported (Meet Bruce Ratner, Who Wants To Bring Nets to Brooklyn, 12/10/03): *Mr. Ratner isn't just a developer - he's also active in politics and charity.*

Since 1986, the registered Democrat has donated almost \$30,000 to local politicians, and since 2000, companies he controlled donated \$7,500 to state groups affiliated with Governor Pataki.

In 2000, *The Village Voice* sketched a Ratner tactic in Brooklyn (Brooklyn Betrayal: Una Clarke Tramples on the Truth, Friends, and the Law, 9/6-12/2000; www.villagevoice.com/news/0036,barrett,17930,1.html): *[Council member Una Clarke] championed \$3 million dollars in discretionary Capital Funding for Giuliani's largest donor, developer Bruce Ratner, who had a megastore project in her district, and collected \$18,000 in contributions from Ratner companies, subcontractors, and construction managers.*

A *Times* story dating back 18 years presented more detail about Ratner's political connections. The article (Metrotech Waits Approval Amid Protests, 6/28/87) noted: *According to campaign records, Mr. Ratner's law firm and real estate concerns have given generously to Mayor Koch, Brooklyn Borough President Howard Golden and City Council President Andrew J. Stein since 1985, when the first Forest City development in Brooklyn, the Morgan Stanley Building, went before the Board of Estimate for a vote.*

Actually, FCR has recently cut back on its political donations, as *Newsday* reported (Ratner Breaks the Mold, 1/23/04): *Though Ratner's company still spends significant funds to lobby City Hall, Ratner a few years ago sharply cut back on donating funds to political campaigns - an unusual move for a real estate developer.*

"He decided this was getting him into trouble, because every time he won a project, people would say it was because he gave money," said former city Parks Commissioner Henry Stern, who has known Ratner for 34 years.

However, FCR has recently made donations in the neighborhoods around its outline for Atlantic Yards, which the *Times* has not reported. But the *Brooklyn Daily Eagle* reported (Bruce Ratner Donates \$50,000 To Combat Infant Mortality, 4/29/05; www.brooklyn eagle.com/categories/category.php?category_id=27&id=4055): *Developer Bruce Ratner yesterday announced a donation of \$50,000 to Brooklyn Perinatal Network, to help mobilize community efforts and develop a plan to address the increasing number of infant deaths in Fort Greene.*

Also, the *Brooklyn Downtown Star* reported on the press conference when Ratner deposited \$1 million in an account at the Carver Federal Savings Bank that occupies space in the Atlantic Terminal mall owned and operated by FCR (Sent By God? In Ratner's Big Check We Trust, 3/24/05; www.brooklyn downtown star.com/StoryDisplay.asp?PID=4&NewsStoryID=893).

Even though Ratner had simply deposited money, not donated it, supporters lauded him in fulsome terms: *"As I stand here the life of Martin Luther King comes to mind," said Reverend Herbert Daughtry, pastor of the House of the Lord Churches,*



Bruce Ratner and the Rev. Herbert Daughtry. Photo by Tom Callan as published in *The Brooklyn Papers*

and the leader of a passionately pro-Ratner civic group. "One of his dreams was to bring corporate America together with women and minorities for mutual benefit. What we do is within his operation."

James Caldwell, president of BUILD, another pro-Atlantic Yards group, thanked God and Ratner for the big check, which he said "gives the little people an opportunity."

... "It is truly great to work with a person who was sent by God."

In the *Amsterdam News*, the Rev. Clinton Miller, a local opponent of the plan, suggested that the strategy behind the deposit was self-serving (Blacks remain divided over Ratner development, 3/23/05; www.amsterdamnews.org/News/article/article.asp?NewsID=55278&slID=4): "It was a nice gesture ... but it was a PR move," said Rev. Clinton Miller, a founding member of the Downtown Brooklyn Leadership Coalition, adding that as Carver's landlord, "some of that money is going right back to Bruce Ratner."



FCR PR representative (in white shirt and black pants) provides a catered breakfast to members of BUILD waiting to attend the 7/27/05 MTA Board of Directors meeting

7.7 The *Times* Doesn't Mention FCR's Role in Rallies

The *Times* hasn't reported on another FCR public relations tactic, which involves packing public rallies and public meetings with project supporters, and providing them with food, water, t-shirts, hats, signs, and buttons.

In contrast, the *Daily News* (Hardhats & Activists Cheer On Ratner Plan, 6/18/04) reported on a pro-FCR rally: *Shouting "Jobs! Housing! Hoops!" hundreds of union workers and community activists gathered outside Brooklyn Borough Hall yesterday in support of developer Bruce Ratner's Atlantic Yards project.*

The *Daily News* report at least raised the question of how FCR engineered support: *But the handful of protesters were no match for the crowd of labor union members and ACORN activists, who were handed sandwiches, water, t-shirts, hats, buttons and treated to a 30-minute concert by Young Rascals founder Felix Cavaliere. "This was just another Bruce Ratner production," [opponent Schellie] Hagan said. "Did these people make their signs, buy their water and shirts? I don't think so."*

Although the *Daily News* didn't say exactly who handed out the food, water, t-shirts, hats, and buttons, more clarity came in a *New York Press* report concerning the 7/27/05 MTA board meeting (Same As the Old Boss; Why is Bruce Ratner Smiling? 8/3/05; www.nypress.com/18/31/news&columns/aaronnaparstek.cfm): *Also around 7 a.m. a caterer arrived dropping off "what seemed like enough boxed lunches and drinks to feed half the people in Prospect Heights," according to Eric McClure, a neighborhood advocate from Park Slope. A gaggle of fashionable, cell phone-bearing Forest City p.r. women distributed the grub. Then a livery van rolled in and unloaded about a dozen more BUILD people. The Ratner crew also continued to multiply. At one point, McClure estimates there were as many as 20 Ratner staff people bustling about.*

This has become standard practice at big public meetings where the Railyards are being discussed. Ratner buses in his supporters. They ensure that anyone who raises questions, concerns or objections about the project are literally shouted down and painted as racists and enemies of working people. The irony, of course, is that these self-proclaimed proletarians have the backing of a multi-billion-dollar corporation. The supposedly "wealthy, white" opponents have to take time off work to show up at meetings. Needless to say, the Brown Shirt tactics have been incredibly effective.

As previously noted, the *Times* didn't cover the 5/26/05 City Council Economic Development Committee hearing on FCR's Atlantic Yards proposal, after

which freelance reporter Neil deMause witnessed FCR's modus operandi (www.fieldofschemes.com/news/archives/2005_05.html): *The Brooklyn Nets arena hearing was scheduled to start at 1 pm, and by noon, close to 300 people were outside: members of the community group ACORN and union members (SEIU, UFCW), chanting "Jobs, Housing and Hoops!"; and on the opposing side, members of the community group Develop Don't Destroy, bearing giant mock billion-dollar checks made out to Nets owner Bruce Ratner. At curbside, a man dispensed "Jobs, Housing and Hoops" t-shirts and pins from a box addressed to "Scott Cantone, Forest City Ratner."*

Nor did the *Times* cover a 11/29/04 public meeting about the Atlantic Yards plan, where FCR helped pack the room with MetroTech employees, according to the *Brooklyn Downtown Star* (Yards Meet Yields Few Deets, Many Opinions, 12/2/04; www.brooklyndowntownstar.com/StoryDisplay.asp?NewsStoryID=128&PID=4): *...as the hours dragged on, and union members some of which were seen filling out the forms verifying their participation in a picket-line-type activity, and MetroTech employees, who were asked by their supervisor to come, according to one, lost patience and headed home.*

7.8 The *Times* Provides More Scrutiny of Ethics Elsewhere

The *Times* isn't blind to ethical issues; it recently ran six stories in eight days on problems in the campaign of mayoral candidate C. Virginia Fields as a result of sending out a campaign flier with a doctored photo.

The stories on Fields include: *Fired Aide Releases E-Mail Notes He Sent to Fields*, 7/14/05; *Fields Plays Down Concerns That Campaign Is in Turmoil*, 7/13/05; *Both Sides Cool the Rhetoric In Furor Over a Fields Flier*, 7/10/05; *Fields Fires An Adviser. He Fires Back*, 7/9/05; *After Gaffes, Fields Faces Questions On Toughness*, 7/8/05; and *Photograph in Fields Flier May Violate Fire Dept. Rule*, 7/7/05.

The *Times* should also give scrutiny to ethical issues and public relations tactics regarding the Atlantic Yards proposal, another issue of public importance.

Chapter 8

The *Times* Has Soft-Pedaled FCR's Track Record of Gaining Subsidies for Its Projects

FCR's track record is relevant to readers—both the general public and decision-makers—who must evaluate the Atlantic Yards project. Since FCR announced the Atlantic Yards project, the *Times* has not published a profile of the company and has offered only a sketchy one of FCR President Bruce Ratner.

Also, the *Times* has printed boilerplate promotional statements from an FCR spokesman (Development Rival Offers Compromise on Nets Arena, 7/26/05): “Forest City Ratner has an unmatched record in Brooklyn and throughout the city for developing and completing highly complex projects,” said Joseph DePlasco, a spokesman for Mr. Ratner and his company, Forest City Ratner. “Also, they already have in place a long-term partnership with community groups and community leaders to develop thousands of needed jobs and 2,500 units of affordable housing while generating billions of dollars in revenue for the city and the state.”

The *Times* chose not to quote independent critics who could question the developer's track record (see item 8.2), nor has the paper significantly questioned FCR's optimistic economic predictions for the project (see items 3.1–3.5).

In addition, the *Times* erred in letting stand Ratner spokesman DePlasco's projection of 2,500 units of affordable housing rather than 2,250 units (see item 1.2). This should be corrected.

8.1 The *Times* Has Hardly Profiled FCR/Bruce Ratner

Forest City Ratner Companies and its president, Bruce Ratner, a major real estate developer in New York and the leading one in Brooklyn—and part of an even larger company—merit a comprehensive analysis in the city's leading newspaper. Indeed, as the company states (www.fcrc.com/): *Founded in 1985, FCRC is an affiliate of Forest City Enterprises, the nation's largest publicly traded commercial real estate development company.*

The *Times* has not published such a comprehensive piece since the Atlantic Yards was announced in December 2003—the brief *New York Times Magazine* Q&A with Bruce Ratner (Stadium, Anyone?, 6/26/05) was too superficial to qualify. Still, the failures in that Q&A (see item 1.6) are made more glaring by Ratner's policy of otherwise avoiding interviews.

The one profile of Ratner the *Times* produced, shortly after the developer reached an agreement to buy the Nets, appeared on page 6 of the Sports section, not—as a profile might more appropriately be placed—on the front page of the main news section, or the Metro section, the Business section, or the Real Estate section. In fact, the report noted that this wasn't a sports deal at all—which is a clear argument for the article to have appeared elsewhere (Pro Basketball: The Buyer; Can Former Indians Fan Be O'Malley's Avenger? 1/22/04): *For the balding, bespectacled Ratner, though, the plan to bring pro basketball to Brooklyn has little to do with sports. He is in no sense a hyperventilating sports addict. He is described by friends as a casual sports fan. This is about development and it is about Brooklyn.*

The article didn't mention the actual size and scope of the enormous development.

In addition, the article quoted praise from a source friendly to FCR and Bruce Ratner, but did not identify her multiple conflicts of interest: *"When I first heard about the Nets, I thought it was amusing," said Mary Ann Tighe, president of CB Richard Ellis, the big commercial real estate broker based in Manhattan. "I have not known Bruce to be a basketball fan. But I knew Bruce would become a devoted basketball fan."*

Like others who know him, she regards Ratner as the prototypical atypical New York real estate developer. "He's the opposite of everything you visualize when you think of New York real estate," she said. "He's a liberal Democrat, self-effacing. The non-Trump."

Tighe, the first person quoted in the article, is not just one of Ratner's "friends;" she also had a business relationship with both Ratner and the Times Company. A previous *New York Sun* profile noted Tighe's connection to him (Meet Bruce Ratner, Who Wants To Bring Nets to Brooklyn, 12/10/03): *Mr. Ratner ... ended up working with Ms. Tighe when she was the person tapped by the Times to pick a developer for its new headquarters.*

After she helped pick Mr. Ratner, she hopped over to his team, where she's representing the company on the Times project, as well as some of its Brooklyn properties.

Tighe was also to be a co-investor with Ratner—and, at the time she was interviewed, may have already committed to that role. Seven months later, newspaper reports revealed she was among the investors in Ratner's purchase of the Nets. See *The Brooklyn Papers* (Investors in Ratner's Nets, 8/21/04; www.brooklynpapers.com/html/issues/_vol27/27_33/27_33nets1a.html) and *The New York Sun* (Look Who's on List of Nets Investors, 8/24/04; daily.nysun.com/Repository/getFiles.asp?Style=OliveXLib:ArticleToMail&Type=text/html&Path=NYS/2004/08/24&ID=Ar00103). Tighe is now the leasing agent for the Times Tower, according to Forest City Ratner (http://www.fcrc.com/full_pressrelease.asp?brief=14).

More than two years earlier, the *Times* had acknowledged that Tighe served as a real estate advisor to the Times Company (Blight to Some Is Home to Others: Concern Over Displacement by a New Times Building; 10/25/01): *But Mary Ann Tighe, vice chairwoman of Insignia/ESG, who is The Times's real estate adviser...*

She had a longstanding relationship with the Times Company, as she had helped sell a former printing plant for the company, the *Times* reported (Times Sells Former Plant, 6/10/97): *Security Capital Industrial Trust, a real estate investment trust based in Aurora, Colo., has paid \$11.5 million for a vacant warehouse in Carlstadt, N.J., used until two years ago as a printing plant for The New York Times.*

...Mr. Fox, along with his colleagues, Joel Orenstein and Mary Ann Tighe, represented The New York Times Company.

The article quoted praise from a source friendly to FCR and Bruce Ratner, but did not identify her multiple conflicts of interest

A list of prohibited activities posted at MetroTech

Welcome to The Commons at MetroTech Center.
RULES AND REGULATIONS

To ensure that everyone is able to enjoy The Commons, all patrons are subject to these rules:

NO

- Loitering
- Writing on Property (Graffiti)
- Littering
- Loud Radio, Tape or CD Playing
- Picking Flowers, Branches, Leaves
- Unleashed Animals
- Alcoholic Beverages
- Fires
- Lying Down on Benches
- Begging
- Building of Shelters
- Peddling
- Posting of Signs
- Fireworks
- Hazardous Activities
- Bicycle Riding
- Kite Flying
- Ball Playing
- Remote Controlled Vehicles
- Skating or Skateboarding
- Unauthorized Activities or Vehicles

Open to the Public from 6 a.m. to 10 p.m. The City Planning Commission requires that this open space be provided for the benefit of the public.

For your safety this area is monitored by closed circuit television.

The *Times* should have disclosed that relationship.

While the 826-word 1/22/04 *Times* profile of Ratner did mention the developer's partnership with the Times Company—and noted that he declined to be interviewed—it made no mention of the controversy related to subsidies for FCR projects. Rather, it credited MetroTech in part for “raising vitality” in downtown Brooklyn, though others not quoted by the *Times* note the area is a dead zone after business hours (see item 14.4): *He gravitated to the unlikely: forgotten, malnourished areas, chiefly Brooklyn. He built One Pierrepont Plaza, an office building in Brooklyn Heights, and then the Metrotech office complex in downtown Brooklyn, major factors in raising the vitality of the area. His company is now based at Metrotech.*

The *Times* article gave only a hint of Ratner's tactics in developing new projects: *He's also practiced in the art of political connections and deflecting community opposition and patience, essential traits in real estate development.*

By contrast, the *New York Press* laid out some of those political connections (Nets of Plenty; 2/10/04; www.nypress.com/print.cfm?content_id=9596): *What Ratner wants from the ESDC doesn't require legislation or a vote. It may not even require a trip to Albany—the ESDC rents offices in Brooklyn, mercifully right inside Ratner's struggling Atlantic Center Mall. He merely needs to ask the folks who run the ESDC for whatever he wants.*

And who runs the Empire State Development Corp., the state-run company with the power to condemn private property in the interest of for-profit development?

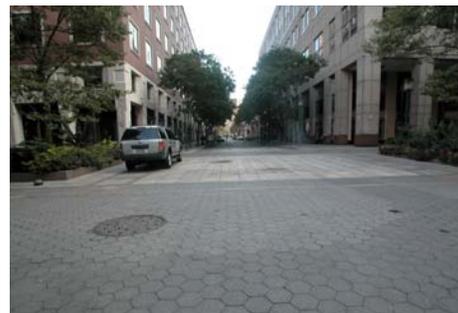
Charles Gargano, an old friend of Ratner's, serves as its boss. Overseeing its decisions is none other than Ratner's old law school buddy, George Pataki.

The *New York Sun* published a 2,338-word front-page profile of Ratner—despite his refusal to be interviewed—the day FCR announced the arena plan. The profile included a history of FCR's collaboration with the *Times* (Meet Bruce Ratner, Who Wants To Bring Nets to Brooklyn, 12/10/03): *After Mr. Ratner won over the Times, he convinced the state to use eminent domain powers to seize the block where he wanted to build. He also lined up a slew of tax exemptions worth \$26.1 million by late 2001. Now, he's trying to refinance the building, using millions of dollars in tax-exempt Liberty Bonds, which Congress created in the wake of September 11 to help rebuild.*

The profile also outlined the controversy over FCR's track record in Brooklyn: *Nowadays, the Atlantic Center—a 393,713-square-foot shopping mall on the corner of Atlantic and Flatbush avenues—is less than popular. Community residents and politicians charge that Mr. Ratner's complex is only surviving because government tenants are moving in where private tenants should be. But to the people who were involved in making the Atlantic Center, those complaints lack historical perspective.*

“When the shovel first went into the ground, there were thousands of people celebrating in Brooklyn because someone was investing in an area that people had thrown off,” [Borough President] Mr. [Marty] Markowitz said. “Now we're looking at it through the eyes of 2003, and we say, ‘ugh.’ It ain't pretty space, but back when it started, he was the only one who was developing anything major in Brooklyn.”

A *Newsday* profile also noted Ratner's record of gaining subsidies (THE CONTENDERS: Hoping to Give Brooklyn Boost, 9/21/03): *Ratner, who once worked at City Hall and who is a big political contributor, knows how to tap public funds for his projects. He obtained \$114 million in tax-exempt bonds that were designated for rebuilding New York after the attack on the World Trade Center for new Bank of New York offices in Brooklyn, and he is seeking another \$400 million of Liberty Bonds, as the*



A weekend scene at MetroTech, the complex that includes FCR headquarters

bonds are known, for *The New York Times*' planned 52-story tower on Eighth Avenue, between 40th and 41st streets.

The profile also quoted an unidentified official who criticized Ratner's projects: "He's suffered from having raised people's expectations," said one former Brooklyn official, citing what he called the dreadful cinder-block construction of the shops the developer built opposite his Atlantic Terminal. "They look as if they were lifted out of a suburban parking lot by helicopter and dropped into one of the busiest intersections in the city," said the ex-official. "The Atlantic Center itself is busy, but it looks shoddy inside and out."

Another article in *Newsday* (Ratner Breaks the Mold, 1/23/04) also provided some insight into Ratner's history as a developer: *One trademark of Ratner projects is that they often involve financing or subsidies from city and state agencies. Some observers have criticized those deals over the years, but backers say this is because he builds in under-served areas that won't support fully private financing.*

By one estimate, MetroTech cost the city \$300 million in tax breaks and infrastructure improvements, but the city estimates that it saved 7,700 jobs.

An earlier profile in the *New York Post* also raised the question of political connections (KING OF THE RETAIL DEALS: A FORMER CITY COMMISH BECOMES NYS'S TOP DEVELOPER OF COMMERCIAL SITES, 12/28/97): *The 52-year-old developer, lawyer and former commissioner of the New York City Department of Consumer Affairs angrily dismisses the persistent notion that his heavy contributions at the city, state and federal level get Forest City favored treatment - and even allow him to make special deals.*

...Speculation about [Bruce] Ratner's ties to City Hall and to Albany persists, although it comes almost entirely from competing sources who ask not to be named.

Developers consistently allege that Ratner works behind the scenes to set up "sole-source" deals to develop public land that he has his eye on.

...In other words, Ratner has been the city's most prolific developer over the past decade. But has he accomplished that through back-room politicking, or even by buying his way to the top? Or has he made his mark by taking risks that other, more established builders have shied away from?

The answer may indeed be both.

Furthermore, the *Times* has not provided any biographical sketch of FCR VP Jim Stuckey, who has been the company's public face, providing testimony at City Council hearings and making presentations at public meetings. At a City Council hearing on 5/4/04, Stuckey recounted that he formerly headed the city agency (Transcript04, www.dddb.net/times/ED050404_Transcript.pdf, p. 125): "I held [NYCEDC] President [Andrew] Alper's job during the Koch Administration."

A biographical sketch on FCR's web site (www.fcrc.com/full_compmng.asp?brief=4) notes that *Mr. Stuckey served as President of the New York City Economic Development Corporation (EDC) under Mayor Edward I. Koch. As such, he was responsible for overseeing in excess of \$15 billion in commercial, industrial, and waterfront real estate development projects. Mr. Stuckey played a key role in the development of MetroTech Center, Citibank Center, Times Square Redevelopment, Astoria Motion Picture Studios, and the Teleport projects.*

The fact that Stuckey, in his previous position, played a role in the development of MetroTech meant that he had a longstanding association with FCR. His role in Times Square Redevelopment suggests he was also well-known to the New York Times Company. This information is relevant to his current role, as well as his role in having helped choose the architect for the Times Tower (see item 10). The public should

know about FCR's previous involvement with decision-makers on this project and at the Times Company.

8.2 Ignoring a History of Subsidies

While other publications have thoroughly analyzed FCR's track record of gaining subsidies, the *Times* has not done so.

By contrast, a *Village Voice* article by Neil deMause laid out a history of subsidies Ratner has obtained (The Man Who Would Be Kings, 11/5/03; www.villagevoice.com/news/0345,demause,48403,3.html): *While Ratner is hardly the only city developer to benefit from public largesse, that doesn't make his record of government subsidies any less impressive.... Since the 1980s, the city has offered 13-year property tax exemptions for all outer-borough development. To that, add more than \$300 million in city rent subsidies to prime Metrotech tenants Chase Manhattan and Bear Stearns, and \$114 million in tax-exempt Liberty Bonds—earmarked for rebuilding lower Manhattan—for the Bank of New York tower [at Atlantic Terminal mall]. In perhaps his most audacious project yet, Ratner used the state's eminent domain powers to obtain land for the new New York Times building off Times Square at below-market prices—then requested an additional \$400 million in federal Liberty Bonds when he couldn't find tenants.*

The New York Sun noted Ratner's reliance on subsidies (Legislation in Congress Could Bar Forest City Ratner From Subsidies, 7/12/05): *The associate director of the Pratt Institute Center, Mafruz Khan, said Forest City Ratner "has historically been very aggressive and successful in getting subsidies at all levels - city, state, and federal."*

In the newsletter of the Manhattan Institute, a think tank devoted to issues of "greater economic choice and individual responsibility," contributor Julia Vitullo-Martin summed up how FCR has used subsidies to make its Brooklyn projects viable (Thinking about Ratner's Urban Renewal, 5/04; www.manhattan-institute.org/email/crd_newsletter05-04.html): *The sad truth is that Forest City Ratner's previous Brooklyn real estate projects have not been economically viable without substantial government subsidies... The Atlantic Center Mall... was supposed to attract fairly high-end retail to replace shabby retail. But erased store names on the dirty concrete entrance are a reminder that the mall's initial promise never paid off. Instead, government agencies have moved into space vacated by private companies. The state's Department of Motor Vehicles, which took space vacated by the Sports Authority chain, is paying \$1.6 million a year for its 44,000 square feet, or about \$39 per square foot. The Empire State Development Corporation, which moved into space vacated by Macy's, is paying \$36,000 a year. (This state largesse is on top of the initial city subsidies of \$18.6 million plus a 23-year property-tax abatement.)*

8.3 The *Times* Downplays FCR's Subsidies at its Brooklyn Malls

The fact that the two state agencies mentioned in item 8.2, the Department of Motor Vehicles and the Empire State Development Corporation, rent space in FCR's Atlantic Center mall, suggests failures in that retail endeavor. However, the *Times* has mentioned, only once and in passing, the tenancy of those two state agencies in the mall. A *Times* article about community members opposed to the Ratner plan noted (Guarding Their Homes Against the Bulldozer, 1/23/04): *A pair of architects who live in part of a converted factory on Dean Street have even proposed an alternate*

"The sad truth is that Forest City Ratner's previous Brooklyn real estate projects have not been economically viable without substantial government subsidies"

—Julia Vitullo-Martin, The Manhattan Institute

development plan that involves razing the Atlantic Center mall, a much-maligned shopping complex that Mr. Ratner built just north of the proposed arena site. (Its newest tenants include two state agencies, the Department of Motor Vehicles and the Empire State Development Corporation itself, which together pay Mr. Ratner more than 1.5 million taxpayer dollars a year in rent.)

The article did not point out the irony of having state agencies pick up the slack for taxpayer-subsidized retail. Nor did the article point out that those spaces—designed for retail—are not used in the evening or on weekends, which are prime hours for mall operations. While the *Times* has pointed out that the Empire State Development Corporation signed one 2/18/05 Memoranda of Understanding with FCR regarding the Atlantic Yards development (see Deal is Signed for Nets Arena in Brooklyn, 3/4/05), it has not reported that the agency has signed another MOU that was secret until it was revealed in other press accounts in August 2005 (see item 6.4). For the documents, see www.dddb.net/mou/MOU1.pdf, p. 3 and www.dddb.net/mou/MOU2.pdf.

FCR is the landlord for ESDC, likely the very agency that would be supervising the Atlantic Yards project. Surely this deserves further investigation and comment.

By contrast, the *New York Post* reported that local officials have criticized the decision to invite government agencies to fill retail space, due to the mall's dependence on public funds: \$18.55 million in city subsidies, a 23-year property-tax abatement, and \$4 million in street improvements (TAXPAYERS MALLED—B'KLYN STATE OFFICE DEAL UNDER FIRE, 11/17/03): *A Brooklyn mall built with heavy city subsidies to encourage retail development has put in state offices where large stores were supposed to be—a move local officials are blasting as a bailout for the politically connected owner.*

The Atlantic Center Mall, near the busy intersection of Flatbush and Atlantic Avenues, is now taking in about \$1.6 million a year from the state, which rented a 44,000- square-foot chunk of the building for a Department of Motor Vehicles office.

A second state office, the Empire State Development Corp., moved into a portion of the mall's otherwise vacant third floor, where Macy's operated until last spring, paying another \$35,700 a year in rent and fees.

...“It just means that in addition to the up-front investment that the city made, the taxpayers are to a large extent bailing out the project because the retail part never worked out,” said state Sen. Velmanette Montgomery (D-Brooklyn).

In addition, the *New York Press* noted a state agency's “rescue” of Ratner's mall (Nets of Plenty; 2/10/04; www.nypress.com/print.cfm?content_id=9596): *Ratner promised that the Atlantic Center mall would jumpstart retail rejuvenation in its area. Today, one of the mall's biggest tenants is the New York Department of Motor Vehicles, which has come to Ratner's rescue by renting almost 50,000 square feet to the tune of about \$1.6 million a year.*

Furthermore, the *Times* has not followed up on FCR's claims that Atlantic Center would be a major source of jobs. Before the mall opened, an article in the *Times City Weekly* section heralded the potential for employment (So Far, Jobs Are Hot Item At New Mall, 9/8/96): *Atlantic Center, the \$85 million, 380,000-square-foot mall that holds the promise of about 1,250 new retail jobs, according to the developer, Forest City Ratner...*

The most recent major *Times* article on the mall made no mention of the number of current jobs there (Rethinking Atlantic Center With the Customer in Mind; 5/26/04).

However, the Kim-Peebles report of June 2004 noted that FCR had overstated its



Atlantic Terminal mall viewed from P.C. Richard/Modell's parking lot

claim of 1,250 jobs from the start (K-P, www.dddb.net/public/KimPeebles.pdf; section 8.20): *According to Local Law 69 reports provided to us by Good Jobs New York, FCRC only promised, in actuality, 522 jobs to the government despite these grander claims to the public.*

[Actually, according to Good Jobs New York, the number was 552 jobs—see www.goodjobsny.org/LL69_results.htm.]

The Kim-Peebles report suggested there were even fewer jobs: *And although Local Law 69 mandates companies to provide data on actual jobs “created,” FCRC refuses to provide this information. The company is thus not in compliance with the law on this matter, and we must assume that it is not reporting job numbers because they are actually below FCRC’s promised 522.* [emphasis in original]

A positive *Times* article about the Atlantic Terminal mall (Sampling Suburbia Inside a Brooklyn Mall, 8/16/04) failed to mention that taxpayer subsidies supported the office tower built with the mall. In fact, the article didn’t mention the Bank of New York tower at all.

A *Times* Real Estate section article about FCR’s Atlantic Terminal mall made no attempt to analyze whether the project would be a win or a loss for taxpayers. (See *At Site Dodgers Rejected, Target Store Is a Hit*, 8/8/04; query.nytimes.com/gst/fullpage.html?res=9D06E2D7153CF93BA3575BC0A9629C8B63). As noted in item 10.4, this article also neglected to mention FCR’s partnership with the *Times*.

The article stated that the mall *is expected to provide millions in new tax revenue and upgrade the quality of the other stores in the area.*

Regarding subsidies for the office tower, the article stated: *Of equal importance to the downtown Brooklyn redevelopment plan is the Bank of New York’s move into its new offices above the retail complex. The 10-story, 396,000-square-foot office tower was developed with the assistance of \$114 million in Liberty Bonds....With the help of a \$37.5 million grant through the World Trade Center Job Creation and Retention Program and up to \$2 million in sales tax exemptions, the Bank of New York decided to keep 7,700 jobs in New York City for at least 12 years. Tax incentives reduced the rents by \$15 to \$20 per square foot.*

The *Times*, however, didn’t analyze important questions raised by the article: Was this a good deal for the public? What’s the relationship between its costs and benefits?



A non-retail tenant in the Atlantic Center mall

Chapter 9

The *Times* Has Never Run a Substantial Analysis of the Use of Eminent Domain in the Atlantic Yards Plan

Although the issue of eminent domain—the ability of government entities to take private property for “public use”—is a critical one in the larger Atlantic Yards story, the *Times* has given it relatively little attention. The newspaper has covered eminent domain issues in other locations more thoroughly than it has in Brooklyn, where Forest City Ratner wants the state to condemn property owned by residents who do not wish to sell. The paper hasn’t followed up reports in other media that residents have been squeezed out of the proposed Atlantic Yards footprint by FCR’s real estate deals. It has downplayed the local angle on a recent U.S. Supreme Court case. As noted in item 5.3, the *Times* did not report on how the eminent domain issue has been a flashpoint during two debates held among candidates for the office of Public Advocate.



A renovated Spalding sporting goods factory, now housing, would be demolished in the development

9.1 The *Times* Doesn't Question Ratner's Intentions

Early on, the *Times* quoted project proponents downplaying its effect on those living on blocks within the proposed project footprint. Atlantic Yards architect Frank Gehry implied that the neighborhood was uninhabited (A Grand Plan in Brooklyn For the Nets' Arena Complex, 12/11/03): *Mr. Gehry... said he had never had an opportunity "to build a neighborhood from scratch in an urban setting."*

FCR President Bruce Ratner underestimated the number of residents affected and ignored the existence of commercial buildings that would have to be condemned in order to build the development (A Grand Plan in Brooklyn For the Nets' Arena Complex, 12/11/03): *The developer also wants the Metropolitan Transportation Authority to turn over some of its land and the state to condemn the rest of it. Only one block, he said, had apartment buildings, with about 100 residents.*

FCR quickly backpedaled, in *The Brooklyn Papers* (BULLDOZED: Nets arena would skirt city review, 12/22/03; www.brooklynpapers.com/html/issues/_vol26/26_51/26_51nets1.html): *Forest City Ratner spokeswoman Joyce Baumgarten said that number was just a "guesstimate"...*

FCR’s own consultant, Andrew Zimbalist, predicted that 150 apartments would be condemned and those residents would have to be relocated. Given that most apartments house more than one person, even by Zimbalist’s estimate, the number of displaced residents is likely closer to 300—triple Ratner’s earlier estimate. (See Z-1, www.dddb.net/public/ZimbalistReport2004.pdf, p. 17; Z-2, www.dddb.net/public/ZimbalistReport2005.pdf, p. 7.)

In fact, the number provided by Ratner was quickly disputed As *Newsday* reported (Homefield Disadvantage in Nets' Plan?, 12/22/03): *A coalition of Brooklyn residents opposed to a proposed Nets arena in the borough said yesterday that developers low-balled the number of families that would be displaced in the construction.*

Instead of 100 people being relocated, about 1,000 would see their homes razed, coalition members said in asking city officials to scrap support for the \$2.5-billion complex.

The *Times* has not corrected the 12/11/03 error and should do so for the record.

Later, a *Times* Real Estate section article quoted FCR as saying 140 apartments would be involved (Batting A Developer's Mammoth Plans, 2/27/05): *The 21-acre footprint for the controversial plan, which the company estimates would raze about 140 apartments, stretches from Atlantic Avenue to Dean Street and from Flatbush to Vanderbilt Avenues.*

Even that report, however, did not count a homeless shelter with some 400 residents—which, *The Brooklyn Papers* reported, raised the figure to more than 800 potentially displaced people in the neighborhood (Once a foe, homeless now a tool in anti-arena fight, 2/7/04; www.brooklynpapers.com/html/issues/_vol27/27_05/27_05nets2.html): *According to PHAC [Prospect Heights Action Coalition] spokeswoman Patti Hagan, 863 people would be displaced along the blocks from Atlantic and Flatbush avenues stretching east into Prospect Heights.*

But that number includes the 400 residents of the homeless shelter.

"[They] are using the homeless they fought so hard to keep out of Prospect Heights to pad the number of individuals they claim will be forced to move," Borough President Marty Markowitz wrote in a letter to The Brooklyn Papers.

...Asked about "padding" the numbers, Hagan said the families had been living in the facilities for almost a year, longer than some of the residents in two new, recently converted condominium buildings.

"According to law, if you have been in a place for 30 days you have tenants rights, you are a resident," said Hagan. "Is Marty Markowitz trying to say that these people do not exist?"

The *Times's* most substantial article mentioning eminent domain in connection with the Atlantic Yards project did not question an FCR official's statement of the company's good intentions (Arena Developer Rethinking Condemnation of Houses, 5/5/04): *"We're working diligently to substantially reduce the amount of residential condemnation and eminent domain that will be part of this project," James Stuckey, executive vice president of the developer, Forest City Ratner, said at a hearing of the City Council's Committee on Economic Development. "We're looking at how we can reshape the plan, we're talking with residents and we are looking at how we can substantially reduce and possibly eliminate the need for residential condemnation."*

...Mr. Stuckey declined to elaborate on how the company planned to avoid condemnations, but said that it was considering redrawing the physical outlines of the plan and offering generous buyouts to property owners.

Although FCR has since offered such buyouts, accompanied by gag orders (see item 7.4), a recent *Times* account of the revised plan did not contain any reference to redrawn outlines intended to minimize the need for eminent domain (Instant Skyline Added to Brooklyn Arena Plan, 7/5/05): *And although Mr. Ratner has been steadily negotiating to buy privately owned properties within the Brooklyn development zone, he may face court battles in his efforts to acquire some land by eminent domain and with critics who have threatened to sue.*



View looking south along Sixth Avenue from Pacific Street to Dean Street and beyond. The block between Pacific and Dean would be razed

9.2 Does FCR's Threat of Eminent Domain Empty Out Apartments?

FCR has made public promises that no one would see his or her living situation diminished—that anyone in the project footprint could find a new place at the same rent. WNYC radio, but not the *Times*, reported a less sunny story (Some Prospect Heights Residents Fear “Future Brooklyn,” 6/23/05; www.wnyc.org/news/articles/48683): *Last winter, at a packed forum at a college in Brooklyn, Forest City Ratner Executive Vice President Jim Stuckey said Ratner would pay for any rent increases for tenants who had to move for the project, so it would cost them nothing.*

STUCKEY: Every resident who is displaced from the project will be brought back in or offered to come back in if they choose to a unit the same size, same number of bedrooms, same rent. They'll follow minimum rent stabilization guidelines, so they can't be increased. This is not something we're trying to fool people.

REPORTER: But there are people who feel they HAVE been fooled. I spoke to two dozen tenants or their representatives in the “footprint” of the arena complex. None said they'd made the kind of deal Stuckey described. Instead, there were found people like Frank Yost. [owner of Freddy's bar on Dean Street, and residential tenant above the bar]

YOST: My lease was up earlier this year and my landlord said we're not going to renew your lease. You have to be out by April 1st.

...[Former resident, and sculptor, Mick] Raffle says he was able to negotiate a substantial settlement in exchange for agreeing to terminate his lease – but he didn't feel he had much choice.

RAFFLE: The lawyers said oh this is the best deal because eventually you know the stadium is going to be built and you will have to leave because they would exercise eminent domain.

REPORTER: That's a common complaint among tenants – that the specter of eminent domain is itself enough to empty the neighborhood.

9.3 The *Times* Downplays the Threat of Eminent Domain

A *Times* City Weekly section editorial downplayed the threat of eminent domain to the neighborhood within the Atlantic Yards footprint (The Brooklyn Nets, 7/4/04): *While some residents will be dislocated and inevitably wind up feeling pushed around, the mere threat of change is not a reason to oppose the project. Neither is the use of the state powers of eminent domain, as long as the people involved are compensated fairly. Mr. Ratner seems to have been generous in buying out homeowners and moving renters.”*

The editorial failed to mention that Ratner's seeming generosity to those who sell their property to FCR includes a gag order (see item 7.4). Moreover, the *Times* had not reported on Ratner's efforts to move renters living in the Atlantic Yards footprint, which makes suspect the editorial's assumption that renters had been treated generously. In fact, a follow-up report on WNYC radio a year later found (see item 9.2, above) that not all renters have been treated generously.

Another *Times* editorial, in the national edition, written after the 5-4 U.S. Supreme Court eminent domain ruling (see item 9.4), also offered a sanguine view of those forced to leave (The Limits of Property Rights, 6/24/05): *New London's development plan may hurt a few small property owners, who will, in any case, be fully compensated. But many more residents are likely to benefit if the city can shore up its tax base and attract badly needed jobs.*



A poster of Frank Gehry's latest architectural model in the window of Freddy's, a Prohibition-era bar on Dean Street that would be wiped out by the development

Only one Times news report addressed the charged question of “blight”

Only one *Times* news report—in the City Weekly section that circulates only in the five boroughs—addressed the charged question of “blight.” For the state to acquire private property for public use (including FCR’s project), the area must be termed “blighted,” as discussed at a community meeting that the *Times* had to report secondhand (In a War of Words, One Has the Power to Wound, 12/19/04): *As reported in The Brooklyn Paper, a local weekly, the latest skirmish began on Nov. 29 at a community meeting. James Stuckey, an executive vice president at Mr. Ratner’s firm, Forest City Ratner, was explaining the process of eminent domain, under which the state can acquire private property needed for a public use.*

Forest City officials have emphasized that they hope to obtain the land they need by buying it, but do not rule out asking the state to obtain property for them as a last resort.

That option, Mr. Stuckey said, would involve declaring properties in the proposed arena footprint “blighted.” The word drew jeers from members of the audience, the newspaper reported, including one woman who yelled back, “You’re blighted!”

More than two weeks after the exchange, emotions were still raw.

“This whole blight thing, it’s just ludicrous,” said Ms. [Patti] Hagan, a founder of the Prospect Heights Action Coalition. “My house happens to be 135 years old, but that’s what people seek here.”

...“If one is allowed to make a counter-blight argument,... it could be made for everything that Ratner has built around here thus far.”

Forest City representatives say the incident has been blown out of proportion.

“This is a technical term that is used as part of the eminent domain process, and he was explaining the term,” said Joe DePlasco, a company spokesman. “Yes, you’re cognizant of what people think of their houses and their city, but you still have an obligation to explain the procedure.”

The criteria used to determine blight include the presence of deteriorating or obsolete structures, but, Mr. DePlasco said, “obviously that doesn’t include every building in a proposed site.” He also noted that a large part of the site is a railroad yard that he called “an empty scar dividing the community.”

9.4 The *Times* Offers More Scrutiny Elsewhere

By contrast, a front-page Metro Section story analyzed an eminent domain controversy in New Jersey (Long Branch Wants to Seize Old Homes to Make Room for New Ones, 3/31/04): *The government’s power to seize private land for public use has historically been justified as benefiting the greater good. In Colonial America, that meant taking private land to build roads or government buildings. In the late 20th century, as cities cleared houses for shopping malls and factories, the “greater good” came to mean job creation and economic revitalization.*

But in this small coastal community, eminent domain, as the legal doctrine is known, is expanding in a way unseen before in the nation on such a large scale, according to those who track its use. As Long Branch undergoes a comprehensive redevelopment project, it is prepared to seize and destroy houses not for a school or even a supermarket, but to make room for new condominiums and town houses.

With a similar situation in Brooklyn, the possible use of eminent domain raises important questions. Is the Atlantic Yards project one of public gain or private gain? Would the number of jobs and amount of affordable housing be worth the cost of public investment and the sweeping exercise of eminent domain? The *Times* hasn’t analyzed these important concerns.

Also, a lengthy story in the *Times*’s Westchester Weekly section (Main Street vs. the

Main Chance, 7/25/04) explained plans to use eminent domain in Westchester. It contained this analysis: *The Fifth Amendment to the Constitution states that public property shall not be taken for “public use, without just compensation.” The Fourteenth Amendment holds that no state shall “deprive any person of life, liberty, or property, without due process of law.”*

From such vague instructions derive New York State’s Eminent Domain Procedure Law—which, subject to its own broad provisions, allows government agencies and municipalities to condemn a private property “for a public use, benefit, or purpose.”

Once defined as taking private property to build a road, the designation has become so blurred that “we’ve moved from cases where the government owns and uses the property to projects that might produce increased tax revenue in 20 years,” said Dana Berliner, an eminent-domain expert with the Institute for Justice, an advocacy group in Washington.

The *Times* is a national newspaper, but it shouldn’t neglect its home city. In reporting the controversial *Kelo v. New London* eminent domain case at the U.S. Supreme Court, *Times* reports have hardly mentioned the potential effect on Brooklyn. By contrast, the *New York Daily News* (Supremes’ New Domain: Landowner’s case may stymie developers, 2/22/05) and *The New York Sun* (Development in N.Y. Hinges on Eminent-Domain Decision: Property Rights Case Relevant to Columbia Plans, Nets Arena, 2/22/05) mentioned the local angle the day the Supreme Court heard oral arguments. The *Sun* article even mentioned that Brooklyn United for Innovative Local Development (BUILD; see item 4.3) submitted a friend-of-the court brief in support of cities’ power to use eminent domain.

When the court decided 5-4 in favor of the city of New London, which wanted to pursue eminent domain, both *The New York Sun* (Property Ruling Could Affect N.Y. Development, 6/24/05) and *Newsday* (Land’s Not Your Land, 6/24/05) offered a local angle. *Newsday* noted: *New York City, which filed a brief, has asserted that it can take property in Brooklyn to clear the way for a New Jersey Nets arena because it will revitalize the downtown.* Later, the *Village Voice* pointed out that New York was the only city to file a brief in support of New London (“*Times*’ to Commoners: Go Elsewhere, 8/16/05; www.villagevoice.com/news/0533,moses,66887,5.html). Develop Don’t Destroy Brooklyn also filed a brief supporting the homeowners fighting the city of New London.

A subsequent front-page *Times* story on eminent domain explored efforts to change state laws in response to the 5-4 *Kelo* decision, but neglected to mention New York, even though there is such a movement in New York State, as well (Ruling Sets Off Tug of War Over Private Property, 7/30/05): *In California and Texas, legislators have proposed constitutional amendments, while at least a dozen other states and some cities are floating similar changes designed to rein in the power to take property.*

Indeed, just the day before, *The New York Sun* reported that State Senator David Paterson, along with Harlem civic leaders and three City Council members, had called for a statewide moratorium on eminent domain and that City Council Majority Leader Bill Perkins would introduce a council resolution to support the moratorium. (See New York Desk, 7/29/05; daily.nysun.com/Repository/getFiles.asp?Style=OliveXLib:ArticleToMail&Type=text/html&Path=NYS/2005/07/29&ID=Ar00400.) The article cited the controversy in Brooklyn: *Council Member Letitia James, of Brooklyn, an opponent of the proposed development of Atlantic Yards, accused the developer, Bruce Ratner, of using eminent domain as a form of coercion and said she expected the proposed moratorium to slow his project.*

Times reports hardly mentioned the potential effect of the eminent domain case on Brooklyn

By contrast, a *Times* House & Home section story on the situation of those facing the loss of their homes as a result of the imposition of eminent domain mentioned Brooklyn (The Buyouts Versus the Holdouts, 6/30/05): *In a suburb of Buffalo, a developer wants to knock down more than 300 homes to make way for a traditional-style town that he says he believes will alleviate blight... And in Brooklyn, recently converted lofts are in the path of a proposed basketball arena.*

The article, appearing in a feature section, concluded with quotes from two loft-dwelling “holdouts” in Brooklyn. Though many more properties than lofts are in the footprint of land FCR seeks for its project, it’s notable that *Times* feature section editors have recently addressed local eminent domain issues better than those in other sections of the paper.

9.5 The *Times* Omits a Relevant Mention of Eminent Domain

While Forest City Ratner’s proposal would likely require the use of eminent domain, the Extell Development Company, which has bid to develop the MTA-owned railyard, has ruled out the use of eminent domain for its project. In reporting on Extell’s bid, however, the *Times* has incompletely described the company’s history of challenging eminent domain in the *Times*’s own real estate deal (Brooklyn Plan Draws a Rival, And It’s Smaller, 7/7/05): *As a developer, [Extell’s] Mr. [Gary] Barnett has clashed with Mr. Ratner before. He sued to block a deal with the city and state for the development company Forest City Ratner to build an office tower for The New York Times Company in Midtown. That suit was unsuccessful, and Mr. Ratner is now the development partner for the new Times headquarters being built on Eighth Avenue.*

That was repeated parenthetically in an editorial (Skyscrapers Grow in Brooklyn, 7/10/05): *(Mr. Ratner is a partner in building The Times’s new headquarters. Gary Barnett, who submitted the Extell bid, unsuccessfully sued to try to block that project.)*

Earlier *Times* coverage provided more context on Barnett’s suit to stop the Times Tower (Investor Takes Step to Halt New Tower for The Times, 7/25/02): *The investor, Gary Barnett, who owns one of the 11 small buildings and parking lots on the development site, has lost several previous court battles to stop the project, which he claims is a “sweetheart” deal for the newspaper at the expense of taxpayers. The state and the city, in turn, have argued that a new skyscraper would transform what they describe as a blighted block and generate hundreds of jobs and millions of dollars in new tax revenues.*

Mr. Barnett is supported by five other property owners at the site, which sits on the block between 40th and 41st Streets, across Eighth Avenue from the Port Authority Bus Terminal. They have said that they would like to build their own office tower on the land.

At a hearing in State Supreme Court in Manhattan today, Mr. Barnett’s lawyer will argue that the court should stop the Empire State Development Corporation from taking title to the property until there is a final decision on his appeal of a lower court decision rejecting his challenge to condemnation.

“The Constitution requires a public purpose for every condemnation,” said Mr. Barnett’s lawyer, Guy Miller Struve, of Davis Polk & Wardwell, “and it is not a public purpose to take the property away from the owners who wish to develop the site in order to give it to another developer. We also question whether the subsidies, which are estimated to be at least \$70 million, constitute a waste of taxpayer funds.”

Chapter 10

The *Times* Has Been Inconsistent in Disclosing Its Ties to FCR

The developer and The New York Times Company are partners in the construction of the *Times*'s new headquarters in Manhattan, yet the *Times* has not disclosed that fact consistently. Even criticism from the *Times*'s own Public Editor has not generated disclosure in all articles where it would be appropriate. Also, Forest City Ratner President Bruce Ratner and VP Jim Stuckey helped choose the architect for the Times Tower—another fact that has not been mentioned in articles in which they have been prominent subjects. And, when writing about the Atlantic Yards plan, former architecture critic Herbert Muschamp did not disclose in print his previous relationship with FCR.

Disclosure would help readers evaluate the fairness of the *Times*'s coverage and put reporters and editors on notice that they should cover FCR exactly, without fear or favor.

Disclosure would help readers evaluate the fairness of the Times's coverage

10.1 Few Disclosures at the Start

In early coverage of the Atlantic Yards plan, between 8/8/03 and 12/23/03, the *Times* ran 36 articles, plus a news summary, that mentioned Bruce Ratner and his effort to buy the New Jersey Nets and move the team to Brooklyn as part of a major development project. All but six articles appeared in the Sports section. Of 36 articles, 35 failed to disclose that the Times Company and Forest City Ratner are development partners in the Times Tower project. Not all were “substantive”—the criterion posited by Public Editor Byron Calame to require disclosure (see item 10.2, below).

However, six articles likely did merit disclosure. They include:

An article that first introduced Ratner's potential purchase (YankeeNets Unravels, And Teams May Move, 8/8/03): *In one of the more startling proposals, according to people involved in the negotiations, Lewis Katz, a wealthy businessman from New Jersey and a principal owner of the Nets, could join with the developer Bruce Ratner in moving the teams to downtown Brooklyn, where a new 20,000-seat arena would be the centerpiece of a real estate development designed by Frank Gehry, the architect responsible for the Guggenheim Museum in Bilbao, Spain, and the Mighty Ducks' training facility in Anaheim, Calif.*

A story that cited Ratner's apparent inside track to subsidies (Corzine in Bid to Buy Nets And Block Potential Move, 8/19/03): *"Our competition is this guy Ratner, who's willing to put up a ton of money," the executive said. "He claims to have New York City officials willing to give him a huge subsidy."*

An article that suggested the enormous scope of the real estate project (Three Groups Submit Initial Bids to Buy Nets, 10/9/03): *Bruce C. Ratner, a New York developer, has assembled a group to buy the team and move it to a new arena in Brooklyn that would be part of a vast residential and commercial project.*

A story that focused on support by Brooklyn Borough President Marty Markowitz and former basketball players for Ratner's plan (Nets in Brooklyn? These Stars Support It, 10/15/03): *Some of Brooklyn's finest homegrown basketball talent gathered at Junior's Restaurant yesterday to support Bruce Ratner's attempt to buy the Nets and move them to Brooklyn.*

Connie Hawkins, World B. Free, Albert King, Sidney Green, Pearl Washington, Fly Williams, Greg Jackson, Sonny Hertzberg, Geoff Huston and Richie Gaines flanked Ratner, a New York developer, and Marty Markowitz, the Brooklyn borough president, as they shared their vision of the Brooklyn Nets at a news conference.

An article that previewed Ratner's master plan (An Outline Is Approved For the Sale of the Nets, 12/9/03): *Ratner is to unveil a master plan for his project, including an arena, at Brooklyn Borough Hall, with his architect, Frank Gehry, designer of the Guggenheim Bilbao in Spain.*

A relatively brief article about Ratner's ambitions (Developer Wants His Project, And Buying Nets Hinges on It, 12/12/03): *Bruce C. Ratner is not a superfan, but he wants the Nets, covets them so much that his company will not build a \$2.5 billion downtown Brooklyn project, which features a glass-sheathed arena topped by a track and an ice skating rink, without them. Talk about incentive: no Nets, no minicity.*

10.2 The Public Editor Has Criticized the Times

Following the *Times Magazine's* recent interview with FCR President Bruce Ratner, current Public Editor Byron Calame criticized the paper's failure to disclose its ties to FCR. Calame wrote in his 6/29/05 Web Journal (forums.nytimes.com/top/opinion/readersopinions/forums/thepubliceditor/publiceditorswebjournal/index.html):

Full Disclosure of Ties with Bruce Ratner

The New York Times, I believe, has an obligation to alert readers when they are reading substantive articles about a company or individual with whom the newspaper has some business or professional relationship. This obligation wasn't fulfilled Sunday [6/26/05] when the chatty "Questions for Bruce Ratner" in The New York Times Magazine failed to mention that the real estate developer and the parent company of this newspaper are partners in the construction of the Times's new headquarters in Manhattan. Given the smiling, page-high cutout photograph of Mr. Ratner that accompanied the article, it was an especially inopportune time to fail to mention his ties to The Times.

But it appears to be an unusual lapse. The Sunday article spurred me to check on how the paper has been doing overall during the past two years. Mr. Ratner's project with The Times was mentioned almost every time he had a substantive role in an article.

Consistent disclosure of the newspaper's relationship with Mr. Ratner is

especially relevant as he moves ahead with plans to build an arena for the Nets in Brooklyn as part of a broader real estate project there. There's vocal opposition to the Brooklyn project -- and The Times will have to cover it. All the while, work will be proceeding on The Times's new headquarters across the street from the Port Authority.

The Times's most important obligation, of course, is to make sure there's no bias in any articles it does publish about Mr. Ratner. But avoiding the perception of any tilt toward Mr. Ratner in its pages is also essential. One of the best ways to avoid a perception problem is to make certain that substantive articles about Mr. Ratner and his real estate dealings include full disclosure about his business relationship with The Times.

10.3 The *Times* Ignores the Public Editor

Despite Calame's call for full disclosure, subsequent issues of the Magazine did not publish a correction disclosing the Times Company-FCR relationship. Furthermore, the 7/10/05 issue of the Magazine contained letters regarding content in the 6/26/05 issue, but did not publish any letters about FCR and Bruce Ratner, although readers (including the writer of this report) sent letters.

10.4 Challenging the Public Editor

Calame's assessment that the *Times's* nondisclosure of ties to FCR *appears to be an unusual lapse* must be challenged, especially since the newspaper did not see fit to follow up with a correction or editor's note in the Magazine. (Calame, in his web journal, has yet to point this out.)

In an early 2004 e-mail, the paper's previous (and first) Public Editor, Daniel Okrent, wrote to the *New York Post's* Steve Cuzzo that he thought the *Times* should disclose the Times Company-FCR connection: *I think the connection between the paper's parent company and the developer should have been (and should continue to be) noted more frequently, and more prominently. You may feel free to quote from this e-mail, but in doing so please note that I speak only for myself, and not for The Times.*

Okrent shared that e-mail with Develop Don't Destroy Brooklyn's Daniel Goldstein. Part of Okrent's e-mail was also cited in an article in the political newsletter Counterpunch (All the PR that's Fit to Plug: *New York Times* Boosts Pet Builder, 6/29/04; counterpunch.org/selvaratnam06292004.html).

Calame's 6/29/05 posting noted that *One of the best ways to avoid a perception problem is to make certain that substantive articles about Mr. Ratner and his real estate dealings include full disclosure about his business relationship with The Times.*

Calame's assessment that lapses are unusual may derive from his narrow focus on *Times* stories concerning Atlantic Yards. However, the *Times* has not consistently disclosed ties to FCR in stories about other FCR projects.

10.5 The *Times* Fails to Disclose Its Ties to FCR in other Articles

The *Times* has inconsistently disclosed its ties to Ratner, especially in substantive articles about FCR's projects adjacent to the Atlantic Yards: the Atlantic Center mall and the Atlantic Terminal mall. The Times-FCR connection is relevant, since

knowledge of FCR's track record with these malls—a reliance on government subsidies and widely criticized design—could affect readers' views of the company and its projects.

One *Times* article about the Atlantic Center mall (*Rethinking Atlantic Center With the Customer in Mind*, 5/26/04) did mention the newspaper's connection to Ratner, toward the end of the 1,216-word story. But another article that praised FCR's adjacent Atlantic Terminal mall did not mention the connection or even the name of the developer (*The Underground Economy: Subway Retailing*, 5/22/05; query.nytimes.com/gst/fullpage.html?res=9F05E4DF1439F931A15756C0A9639C8B63).

That article should have disclosed the *Times's* ties to FCR.

The 5/22/05 article focused on the *recent rehabilitation of several major subway stations, [in which] the Metropolitan Transportation Authority is trying to create a better environment for stores and contribute to the revitalization of nearby neighborhoods.*

The article mentioned 75,000 square feet of upcoming ground-level retail space in the Coney Island subway station, 8,600 square feet of retail space being constructed at the Roosevelt Avenue station in Jackson Heights, Queens, and 20,000 square feet of retail space at the Fulton Street Transit Center in Lower Manhattan. Then, oddly conflating retail space in both underground and aboveground subway stations with the retail space at the aboveground mall, the article continued: *The M.T.A. also worked with a private developer to turn Atlantic Terminal in Brooklyn into an attractive mall with almost 400,000 square feet of retail space.*

Atlantic Terminal could not have been *turn[ed]... into an attractive mall* since it was built on empty land made vacant years ago after the historic Long Island Rail Road terminal was demolished. Atlantic Terminal more resembles the Manhattan Mall at Sixth Avenue and 33rd Street, which sits aboveground, with a subway concourse below.

The mall's attractiveness is a matter of opinion. In a *New Yorker* article, Rebecca Mead wrote (Mr. Brooklyn: Marty Markowitz—the man, the plan, the arena, 4/25/05): *The mall is an unlovely green-and-brown hulk bordering streets of brownstones, the shape of whose sloped roofs its own much taller roof grotesquely mimics.* Oddly, two of the four photos—half the total—accompanying the article concerned Atlantic Terminal, even though coverage of that mall occupied a small fraction of the article text.

Earlier, a *Times* Real Estate section article that described the Atlantic Terminal mall in positive terms neglected to mention FCR's connection with the *Times* (see *At Site Dodgers Rejected, Target Store Is a Hit*, 8/8/04; item 8.3). Again, the *Times* should have disclosed its parent company's ties to FCR.

Even before FCR announced the Atlantic Yards project, the *Times* had not consistently disclosed its relationship to FCR. For instance, a lengthy 2002 Real Estate section article about real estate projects in Brooklyn, including FCR's MetroTech and the planned Atlantic Terminal mall, failed to disclose the Times Company's ties to FCR, which had been chosen in 2000 as the Times Company's partner to build the Times Tower (*In Brooklyn, Projects, Plans and Hopes*, 1/27/02; query.nytimes.com/gst/fullpage.html?res=9C00E6DD1F3BF934A15752C0A9649C8B63). The article referred to the company president as *the ubiquitous Mr. Ratner.*

Later in 2002, an article about FCR's new office tower at the Atlantic Terminal mall

Another article that praised FCR's adjacent Atlantic Terminal mall did not mention the name of the developer

failed to disclose the newspaper's ties to the developer (Liberty Bonds to Finance New Brooklyn Offices, 9/10/02).

10.6 The Architecture Critic Ignores His Conflict

In his assessment of the initial Atlantic Yards plan, Herbert Muschamp, then the *Times* architecture critic, failed to disclose his own and the paper's ties to FCR (Courtside Seats to an Urban Garden, 12/11/03), as detailed further in item 14.1.

10.7 The *Times* Has Not Disclosed That FCR's Ratner and Stuckey Helped the Times Choose an Architect

In 2000, the *Times* mentioned that Bruce Ratner and Jim Stuckey—later the two principal FCR figures promoting the Atlantic Yards project—were two of the six members on the design committee that chose an architect for the Times Tower. The mention came in the final paragraph of an article on the process (Architects Submit Four Proposals for New Headquarters for the Times, 9/14/2000): *On the design committee are Mr. [Michael] Golden [Times Company vice chairman]; Janet L. Robinson, president and general manager of The Times newspaper; Bruce C. Ratner, president and chief executive of Forest City Ratner; James P. Stuckey, executive vice president of Forest City Ratner; Wendy Leventer, president of the 42nd Street Development Project; and Stephen Hayes, a vice president of the New York City Economic Development Corporation.*

The *Times* has not disclosed this fact in subsequent articles, including those about the Atlantic Yards project that have prominently featured Ratner or Stuckey. For example see the Q&A with Ratner and profile of Ratner cited in item 8.1. Stuckey has been FCR's lead spokesman at the City Council and community meetings (see items 1.2, 1.3, 6.1, 6.2, and 7.7).

10.8 Has the *Times* Learned to Disclose its Ties?

Although Public Editor Byron Calame's 6/29/05 Web Journal entry warned about the importance of disclosing the *Times*'s ties to FCR, reporters and editors have not consistently made this disclosure in major articles about the Atlantic Yards plan. For instance, the article about competing bids for the MTA site, published less than a month later, did not include the disclosure (see Rival Bid Tops Ratner's Offer To Develop Brooklyn Site, 7/23/05).

10.9 The *Times* Has Not Consistently Disclosed That It Benefited From Eminent Domain

The New York Times Company has benefited from eminent domain in its new building project with FCR (see item B.1), but it has been inconsistent in disclosing that information.

Notably, an upbeat main section editorial about the June 2005 Supreme Court decision about eminent domain included such disclosure (The Limits of Property Rights, 6/24/05): *The New York Times benefited from eminent domain in clearing the land for the new building it is constructing opposite the Port Authority Bus Terminal.*

However, a City Weekly section editorial about the Atlantic Yards project that

downplayed the threat of eminent domain in Brooklyn did not include the same disclosure (The Brooklyn Nets, 7/4/04). Given that the editorial portrayed Ratner's intentions positively—*Mr. Ratner seems to have been generous in buying out homeowners and moving renters*—disclosure would have been especially appropriate.

10.10 Disclosures Should Be Added to the Archive

The *Times* should immediately add disclosures of the business relationship between The New York Times Company and Forest City Ratner to the articles detailed in this section. Furthermore, in profiles of Forest City Ratner President Bruce Ratner, the *Times* should disclose that he helped choose the architect for the Times Tower. Herbert Muschamp's article praising Frank Gehry's sketches for FCR should include a retrospective disclosure that mentions Muschamp's previous relationship with FCR. It should disclose that Mary Ann Tighe, quoted in support of Bruce Ratner, has business ties to both him and the *Times* (see item 8.1). Finally, the *Times's* editorials on eminent domain should acknowledge that its parent company has benefited from eminent domain.

At the least, the disclosures will be placed in the *Times* archive and article databases and thus more adequately inform future readers.

Chapter 11

The *Times* Has Not Published Corrections of Obvious Misinformation

The newspaper has twice portrayed the FCR project footprint as an open railyard—even though those 8.3 acres are less than 38 percent of a 22-acre site and about one-third of a 24-acre site. These errors, still uncorrected, suggest the area has no residents or workers and promote an assumption that FCR would be working on a blank canvas. However, most of the project—which would be at least 22 acres—consists of private property, homes, and businesses—a number of which FCR has purchased.

The newspaper has a zero tolerance policy for errors—they should be corrected by anyone, at any time. As Executive Editor Bill Keller wrote earlier this year (*Assuring Our Credibility*, 6/23/05; nytco.com/pdf/assuring-our-credibility.pdf): *Accuracy is everyone's responsibility... All staff members have a duty to notify a responsible editor of any possible errors in copy, before or after publication in print or on the Web.*

11.1 A *Times* Caption Mischaracterized the Site

A photo of the Atlantic Yards area accompanying a story (*Instant Skyline Added to Brooklyn Arena Plan*, 7/5/05) was captioned: *The area of Brooklyn where a group of skyscrapers is proposed.*

However, this photo showed only part of that area; the photo omitted the residential streets south of the railyard, as well as the scale of those streets and the surrounding neighborhood. The photo and caption suggest that the area is uninhabited, though the accompanying graphic confirmed the opposite.

11.2 The *Times* Graphic Shows the Actual Site

Although the *Times* erred in its caption copy in the 7/5/05 article, the additional graphic accurately portrayed a map of the site: a railyard between Atlantic Avenue and Pacific Street, and mixed-use land between Pacific and Dean streets.



This above *Times* photo cuts off the mixed-use blocks between Pacific and Dean Streets shown below



11.3 Did the Architecture Critic Read the Plan?

Architecture critic Herbert Muschamp (Courtside Seats to an Urban Garden; 12/11/03), wrote: *The six-block site is adjacent to Atlantic Terminal, where the Long Island Rail Road and nine subway lines converge. It is now an open railyard. Again, as the Times's own graphic clearly shows, the site is not an open railyard.*

11.4 Has the *Times* Been to Brooklyn?

The *Times* has regularly erred in locating and describing the proposed Atlantic Yards site, inaccurately portraying the physical position of the railyard and adjacent land, and frequently but inaccurately describing it as “Downtown Brooklyn.”

One article erroneously said the railyard was between Flatbush and Atlantic avenues, rather than between Atlantic Avenue and Pacific Street (Ratner Signs Contract To Complete Nets Sale, 1/24/04): *To house the team, Ratner plans to build an 800,000-square-foot sports arena with 19,000 seats in an unused railroad yard that lies between Flatbush and Atlantic Avenues...*

FCR's own maps suggest that only part of the Nets arena would be built over the railyard. The 1/24/04 article suggested that the office space would be built precisely over the railyard, though FCR's map shows that office towers would extend west and south of that area: *In addition, Ratner plans to build some 2.1 million square feet of office space over the railroad yard.*

An article about the bid for the railyard got the location wrong (M.T.A. to Deal Only With Ratner on Brooklyn Bid, 7/28/05): *As part of a \$3.5 billion project, Mr. Ratner, who bought the Nets basketball team and plans to move it to Brooklyn, has proposed building the arena, office space and 6,000 apartments on the railyard and on an adjacent 13 acres to the east.*

However, as the graphic previously printed by the *Times* shows (see item 11.2), the adjacent land sits to the south and west of the railyard, not the east.

The Vanderbilt Yard—not a triangle



Another article made a different geographic error (A Plan Passes And an Arena Is Protested In Brooklyn, 6/29/04): *one that would bring a Nets arena and 17 commercial and residential towers to an area sweeping west from the Atlantic Avenue railyards...*

As the map shows (see item 11.2), the railyard constitutes the northern segment of the site, so the area would be better described as “sweeping south.”

A City Weekly section editorial mistakenly described the railyard site as a triangle (Skyscrapers Grow in Brooklyn, 7/10/05): *At issue is a triangle of rail yards where one of the developers, Bruce Ratner of Forest City Ratner, wants to build a new arena for the Nets basketball team as part of a larger project...*

The eastern boundary of the larger site footprint ends in a rectangle; the west boundary ends in a wedge. However, the railyard is a rectangle, not a triangle.

Another article mistakenly located the railyard (Brooklyn Arena Plan Calls For Many Subsidized Units, 5/20/05): *Mr. Ratner still needs to buy the land, which sits atop railyards at the intersection of Flatbush and Atlantic Avenues...*

The land does not sit atop the railyard—quite the contrary. In addition, the railyard does not extend all the way to that intersection, the western border of the site footprint.

Atlantic Yards is not located in Downtown Brooklyn. According to the authoritative book *The Neighborhoods of Brooklyn* (Yale University Press, 1998; updated 2004), Atlantic Avenue, the northern border of the proposed site, serves as the boundary between Fort Greene and Prospect Heights. The blocks south of Atlantic Avenue—which constitute the proposed site—are in Prospect Heights. Indeed, the map printed by the *Times* on 7/5/05 describes the adjoining neighborhoods as Fort Greene and Prospect Heights (see item 11.2). Note that the city itself uses the term “southeastern edge of Downtown Brooklyn” (see item 1.1).

However, in making statements about the Atlantic Yards plan, FCR erroneously calls the site “downtown Brooklyn.” The developer’s initial announcement of the plan used the term “downtown” (www.bball.net/): *Internationally acclaimed architect Frank Gehry and Bruce C. Ratner, President and CEO of Forest City Ratner Companies, today unveiled a master plan for the arena that will house the Nets basketball team that Mr. Ratner is seeking to bring to downtown Brooklyn.*

Media outlets, including the *Times*, have frequently repeated the incorrect term “downtown.” Only the site for the arena and the towers around it—at the intersection of Flatbush and Atlantic avenues—could be considered approaching the edge of Downtown Brooklyn. The use of the term “downtown” may suggest that the area is an uninhabited business district rather than a residential one, and thus an attractive location for new businesses and well-off residents.

Curiously, FCR provides contradictory information about the site location in one of its initial fact sheets: About the Brooklyn Arena and Brooklyn Atlantic Yards, which was released in December 2003 (www.bball.net/documents/pdf/Project%20Fact%20Sheet.pdf): *[T]he Frank Gehry-designed Brooklyn Arena and residential and commercial buildings surrounding it will be important new architectural icons, making downtown Brooklyn a must-see destination.*

Yet the fact sheet also describes the site location as being in other neighborhoods, not downtown: *The site—approximately halfway between the Brooklyn Bridge and Prospect Park—sits between the Brooklyn Academy of Music and the neighborhoods of Fort Greene, Prospect Heights, Park Slope and Boerum Hill.*

FCR repeated much of that latter description in the “Project Description” page

FCR erroneously calls the site “downtown Brooklyn”

Project Description
<p>Generally bounded by Flatbush Avenue, Atlantic Avenue, Vanderbilt Avenue and Dean Street, the project consists of seven blocks of varying size. The site – approximately halfway between the Brooklyn Bridge and Prospect Park – sits just south of the Brooklyn Academy of Music and the neighborhoods of Fort Greene, Clinton Hill, and just north of Prospect Heights and Park Slope and just west of Boerum Hill.</p>

The project description from the Community Benefits Agreement more accurately locates the project

of the Community Benefits Agreement (see www.buildbrooklyn.org/pr/cba.pdf, p. 58): *The site... sits just south of the Brooklyn Academy of Music and the neighborhoods of Fort Greene, Clinton Hill, and just north of Prospect Heights and Park Slope and just west of Boerum Hill.*

Actually, the site sits east of Boerum Hill, and within Prospect Heights.

Between 8/8/03 and 12/23/03, 14 of 36 *Times* articles that mentioned Ratner and his effort to buy the Nets, most of which were in the Sports section, incorrectly located the project in “Downtown Brooklyn.” The most substantial story contained an accurate description (A Grand Plan in Brooklyn For the Nets’ Arena Complex, 12/11/03): *a Frank Gehry-designed arena for the Nets basketball team near Downtown Brooklyn.*

However, the following 14 articles incorrectly used the term “downtown”:
 YankeeNets Unravels, And Teams May Move, 8/8/03; 2 Investment Banks Asked to Help in Nets Sale, 9/16/03; New Bids for the Nets Are Due on Monday, 11/8/03; 4 Bids Entered to Buy Nets From YankeeNets, 11/11/03; A YankeeNets Split Is Not a Simple, Straightforward Transaction, 11/13/03; 4 Bids for Nets to Be Reviewed, 11/19/03; Delay in YankeeNets Breakup Makes Bidders for Nets Wait, 11/20/03; How the Nets Won The Right to Move, 11/25/03; Islanders Owner Withdraws Bid to Buy the Nets, 12/5/03; An Outline Is Approved For the Sale of the Nets, 12/9/03; Wooing Nets, McGreevey Plans Rail Spur to Meadowlands, 12/11/03; Port Authority Budget Is Approved on Schedule, 12/12/03; Developer Wants His Project, And Buying Nets Hinges on It, 12/12/03; BAT AND BALL; A TRAIN TO THE NETS?, 12/14/03

The errors continued in 2004. A front-page story repeated the geographical mistake (Nets Are Sold for \$300 Million, And Dream Grows in Brooklyn, 1/22/04): *Bruce C. Ratner, the developer who wants to move the New Jersey Nets to downtown Brooklyn...*

Another Sports section story also erred (Ratner’s Path To Buy Nets Had Pitfalls And Promise, 1/25/04): *Ratner’s pursuit of the Nets began 14 months ago, long before he put the team and a proposed arena at the center of Atlantic Yards, a \$2.5 billion commercial and residential complex in downtown Brooklyn.*

One City Weekly section article sited the arena in Downtown Brooklyn and neglected to mention that the rest of the project extends into other neighborhoods (NEIGHBORHOOD REPORT: DOWNTOWN BROOKLYN; To Some, the Nets Are a Slam Dunk, to Others a Technical Foul, 1/25/04): *...will bring a 19,000-seat arena and other improvements to Flatbush and Atlantic Avenues in Downtown Brooklyn.*

The *Times* even printed a letter informing the paper of the correct location and neighborhood name (Proposed Arena: Location, Location, 2/15/04): *Prospect Heights residents consider the site of this arena for the New Jersey Nets not Downtown Brooklyn but Prospect Heights. That’s where Bruce Ratner plans to destroy homes and businesses. Ours is a residential not a business district.*

Is the location of the proposed project simply a matter of opinion, or can the facts be established? Though the *Times* published the instructive letter, the paper has not consistently heeded the letter writer's admonition.

Indeed, a Sports section story less than two weeks later got the location wrong (Move Looms, but Nets Fans Aren't Ready to Let Go Just Yet, 2/28/04): *Bruce C. Ratner, who wants to make the Nets the centerpiece of a downtown Brooklyn development...*

A subsequent article was more accurate (Arena Developer Rethinking Condemnation of Houses, 5/5/04): *The proposed development, which would bring a Frank Gehry-designed arena along with 4,500 residential units and four office towers to the crossroads of Prospect Heights, Fort Greene and Downtown Brooklyn...*

A City Weekly section editorial got it right (The Brooklyn Nets, 7/4/04): *A basketball arena near downtown Brooklyn...*

A sports column got it wrong (Nets' Future Is an Arena In Brooklyn, 7/20/04): *Some people believe that all Ratner wants from the Nets is an arena in downtown Brooklyn, surrounded by apartment buildings.*

A brief article got it wrong (Developer Vows To Benefit Community, 10/8/04): *the large project [Ratner] wants to build in downtown Brooklyn, which includes a new arena for the Nets, housing and commercial space.*

Another article got it wrong (What the Teams Want And What the City Gets, 1/16/05): *on a 21-acre site in downtown Brooklyn.*

An editorial in the national edition repeated the error (A Triple Play for New York

Image from Forest City Ratner's PowerPoint presentation at the 5/26/05 City Council Economic Development Committee hearing, illustrating that the development site is not situated in downtown Brooklyn



Teams, 3/27/05): *a Frank Gehry–designed arena in downtown Brooklyn...*

A news story repeated the error (Miller Backs \$3.5 Billion Plan For Brooklyn Sports Complex, 6/5/05): *City Council Speaker Gifford Miller announced his support yesterday for a \$3.5 billion arena, office, and apartment complex in Downtown Brooklyn, giving the developer Bruce Ratner a key ally in his push for city approval of the project.*

A front-page story was more accurate (Instant Skyline Added to Brooklyn Arena Plan, 7/5/05): *a new Nets arena east of Downtown Brooklyn...*

A follow-up article also was accurate (Brooklynites Take In a Big Development Plan, and Speak Up, 7/6/05): *a proposed Nets arena east of Downtown Brooklyn...*

An article the next day was close, but still wrong (Brooklyn Plan Draws a Rival, And It's Smaller, 7/7/05): *... Ratner's ambitious plan to create a dense urban hub at the eastern edge of Downtown Brooklyn.*

The *Times* repeated its general mistake in a City Weekly section editorial a few days later (Skyscrapers Grow in Brooklyn, 7/10/05): *Reports that there are now competing bids to develop Brooklyn's downtown...*

A headline on a letter responding to that editorial got it wrong (A Plan for Skyscrapers In Downtown Brooklyn, 7/17/05).

The error was repeated later that month (Rival Bid Tops Ratner's Offer To Develop Brooklyn Site, 7/23/05): *...a \$150 million cash offer for development rights at the Atlantic railyard in Downtown Brooklyn...*

The error was repeated a few days later (M.T.A. to Deal Only With Ratner on Brooklyn Bid, 7/28/05): *the rights to build an arena for the Nets and office and residential buildings over a railyard in Downtown Brooklyn.*

Another article that day repeated the error (M.T.A. Announces Big Surplus, With New Plan for West Side Site, 7/28/05): *at another railyard it owns in Downtown Brooklyn.*

A columnist, in a casual aside, continued the error (Foreign Policy? Just Get Tips From the Cabby, 8/5/05): *For instance, he [U.N. Ambassador John Bolton] might want to get together with the developer Bruce C. Ratner and also with critics of Mr. Ratner's plan to build a sports arena in Downtown Brooklyn alongside skyscrapers that may rise 60 stories.*

Another error the *Times* should correct involves the basketball arena's role in the project as a whole. The *Times* has referred to the arena as the development's "centerpiece" in numerous articles: YankeeNets Unravels, And Teams May Move, 8/8/03; Corzine in Bid to Buy Nets And Block Potential Move, 8/19/03; New Jersey Governor Draws Line On Nets, 8/27/03; Developer Wants His Project, And Buying Nets Hinges on It, 12/12/03; Ratner Adds Millions To His Bid for the Nets, 12/23/03; Nets Focus On Bidder With Ties In Brooklyn, 1/15/04; Bidding for the Nets Is Down to the Wire, 1/21/04; Bid for a Brooklyn Sports Complex Faces Challenges From All Sides, 1/23/04; Move Looms, but Nets Fans Aren't Ready to Let Go Just Yet, 2/28/04.

However, as discussed in Chapter 1, the arena is not the centerpiece of the project. The *Times* was able to avoid making that error for nearly a year and a half, from February 2004 until July 2005, when it again used the term (M.T.A. Is Expected to Postpone Vote on Railyard Bid, 7/27/05). One article actually described the outline of the development—surely a reason to look at a map (Yo, Dodgers? No Way! Brooklyn Is Betting on the Nets for Revival, 1/16/04): *The arena would be the centerpiece of a \$2.5 billion commercial and residential development that would stretch for three blocks along Atlantic Avenue, one of the borough's two main thoroughfares.*

The *Times* also erred in letting Bruce Ratner minimize the number of blocks that might face condemnation, as well as the number of residents living there. An article (A

Grand Plan in Brooklyn For the Nets' Arena Complex, 12/11/03) reported: *Only one block, he said, had apartment buildings, with about 100 residents.*

However, as noted in item 9.1, a Ratner spokeswoman said the statement was a “guesstimate.” FCR’s own consultant, sports economist Andrew Zimbalist, estimated 150 condemned units, and project opponents have estimated that there are more than 800 residents.

11.5 The *Times* Corrects Minutiae Elsewhere

The *Times* has not yet corrected obvious errors regarding Atlantic Yards, even though it frequently corrects even minor errors in other articles, including misspellings of people’s names. For example, a correction in the 7/17/05 issue of the Magazine (www.nytimes.com/2005/07/17/magazine/17CORRECTIONS.html) focused on exchange-rate minutiae: *The Style & Entertaining article on July 3, about Patrick Mikanowski, a French art director who has written books about tomatoes and potatoes, included an incorrect translation of the price he paid for tomatoes at a greenmarket in Paris. Seven euros per kilo comes out to just over \$8 for 2.2 pounds, not \$9 a pound.*

11.6 The *Times* Has Not Followed Its Own Editorial Guidelines

The *New York Times* Guidelines on Integrity state (www.nytc.com/company-properties-times-integrity.html): *Photography and Images. Images in our pages that purport to depict reality must be genuine in every way.*

In regard to Atlantic Yards, however, the *Times* has not heeded its own guidelines, as noted in item 11.1.

The newspaper’s corrections policy is, on its face, admirable:

Corrections. Because our voice is loud and far-reaching, The Times recognizes an ethical responsibility to correct all its factual errors, large and small. The paper regrets every error, but it applauds the integrity of a writer who volunteers a correction of his or her own published story. Whatever the origin, though, any complaint should be relayed to a responsible supervising editor and investigated quickly. If a correction is warranted, fairness demands that it be published immediately. In case of reasonable doubt or disagreement about the facts, we can acknowledge that a statement was “imprecise” or “incomplete” even if we are not sure it was wrong.

11.7 Corrections Should Be Added to the Archive

It is not too late to correct any and all factual errors and points of omission. The *Times* should immediately publish corrections of the 50 above errors documented in this section and in the additional 14 items/issues listed below. When these corrections are added, they will become part of the *Times* archive and article databases and thus better inform future readers.

As noted in item 1.3, the *Times* incorrectly reported (Instant Skyline Added to Brooklyn Arena Plan, 7/5/05) that FCR planned 1.9 million square feet of office space, even though the office space had been reduced to a maximum of 1.2 million square feet in an announcement six weeks earlier.

As noted in items 2.2 and 2.3, the *Times* has not reported the 6,000 jobs projected for the project, it has not corrected the inaccurate figure of 8,500 projected jobs, and it has not explained that the majority of jobs may not be new to the state. As noted in item

*“If a correction is warranted, fairness demands that it be published immediately”
–New York Times
Guidelines on Integrity*

2.7, the 12,000 construction jobs figure in the 6/28/05 *Times* Metro Briefing suggests either an error by the newspaper or a failure to question why FCR cut its construction-jobs projection from 15,000. Also, the paper has not informed readers that FCR's projection of the potential number of construction jobs is based on job-years, and gives the misleading impression that that 15,000 people would be employed at one time. The Metro Briefing (Developer Promises Benefits, 6/28/05) should be corrected.

As noted in item 3.1, a story (Unlike Stadium on West Side, an Arena in Brooklyn Is Still a Go, 6/9/05) set the "public investment" boundary at \$200 million. At the very least, the *Times* should have used the phrase "direct subsidies," which was used in a later article (Instant Skyline Added to Brooklyn Arena Plan, 7/5/05), since, by FCR's own admission, total public costs would actually top \$1 billion (see item 3.3).

As noted in item 4.4, a *Times* article (Unlike Stadium on West Side, an Arena in Brooklyn Is Still a Go, 6/9/05) asked the executive director of the Working Families Party (WFP) to analyze a housing program managed by ACORN. The Working Families Party coalition includes ACORN, and ACORN's executive director is a WFP co-chair.

As noted in item 5.3, a *Times* article (Instant Skyline Added to Brooklyn Arena Plan, 7/5/05) minimized the scope of the opposition by not mentioning the local elected officials who oppose the FCR project.

As noted in item 5.3, an article (M.T.A. to Deal Only With Ratner on Brooklyn Bid, 7/28/05) mentioned State Senator Velmanette Montgomery without adding that Montgomery has represented the area around the proposed Atlantic Yards project since 1984.

As noted in item 5.3, an article (Brooklyn Arena Plan Calls For Many Subsidized Units, 5/20/05) characterized FCR's *remaining political opponents* as marginalized local residents. The article should have noted that elected officials (U.S. Congress, State Senate, City Council) oppose the plan.

As noted in item 6.6, in reporting the MTA's decision to negotiate exclusively with low bidder FCR, the *Times* neglected to fully compare the overall spending in FCR's bid with the spending promised by rival Extell Development Company (M.T.A. to Deal Only With Ratner on Brooklyn Bid, 7/28/05).

As noted in item 8, the *Times* quoted promotional statements from an FCR spokesman (Development Rival Offers Compromise on Nets Arena, 7/26/05) that there would be 2,500 units of affordable housing, rather than the announced total of 2,250.

As noted in item 9.1, developer Bruce Ratner incorrectly estimated the number of local residents affected by eminent domain and did not acknowledge that the site also includes commercial buildings that must be purchased or condemned for the development to proceed (A Grand Plan in Brooklyn For the Nets' Arena Complex, 12/11/03).

As noted in item B.1 (below), the *Times* incorrectly reported that FCR built "Metroplex," rather than MetroTech (Times Co. Picks Developer For New Home in Times Sq., 2/19/2000).

As noted in item B.6 (below), the *Times* did not identify FCR as the developer that obtained Liberty Bonds to erect an office building in Brooklyn for the Bank of New York (In Plans to Use Tax-Free Bonds for Midtown Tower Cause a Stir, 9/5/03).

Chapter 12

The *Times* Has Failed to Fulfill Its Role as a Forum for Readers' Opinions

In response to articles and editorials about the Atlantic Yards project, the *Times* has ignored critical letters, printed ones with dubious assumptions, and shunted too many letters to the City Weekly section, which circulates only in the five boroughs. Readers outside New York City, who do not get the City Weekly section, have thus had less exposure to significant criticism of the Atlantic Yards plan.

12.1 The *Times* Ignores Some Critical Letters

The *Times* has ignored many letters that criticize the plan. The *Times* didn't print any letter—and at least one was sent—critical of the Real Estate section article (The Underground Economy: Subway Retailing, 5/22/05) that praised Atlantic Terminal mall (see item 10.5).

As stated in item 10.3, the 7/10/05 issue of the Magazine contained letters regarding content in the 6/26/05 issue, but no letters—and they were sent—concerning the Bruce Ratner Q&A (Stadium, Anyone?) that failed to disclose FCR's ties to the *Times*.

12.2 The *Times* Prints a Letter With Dubious Assumptions

In response to articles (Instant Skyline Added to Brooklyn Arena Plan, 7/5/05; Brooklyn Plan Draws a Rival, and It's Smaller, 7/7/05) outlining the revamped and enlarged FCR development and the competing bid from Extell, the *Times* published the following letter in its national edition. Brooklynite Robert E. Murphy observed (Change in Brooklyn: For Better, or Worse? 7/10/05): *That the Develop Don't Destroy Brooklyn coalition has pushed for a competing plan for the railyards site (front page, July 7) is encouraging. But I would remind those who might prefer that such a critically located piece of Brooklyn remain a vast hole in the ground, occupied by idle commuter trains, of what James Agee wrote of Brooklyn in 1939: "Lacking any center in remote proportion to its mass, it is perhaps the most amorphous of all modern cities."*

The letter writer states that project opponents sought other developers for bids, yet he seems to discount that fact immediately. He does not identify those *who might prefer that such a critically located piece of Brooklyn remain a vast hole in the ground?*

12.3 The Letters the Times Has Printed Provide Only Part of the Criticism

On its 7/10/05 Letters page, the *Times* also printed a critical letter from William Hunter of Brooklyn, which mentioned the scale of the project, eminent domain, and the project's potential stress on public services: *Adding housing for 15,000 residents is the equivalent of adding a small city. Where are the schools going to be? Where are the teachers and administrators going to come from? Where is the hospital? The new police and fire stations and the restaurants and laundromats? Where is the parking?*

I ask because Mr. Gehry hasn't just changed "the skyline." He has changed the character of Brooklyn, which was evolving all by itself.

The next day, the *Times* ran a letter (Revitalizing Cities, 7/11/05) by sociologist Nathan Glazer criticizing architecture critic Nicolai Ouroussoff (Making the Brutal F.D.R. Unsentimentally Humane, 6/28/05 and Seeking First to Reinvent the Arena, and Then the Borough, 7/5/05). Glazer wrote that Ouroussoff *is engaged in a misguided war with Jane Jacobs* in demeaning her sense of livable scale—an issue relevant to the size of the proposed FCR project.

Criticism of the proposal goes far beyond the issues raised by Hunter and Glazer. The *Times* chose to acknowledge opposition to the plan in the City Weekly section, running four critical letters (A Plan for Skyscrapers In Downtown Brooklyn; Letters, 7/17/05), responding to the previous City Weekly section editorial (Skyscrapers Grow in Brooklyn, 7/10/05). The letter writers criticized the newspaper's tone in its coverage of the project, the paper's failure to mention the issue of eminent domain, and the lack of a full public review process. To quote one letter: *Over the past year and half, Mr. Ratner - The Times's development partner, as you dutifully note - has enjoyed uncritical coverage of his project. The very title of your July 10 editorial—"Skyscrapers Grow in Brooklyn"—reflects the admiring tone The Times has adopted in discussing it.*

This editorial cites the critical issues the Ratner design raises. But then it hastily dismisses them by lauding the "adventurous ideas" Brooklyn "seems ripe for." These issues and others related to Brooklyn (and other outer borough) development need to be carefully examined and analyzed if you wish to avoid the appearance of promoting the goals of your business partner and of acting as if a lot of people in Brooklyn don't know a misbegotten idea when they see one.

Steve Kroeter (a former chairman of the Department of Design and Management, Parsons School of Design) of Park Slope, Brooklyn, wrote: *...what the editorial does not do, and what The Times consistently has not done on this topic, is present an intelligent, thoughtful and comprehensive overview of what the key planning standards ought to be for the site, and then evaluate how Ratner stacks up against those standards...*

You could be playing a major role in helping the public understand the analytical thinking that should be used to evaluate this type of project. It's baffling that you've chosen not to. Why not develop a list of recommended planning criteria, then get the details of the Ratner and Extell plans and run both plans through the criteria?

12.4 Why Print Letters in the City Weekly Section?

These critical letters appeared in the City Weekly section, a Sunday supplement included only in editions distributed in the five boroughs. The letters were responding to an editorial that appeared in the City Weekly section, but the editorial itself was a

response to front-page news.

Instead of appearing in a limited-distribution section, discussion of the Atlantic Yards plan should be published on the *Times's* main editorial and letters pages, which are part of all editions—and read by people outside the city and the state. The Atlantic Yards project, which *may be the most important urban development plan proposed in New York City in decades* (Ouroussoff; Seeking First to Reinvent the Sports Arena, and Then Brooklyn; 7/5/05) is a matter of broad general interest. In addition, the *Times's* coverage, which presents a challenge in separating its parent company's business interests from its news and editorial responsibilities, deserves full scrutiny.

Chapter 13

Times Editorials About the Project Have Been Inconsistent

While the *Times*'s editorialists have the option to change their minds in response to new information, the *Times* also has a tradition of referring back to previous editorials. See, for example: *This page has always disapproved of the mayor's intention to use his private fortune as a campaign war chest* (Ending 'Pay to Play,' 12/26/04) and *This page has always believed that the president is sincere in his desire to improve public education* (School Reform Left Behind, 1/10/04).

The most recent *Times* editorial on Atlantic Yards, which was published in the limited-circulation City Weekly section, did not cite *this page's* previous criticism of subsidies or its call for an independent third-party evaluation of the costs of the FCR plan. The editorial section has not been intellectually consistent; if the *Times* no longer supports a third-party evaluation of the costs, or if it no longer opposes subsidies, readers deserve to be told that *this page* has changed its views.



A scene on Sixth Avenue near Dean Street, looking north. The block after the intersection would be demolished

13.1 Are Traffic and Scale the Only Issues?

The most recent *Times* editorial (Skyscrapers Grow in Brooklyn; City Weekly section, 7/10/05) stated: *The important thing that's lacking in the Ratner proposal is a creative way to deal with all the problems that come with much more traffic and more people.*

A year earlier, however, the *Times* wanted experts to look closely at the financial numbers behind the Atlantic Yards plan. An editorial said (The Brooklyn Nets; City Weekly section, 7/4/04): *A study commissioned by Mr. Ratner (who is a partner of The Times in constructing its new headquarters building) shows that the government would more than get back its investment in the Brooklyn project, based on 30 years of projected new tax revenues from team salaries and new office and residential occupants, among other factors. Another study, endorsed by opponents of the development, maintains that taxpayers could lose half a billion dollars in the deal. We would like to see a third, truly independent examination.*

In a letter to the editor, Jung Kim, co-author of the independent study critiquing FCR consultant Andrew Zimbalist's projections, noted (Nets Stadium? Not So Fast, City Weekly section, 7/11/04): *With regard to your call for a "truly independent examination" on the Brooklyn Nets arena proposal, I would like to emphasize that the*

economic analysis produced by Gustav Peebles and me was done independently and without payment. Furthermore, a third-party analysis would represent only one step in a comprehensive review process.

In addition, Kim and Peebles cite other economists they consulted; Zimbalist does not.

The *Times* seems to have forgotten the importance of a third-party evaluation of major building projects. Indeed, the *Times* has not reported on the analysis in progress from the Independent Budget Office (see item 3.5) or on the evaluation by the New York City Economic Development Corporation (see items 2.1, 2.5, and 3.2). It has not reported on the existence of the PICCED study (see items 1.2, 2.2, 2.5, and 3.2), or PICCED's criticisms of the planning process.

By contrast, in its editorials on the West Side Stadium, the *Times* raised the question of the ultimate cost of the project. For example, the *Times* editorialists said the West Side Stadium would cost the public too much (A Stadium Too Far, 1/26/04): *But that desirable goal does not by itself justify the cost or the compressed timetable of the current plan, which would tie up too many public resources at a time when there are precious few. While the Jets would pay up to \$800 million to build the stadium itself, public money would be needed to place a platform over the rail yards, as well as to install the air-conditioning and retractable roof needed for convention business.*

In another editorial on the West Side Stadium (Helping New York Grow, 6/16/01), the editorialists wrote: *The West Side stadium proposal has not been sufficiently fleshed out, and the potential cost for taxpayers is far from clear.* And in another editorial (Development for New York City; The West Side Jets, 9/25/2000), the editors laid out cautions regarding subsidies: *Three criteria should be applied in making a judgment about its worthiness. First, a stadium should have multiple uses and serve as an available annex to the Javits Convention Center.... Second, to avoid traffic congestion and air pollution, the project has to be served primarily by mass transit rather than automobiles. Third, it must pay for itself without large public subsidies beyond valid infrastructure projects.*

13.2 The *Times* Once Opposed Subsidies at Atlantic Yards

An editorial in the national edition that commented on FCR's proposed Atlantic Yards (A Triple Play for New York Teams, 3/27/05) recorded its opposition to subsidies, stating: *But given the enormous profitability of this sports market, the idea of adding on public subsidies is ridiculous. Sports teams should pay their own way. That includes "infrastructure improvements," unless that infrastructure is something that was already wanted and needed by the community. The community, by the way, should be consulted whether the law requires it or not.*

Additionally, the editorial said: *A mixed-use development like this could be a shot in the arm for the local economy. The low- and moderate-income housing units would be a big plus, and the developer has agreed to pay fair market value for the railyards at the site. But the city and state are each supposed to contribute \$100 million to build streets and sidewalks and prepare the site for development. That's unnecessary: Mr. Ratner should pay his own way. He should also make more of an effort to work with the community.*

The most recent *Times* editorial (Skyscrapers Grow in Brooklyn, 7/10/05) ignored the issue of subsidies, as well as the importance of consulting the community.

*"Mr. Ratner should pay
his own way"
—Times editorial, 3/27/05*

13.3 The *Times* Ignores The MTA's Faulty Bid Process

As noted above (see item 6.6), the *Times* had editorialized about the importance of a bid process for acquisition of the MTA site in 2004 (The Brooklyn Nets, 7/4/04): *Both proposed sports facilities in Brooklyn and Manhattan would be built over rail yards owned by the cash-short and debt-ridden Metropolitan Transportation Authority, which should not be pressured to give away its assets. The state-run authority—which lacks other new sources of revenue—should demand and get a fair market price for any land and air rights the developers at either site need.*

Yet the *Times* has not chosen to editorialize about the process in 2005, even after the MTA decided to negotiate exclusively with FCR, which offered a bid one-third the amount of its rival—and both were well below the appraised value of the railyard (see items 6.6 and 13.5).

13.4 Why Publish Editorials in The City Weekly Section?

The 7/4/04 and 7/10/05 editorials appeared in the City Weekly section, a Sunday supplement included only in editions distributed in the five boroughs. As noted in item 12.4, commentary regarding the Atlantic Yards proposal should appear in national editions, not just local editions of the *Times*.

13.5 Double Standards: Manhattan vs. Brooklyn

The *Times* has not applied the same standards in its editorials about development in Brooklyn as it has in its editorials about similar development in Manhattan. In a national edition editorial about the Metropolitan Transportation Authority's idea to build a platform over the West Side railyard so as to increase its value for real estate development, *Times* editorialists chided the agency for not doing enough to maximize bids (A Windfall for the M.T.A., 7/30/05): *The M.T.A. has never seriously looked into how much money it could get by selling development rights for the property as is. The only previous auction took place in an atmosphere in which any developer who made a bid ran the risk of angering the powerful city and state leaders who wanted the area to be part of the overall plan for a New York Jets football stadium. The authority should begin by investigating those options...*

The idea for the MTA to turn developer by building a platform over the West Side railyard was raised at the same 7/27/05 meeting in which the agency chose to negotiate exclusively with low-bidder Forest City Ratner for what the MTA calls the Vanderbilt Yard (see item 6.6), even though another company, Extell, had bid three times more—and both were below the property's appraised value of \$214.5 million. (M.T.A. to Deal Only With Ratner on Brooklyn Bid, 7/28/05).

If the *Times* applied the principles of its editorial about the West Side railyard to an editorial regarding the Brooklyn site, that editorial would have pointed out:

- 1) that the MTA might be able to sell the Atlantic Yards property for more if it opened the bid up again or it negotiated with high-bidder Extell;
- 2) that the MTA opened the property up to bid for only seven weeks, and that period began more than two months after the mayor and the governor had announced a Memorandum of Understanding with FCR to develop the property;
- 3) the political environment affecting both proposed developments was similar. To borrow the language of the *Times* editorial—*any developer who made a bid ran the risk of angering the powerful city and state leaders who wanted the area to be part of the overall plan for a Brooklyn Nets arena* (see item 6.6).

13.6 No Op-Eds or Columns About Atlantic Yards

The non-staff op-ed essays printed opposite the editorial page in the *Times* are either submitted to or solicited by the paper. The *Times* has never printed an op-ed contribution opposing the Atlantic Yards plan, though at least one has been submitted. It has not printed one promoting the plan either. However, given the level of controversy, the newspaper should be especially open to dissenting voices.

By contrast, the *Times* has printed a number of op-eds critical of the West Side Stadium and Javits Center expansion. Steven Malanga, a contributing editor at *City Journal* (a quarterly published by the Manhattan Institute; see item 8.2), issued a caution about the reliance on studies paid for by a project's proponents (A White Elephant for the West Side, 3/31/2004): *To back up such claims, supporters put forward government-sponsored economic studies predicting an expanded center would create thousands of temporary construction jobs and permanent new jobs. But these studies, produced by an industry of consultants who specialize in helping governments justify gargantuan investments, tend to be unrealistically optimistic.*

The same might be said about sports economist Andrew Zimbalist's economic projections regarding Atlantic Yards.

Also, *Times* columnist Bob Herbert has written pungent columns criticizing the West Side Stadium scheme (Wish Fulfillment For Woody, 3/29/04; The Billionaires' Club, 4/4/05; Bloomberg's Billionaire Boondoggle, 5/19/05). In the first of the columns, he wrote: *Last week Mayor Michael Bloomberg said the New York City Police Department "is doing a great job," and added, "I wish I had the money to pay 'em more."*

Two days later he was at a press conference giddily explaining how anxious he was to fork over \$300 million in city funds to help the New York Jets build a glittering new playground for the rich on the banks of the Hudson River in Manhattan.

... The city that can't fix the bathrooms in its schools will put up \$300 million for this foolhardy project and the state will put up \$300 million more. And that's only the beginning. I'm guessing that the stadium, if it gets the go-ahead (which is, thankfully, far from a sure thing), will cost an insane \$2 billion or more before it's done.

Neither Herbert nor any other *Times* columnist has brought the same level of scrutiny to the similar situation in Brooklyn.

13.7 Double Standards in an Op-Ed

Perhaps the toughest *Times* op-ed on the West Side Stadium proposal raised issues that also apply to the proposed arena project in Brooklyn: the circumvention of the City Council, the use of a PILOT (payment in lieu of taxes) arrangement, and doubts about proponents' revenue projections (Games People Play; City Weekly, 11/14/04): *First, documents received under the Freedom of Information Act suggest that the true cost to the public of building this football stadium may be at least 25 percent higher than the announced \$600 million...*

The proposed financing plan for the stadium contains other hidden public costs. Under the plan, the city and state would form a local development corporation. Among other things, this quasi-public entity would issue bonds to finance roughly \$400 million of the Jets' \$800 million contribution. The team would cover the debt service on those bonds. But it would do so under a financial arrangement known as a "pilot," or payment in lieu of taxes. To the extent that this payback scheme is in place of the Jets' paying sales and property taxes, doesn't it make sense for the \$400

million to be considered a public, rather than a private, contribution?

This creation of a local development corporation to finance the stadium has another troubling consequence. As long as the stadium project is not included in the city's capital budget, it can proceed without City Council approval.

... Now Mayor Michael R. Bloomberg...plans not only to avoid a popular vote but also to bypass a budgetary vote of the people's elected representatives on the City Council.

The author of the op-ed: Andrew Zimbalist, professor of economics at Smith College. His credit line continued: *He was a consultant for Forest City Ratner Corporation on the Atlantic Yards arena proposal in Brooklyn.*

The *Times* has not pointed out that Zimbalist's criticisms of the West Side proposal could also apply in Brooklyn.

Also, that credit line was inaccurate, at least in retrospect, because it suggested that Zimbalist no longer worked for Forest City Ratner. In June 2005, he issued an updated study for the company (see items 1.3, 3.2, and 3.3).

A correction is in order.

Chapter 14

Times Architecture Critics Have Been Cheerleaders for the Project

In his rapturous assessment of Frank Gehry's design, Herbert Muschamp, then the *Times's* architecture critic, failed to disclose his own ties to FCR, failed to disclose the *Times's* ties to FCR, and misleadingly described the site as *an open railyard*.

14.1 The Critic Wears Two Hats

Some five years ago, in an article about the process behind the Times Tower project (A Rare Opportunity For Real Architecture Where It's Needed, 10/22/00), Muschamp carefully spelled out his ties to FCR: *I am a part of this story, a footnote who gets to tell the tale. At the invitation of Michael Golden, the vice chairman of The New York Times Company, and with the approval of my editors, I met periodically, over a six-month stretch, with the group responsible for choosing an architect for the new Times building.*

I had serious reservations about crossing the line from the news department to the corporate side of the paper. The Times does not permit its critics to serve on arts juries. This policy is wise not only because it constrains us from abusing the authority of the newspaper and from potential conflicts of interest...

The selection of an architect for The Times building was conducted as a 50-50 partnership between The New York Times Company and Forest City Ratner, a real estate development firm whose projects include Metrotech, the office complex in downtown Brooklyn...

The lower half of the [Times] tower will be occupied by the paper's newsroom, its business division and corporate offices. Space in the top half will be leased to outside tenants...

I attended meetings of the Design Advisory Group, composed of staff members of The Times and Forest City, occasionally joined by representatives of the 42nd Street Redevelopment Authority, a subsidiary of the Empire State Development Corporation, and of the Economic Development Corporation, a city agency.

Although the committee ultimately chose architect Renzo Piano to design the building, Muschamp praised the runner-up design by Frank Gehry and David Childs: *The truth is, I was madly in love with the Gehry/Childs proposal.*

Muschamp should have mentioned his previous role in the Times Tower process in his paean to the initial Frank Gehry arena-cum-skyscrapers plan for Atlantic Yards

(Courtside Seats to an Urban Garden; 12/11/03), in which he called the project *the most important piece of urban design New York has seen since the Battery Park City master plan was produced in 1979*.

He also wrote: *Those who have been wondering whether it will ever be possible to create another Rockefeller Center can stop waiting for the answer. Here it is.*

Muschamp's critique did not include the standard disclosure that the *Times's* parent company and FCR are business partners.

Given his role in sharing decision-making with FCR, such a disclosure bearing on Muschamp's objectivity would allow readers to evaluate his potential conflict of interest. It further might have sparked debate about whether Muschamp should have recused himself from writing about FCR projects. After all, the *Times* does not let its staff book critics review books by *Times* staffers; those assignments are always given to freelancers.

The *Times's* ethical guidelines warn against commercial ties (Ethical Journalism; Code of Conduct for the News and Editorial Departments, www.poynterextra.org/extra/ethics.pdf):

140. *The Times recognizes that members of its talented staff write books, operas and plays; create sculpture, and give recitals. It further recognizes that such projects require commercial arrangements to come to fruition. A writer requires a publisher, a playwright a production company.*

141. *Nevertheless those commercial ties can be a breeding ground for favoritism, actual or perceived. Staff members who enter into such arrangements must disclose them to their supervisors, who may require them to withdraw from coverage of the parties involved...*

Muschamp's ties to FCR were only indirectly commercial—his role was supporting his own employer rather than himself. And his editors did approve his role on the design committee. However, according to the *Times's* ethical guidelines, similar ties may require staff members to withdraw from coverage in the future. So Muschamp faced two choices regarding his opportunity to assess Gehry's Atlantic Yards plan in the *Times*. He could have withdrawn, or he could have disclosed his—and the newspaper's—ties to FCR. He did neither.

Muschamp also included obvious misinformation in his 12/11/03 piece: *The six-block site is adjacent to Atlantic Terminal, where the Long Island Rail Road and nine subway lines converge. It is now an open railyard.* Actually, only a fraction of the site is an open railyard. See item 9.3.

The *Times* should correct the record and add a disclosure to the archived version of Muschamp's article.

By contrast, a critique of the revised Atlantic Yards plan by Muschamp's successor, Nicolai Ouroussoff, contained a disclosure (Seeking First to Reinvent the Sports Arena, and Then Brooklyn, 7/5/05): *But Bruce C. Ratner, the company's chief executive and the development partner of The New York Times in building the newspaper's new headquarters in Manhattan, has apparently realized that the tired old models are no longer a guarantee of cultural or financial success.*

14.2 The Importance of Muschamp

New York Times arts critics are highly influential, so Muschamp's praise could have far-reaching effects. *New York Post* columnist Steve Cuozzo (PR by the *Times*; Gray Lady Shills for a Partner, 1/20/04) emphasized the importance of Muschamp's assessment: *[A]rchitectural critic Herbert Muschamp promptly hailed Atlantic Yards as a new*

Muschamp could have withdrawn, or he could have disclosed his—and the newspaper's—ties to FCR

“Rockefeller Center”—an amazing leap of faith for a scheme still in early planning. But it’s just the sort of pull-quote Ratner needs to make his case with state and city officials.

14.3 Does The *Times* Understand “Cultural Flowering”?

Ouroussoff’s 7/5/05 appraisal of Frank Gehry’s Atlantic Yards proposal had its own lapses. He wrote: *If it is approved, it will radically alter the Brooklyn skyline, reaffirming the borough’s emergence as a legitimate cultural rival to Manhattan.... What is unfolding is an urban model of remarkable richness and texture, one that could begin to inject energy into the bloodless formulas that are slowly draining our cities of their vitality.... There are those—especially acolytes of the urbanist Jane Jacobs—who will complain about the development’s humongous size. But cities attain their beauty from their mix of scales; one could see the development’s thrusting forms as a representation of Brooklyn’s cultural flowering.*

Ouroussoff does not seem to appreciate Brooklyn’s cultural flowering. For instance, he did not mention the wealth of cultural institutions near the Atlantic Yards site: the Brooklyn Academy of Music (BAM) cultural district, which includes the internationally-famous BAM and its associated BAM Harvey Theater; the Mark Morris Dance Group headquarters; and the triangle where the Theater for a New Audience and the Brooklyn Public Library plan new facilities.

Nor did Ouroussoff mention other cultural entities in Brooklyn such as the Brooklyn Museum or the Brooklyn Botanic Garden, both of which are within walking distance of the proposed site. Nor did he pause to consider the effect that the traffic created by the new development might have on cultural flowering.

It had been some 18 months since the first Gehry sketches were revealed, yet readers of Ouroussoff’s appraisal still didn’t know what FCR intends to build. Ouroussoff treated the lack of specificity as a sign of artistic creativity rather than a lack of responsibility to the public: *Mr. Gehry is still fiddling with these forms. His earliest sketches have a palpable tension, as if he were ripping open the city to release its hidden energy. The towers in a more recent model seem clunkier and more brooding. This past weekend, a group of three undulating glass towers suddenly appeared. Anchored by lower brick buildings on both sides, they resemble great big billowing clouds.*

In the *New York Press* (GRUMBLES ABOUT GEHRY, 7/13/05; www.nypress.com/18/28/news&columns/aaronnaparstek.cfm), columnist Aaron Naparstek deconstructed Ouroussoff’s column: *As usual, the master planners and architectural theorists forget that a city’s energy and vitality is generated on its streets and in its neighborhoods, not by “a skyline fraught with visual tension.”*

14.4 The *Times* Barely Looks at FCR’s Architectural Track Record

In his appraisal of the Atlantic Yards plan, Muschamp made no mention of FCR’s much-criticized architectural track record in Brooklyn. In his 7/5/05 appraisal, Ouroussoff acknowledged only that Ratner’s MetroTech complex was no architectural gem: *By comparison, Forest City Ratner Companies, a relatively conventional developer known for building Brooklyn’s unremarkable MetroTech complex, has seemingly undergone an architectural conversion...*

Even the term “unremarkable” is generous. In *The Brooklyn Rail* (One-Sided Debate Over the Stadium... Continues, 1/05; www.thebrooklynrail.org/local/jan05/

stadium.html), writer Brian Carreira noted FCR's history of architectural mediocrity in Brooklyn: *A nighttime stroll through MetroTech's pavement plazas and across its fluorescent paths illustrates one of the more remarkable elements of the complex: its lack of people... Bereft of ground-floor retail spaces outside of the businesses that ultimately serve the commuters during their workday, the empty blocks create a bleak, uninviting wasteland.*

A Midwestern developer such as Mr. Ratner potentially could be forgiven for creating this lifeless development. Commercial ghost towns similar to MetroTech are ubiquitous in car-friendly burbs across America. But such forgiveness grows thin when one considers that this same developer is responsible for the Atlantic Center and, most recently, the Atlantic Terminal—hermetically sealed urban malls that turn their backs to the streets, leaving empty sidewalks for Brooklyn residents to traverse.

Ouroussoff didn't mention the Atlantic Center mall, which Bruce Ratner himself has criticized in the *Times* (Rethinking Atlantic Center With the Customer in Mind, 5/26/04): *"Honestly, it isn't beautiful. It's not architecturally outstanding. It's kept clean, and we do try and take care of it. It's not as bad as a strip center in the burbs, I mean, but it's not something that we would build again."*

Others are harsher. Observed architectural historian and critic Francis Morrone in *The New York Sun* (ABROAD IN NEW YORK, 2/23/04): *Atlantic Center Mall is the ugliest building in Brooklyn.*

Ouroussoff didn't mention the Atlantic Terminal mall. As noted in Chapter 10.4, a *New Yorker* article savaged it: *The mall is an unlovely green-and-brown hulk bordering streets of brownstones, the shape of whose sloped roofs its own much taller roof grotesquely mimics.*



"The ugliest building in Brooklyn"
—Francis Morrone, *The New York Sun*
(commenting before the recent makeover of the Atlantic Center mall, shown above)

Afterword

A Questionable Track Record: The Times and its Own Deals

The *Times's* inadequate coverage of FCR's Atlantic Yards project was prefigured by its inadequate coverage of The New York Times Company as a presence in Times Square during the area's massive redevelopment in the 1980s and 1990s, especially the *Times's* dealings with FCR in regard to the Times Tower. The *Times* faces institutional challenges that hamper its scrutiny of the economic and policy aspects of such real estate dealings.

Afterword A.

The *Times* Has Trouble Covering Times Square Redevelopment

During the years that the redevelopment of Times Square proceeded, the *Times* struggled to comprehensively cover the real estate deals in its own backyard. In *Times Square Roulette: Remaking the City Icon* (MIT Press, 2001), Columbia Business School professor Lynne B. Sagalyn offers criticisms of the *Times*'s coverage of the redevelopment effort. Many of her criticisms could now apply to the coverage of the Atlantic Yards project by the *Times*.

A.1 An Awkward Position

In the book (p. 418-24), Sagalyn outlines press coverage of the Times Square redevelopment effort and the awkward position of the *Times* newspaper: *Consistently, the paper has held the power to define issues, shape public opinion, and rebuild the image of the project, even though, in retrospect it would be fair to say, as Times reporter Brett Pulley did at a session of an Urban Land Institute (ULI) conference focused on "Real Estate and the Press," that the paper is "well-deserving of a fair amount of criticism where our coverage has been concerned."* (p. 418-419)

Sagalyn concludes that such cumulative coverage has an effect on readers: *The tenor of its editorials, their overlap with news stories and the selections of letters to the editor and op-eds—all these forms of editorial voice put pressure on both city and state officials who, after looking at what stories appear on the front page, turn instinctively and immediately to the editorial page.* (p. 419-420)

A.2 The Newspaper's Institutional Lapses, Then and Now

Sagalyn points to the newspaper's failure to examine public policy when it comes to Times Square redevelopment: *Neither in its news reporting nor its editorials, however, did the Times coverage of the project explore the policy issues of public-private development or raise questions about the costs and liabilities of the deals underlying the city's most costly redevelopment project.* (p. 420)

Similar criticisms might be made of the *Times*'s coverage regarding the Atlantic Yards plan.



The current Times building on West 43rd Street

Sagalyn quotes Pulley [who is no longer at the *Times*] again about such failures: “*But when it comes down to the real details of how this has all come together, the deals... what happens, invariably, particularly when a project has gone on this long, is that editors’ eyes start [sic] of glaze over when you tell them about these stories, when you start telling them about how the financing for this project is coming together and what it’s going to mean for taxpayers.*” (p. 422-23)

The same problems may be present today. Still, other media outlets have beaten the *Times* on numerous stories. In addition, the *Times* failed to cover the 5/26/05 City Council hearing in which watchdogs such as Good Jobs New York and the Pratt Institute Center for Community and Environmental Development (PICCED) presented critical testimony about questions of public cost and public process (see item 6.1).

Sagalyn finds no proof that the *Times*’s failures reflected a conflict of interest: *The Times’s news operation is maintained on an independent basis from the tenth-floor editorial-board offices, and a casual look at instances where news coverage overlapped with an editorial statement reveals that its reporters have detailed the project’s problems and its critics have commented negatively about the project’s planning and architectural flaws, while the paper’s editors were promoting the project.* (p. 420)

This report, *The New York Times & Forest City Ratner’s Atlantic Yards: High-Rises and Low Standards*, does not suggest collusion between the editorial board and the newsroom. However, it does assert that the reporters have regularly failed to report on criticisms raised in public forums and press conferences, have ignored numerous obvious topics for stories, have failed to question financial projections by the developer and his political supporters, have failed to consistently disclose the *Times*’s business ties to the developer, and have made numerous errors.

Sagalyn suggests institutional factors hamper good reporting: *Lacking continuity of coverage, little institutional memory may exist on the news staff... Errors, in other words, mutate into “facts.” This falls short of explaining the true nature of the problem, which lies, in part, with the way the press covers a public-private development project—as a real estate story, when, in fact, it is a public policy story.* (p. 421)

Some of her analysis rings true for the *Times*’s treatment of the Atlantic Yards story: The *Times* has given scant coverage to public policy and, at times, it has mentioned an important public-policy issue—such as FCR’s gag on property sellers—as an aside in a real estate story, rather than as the subject of a Metro section story (see item 7.4).

The *Times*’s poor coverage of the Atlantic Yards project provides a contrast to the newspaper’s more energetic coverage of the recent West Side Stadium project. *Times* coverage of the latter has emphasized the views of skeptics (see item 3.5) and quoted critics (see item 6), two elements that have been very much absent from the Atlantic Yards coverage. Also, the *Times* has ignored critics of FCR’s Atlantic Yards plan even though the paper has quoted the same sources as watchdogs in its coverage of other development projects (see item 3.1).

Part of the inadequacy of the *Times*’s reporting on Times Square redevelopment, according to Sagalyn, derives from the newspaper’s practice of divvying up the “beat” coverage: *But it does not look at the totality of a public-private project and how the various pieces that have been reported upon from different “beat” perspectives interrelate to one another. It does not address the cumulative meaning of incremental isolated events, and it leaves the historical perspective to others.* (p. 422)

Again, some of Sagalyn's points ring true regarding Atlantic Yards, given that the stories concerning the project have been assigned to the Brooklyn desk, the real estate desk, the transit desk, the sports desk, and even the features desk. Still, a major newspaper like the *Times* should have editors keeping the big picture in mind, especially when coverage concerns a high-profile development company that has partnered with The New York Times Company.

Sagalyn quoted Charles Bagli, a reporter for the weekly *New York Observer* during the Times Square redevelopment era (and now a reporter for the *Times*), on how reporters don't dig: "*You take the press release, rewrite it, throw in a few quotes and bang! You're done. And that's it. And... the press release doesn't tell half the story,*" said Bagli, who focused hard on the project's deal dynamics in the mid-1990s when few other reporters seemed willing to touch the topic... *The way he saw it, part of the problem was rooted in the unwillingness of the government and the developer to fully engage in that debate.* (p. 423)

The same approach to reporting has appeared in coverage of the Atlantic Yards project; government officials have endorsed, rather than challenged, the developer's statements, and the *Times* has infrequently printed substantial challenges to those projections.

Sagalyn concludes that the press must take responsibility: *Local newspapers have the political power and institutional capacity to press public officials on the issue of financial accountability—the cost/benefit question. They can knock away at the issue with special reports, editorials, and op-eds, if they so choose.* (p. 423)

The *Times* has abdicated that role regarding the Atlantic Yards project—see coverage of subsidies (items 3.1-3.5), as well as abandoned editorial positions (items 13.1-13.2) and the absence of op-eds on the project (item 13.6). Unlike the West Side Stadium dispute, where a wealthy company, Cablevision (owner of Madison Square Garden), injected itself into the debate, no similar opponent to FCR has entered the Atlantic Yards fray—the bid by Extell came only in July 2005. That makes the role of the press, and the government and watchdog agencies it chooses to cover, all the more important. Notably, *The Brooklyn Papers*, a free weekly newspaper, has provided the most aggressive coverage of the Atlantic Yards plan, despite its small staff and limited resources.

Unfortunately, as Sagalyn observes, the press has trouble moving beyond stenography: *That reporters and editors, as professionals, are not analytically trained to answer the cost/benefit question is not material. Using the appropriate forum, their job is to lever the press's political power as a vehicle for accountability from public officials who are responsible for providing forthright answers and full documentation of both costs and benefits. A mandate for broader and deeper investigative review of public subsidies sadly does not exist; seemingly, it has no constituency.* (p. 424)

Indeed, the *Times's* failure to analyze the issue of public costs at Atlantic Yards (items 3.1-3.5) and its failure to cover the 5/26/05 City Council hearing (see item 6.1) suggest that the newspaper has not fulfilled its role. Also, it merely takes healthy skepticism, rather than specialized expertise, to question some of the assumptions made by Andrew Zimbalist, the sports economist FCR hired to make fiscal projections for the plan, and on whose projections FCR has relied in selling the deal to the public and elected officials (see item 3.2).

Notably, The Brooklyn Papers, a free weekly newspaper, has provided the most aggressive coverage

Afterword B.

The *Times* Has Trouble Covering its Own Real Estate Deal with Forest City Ratner

There's no definitive explanation for the institutional failures in the *Times's* coverage of the Atlantic Yards project, but the newspaper already had trouble covering its parent company's project to build the Times Tower in partnership with FCR. It's always difficult for newspapers to write about themselves as businesses, and rival publications enjoy writing articles that are critical of a newspaper's business operations. Though *Times* coverage of the Times Tower has not been purely self-serving, other area newspapers have offered more scrutiny.

Times officials stress that the paper's business and editorial operations are separate, but as Brooklyn College journalism professor Paul Moses suggested (see B.5), the parent company's business activities may unconsciously influence reporters and editors as they report and write stories. Whatever the case, *Times* readers should know the extent of the *Times's* business relationship with FCR and judge the paper's performance for themselves—and, as Chapter 10 of this report shows, the *Times* has not consistently disclosed that relationship.

B.1 “Curiously Attractive Terms”

The *Times's* reporting of the Times Tower project began in February 2000, when the newspaper announced that the parent company had picked FCR as the developer (Times Co. Picks Developer For New Home in Times Sq., 2/19/2000): *The New York Times Company has taken an important step toward creating a new headquarters in the Times Square area. It has selected a developer to help in its negotiations with state and city officials to build a 1.37 million-square-foot tower across from the Port Authority Bus Terminal, according to the company and government officials.*

The company picked Bruce Ratner, president of Forest City Ratner Companies, which built the Metroplex office complex in downtown Brooklyn, from among five competing developers for the job.

Note that FCR built MetroTech, not “Metroplex.” Given the *Times's* policy of printing corrections of even the smallest errors, this deserves correction as well.

A month later, the *Times* reported that the state—under whose auspices the development would proceed—and the New York Times Company disagreed about financial terms (Bargaining Begins On Site for Times, 3/23/2000): *Over the last five months of preliminary discussions, a sizable gap opened up between the initial*



Flags outside the entrance to the current Times building

bargaining positions of both sides. According to people involved in the discussion, The Times had offered to pay about \$75 million for the right to develop a tower on the site and sought a 66 percent reduction in real estate taxes.

The state, in turn, wants about \$125 million for the development rights, in keeping with a similar deal nearby, while the city is demanding that the company pay full real estate taxes.

Though negotiations over this kind of project are typical, the *Times*, in a report three months later, did not mention the state's initial fiscal request (*The Times Is Expected to Sign An Accord on a New Building*, 6/20/2000): *Under the agreement, The Times would pay nearly \$100 million for the development rights to the site, the executives said. The city, in turn, is expected to provide a series of tax breaks.*

Less than three months later, the *Times* reported that four architects were competing for the opportunity to design the Times Tower (*Architects Submit Four Proposals for New Headquarters for The Times*, 9/14/2000).

A month later, the *Times* reported that architect Renzo Piano had been chosen (*Times Chooses Architect, and His Vision, for New Building*, 10/13/2000).

The next report (*Deal Reached to Acquire Land for The Times's Headquarters*, 2/28/01) gave voice to critics of the building project, but not fully in context. For example, the article did not mention the previous reports that the state requested \$125 million for the site or that the *Times* was expected to pay nearly \$100 million for the site, which included properties that the state would acquire via eminent domain. It said only: *Under the terms of the agreement, executives involved in the negotiations said, the Times Company and its joint venture partner, Forest City Ratner Companies, will pay \$85 million toward the purchase of the development site.*

The article outlined the deal between the Times, FCR and government entities and it did include criticism: *The two-acre site, made up of 11 separate parcels with 11 owners, will actually be acquired by the state through condemnation and will be leased to the joint venture under a long-term lease.*

The Times Company and its partner will pay what city officials call the equivalent of full property taxes, not the reduced rates given to developers of four other skyscrapers built in the Times Square area...

In addition, the city has agreed to give the Times Company tax breaks and other incentives worth about \$29 million, the executives said.

...“The Times's deal has curiously attractive terms,” said Woody Heller, a managing director of Jones Lang LaSalle, a real estate company, “particularly given the fact that The New York Times would seem to have little leverage in threatening to leave Manhattan.”

Mr. Heller said that at \$60 a square foot, the Times Company was paying considerably less than Howard Milstein and his family did last month for the parking lot at the southeast corner of 42nd Street and Eighth Avenue.

A later report responsibly acknowledged that observers differed about the existence of blight—a prerequisite for eminent domain—at the development site (*Blight to Some Is Home to Others; Concern Over Displacement by a New Times Building*, 10/25/01): *Blight is not all that would disappear from the block in the wake of this project, however. So would the fedoras, porkpies, homburgs and boaters at Arnold Hatters; the \$600-a-yard French hand-beaded lace, delicate as hoarfrost, at B & J Fabrics; the studios where students learn audio engineering and multimedia production at the SAE Institute of Technology; and the dorm rooms at Sussex House, around the corner, where a few of them sleep at night.*

B.2 How Large Are the Times Tower Subsidies?

A later *Times* report did not fully quantify the public subsidies for the Times Tower (*Times Goes Forward on Plan for Tower on Eighth Avenue, 12/14/01*): *The project will benefit from \$26.1 million of government incentives: sales-tax exemptions on the equipment and materials used in the new building, a waiver of the mortgage-recording tax and a discount on electricity rates.*

Though the developers will pay acquisition costs up front for the 200-by-400-foot site, they will ultimately be liable for only \$85.56 million. The excess will be refunded over time as a credit against the rent they pay for the site, made as a payment in lieu of taxes, meaning that the city is likely to forgo millions in future revenue.

By contrast, a *Village Voice* report suggested that the subsidy for land acquisition could reach \$79 million and that critics thought the Times got a sweetheart deal (*The Paper of Wreckage, 6/25/02; www.villagevoice.com/news/0225,moses,35773,1.html*): *If the court sets a higher condemnation price than \$85.6 million, the developers would have to lay out the extra money. But the sweetener in the deal is that the Times and Forest City will be able to deduct the extra cost as an 85 percent credit against the payments they make in lieu of property taxes (called “PILOT”). This means taxpayers will cover all costs above \$85.6 million, an amount described as “huge” in a city memo.*

...The payments, after phasing in for the three to four years the deal permits for construction to be completed, run about \$14 million a year. The developers’ 85 percent break during this span would be worth at least \$79 million, an attorney for the opponents said.

...W. Tod McGrath, a professor of real estate finance at the M.I.T. Center for Real Estate, said that even when the developers’ risks, demolition costs, and such amenities as a subway improvement were considered, they were getting “at least a 25 percent discount” on the property.

*...But opponents of the deal charge the PILOT is further skewed in the developers’ favor because it is based on rental prices of \$52 per square foot, while, as the *Times* reported, Ratner has said he’ll seek tenants at \$75 to \$85.*

B.3 Why Wasn’t There Competitive Bidding?

The *Voice* report also noted that the process did not involve any bidding, even though a rival developer—Intell, now Extell (see items 1.7 and 6.6)—had expressed interest: *But documents show that another developer said he was willing to undertake the risk of building a 50-story office tower on the site with no subsidy on the property’s cost. After the *Times* expressed interest, the city and state abandoned previous plans to seek bids on the property, which is privately owned but in the Times Square redevelopment area.*

B.4 Is FCR’s Rent Request High?

While FCR’s requested rents may have hindered tenants from leasing space for its portion of the building, a *Times* report on rent rates did not contextualize the FCR request (*Times Goes Forward on Plan for Tower on Eighth Avenue, 12/14/01*): *It will own and occupy 800,000 square feet of space in the new building, from the 2nd through 28th floors. Forest City Ratner will own 600,000 square feet and lease floors 29 through 50 to office tenants, asking rents of \$75 to \$85 a square foot annually.*

By contrast, *The New York Post* added context about the rent rates (*Times' Tower Of Conflict*; 7/18/03): *The addition of new space will push rents downward everywhere even as Ratner is asking in the sky-high mid-\$70s a square foot at a still-untested Eighth Avenue location.*

The *Post* also questioned FCR's claim that conditions had changed significantly since the *Times* signed its deal, and pointed out the high rent (40TH St. Fiasco; *Times' New HQ Snafu*, 11/3/03): *Ratner claims that when the deal was signed two years ago, the "climate" for finding tenants was better. Huh? In December 2001, things were so bleak that many feared a stampede out of town. And the asking rent for Ratner's empty floors, in the mid-\$70s a square foot, is among the highest anywhere.*

The New York Observer (*Times' New Tower Seeks \$150 Million In Liberty Bonds*, 11/17/03) similarly contextualized the high rent request: *From the beginning, the biggest question mark in the Times-Ratner deal was whether or not Mr. Ratner would be able to secure financing for his portion of the building without an anchor tenant who would commit to a long-term lease. When the parties signed the deal in December 2001, the city's commercial real-estate market was decidedly soft, especially for the upper floors of skyscrapers. And financing for speculative buildings—buildings without an anchor tenant already committed to leasing a large portion of the rentable space—was scarce to nonexistent.*

In addition, Mr. Ratner was asking around \$75 per square foot in annual lease payments—one of the loftier rates in the city.

B.5 Can the Newspaper Report on Similar Projects?

The 6/25/02 *Village Voice* article raised the question of whether, due to the *Times* Tower deal, the *Times's* reporting on similar arrangements could be compromised: *Robert McChesney, a communications professor at the University of Illinois, said the deal "gives the appearance of impropriety" and will undermine the Times' ability to criticize similar arrangements between government and business...*

Times spokeswoman [Catherine] Mathis responded: *"This real estate transaction does not compromise the independence or credibility of the Times editorial voice or the integrity of the Times reporting in any way. Our business and news functions operate separately." She said Times editorials have recognized the "judicious use of incentives." In addition, she said, "as long as these kinds of incentives continue to exist, it is incumbent upon us, as a publicly held company, to seek the benefit of those incentives for our shareholders."*

Paul Moses, a former *New York Newsday* City Editor and author of the *Voice* article, suggested that such a situation might hamper objectivity. Interviewed 8/16/02 on the radio show *CounterSpin*, which is a product of the group FAIR (Fairness and Accuracy in Reporting), Moses warned of the effect of the apparent conflict (archive.webactive.com/webactive/cspin/cspin20020816.html): *How do papers balance this role of reporting on local news and being local businesses? I think sometimes the result can be kind of weak local coverage.*

...I do have a lot of respect for the reporters and the editors at the Times, but it has to weigh on their minds that, "Ooh yeah, can we criticize the subsidies in this deal when our newspaper is getting even bigger subsidies from government?"... And then the editorial page, again I have great respect for the editor of the editorial page, but it reports to the publisher who's the chairman of the Times Company, who's doing this deal with the state and city. So I think they're factors that people should know about in evaluating the coverage that they're reading...

I think it [the track record regarding subsidies for the New York Times Company]

makes it harder for the Times to report on these kinds of arrangements between government and business.

B.6 The Times Doesn't Fully Cover the Liberty Bonds Issue

When the *Times* reported on FCR's request to use Liberty Bonds—a federal program intended to revitalize post-9/11 Lower Manhattan—for the midtown Times Tower, the article only briefly cited critics who considered the request inappropriate (Plans to Use Tax-Free Bonds for Midtown Tower Cause a Stir, 9/5/03): *The Times Company and Forest City Ratner reached an agreement with state officials more than two years ago to build a 52-story tower as part of a deal in which the newspaper got \$26.1 million in sales-tax breaks and other incentives. Now Forest City claims it needs the [\$400 million in] Liberty Bonds because it cannot obtain construction financing for its part of the tower.*

...So far, state and city officials have approved \$400 million in bonds to rebuild 7 World Trade Center and \$113 million to erect an office building in Brooklyn for Bank of New York, which was forced to move some of its operations away from Lower Manhattan after the attack. So there is plenty of bond money available, but critics contend the special financing was never intended for thriving areas like Midtown.

The article did not point out that the developer of the office building in Brooklyn was, in fact, Forest City Ratner. A correction should be added to the record.

Other newspapers devoted more criticism to the Liberty Bonds issue. *The New York Observer* noted (Times' New Tower Seeks \$150 Million In Liberty Bonds, 11/17/03): *"The New York Times project represents job retention, not job growth," said an official at the E.D.C. "So just in terms of economic impact to the city, the Bank of America project is an easier one to justify [for Liberty Bond use]."*

In an editorial, *The New York Sun* criticized the Times Company, pointing out uses of public resources in the Times Tower project, including sales-tax breaks and eminent domain, as well as the Liberty Bonds request (Chutzpah of the Times, 7/18/03): *Given all the legislative history of Liberty Bonds and all the distress downtown, it's going to be something to see how the officers of The New York Times Co. try to justify their bid for this subsidy.*

...Plans for the Times building were in the works for the construction of this 52-story tower at least a full year before the attacks on the World Trade Center. Ordinary people all over the city are being asked to pay huge increases in property taxes and income taxes to help the city through the budget crisis. For the Times to come forward in the midst of this environment and ask that taxpayers help it to get \$400 million in easy funding for its luxury real-estate deal, well, it's the kind of chutzpah the Times itself would deride were it done by any other company.

New York Post columnist Steve Cuozzo suggested a connection between the Times's editorial criticism of downtown reconstruction and the needs of its business partner (Times' Tower Of Conflict; 7/18/03): *While the Times will occupy and own the bottom half of the tower, Ratner is having trouble finding tenants for the top half, with as much space as the whole Seagram Building.*

...Real estate insiders have long whispered - although not for attribution - that office reconstruction downtown imperils Ratner's well-known ambitions to put up new office buildings in Brooklyn. Coincidentally or not, the Times has used every trick in its editorial arsenal to oppose Downtown redevelopment.

...The Times says it would not benefit "directly" from the [Liberty] bonds, but that is specious. The newspaper desperately needs the tower plan to go forward. It is out of room at its antiquated West 43rd Street quarters. Its ability to function, as well

"I think it [the track record regarding subsidies for the New York Times Company] makes it harder for the Times to report on these kinds of arrangements between government and business"
—Paul Moses, former New York Newsday City Editor

as its prestige, is at risk.

...Ratner's empty space in the Times Tower has been the shadow over the project since before *The Post* first pointed it out in 2001. It insults common sense to suggest it doesn't weigh heavily on the minds of Times executives.

None of this means those executives tell Times reporters and columnists what to write. But with the Times' economic interests and its editorial agenda coinciding to an eerie degree, it is worth questioning everything the paper has to say about Ground Zero's future.

B.7 Why Did FCR Fail to Get Liberty Bonds?

As city officials negotiated with Forest City Ratner over the terms of possible Liberty Bonds for the Times Tower, a *Times* report did not mention that the developer refused terms that could have required it to pay back some of the money (*Times Tower Is Delayed As Partner Awaits Loan*, 10/17/03): *But Forest City has been unable to land an anchor tenant for its space. Its negotiations with city officials for special tax-free financing known as Liberty Bonds are also at a standstill.*

...In recent months, Forest City began negotiating with city officials for \$400 million in Liberty Bonds, which were designated for rebuilding New York after the attack on the trade center. Forest City ultimately applied for \$150 million in bonds, but has been unable to get city approval.

Forest City declined to comment yesterday.

That same day, *The New York Sun* explained that FCR couldn't get Liberty Bonds because it wouldn't agree to return some profits (*Financing Hitch Delays N.Y. Times Move*, 10/17/03): *In August, the city agency in charge of distributing the bonds, the Industrial Development Agency, rejected Forest City's application on grounds that the request was not tied to the September 11 attacks and would not bring new jobs to the city. Instead it offered the developer \$100 million on condition that it would return the money if the developer was able to fill the space at a faster pace and for higher rents than expected. Forest City's chief executive, Bruce Ratner, rejected the offer.*

A month later, *The New York Observer* reported the same details (*Times' New Tower Seeks \$150 Million In Liberty Bonds*, 11/17/03): *Mr. Ratner originally asked the E.D.C. for \$400 million in Liberty Bonds. In September, according to sources within the agency, the city came back with its offer: \$100 million in Liberty Bonds, but if the market turned around and rents went up, Mr. Ratner would have to pay the money back to the city.*

"We said, 'We'll help you mitigate the risk that exists today, but if the market recovers, we would share in the excess until the full benefit of the Liberty Bonds is paid back,'" said an executive at the E.D.C.

Mr. Ratner rejected the offer and pressed for better terms.

B.8 The Times Company Agreed to Guarantee a Loan to FCR

Although the *Times* has periodically mentioned that the New York Times Company and FCR are business partners, the newspaper has not reported that the parent company agreed to guarantee a \$100 million loan to the developer. *The New York Post* reported (*Liberty Bonds Key To Ratner*, 10/28/03): *IF Bruce Ratner succeeds in getting Liberty Bond approval from the city for the stalled New York Times headquarters tower, he's "pretty confident" that the rest of the project's financing will fall into place, according to his rep.*

One reason for Ratner's confidence is a previously unreported provision of his

partnership with the Times Co., which was formed to develop an architecturally distinguished, \$850 million new home for the media company: a “formula” requiring the Times to “guarantee” up to \$100 million of the loan that Ratner needs to construct the tower’s top half.

The top portion, which Ratner will own, is estimated to cost \$400 million to build. Ratner is putting in \$100 million in equity, and plans to borrow the rest.

The Times Co.’s guarantee, to be signed at the time Ratner secures financing, is to “make a permanent lender comfortable in the event leasing isn’t proceeding,” his spokesperson said.

B.9 The Times’s Profit on the Old Times Building

The Times has not reported that its actual profit on its 43rd Street building may have eliminated the need for public subsidies for its new headquarters. The Times reported only the dollar amount of the sale (The Times Sells Its Main Building To a Developer of Office Space, 11/9/04): *Tishman Speyer Properties signed a contract Sunday night to buy the current home of The New York Times Company in Times Square for \$175 million and convert it to an office building.*

The Village Voice later reported that the Times Company had predicted a profit half the size it actually received (The Times’ Sweetheart Deal, 11/20/04; www.villagevoice.com/news/0447,moses,58652,5.html): *The New York Times Company’s sale this month of its 43rd Street headquarters at least doubled the profit its executives predicted when they prodded city and state officials for tens of millions of dollars in tax breaks to build a new office tower, records show.*

The surge of extra cash from the \$175 million sale on November 7 was so large that it wiped out the need for much, if not all, of the taxpayer money the Times asked for. The company said it needed the money to help construct more spacious corporate offices in Times Square and thus avoid moving 750 workers to New Jersey.

...“The financial environment,” [Times] spokeswoman Catherine Mathis said, “is significantly different than it was in 1999, when interest rates were higher, and property values in Manhattan have increased substantially over that time.”

But according to city documents and to an expert consultant who helped make the deal, it was clear from the start that the Times had vastly understated the amount of cash it would generate by selling 229 West 43rd Street.

B.10 FCR Under Pressure to Lease its Part of the Times Tower

According to the most recent news reports on the Times Tower, the significant chunk of the building that FCR will lease does not yet have any tenants (it’s scheduled to open in 2007). The *New York Post* reported on the pressure the developer faces (4 Hot Buildings Face A Cool Reception, 12/12/04): *Newmark’s Gosin termed it “an experimental location for the rent they’re asking”—in the \$70s per square foot. The Times will own 850,000 square feet of the 51-story edifice. It’s Ratner’s problem to find tenants for the 700,000 feet at the top he will own.*

In July 2001, *The Post* called Ratner’s space a ‘huge gray cloud.’ Four years later, he’s still sweating. Earlier this year, he sought low-interest Liberty Bonds for the \$850 million scheme, saying the lack of a tenant made it impossible to get a construction loan.

When his request was rebuffed, Ratner had to secure a loan at an unspecified higher interest rate.

Note that while the Times once reported (12/14/01) that the newspaper company

would have 800,000 square feet (57%) and FCR 600,000 square feet (43%) of the building, the *Post* reported current figures in 2004: 850,000 square feet (55%) and 700,000 square feet (45%), respectively. Those are confirmed by Forest City Ratner's web site (www.frc.com/full_pressrelease.asp?brief=14).

B.11 Eminent Domain and Future “Public Use” Deals

The *Village Voice* recently reported that the lease on the Times Tower forbids fast food restaurants, medical uses, discount stores, and employment agencies (other than executive-search firms), among other businesses. (See “Times’ to Commoners: Go Elsewhere, 8/16/05; www.villagevoice.com/news/0533,moses,66887,5.html.) The article pointed out an irony in the lease: the state had *condemned the property for a so-called “public purpose.” This is the standard the Fifth Amendment sets for the state to invoke the immense power of eminent domain.*

...And, it should be noted, this is a site with unique public access, located across the street from the Port Authority Bus Terminal and upstairs from the city’s subway crossroads.

(Actually, the standard for eminent domain is “public use,” not “public purpose.”)

Seen in light of the 6/23/05 Supreme Court ruling in the *Kelo* case (see item 9.4), the article noted that *the majority was troubled enough by the apparent unfairness to note that states can restrict the power of eminent domain, and that many have done so...*

In his concurring opinion Justice Anthony Kennedy... wrote that deals “intended to confer benefits on particular, favored private entities, and with only incidental or pretextual public benefits,” should be forbidden.

Condemnation of private property for private development in New York City is often done as part of a no-bid deal that favors politically powerful businesses—companies that are major campaign contributors, hire politically connected lobbyists, or in the case of the Times, are media companies with enormous clout.

... If Kennedy is to be taken at his word, it follows that special steps should be taken to avoid favoring the politically connected when the state’s power is used to condemn land for a private developer. That could mean requiring competitive bidding, timely release of all records, and City Council approval for any condemnation and related tax breaks. That would replace the no-bid deals, secrecy, and “three men in a room” approval process marking such projects as the Times building (which was quietly approved by the Public Authorities Control Board).

So, will *special steps... be taken to avoid favoring the politically connected* if the state’s power is used to condemn land for Forest City Ratner’s Atlantic Yards plan? Will the *Times* report on this issue—and the other issues regarding Atlantic Yards—without fear or favor?

Web Links

Organizations

Develop Don't Destroy Brooklyn: www.dddb.net

Park Slope Neighbors: www.parksloopenighbors.org

The Fort Greene Association: www.fortgreeneny.com

Local Press Coverage

NoLandGrab.org: www.nolandgrab.org/.

The Brooklyn Papers: www.brooklynpapers.com

The Brooklyn Papers' Brooklyn Nets archive: www.brooklynpapers.com/html/issues/columns/nets/n_netsguide.html

Brooklyn Daily Eagle: www.brooklyneagle.com

Brooklyn Downtown Star: www.brooklynowntownstar.com

Forest City Ratner Press Releases

Bring Basketball to Brooklyn: www.bball.net

About The Brooklyn Arena and Brooklyn Atlantic Yards: www.bball.net/documents/pdf/Project%20Fact%20Sheet.pdf

General info: www.frc.com

Jim Stuckey biographical sketch: www.frc.com/full_compmng.asp?brief=4

Bruce Ratner biographical sketch: www.frc.com/full_compmng.asp?brief=1

Times Tower construction begins: www.frc.com/full_pressrelease.asp?brief=14

Forest City Ratner Fliers Mailed to Brooklynites

May 2004: www.dddb.net/times/flier1.gif

October 2004: www.dddb.net/times/flier2.gif

Forest City Ratner's The Brooklyn Standard

June/July 2005: www.dddb.net/FCR_brooklynstandard.pdf

Forest City Ratner ownership of property including Modell's

www.forestcity.net/projects_detail_commercial.asp?id=333

Mayor Bloomberg/Governor Pataki Press Releases

Governor Pataki and Mayor Bloomberg Announce Memorandum of Understanding for Atlantic Yards Project In Brooklyn, 3/4/05: www.nylovesbiz.com/press/press_display.asp?id=556

Mayor Bloomberg, Forest City Ratner And ACORN Announce Historic Affordable Housing Agreement For Atlantic Yards, 5/19/05: tinyurl.com/77uxe

Mayor Michael R. Bloomberg, Forest City Ratner CEO and President Bruce Ratner and Civic Leaders Sign Community Benefits Agreement, 6/27/05: tinyurl.com/97zg8

Brooklyn Borough President Speeches/Press Releases

2004 State of the Borough address, 2/8/04: www.brooklyn-usa.org/stateoftheborough04.htm

2005 State of the Borough address, 1/27/05: www.brooklyn-usa.org/stateoftheborough.htm

ACORN Memorandum of Understanding press conference, 5/19/05: www.brooklyn-usa.org/Press/2005/may19.htm

"Atlantic Yards Community Attracts Widespread Support" press release, 7/21/05: www.brooklyn-usa.org/Press/2005/jul21.htm.

Fiscal Reports

Z-1, by Andrew Zimbalist: Estimated Fiscal Impact of the Atlantic Yards Project on the New York City and New York State Treasuries, 5/1/04: www.dddb.net/public/ZimbalistReport2004.pdf

Z-2, by Andrew Zimbalist: Estimated Fiscal Impact of the Atlantic Yards Project on the New York City and New York State Treasuries, Updated Report, 6/05: www.dddb.net/public/ZimbalistReport2005.pdf

Kim-Peebles, by Jung Kim and Gustav Peebles: Estimated Fiscal Impact of Forest City Ratner's Brooklyn Arena and 17 High-Rise Development on NYC and NYS Treasuries, 6/21/04: www.dddb.net/public/KimPeebles.pdf

PICCED: Slam Dunk or Airball? A Preliminary Planning Analysis of the Brooklyn Atlantic Yards Project by the Pratt Institute Center for Community and Environmental

Development, 3/05: www.picced.org/pubs/bay-report.pdf

New York City Economic Development Corporation

Estimated Fiscal Impacts of the Proposed Atlantic Yards Project, 6/27/05:
www.dddb.net/public/NYEDC_AYardsImpact.pdf

Empire State Development Corporation/FCR Memoranda of Understanding

Public MOU: www.dddb.net/mou/MOU1.pdf

Unreleased MOU: www.dddb.net/mou/MOU2.pdf.

Quinnipiac University Poll

New Yorkers Back Mayor On Social Promotions 2-1, Quinnipiac University Poll Finds: Opposition To Jets Stadium Less If Voters Don't Pay includes Nets results , 4/1/04:
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