

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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IN THE MATTER OF NEIGHBORS UNITED
BELOW CANAL, JAN LEE, DCTV, EDWARD J.
CUCCIA, BETTY LEE, and AMERICAN INDIAN
COMMUNITY HOUSE,

Petitioners,

For a Judgment pursuant to Article 78 of the CPLR

-against-

MAYOR BILL DE BLASIO, et al.,

Respondents.
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Index No.

**AFFIDAVIT OF JAN LEE
IN SUPPORT OF THE
VERIFIED PETITION**

Petitioner Jan Lee being duly sworn deposes and says:

1. I am a co-founder of petitioner Neighbors United Below Canal (“NUBC”) and a longtime resident of Mott Street in the Chinatown neighborhood of Manhattan. I submit this affidavit in support of this Article 78 proceeding which seeks to nullify the various approvals of the proposed jail to be constructed on White Street in Manhattan.
2. My grandfather emigrated to Chinatown in the 1890s and in the 1920s purchased two buildings on Mott Street, where I grew up and still reside. Many of my family members also reside on Mott Street.
3. NUBC is a neighborhood coalition made up of community organizations, businesses and activists that represent thousands of stakeholders in the diverse and unique communities below Canal Street and the surrounding areas. NUBC was formed in October of 2018 in response to Mayor DeBlasio’s proposal to build a new jail in Chinatown as part of the Borough Based Jail System (“BBJS”) project.

4. In addition to being a co-founder of NUBC, I am also a member of the Chinatown Core Block Association, which routinely reviews liquor license applications, traffic, and quality of life issues in the core of Chinatown. We regularly report our findings to Manhattan Community Boards 1 and 3.

5. I first learned that the City intended to build a new jail in Chinatown in late July or early August 2018, when I received a phone call from a staff member of City Council Member Margaret Chin's office inviting me to attend a meeting at the Chung Pak Everlasting Pine senior living center on Baxter Street, adjacent to the existing jails at 124-125 White Street. I was told not to tell anyone else about the meeting, and that invitations for the meeting were only being extended by phone call. I was not told who else would be attending the meeting.

6. The meeting took place on August 2, 2018 in the Chung Pak Everlasting Pine community room and was attended by community leaders of Chinatown, namely Wellington Chen from the Chinatown Business Improvement District; James Wong president of Lin Sing Association; Eric Eng, President of the Chinatown Consolidated Benevolent Association; Sherman Eng and Jacky Wong of Chung Pak; as well as some business owners, myself and a few others. Very few attendees were residents of Chinatown. In addition, Council Member Chin and some of her staff, and representatives of the Mayor's office, including Lincoln Restler attended. At the meeting we were advised that the City intended to construct a new jail at either one of two locations, either 80 Centre Street or 124-125 White Street. We were also advised that the public scoping process for the jail project would begin almost immediately, in two weeks.

7. We immediately expressed our shock, dismay, and concern that the Chinatown community was about to get saddled with yet another institutional building, and a third jail building within a span of a few blocks. We also expressed concern regarding the impacts that

construction of this facility would have on the neighborhood, which is characterized by narrow streets, small mom and pop businesses and many culturally significant institutions and key businesses. Regarding construction, I immediately asked Mr. Restler to have his office provide a map showing an overlay of current construction projects, such as the 10-year water main replacement project on Worth Street, that were already affecting Chinatown, as well as future construction projects, so we could all have a common understanding of how all of these projects would affect Chinatown's extremely busy and often very narrow streets, how they would be coordinated, and whether they would all take into account underground utilities. No such map was ever produced by the City.

8. As the meeting ended, we were told that we should disseminate the information about the new jail into the neighborhood to get input on the preferred location from the community, and to identify any uses the community would like within the jail structure. In addition, we were told that a new jail was going to be built by the City in any event, so we should voice any preferences quickly.

9. Before the end of two weeks, the New York State Assembly Member representing Chinatown, Yuh Line Niou, issued a press release objecting to the location of a jail at 80 Centre Street. It was by virtue of that press release that we learned that the City had already chosen 80 Centre Street for the new jail, and that despite the so called "choice" that had been presented to us at the August 2, 2018 meeting, the City had in fact already decided on the location of the jail.

The Environmental Review Process Was a Sham Because the Draft Scope Stated that the Jail would be Located at 80 Centre Street, and the City Refused to Re-Scope After the Location was Changed to 124-125 White Street

10. On August 14, 2018, the Draft Scope of Work for the draft environmental impact statement ("DEIS") was issued. It identified the location of the jail at 80 Centre Street. It noted

that the redevelopment of 80 Centre Street “would allow for the potential closure and reuse or redevelopment of the North Tower of the Manhattan Detention Complex in the future.” Draft Scope at 8.

11. I attended the public scoping meeting on September 27, 2018. The meeting was held in the Manhattan Municipal Building at 1 Centre Street, in a room that was too small to fit everyone that wanted to attend. Members of the community that could not fit in the room lined up outside of the building and many were precluded from entering due to crowding concerns. Despite many people being left on street level wishing to hear the City’s presentation and present their testimony, City representatives from Mayor’s Office of Criminal Justice went ahead with the presentation, effectively shutting out a good portion of the community who tried to attend this singular scoping hearing.

12. I submitted written comments on the Draft Scope of Work on October 28, 2018. A copy of those comments is annexed to the Petition as Exhibit 20.

13. In my comments, I stated that the proposal to build a new jail building in Chinatown was of significant concern due to, among other things: the utter lack of engagement by the City with the communities that would be affected by the new jails; the size of the proposed jail; and the fact that the study areas proposed for the DEIS was considered insufficient to evaluate the impacts of the construction on the community.

14. Regarding the study area, I later learned that it is apparently futile to argue that the study area for a DEIS should be larger, as a representative from the City’s Department of City Planning explained to me that no community had ever been successful in influencing the size of the study area to be included in an EIS. I was left with the realization that despite the requirement that the City seek input on the Draft Scope, our community would be stuck with a

woefully insufficient “study area” that failed to include traffic arteries and buildings that are vital to the Chinatown community.

15. On October 26, 2018, NUBC and the Chinese Consolidated Benevolent Association (CCBA) and others organized a community-based Town Hall meeting to discuss the entire BBS project. Among the guest speakers were: Stephan Fried, architect; Richard Moschella, architect; Eric Eng, President of CCBA; James Quinn, senior executive Assistant District Attorney at the Queens DA’s office; Arline Parks from Diego Beekman Houses in the Bronx; Dominic Pistone from the Kew Gardens Civic Association in Queens and more. The Mayor was invited but did not attend.

16. In late November 2018, *after the comment period on the Draft Scope had already ended*, we read in the news that the location of the jail had been changed to 124-125 White Street. This was a shock because the City had identified 80 Centre Street in the Draft Scope of Work for the DEIS and that location was the focus of the public scoping meeting and the public Town Hall meeting, as well as our comments on the Draft Scope. In addition, the possibility of allowing for the closure and reuse of the North Tower at 125 White Street that had been discussed in the Draft Scope was now foreclosed by the new plan.

17. Although the community was not pleased with the initial proposal to build a new jail structure at 80 Centre Street, the change of location was even worse because the new site is much closer to residential buildings (including the Chung Pak Everlasting Pines senior living center right next door) and small businesses; the site is along the narrow and already congested Baxter Street, and would have greater shadow, light and air impacts on Chinatown; the site would be worse in terms of construction impacts, including air and noise pollution and street closures and staging, because of its location closer to residences and businesses; and the site

would result in the loss of retail spaces in the existing North Tower that help fund Chung Pak and make for a lively streetscape.

18. We later learned that the City would de-map portions of White Street 30 feet above White Street because the new jail at 124-125 White Street would be built above, resulting in the loss of the 50-foot wide public plaza on White Street. This public plaza had been created for the community as partial compensation for construction of the North jail Tower at 124 White Street in the 1980s and it was built to be pedestrian only. The White Street public plaza connects Baxter Street and Centre Street, and is the only interruption of the wall of buildings extending from Hogan Place to Walker Streets between Baxter and Centre Streets, allowing light and air to permeate the predominantly lower scale neighborhood. It is a main artery for pedestrians and bikers leading from eastern Chinatown to west of Centre Street. It also provides much needed access for emergency vehicles. In violation of the City's promises, the City's Department of Corrections ("DOC") encroached on this pedestrian only public plaza after September 11th, when it commandeered the sides of the plaza for 60 DOC parking spaces. DOC employees now dart in and out of ad hoc parking spaces, endangering pedestrians and bikers.

19. We knew that members of the community who had not participated in the public scoping meeting because they thought the jail was far enough away – at 80 Centre Street – would now need an opportunity to react to a draft scope that reflected this significant change.

20. NUBC made several different requests for a new scoping meeting and to restart the process because the change of location was so significant. These requests were made before the DEIS was completed, at Neighborhood Advisory Committee (NAC) meetings that occurred between January 16 and April 2, 2019 (discussed below), and in comments on the DEIS.

21. NUBC issued a statement by press release on December 17, 2018, asking the City for a scoping meeting for the new site. A copy of this press release is annexed as Exhibit A. Again, at the first NAC meeting on January 16, 2019, I asked for the City to conduct new scoping on the 124-125 White Street Site. Notes from the first NAC meeting are annexed to the Petition as Exhibit 24 (*see* p. 3-4).

22. In response, we were told by the City that it would not conduct new scoping because the new location is “in close proximity to 80 Centre, the areas of analysis in the environmental review should not be materially different and there is a lot of overlap between the impacted area and impacted community.” *Id.* at 4. We were also told “there is a lot of process still left and there will be numerous opportunities for meaningful public engagement” including within the NAC process. *Id.*

23. The Final Scope of Work for the DEIS (annexed to the Petition as Exhibit 27), issued on the same day of the DEIS, on March 22, 2019, addresses comments on the former location of the jail – 80 Centre Street – and disingenuously states that the jail site change to 124-125 White Street was “in response to public comments provided on the Draft Scope of Work and through the City’s community engagement process.” Petition, Exhibit 27 at A-8. The Final Scope of Work also states, ridiculously, that the City complied with public notification requirements of the CEQR Rules by publishing the Draft Scope of Work in various newspapers on August 15, 2018. *Id.* at A-9. How can the City state that it has complied with the CEQR Rules if the Draft Scope identified a completely different jail site, three blocks away?

24. Subsequently, in May 2019, we asked Community Board 1 for new scoping, both in testimony and in writing. *See* Exhibit 29 annexed hereto.

25. In NUBC's comments on the draft DEIS, submitted in July 2019, we again demanded a new scoping meeting based on the new location. A copy of NUBC's comments on the DEIS is annexed to the Petition as Exhibit 14.

26. In the FEIS "response" to NUBC's and others' comments on the DEIS that DOC violated SEQRA/CEQR by holding a scoping session on the wrong location, the City simply states that 80 Centre was not viable and reiterates the fake storyline that "in response to public comments provided on the Draft Scope of Work and through the City's community engagement process, the City is now proposing to site the Manhattan borough-based jail facility at 124-125 White Street." Petition, Exhibit 33 at 10-17.

27. The FEIS also restates the falsehood that the City "has complied with all SEQRA/CEQR procedures in providing for public review during the environmental review process for the proposed projects" because it held four public meetings to receive comments on Draft Scope and extended the public comment period. *Id.* at 10-5 and 10-6. Three of these public meetings were outside of Manhattan in the three other boroughs that are also targeted for new jails. Extending the comment period on a scope that relates to a different site completely is irrelevant and besides the point. It is undeniable that the City's short-cut violated SEQRA/CEQR's procedural requirements.

The FEIS Does not Sufficiently Assess Impacts

28. Attached to this affidavit are two letters describing flaws in the FEIS transportation analyses. *See* February 11, 2020 letter from Daniel Broe, PhD, annexed hereto as Exhibit B; and February 8, 2020 letter from Brian Ketcham, P.E., annexed hereto as Exhibit C. A copy of the transportation chapter of the FEIS is annexed hereto as Exhibit D. A copy of the

FEIS transportation assumptions is annexed hereto as Exhibit E. A copy of the socioeconomics chapter of the FEIS is annexed hereto as Exhibit F.

29. I also attach a report from the RJ Lee Group dated February 10, 2020 discussing sampling and analysis of World Trade Center dust residues that could be remobilized and reentrained as a result of demolition of the existing jail. *See* Exhibit G. This potential impact was not discussed in the FEIS.

30. The FEIS also failed to consider the negative impacts of long term construction on fresh food consumption, which is vital to the community. My entire family, like many families in Chinatown, buy locally and cook at home in varying degrees. In our culture, food is more than simple nutrition. We believe that the "right" combination of ingredients act as a prophylactic against illness. Thus, loss of key ingredients in our community isn't simply inconvenient, it is an affront to our belief system, our cultural traditions and most importantly a danger to our health. In addition, a "loss" can mean that that a food type is no longer physically available or that it is only available at prices that are unaffordable.

Neighborhood Advisory Committee Process

31. In January 2019, I was invited to attend the first Manhattan jail Neighborhood Advisory Committee ("NAC") meeting, which took place on January 16, 2019. Other NAC meetings relating to the proposed jails in Brooklyn, Bronx and Queens started much earlier (Brooklyn – October 26, 2018; Bronx - October 30, 2018; Queens – November 5, 2018), but for unknown reasons, the NAC meetings for the Manhattan jail did not begin until months later. As a result of this late start, our community had even less input on the Manhattan jail than other

communities did regarding the new jails in their neighborhoods. There was a total of 6 NAC meetings on the Manhattan jail - from January 16 to April 2, 2019.

32. The NAC meetings were by invitation only, and it was never clear what criteria was used to extend invitations for participation on the NAC. According to the City's website on the Rikers Closure Plan, the NAC members for each jail were hand selected by the City, in consultation with the respective Council Members. Some attendees received invitations from Council Member Chin's office weeks before the first meeting, others received invitations only days before. Invitations were extended by phone only. My understanding is that if you happened to miss the phone call inviting you to participate on the NAC, you never got invited, they just moved on to another person.

33. While the NACs purported to be "neighborhood" advisory committees, the attendees were not representative of the community. Out of a dozen or so participants on the committee who were not related to City Government, fewer than 6 participants were actually residents of Chinatown in any given NAC meeting. The NAC lacked any elderly residents, any residents from Baxter, Centre or Walker Streets, or business owners along Canal, Mott or Mulberry Streets, or parents of school children. Notably absent from any NAC meeting was a representative of the Charles B. Wang health center, which is within the Chung Pak Everlasting Pines campus, adjacent to the jail site. We were continually disappointed that we were not given a list of those people who had been invited to participate in the NAC, despite asking for such a list several times.

34. In addition, people that have no connection to the neighborhood were invited to attend. For example, the group "Just Leadership" was represented on the NAC. Just Leadership is a national group "dedicated to cutting the US correctional population in #half by 2030 ... [and]

empowers people most affected by incarceration to drive policy reform.”

<https://jlusa.org/about/>. The representative of Just Leadership on the NAC neither lived nor worked in the neighborhood and had no interest in community concerns. Giving valuable seats on the NAC to lobbyists such as Just Leadership, whose interests lie only in criminal justice reform, effectively shut out participation by additional, actual members of the community.

35. The “rules” for how the NAC meetings would be conducted were also mysterious and never explained to attendees. The meetings were 2 to 3 hours long and we wanted to record the meetings so that we could remember everything that transpired and communicate information back to the larger community, but recordings were not allowed. In addition, no members of the press were allowed to attend the meeting, so the press could not disseminate information back out to the community.

36. Notes of the meetings were taken by Perkins Eastman, the City’s consultant, so everything was essentially filtered by the City and its representatives. The notes did not reflect who had said what at the meetings, so they did not create a clear record of areas of participation or agreement and dissent. The notes (intended to be meeting minutes) were circulated in English only; they were not translated into Chinese. Comments by resident representatives on “draft” minutes were arbitrarily excluded in the final versions of the notes.

37. In addition, the notes were not disseminated for weeks, so we didn’t have the minutes of the last meeting by the time the next meeting was held, which significantly hindered our ability to share them, and to follow up on questions and issues that had been raised in the prior meetings.

38. Many requests that I made during the NAC process were never addressed. For example, at the NAC meetings I reiterated my earlier request for a map showing all current and

future construction, so that it could be made public, but no such map was ever provided. I also requested help in obtaining the 1980's EIS and FEIS from the Manhattan Detention Center, and although Gale Brewer offered her assistance nothing came of it. I requested details about the types and size of dump trucks we can expect and what routes they will take to enter and leave the jobsite during construction. Representatives of the City DDC were unable to give me answers to these questions. *See Exhibit 26 to Petition.*

39. It became clear at the NAC meetings that DDC had no idea how it was going to demolish the existing jail buildings. During the February 27, 2019 meeting, DDC said it intended to demolish 124 White Street first, and then use that experience to develop a plan for dismantling 125 White Street. This sequential demolition will take a very long period of time. Moreover, it is terrifying that the City will be getting this on the job experience in the middle of the busy Chinatown community, at risk to pedestrians and nearby residences and businesses. Architects for the City also stated that they thought the heavy façade would have to be lifted off with a crane one piece at a time. Where will this crane be located? If located on Baxter or White Streets, it will restrict access around the site and be incredibly disruptive. How will the adjacent Chung Pak be protected, as it is only separated from the North Tower by a caulk joint. And how can contaminated demolition debris and dust be encapsulated to protect nearby residents and pedestrians if a crane will be used to disassemble the façade?

40. These questions are not answered in the FEIS. Rather, the FEIS states that “detailed plans for the proposed detention facilities and detailed construction logistics, including any necessary street or sidewalk closures, are not known at this time.” FEIS at 10-20. Despite this lack of information, the FEIS somehow concludes that “construction activities would not have significant adverse effects on the operations of study area businesses, nor would

construction activities block major thoroughfares used by customers or businesses. Further, sidewalk closures would not front active storefronts or block access to businesses on surrounding blocks.” FEIS at 10-61.

41. At the NAC meeting on March 19th, it was disclosed that “off hours” scheduling might be required to alleviate logistic congestion. This means that the disruption to the community will go beyond standard construction hours of 7 a.m. to 3 p.m. on weekdays, and could extend to seven days a week, for longer hours each day. Constant drum of construction over many years will no doubt cause trauma to nearby residents, most significantly to elderly residents. *See* Petition, Exhibit 14, and Exhibit B thereto (describing the negative impacts of major construction in senior communities from the BBJs project).

42. At the end of the NAC process, on April 3, 2019, the Mayor’s office circulated a draft “Guidelines and Principles” for the Manhattan jail project and asked for edits and any further changes by the end of the day on April 5, 2019. At least one of my co-participants on the NAC advised the Mayor’s office that more time was needed to review and propose edits to the draft Guidelines and Principles, and reminded the Mayor’s office that NAC participants had day jobs and would not be able to meaningfully comment with such a quick turnaround time.

43. Edits to the draft Guidelines and Principles were provided to the Mayor’s office later in April and in response we were advised that the proposed edits were past the deadline for submission, which had been extended for a week beyond April 5th. We were also asked to list the affiliations of people who joined in the edits and told that there had been “changes to the document that were more substantive and not discussed with the entire group.” *See* Exhibit H.

44. Ultimately, the Guidelines and Principles were made public, and our comments were also made public as an addendum. However, as stated in the Guidelines and Principles, and

in our addendum, the NAC did not endorse the Manhattan jail, nor did the Guidelines and Principals adequately reflect the views of the NAC or the wider community.

The City Continues to Obfuscate and Make It Up as It Goes Along

45. I note that the CPC ultimately conditioned its approval of the BBS and the Manhattan jail on the City's promise of continued participation by the NAC in a post-ULURP approval process. *See* Petition, Exhibit 3 at 78. However, less than two months later, the City backed off of this commitment and specifically excised the Manhattan NAC from further involvement in the design consultation project. In its October 18, 2019 letter to the City Council, the City stated:

Upon ULURP completion, the City will provide regular updates on delivery schedule, design, and construction developments and engagement on programmatic progress to Council Members in each respective borough. *The City will reconvene the Neighborhood Advisory Committees in Queens, Brooklyn, and the Bronx and the Joint Task Force in Manhattan within 60 days of ULURP passage and will hold regular meetings with updates on timelines, plans, and the like.* Finally, DDC and the program management consultant will hold hands-on design engagement workshops that are timed in order to ensure community input is included in the eventual RFP(s).

Petition, Exhibit 38 at 15 (emphasis added).

46. Thus, it appears that the City has engaged in yet another bait and switch, and already broken its promises to the CPC. While the NACs for Brooklyn, Bronx and Queens will remain involved, the Manhattan NAC specifically will not continue to be consulted and involved as the Manhattan jail designs proceed. Rather, the Joint Task Force in Manhattan will be the City's chosen participant in design consultations. While I was a participant in the Manhattan NAC, I am not a member of the Joint Task Force in Manhattan and I suspect this Joint Task Force is also not representative of the Chinatown Community.

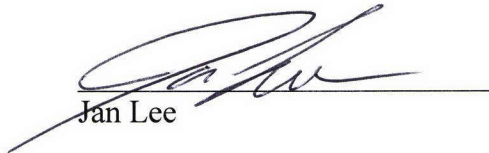
47. The City's latest revelation regarding the BBJs and the Manhattan jail is that it will need to construct a temporary intake facility to handle DOC's transfers for inmate court appearances during construction. This facility has never before been included in the description of the BBJs or Manhattan jail project, nor was it studied in the FEIS. *See* Petition ¶ 193.

48. The City's entire process to get the Manhattan jail approved - from the environmental review, to the ULURP, to the NAC meetings, to promises already broken- has been a complete sham. The process has not met the basic legal requirements imposed by SEQRA/CEQR, and has been mere window dressing to get this project approved as quickly as possible, with only a passing and disingenuous attempt to convey an appearance of input from the community that will be affected by it for many years into the future.

49. While I do not dispute that Rikers Island is a horrible place, and criminal justice reform is a laudable goal, the City's desire to get something, anything, done so quickly has resulted in a serious injustice to the Chinatown community.

50. The City's rush led to serious and fatal errors in the processes that govern this kind of project, including but not limited to scoping the wrong site and improperly using one ULURP application for all four jail sites. These errors cannot be allowed to stand as the new normal in planning future City projects.

51. The jail project will have impacts on Chinatown for generations to come. It cannot be jammed down our throats in violation of laws that are specifically designed to provide the community with meaningful opportunities for input.



Jan Lee

Sworn to before me this
12th day of February 2020

Monet Danielle Zaccarelli
Notary Public

MONET DANIELLE ZACCARELLI
Notary Public, State of New York
No. 01ZA6327759
Qualified in Queens County
Commission Expires July 13, 2023