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FOR IMMEDIATE RELEASE

East River Fifties Alliance Moves Forward in Its Case to Support Affordable Housing and Curtail Construction of a Luxury Megatower on East 58th Street

Pending Further Order of the Court, No Construction at 428-432 East 58th St. Will Be Permitted Above 80 Feet Until At Least February 26, 2019

New York, December 18, 2018 – The East River Fifties Alliance (ERFA), represented by co-counsels Michael Hiller and New York City Council Member Ben Kallos, have negotiated a Court-Ordered Stipulation that requires the developer trying to build an 800-foot-tall mega-tower on East 58th St. to notify the Court when the building reaches a height of 80 feet above grade level, at which time, the Court will schedule a hearing to determine whether any further construction will be permitted.

In its lawsuit, ERFA has argued, among other things, that the City’s Board of Standards and Appeals (BSA) illegally granted the developer a special exception to current zoning in order to build a supertall tower that would be filled with luxury apartments and would not provide for any affordable housing. Under the current zoning, which the developer seeks to avoid, the tower would have to be several hundred feet shorter and would be conducive to affordable housing.

The Court-Ordered Stipulation was negotiated while attorneys for ERFA, the developer and the BSA appeared in front of State Supreme Court Judge Debra A. James on December 11 for a hearing on the community group’s Article 78 proceeding against the BSA. At that time, the Developer’s lawyers represented to the Court that the 85-foot mark would constitute the point of no return for the proposed tower; according to the Developer’s lawyers, once the proposed tower were to exceed that height, it could not be built in conformity with current zoning.

During the December 11th hearing, the Court seemed to be receptive to ERFA’s argument that New York does not permit "grandfathering" exceptions to current zoning where the developer has engaged in construction activities that violate the law. ERFA has argued that the developer violated Department of Transportation and Department of Buildings permit requirements, creating hazards to the community, all in an effort to rush to complete the construction work.

Alan Kersh, ERFA President, said, “We know that the developer did not comply with all aspects of the law and, that the BSA did not act properly in granting an exception to proceed with construction of a supertall. Today’s stipulation is a significant milestone for a citizens’ group fighting overdevelopment in New York City.”

Mr. Hiller was critical of the City’s priorities, commenting: “I still cannot understand why the City would continue its efforts to twist the law into a pretzel in order to approve yet another luxury mega-tower at the expense of affordable housing.”

He added, “We are fortunate that the Judge in our case took the time during the hearing to focus on the issues and ask probing questions of the lawyers for the City and the developer in the court’s search for the truth. While there are certainly no guarantees as to the outcome, we remain optimistic that, owing to the strength of our case, the rule of law will prevail.”

“Developers can’t keep getting away with breaking the law. Public safety was endangered by after-hours variances and street closure permits that were issued under false pretenses and then not even complied with by the developer. We are in court to finally stop developers from perverting the law to harm communities when those laws were originally intended to protect residents,” said Council Member Ben Kallos, Pro Bono Co-Counsel for ERFA and a petitioner. “Thank you Michael Hiller for a strong argument for applying the law as written. Judge Debra A. James is a credit to our judiciary with her ability to handle diverse cases, digging into a complex subject matter, and asking tough questions that really got to the heart of the matter.”

If constructed, the proposed mega-tower would dwarf adjacent structures, which mostly consist of 5-6 story townhouses and small apartment buildings to the south. Neighborhood residents and every public official to have commented on the project have opposed it as wildly out-of-scale and part of a larger, unfortunate trend in the City to favor the interests of well-connected real-estate developers over the needs of the community.

Public officials who oppose the project include City Councilmembers Ben Kallos and Keith Powers, Manhattan Borough President Gale Brewer, State Senator Liz Krueger, State Assemblymember Dan Quart and Member of the House of Representatives, Carolyn Maloney.

The next court appearance has been scheduled for February 26, 2019.

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