

# CARNEGIE HILL NEIGHBORS

July 26, 2017

## By Email and Mail

The Honorable Andrew M. Cuomo  
Governor of New York State  
NYS State Capitol Building  
Albany, NY 12224

Re: Alienation of Marx Brothers Playground; S. 6721 and A. 8419

Dear Governor Cuomo:

I am writing this letter on behalf of Carnegie Hill Neighbors to request that you veto the above named bills that will allow for the alienation of The Marx Brothers Playground.

Carnegie Hill Neighbors is a local not-for-profit group committed to maintaining the architectural heritage and human-scale character of our neighborhood. The above referenced legislation<sup>1</sup> proposes to alienate Marx Brothers Playground and transfer it to the New York City Educational Construction Fund (“ECF”), which is a State entity.<sup>2</sup> We are seeking your assistance to protect the Marx Brothers Playground and all community playgrounds and parks, and to prevent the city and the Educational Construction Fund from overreaching, misleading the public, and abusing the alienation done by the Metropolitan Transportation Authority (MTA) to build the Second Avenue Subway. There are a number of critical questions about this project, the MTA, and the ECF that are raised in this letter and for which we believe there are no satisfactory answers. We, therefore, strongly urge you to veto the alienation of the Marx Brothers Playground.

## Overview

The Marx Brothers Playground is located between First and Second Avenues, East 96<sup>th</sup> and East 97<sup>th</sup> Streets in Manhattan (part of Block 1668, Lot 1), one block west of the East River Esplanade.<sup>3</sup> It opened in 1947.

This proposed alienation is being sought to build a huge private, residential development and three schools. It is a terrible precedent for all playgrounds and parks, putting them at risk of private residential development purportedly for the sake of building new schools. It violates the Public Trust Doctrine and encourages “municipalities to view parkland as a fiscal resource that can be sold or leased to raise money or used for other government uses to avoid paying or private land.”<sup>4</sup> It casts grave doubt on the future availability of the Playground to the public.

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<sup>1</sup> Copies attached as Exhibit 1.

<sup>2</sup> ECF is a public benefit corporation established by the New York State Legislature.

<sup>3</sup> Map attached as Exhibit 2.

<sup>4</sup> *Parkland Alienation*, Division of Local Government and School Accountability, Office of the NYS Comptroller (p. 2; 2014)

This proposed alienation of the entire Marx Brothers Playground, along with the rezoning package approved by the NYC City Planning Commission and pending – but virtually certain to be approved- at the City Council, will enable the private development by Avalon Bay of an unwieldy 1,040,000 square foot, 710-foot tall residential<sup>5</sup> and commercial building and the reconstruction of Coop Tech Vocational School (135,000 square feet) on the Second Avenue frontage of the project site, and the relocation of the Park East High School and the Heritage School from East 105<sup>th</sup> Street and East 106<sup>th</sup> Street, respectively, to a 135,000 square foot, 185 foot tall building on the First Avenue frontage of the project site (total project size 1.31 million square feet). The relocation of the Heritage School will make it feasible for the Julia de Burgos Latino Cultural Center, a favorite not-for-profit organization of the Speaker of the City Council, to occupy the entire building it now shares with the Heritage School. None of these are public park or recreational purposes or support such facilities.

The proposed alienation and project raises serious questions about:

- How the **Metropolitan Transportation Authority** honors its commitments;
- Whether the State is following **proper standards and rules for alienation** to protect public recreational spaces –even over a city’s preferences;
- **ECF’s** “smoke and mirrors” and inherent conflicts regarding the project:
  - Trumping-up its “necessary” goals to justify a 1.31 million square foot, \$1 billion development deal with Avalon Bay and a cultural center for East Harlem;
  - Blurring of the status of Marx Brothers Playground during the City’s Uniform Land Use Review Procedure; and
  - Self-dealing by being the applicant and the reviewing agency for State Environmental Quality Review.

### **Metropolitan Transportation Authority**

This legislation would be the second time the State approved an alienation of all or a portion of the Marx Brothers Playground in 13 years. The first time, a portion of the playground was alienated to the MTA to be used as a staging area for the Second Avenue Subway. Pursuant to that alienation, when construction is complete, the MTA was legally required to return a restored playground to the public in the same location in a timely fashion.

Now, if the alienation is approved, the MTA conveniently will not have to return a restored playground to the public, as promised. The MTA’s “temporary” alienation of a portion of the Marx Brothers Playground for the Second Avenue Subway – which has lasted for ten years, so far, will become a permanent alienation of the entire Marx Brothers Playground to the ECF. Even if a playground is replaced on the site, that will not happen until construction is complete, at least five years after construction is commenced,<sup>6</sup> and it will not be in the exact same place.

<sup>5</sup> Diagram and rendering attached as Exhibit 3. The apartment building will have approximately 1,200 dwelling units, 30% of which will be affordable, as required under the city’s Mandatory Inclusionary Housing program.

<sup>6</sup> According to the ECF East 96<sup>th</sup> Street Final Environmental Impact Statement, June 9, 2017; construction is expected to be complete by 2023. We think this is optimistic, as demolition on the existing high school cannot even start until the first new high school is built.

Was this planned? Was the MTA a Trojan horse to break up the Marx Brothers Playground and remove it from public ownership and park use?

Approval of the legislation by you would demonstrate that the Metropolitan Transportation Authority and the State of New York will not keep the commitments made to the community to restore Marx Brothers Playground after construction of the Second Avenue Subway is complete. It will show that the “temporary” alienation of a portion of Marx Brothers Playground to the MTA was just the first-step to the permanent alienation of the entire playground, without providing a local replacement park for a total of at least 15 years (if completed on time), if ever.

### **Alienation Process Is Flawed**

#### ***The Alienation Does Not Serve a Public Park, Public Recreation or a Related Purpose***

Under the Public Trust Doctrine, public parkland should not be alienated for non-park or non-recreational purposes. There is no pretense that this alienation is for park or recreational purposes. The Marx Brothers Playground is being alienated to ECF so that ECF can convey a portion of the land and development rights<sup>7</sup> to Avalon Bay, a private developer, for the construction of a 710-foot-tall, 1,040,000 SF, private residential and commercial building. A private real estate development is not a park or recreational purpose.

The lease to Avalon Bay will, indirectly, facilitate the construction of the three high schools on the project site by supporting the bonds to be issued by ECF. Public schools, though very important, do not serve a park or recreational purpose.

The relocation of the Heritage School from 106<sup>th</sup> Street and Lexington Avenue (1680 Lexington Avenue) to the project site will enable the Julia de Burgos Latino Cultural Center to fully occupy the entire Heritage School building in East Harlem. A local cultural center is important, but it is not a park or a recreational purpose.

Thus, the alienation of the Marx Brothers Playground is not for park or recreational purposes. It is not even solely for another public purpose, such as the construction of a public school. It is being alienated for a \$1 billion, 1.31 million square foot development. All the city will get out of it is three schools with a total of 270,000 square feet and it will lose a public asset, plus, pursuant to the alienation legislation, be responsible for providing funds for a replacement playground.

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<sup>7</sup> It has no development rights as a “public park” under the Zoning Resolution’s definitions. Once alienated to ECF the 64,150 SF playground will generate 769,800 SF development rights at 12 FAR, which is allowed under the new R10 zoning when affordable housing is provided.

*The Alienation Does Not Require Replacement of the Playground –  
The City Loses an Asset*

If there is a temporary or permanent alienation, it is standard practice to identify replacement land, even where state or federal funds have not benefited the park. If no replacement parkland can be identified after a thorough search, a city should dedicate an amount equal to or greater than the fair market value of the parkland being discontinued to the acquisition of new parklands and/or towards capital improvements to existing parkland and recreational facilities. The existing parkland and recreational facilities should be near the alienated parkland to serve the same community.

No replacement land was identified when the MTA temporarily obtained use of a portion of Marx Brothers Playground. Instead, the balance of the playground remained open and the MTA contributed \$11 million to the DPR to enhance existing parks and playgrounds, to pay for staff, and to contribute to the Playground's reconstruction – which now will not be done as planned.

In this alienation, no temporary replacement land has been identified, either. The Marx Brothers Playground will be completely unavailable to the public during the entire period of construction – at least another five years,<sup>8</sup> for a total of at least 15 years that use of the Marx Brothers Playground will have been compromised or unavailable. It is unclear whether ECF comprehensively assessed the options and whether any alternate temporary recreational facility could be identified and improved for recreational purposes, such as adjacent to Metropolitan Hospital or on private land that could be condemned.

Worse, no permanent replacement land is required in the alienation legislation. The Final EIS states that ECF intends to retain ownership of the entire project site until it conveys the schools to the City. It states it will re-convey “control” – but not ownership – of the playground to DOE and NYC Parks.

But the alienation legislation omits this condition. There is no binding obligation on ECF to return control of the playground to DOE and NYC Parks. It has no binding obligation to reconstruct the playground or to maintain it in perpetuity. What will keep ECF from renegeing on its “intentions” to restore the relocated playground? Couldn't ECF use the new playground for another school or a privately-owned building?<sup>9</sup> The alienation legislation does not restrict ECF in any way. The legislation is missing crucial protections for the retention and replacement of Marks Brothers Playground. It puts Marx Brothers Playground, as relocated, and all NYC playgrounds and parks at risk.

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<sup>8</sup> See footnote 6, above.

<sup>9</sup> At 12 FAR there remain nearly 300,000 SF of development rights on the site, so this scenario is certainly possible.

Through this alienation, the city will permanently lose ownership of the playground. It will permanently lose a vital park asset. This is exactly what the Public Trust Doctrine is meant to protect against.

*Infeasibility of City Dedication of Fair Market Value*

Instead of addressing replacement land or reversion of ownership to the city after construction, the legislation states that the alienation should not be effective until the city “dedicates an amount equal to or greater than the fair market value of the parkland being discontinued for the acquisition of new parklands and/or towards capital improvements to existing parkland and recreational facilities in the borough of Manhattan.”

The idea that the city can budget the fair market value of the parkland being discontinued to park purposes is ludicrous. First, has an appraisal been done to assess the fair market value of the playground? How will the city come up with that sum? Market value of land across 96<sup>th</sup> Street from the project site was \$437 per square foot in 2015.<sup>10</sup> Values have only gone up in that area due, in part, to the Second Avenue Subway. But even at 2015 values, the “fair market value” of a 64,150 square foot parcel in this area that allows 10 FAR (641,500 square feet) to be developed would have been an estimated \$280.3 million; at the project site’s proposed 12 FAR (769,800 square feet), fair market value would have been an estimated \$336.4 million.<sup>11</sup> The DPR’s entire Fiscal 2015 Adopted Budget was only \$392.3million.<sup>12</sup>

If the city has that kind of money available to pay for the alienation, wouldn’t it have enough funds to pay for the construction of the three public high schools? Why does ECF need Avalon Bay or a bond?

To add insult to injury, the legislation states that the city’s dedicated funds must be used in the borough, not the neighborhood. This community will not only permanently lose an asset, it will not even benefit from the compensatory funding. This is an outrage.

Thus, the MTA’s “temporary” alienation of a portion of the Marx Brothers Playground for the Second Avenue Subway – which has lasted for ten years so far, is being switched into a permanent alienation of the entire playground to the ECF. Even if the ECF ultimately replaces an equivalent size and proportioned playground on the project site when construction is complete, the community will have suffered 15 years without a full-sized Marx Brothers Playground. Ultimately, the city will no longer own the playground and the park asset will be lost<sup>13</sup> along with the protections that New York State grants to parks.

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<sup>10</sup> 302 East 96<sup>th</sup> Street (Lot 47), 50,395 square feet based on 10 FAR for \$22,000,000 March 23, 2015.

<sup>11</sup> Adjustments would have to be made to the 10 FAR or 12 FAR estimates for current value, the requirement of 30% affordable housing, any tax abatement or tax credits that are available, among others.

<sup>12</sup> DPR’s Fiscal 2017 Adopted Budget is \$506.4 million.

<sup>13</sup> The neighborhood is losing another playground to private residential development at the Holmes Towers, a NYCHA Public Housing project.

*No Local Sponsor from the State Assembly*

Typically, alienation bills are sponsored by the member of the Assembly in whose district the project is located; but not this one. The Marx Brothers Playground is in Assembly District 68, which is represented by Assembly Member Robert J. Rodriguez. Most curiously, this alienation bill was sponsored by Assembly Member Michael Benedetto, representing Assembly District 82 in the Bronx. Why is he involved? What has he to gain by sponsoring a bill that is remote from his district? Local Assembly Member Rodriguez, originally slated to be the sponsor recused himself due to a conflict of interest. Is the conflict so deep that the project should not be approved at all?

Thus, in addition to questions about MTA's role as a harbinger of the permanent alienation of the Marx Brothers Playground, there are numerous questions relating to the alienation legislation, – too many to approve it. You should veto the legislation.

**Educational Construction Fund and Avalon Bay Misinformation**

Furthermore, ECF has not represented the project to the public objectively, fairly, or in a consistent manner.

*Trumped-up Goals*

ECF insists that the alienation must be approved and the Avalon Bay 710-foot super-tower constructed for the project goals to be met; there is no other option. It reviewed design alternatives and cannot construct a school at the base of an apartment building, splitting the "requisite" residential bulk in two and having a lower tower on First Avenue and a taller building than currently planned on Second Avenue. The only way to provide three schools is to construct two schools along First Avenue and one school on Second Avenue with the Avalon Bay super-tower beside and slightly cantilevering over it.

ECF has never reconsidered its overly-aggressive project goals; it insists they all must be met. Yet, originally, ECF's goal was the reconstruction only one new high school, the Coop Tech. Its original RFP provided only for that goal. Avalon Bay was selected. Then City Council Speaker Melissa Mark-Viverito got involved and the project goals underwent a metamorphosis: provide room for three new high schools, Coop Tech and two city-wide schools that don't primarily serve East Harlem students, enabling the Julia Burgos Latina Cultural Center to be the sole occupant of the Heritage School building.

These project goals are now immutable. ECF refuses to reevaluate its goals despite the burden it imposes on the Marks Brothers Playground and the community. Anna Hayes Levin, one of the City Planning Commissioners recognized that overburdening when she voted against the project and stated:

“Clearly there are a lot of very good public goods being planned for this site - no change in the playground size, three new schools, permanent affordable housing, but that comes at the cost of a building that is 724 feet tall. You may call it 68 stories but in linear terms that’s 72 tall. That’s almost as tall as the Time Warner Center,” - May 10, 2017. (From: "A Walk in the Park" blog, June 21, 2017)

Yet, over a longer term, the project goals could be met on two sites without burdening the project site as heavily. For example, the Park East High School could be relocated and its site could be the location for another ECF project with Heritage School. This and other more modest goals and alternatives have never been examined or discussed by ECF. Shouldn’t ECF, a state agency, be required to reconsider its goals if they are overly ambitious and harm a community? Shouldn’t the mission of a prominent and powerful local official be reviewed if it results in an outlandish project that harms a community and the other elected city officials won’t challenge her?

We look to the Governor to be a more independent arbiter, a protector of the Public Trust Doctrine, the person who, at last, modifies or rejects an overblown project.

#### *Blurring the Status of Marx Brothers Playground*

ECF has confused the public by alternately stating that the playground is a park, then not a park; is not subject to a zoning district, then is subject to a zoning district; does not have development rights, then does have development rights; will be restored to the city after the development of the Avalon Bay building; then, will not be restored to the city.

By stating publicly – but erroneously – that the playground is not a park, isn’t ECF making it easier for the public and the decision-makers in New York City to approve the proposed land use applications and the alienation?

Notwithstanding ECF’s lack of understanding or lack of consistency with respect to fundamental zoning principles, the rules are clear. Without the alienation, pursuant to the Zoning Resolution of the City of New York, the Marx Brothers Playground is not permitted to have any development rights whatsoever. To understand why, four definitions from Section 12-10 of the Zoning Resolution must be read together:

- Floor area (development rights) is attributable only to a “zoning lot.”
- A “zoning lot” must be located on a “block.”
- A “block” is bounded by a “street” or a “public park.”
- A “public park” is any “publicly-owned...playground...within the jurisdiction and control of the Commissioner of Parks and Recreation”; there is no requirement that a public park be indicated on the zoning map or that the Commissioner have exclusive jurisdiction and control over the playground.

Moreover, zoning district designations indicated on zoning maps do not apply to public parks, even if they cover the park.<sup>14</sup> Thus, a public park may be the boundary of a zoning lot, but it may not be part of a zoning lot. If it is not part of a zoning lot, it is not able to generate floor area.

Marx Brothers Playground is a public park. It is publicly owned, by DCAS and DOE, according to Department of Finance records. It is a Jointly Operated Playground, under the jurisdiction and control of the Commissioner of Parks and Recreation and DOE. Therefore, it is a public park. As a public park, it is not subject to zoning district designations that appear on the zoning map, as provided in Section 11-13. It is the boundary of a zoning lot comprised of the Coop Tech Vocational School site, but it is not part of that zoning lot and it currently has no development rights. ECF confused the public about what it was agreeing to and giving up. In the meanwhile, it set an erroneous precedent for zoning in NYC.

Apart from the nuances of the zoning, ECF agrees that Marx Brothers Playground is a public park; otherwise it would not be seeking this alienation. Thus, it is irrefutable that the approval of the alienation of the entire Marx Brothers Playground will release and make available 770,000 square feet of new development rights.

This proposed alienation pits schools against parks and the winner comes out a private developer. ECF and Avalon Bay should not be supported in this activity. This proposed alienation is a terrible precedent for New York City.

#### Self-dealing by ECF - SEQRA

ECF is both the sponsor of the project and the lead agency for environmental review under the State Environmental Quality Review Act. This dual role is fraught with conflict.

In the EIS, ECF denies obvious impacts and states that there are numerous impacts that cannot be mitigated while serving the goals of the project. Yet, it is obvious that if the goals of the project were modified, the impacts would be mitigated because such a large project would not be proposed.

ECF's EIS denies that a 710-foot tall building will alter the visual character of the surrounding area, comprised of only three buildings at or above 40 stories, because "the neighborhood is changing anyway." It minimizes the impact of shadows on the playground when construction is complete by stating on the record that the shadow would "never cover the entire playground at any time."

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<sup>14</sup> ZR Section 11-13. ECF now asserts that the playground is currently subject to zoning district designation because a "clerical error" in 2003 erased from the relevant zoning map two tiny black dots surrounding the abbreviation, "PLGD." ECF failed to explain the heavy black line surrounding the playground, itself. The Zoning Resolution states that a heavy black line indicates the boundary of a zoning district. Even if the zoning map has a zoning district indicated for the playground, ZR Section 11-13 dictates that the zoning district does not apply to a public park.

It describes the unmitigated impacts traffic and transportation impacts:

- Traffic impacts at 96th Street and the FDR Drive, 96th Street and 1st and 2nd Avenues. This traffic congestion will, in turn, exacerbate traffic congestion at several other places, including 92nd Street from the 2nd Avenue to the FDR Drive, which will be compromised by sanitation trucks going to the new, controversial Marine Transfer Station.
- Crash locations on 96th Street will be worsened.
- Mass transit be slowed on the 96th Street crosstown bus and the 1st and 2nd Avenue buses (M15 SBS), and the subway station at 96th Street.

If the goals of the ECF project were modified, these impacts would be reduced as well. If the framework for the project was no alienation of the Marx Brothers Playground perhaps only two schools would be constructed or maybe only one, as was originally proposed by ECF.

*Self-dealing by ECF - Waterfront Revitalization Program (WRP)*

ECF's interest in the project also may have contributed to its slanted presentation of the project in the Waterfront Revitalization Program Consistency Assessment Form. Specifically:

- Section 8, "Provide public access to, from, and along NYC's coastal waters" – "Not applicable" is checked.
- Section 9 "Protect scenic resources that contribute to the visual quality of NYC coastal area" – "Promote" is checked.
  - 9.1 Protect and improve visual quality associated with NYC's urban context and the historic and working waterfront – "Promote" is checked.
  - 9.2 Protect and enhance scenic values associated with natural resources.
- Section 10 "Protect preserve and enhance resources significant to the historical, archaeological, architectural and cultural legacy of the NYC coastal area" "Promote" is checked.

These answers are questionable. The project's traffic impacts described above will prevent pedestrians from accessing the East River Esplanade, which is along NYC's coastal waters. The extreme height of the 710-foot tall super-tower makes it visible from the Queens and Bronx coastal waters (see Photo, Attachment 2) – and that doesn't mean the visual quality or scenic value of Manhattan is protected or enhanced. Finally, the proposed alienation of Marx Brothers Playground, its relocation, and the related project irrevocably destroys the playground, which is part of the historical and cultural legacy of New York City.

**Conclusions**

The only conclusion that can be drawn is that the proposed alienation of Marx Brothers Playground should not be approved by the Governor. It is a poorly conceived, unduly aggressive, over-sized project. The fundamental land use issues were not properly explained to the public during the land use approval process. It is born out of political motivations, not good planning. It compromises this playground and threatens all other playgrounds. It gives ECF

ownership of an asset that should never leave the city's hands. It requires the city to make up for ECF's excesses, with funds the city does not have.

The MTA opened the door to alienation of Marx Brothers Playground. We implore you, as the Governor, to shut that door and veto the alienation. This will allow the Marx Brothers Playground to be restored to the community.

Thank you for your attention to this matter. We would be pleased to discuss and answer any questions you may have.

Respectfully yours,



President

Cc: Manhattan Office of Governor Andrew M. Cuomo, Matthew Rubin  
Secretary to the Governor Melissa DeRosa  
Metropolitan Transportation Authority Chairman Joe Lhota  
New York State Department of State  
U.S. Congress Member Carolyn Maloney  
U.S. Congress Member Adriano Espaillat  
New York State Senator Liz Krueger  
New York State Senator Jose M. Serrano  
New York State Assembly Member Rebecca Seawright  
New York State Assembly Member Robert Rodriguez  
New York State Assembly Member Dan Quart  
New York City Mayor Bill de Blasio  
First Deputy Mayor Tony Shorris  
City Planning Commission Chair Marisa Lago  
New York City Comptroller Scott Stringer  
Public Advocate for the City of New York Letitia James  
New York City Parks Commissioner Mitchell J. Silver  
City Council Speaker Melissa Mark-Viverito  
Manhattan Borough President Gale Brewer  
City Council Member Ben Kallos  
City Council Member Daniel Garodnick  
Community Board 6  
Community Board 7  
Community Board 8  
Community Board 11  
NYC Parks Advocates  
New Yorkers for Parks

Governor Andrew Cuomo

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Historic Districts Council  
New York Landmarks Conservancy  
Municipal Art Society of New York  
Greenwich Village Society for Historic Preservation  
Friends of the Upper East Side Historic Districts  
Landmark West!  
CIVITAS  
Turtle Bay Association  
East River Fifties Alliance  
Silve Parviainen  
Caroline G. Harris  
George M. Janes  
Michael Klein

**Text of**  
**Marx Brothers Playground Alienation Bill**  
**S6721 and A8419**

6721

2017-2018 Regular Sessions

I N S E N A T E

June 14, 2017

Introduced by Sen. SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT in relation to authorizing discontinuance of the use as parkland of land in the city of New York commonly known as the Marx Brothers playground

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subject to the provisions of this act, the city of New  
2 York, acting by and through the department of parks and recreation and  
3 the department of education of such city, is hereby authorized to  
4 discontinue the use as parkland of the land described in section three  
5 of this act, commonly known as the Marx Brothers playground, and to  
6 transfer such land to the New York city educational construction fund to  
7 permit the construction of a combined occupancy structure, as that term  
8 is defined in section 452 of the education law upon such terms and  
9 conditions as shall be agreed upon between the parties.  
10 S 2. The authorization provided in section one of this act shall be  
11 effective only upon the condition that the city of New York dedicates an  
12 amount equal to or greater than the fair market value of the parklands  
13 being discontinued towards the acquisition of new parklands and/or  
14 towards capital improvements to existing parkland and recreational  
15 facilities within the borough of Manhattan.  
16 S 3. The lands authorized by section one of this act to be discontin-  
17 ued as parkland are bounded and described as follows:  
18 All that tract or parcel of land situate in the City of New York, County  
19 of New York, and State of New York, bounded and described as follows:  
20 Beginning at a point formed by the intersection of the easterly line of  
21 Second Avenue (100' wide right of way), with the southerly line of East  
22 97th Street (66' wide right of way), and from said point of beginning  
23 running thence; 1. along the said southerly line of East 97th Street,  
24 south 61 degrees 00 minutes 41 seconds east, a distance of 319.00 feet

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD13085-03-7

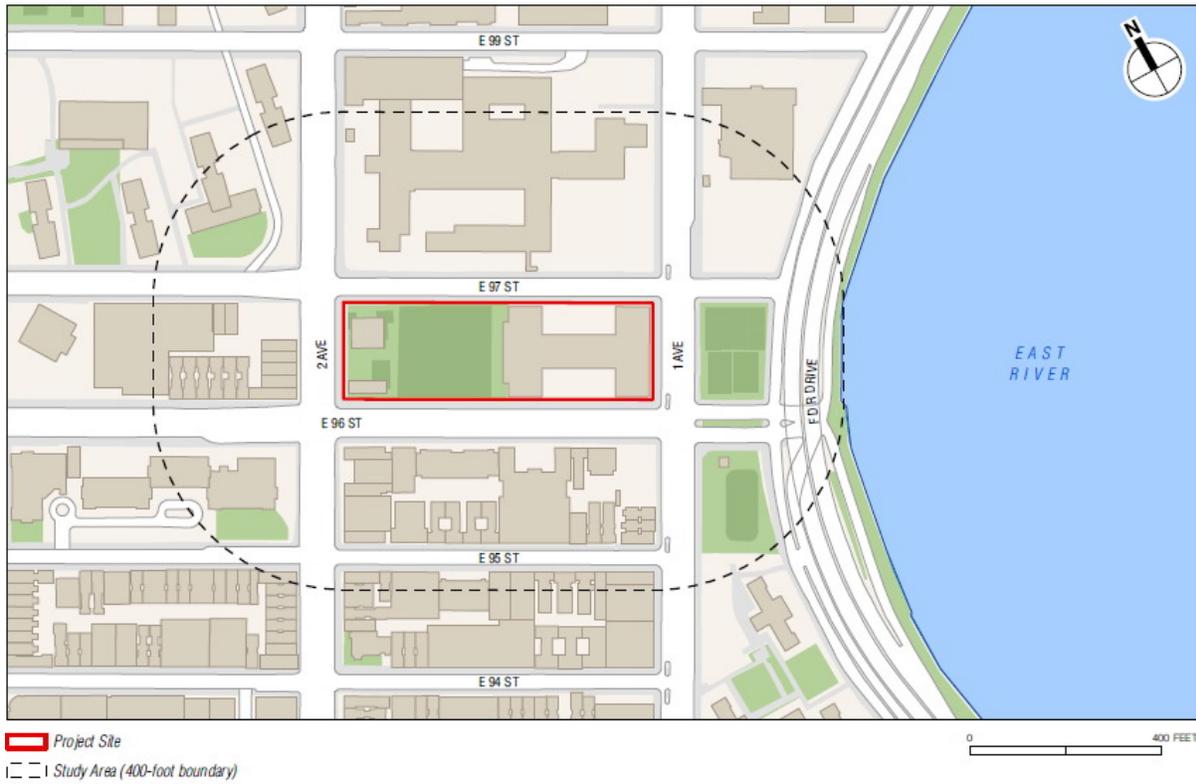
1 to a point, thence; 2. through the lands of Lot 1, Block 1668, south 28  
2 degrees 59 minutes 19 seconds west, a distance of 201.83 feet to a point  
3 on the northerly line of East 96th Street (100' wide right of way),  
4 thence; 3. along the said northerly line, north 61 degrees 00 minutes 41  
5 seconds west, a distance of 319.00 feet to a point formed by the inter-  
6 section of said northerly line of East 96th Street with the said easter-  
7 ly line of Second Avenue, thence; 4. along the said easterly line of  
8 Second Avenue, north 28 degrees 59 minutes 19 seconds east, a distance  
9 of 201.83 feet to a point and place of beginning, containing 64,384  
10 square feet or 1.478 acres.

11 S 4. If the parkland that is described in section three of this act  
12 has received funding pursuant to the federal land and water conservation  
13 fund, the discontinuance of parkland authorized by section one of this  
14 act shall not occur until the city of New York has complied with the  
15 federal requirements pertaining to the conversion of parklands, includ-  
16 ing satisfying the secretary of the interior that the discontinuance  
17 with all conditions which the secretary of the interior deems necessary  
18 to assure the substitution of other lands shall be equivalent in fair  
19 market value and recreational usefulness to the lands being discontin-  
20 ued.

21 S 5. This act shall take effect immediately.

## Exhibit - 2

**Map of Marx Brothers Playground (left, in green) and Coop Tech Vocational School:  
Between 1<sup>st</sup> and 2<sup>nd</sup> Avenues, East 96<sup>th</sup> and 97<sup>th</sup> Streets in Manhattan (Block 1668, Lot 1)**



**Map of Marx Brothers Playground and Coop Tech Vocational School: Satellite View**



Rendering of Avalon Bay Residential Tower  
Planned for 96<sup>th</sup> Street and 2<sup>nd</sup> Avenue

