



CITY OF BUFFALO  
DEPARTMENT OF ECONOMIC DEVELOPMENT,  
PERMIT & INSPECTION SERVICES



OFFICE OF THE COMMISSIONER

BYRON W. BROWN  
Mayor

BRIAN REILLY  
Commissioner

M-34

November 17, 2009

Empire State Development Corporation  
Attn: Mr. Paul Tronolone  
95 Perry Street, Suite 500  
Buffalo, New York, 14203

Dear Mr. Tronolone:

M-34.1

I write the Empire State Development Corporation (ESDC) to submit comments regarding the Canal Side Draft Generic Environmental Impact Statement (DGEIS) now under review, specifically in relation to Section 7.3 of the DGEIS, Land Use/Development Policies, which examines Project consistency with land use controls and local development plans and policies. As Section 7.3 describes

"In order to facilitate the successful and timely implementation of the Project and the achievement of the community's long-standing vision of a revitalized Buffalo waterfront, ESDC intends to exercise its statutory authority to override local land use regulations including the zoning provisions in the City Charter and Code. Specifically, this statutory override eliminates the need for 1) the Common Council to rezone the Project Area, 2) the need for the Common Council and Buffalo Urban Renewal Agency to adopt a revised Urban Renewal Plan for the Project Area, 3) site plan review by the Planning Board for each structure associated with the Project, and 4) any area variances from the Zoning Board of Appeals for structures associated with the Project."

In order to facilitate timely development of public consensus, expedited implementation of existing waterfront plans, and speedy build-out of the City and ESDC's shared vision for Canal Side, the City of Buffalo requests that ESDC work with the City of Buffalo toward following the processes for zoning code and URP compliance, site plan review, and other public feedback mechanisms local and federal regulations have put in place.

Even as this override is being asserted by a state-funded authority, the state's Brownfield Opportunity Area (BOA) program is spending hundreds of thousands of other state dollars to ensure coordination of state agencies and multiple layers of planning documents in this project footprint and in almost 3,000 acres across Buffalo enrolled in that program.

"New York State's goal for the BOA Program is to work in partnership with local communities - governments and not-for-profits - to develop and realize a community vision for brownfield redevelopment. The BOA program also brings together the Division of Coastal Resource's planning and community development expertise and New York State Department of Environmental Conservation's expertise in cleaning up sites..."

The BOA program is intended to foster coordination and collaboration among local, state, and federal agencies, community groups and private-sector partners. The program is designed to establish a working partnership between communities and state agencies to address a variety of issues related to community planning and zoning, brownfield clean-up and redevelopment, economic renewal, improving transportation systems and infrastructure, and improving environmental quality... This state-local partnership will demonstrate how existing state programs can support and complement local efforts to redevelop brownfields and simultaneously achieve neighborhood revitalization and smart growth objectives."

Municipalities, especially cities the size of Buffalo, have many departments and divisions that can positively influence and leverage development if coordinated and collectively brought to bear. Some of these requirements were developed to ensure that kind of coordination. Development efforts in difficult markets, especially on a scale of over 20 acres in a downtown waterfront core, are difficult enough. We think there's promise in what coordination can bring to the mix. To be sure, more

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approvals take more work—but as with other complicated projects such as the Buffalo Niagara Medical Campus, more benefits can result without lost time. Kaleida Health and the University of Buffalo reported from their GVI / CTRC Incubator project that “the city review process was handled in an expeditious and professional manner that allowed us to meet [our] deadline.” As a result of this kind of engagement, that project will be able to generate hundreds of construction jobs, but also assist in the concentrated effort to develop historically disadvantaged businesses.

As Mayor Brown has expressed at several ECHDC board meetings, goals for resident employment, minority and women-owned businesses and W/MBE workforce are of particular concern as well. With over \$300 million in state spending on Buffalo’s waterfront, the direct business, supply and service chain impact are also essential to optimize, as are the local employment opportunities. In the making of this place for visitors, closer coordination can also better ensure the project addresses the economic needs of Buffalo’s business base and workforce.

What the development community wants is predictability which a shared vision can help ensure. To sidestep the public processes in hopes of streamlining approvals can instead cause snags and resistance that prudent prior public consultations could avoid. As they say “people support what they help create.” For these lands to be part of Buffalo—economically and culturally, Buffalo citizens and agencies should be involved. To do otherwise is to admit the federal and local laws do not serve local development needs nor the needs of the public and always require a work around. It is time to make the systems work for us and for development. Toward that end, Mayor Brown has undertaken reform of the City’s 50 year old zoning code. Other efforts can be made to ensure the goals and timelines of the project are met, as was done with the medical campus.

With zoning reform also comes an articulation of design standards. For this project, we would request design review include city regulatory staff participation, be open to the public and conducted in a transparent manner, which would include proper public notice of meetings and airing prior to project milestone decision points.

The City, like ESDC, is in concurrence with the intent of the 2004 Erie Canal Harbor Master Plan and the 2004 Erie Canal Harbor Amendment to the City’s Waterfront Urban Renewal Plan. To assure consistent plan implementation, the City looks forward to continuing its participation in ongoing planning for Canal Side, inclusive of retaining its regulatory authority over future land use decisions in ways that promote coordination, predictability and public acceptance.

While we want the project to move forward expeditiously, the city has recently demonstrated its ability to facilitate large scale development while preserving appropriate public participation. We therefore urge the ESDC and ECHDC to proceed with caution when considering any attempts to use existing statutory authority to supersede the local regulatory processes.

Thank you for your consideration.

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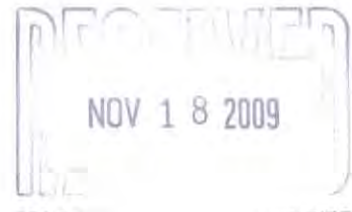
Sincerely,

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Brian Reilly  
Commissioner Economic Development, Permit & Inspection Services

Cc: Mayor Byron W. Brown



November 16, 2009

M-35

Paul Tronolone  
Empire State Development Corporation  
95 Perry Street  
Buffalo, NY 14203

**Public Accountability Initiative – DGEIS Comments**

Dear Mr. Tronolone, members of ESDC and ECHDC:

The Public Accountability Initiative (PAI) is a research and educational organization focused on corporate and government accountability. PAI is new to Buffalo, and we believe the following recommendations are crucial to attracting new enterprises such as ours to the city.

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We appreciate the opportunity to comment on the Canal Side Draft Environmental Impact Statement (DGEIS). We are generally supportive of your goals and objectives for the Canal Side project; however, we believe that the return on the public's investment will not be realized to its fullest potential unless the project meets clear, legally binding requirements regarding sustainable design and green infrastructure, set aside space for local, independent businesses, job quality and access, and mixed income housing.

Through research on experiences and best practices in cities very similar to Buffalo, it is clear that large-scale economic development projects are only worth the often hefty taxpayer price tag if it is ensured through a legally binding agreement that the project will produce authentic public goods.

We therefore support the call of others in the community for a Canal Side *Community Benefits Agreement*. Due to the large scale nature of this project and the subsidies that tax payers will provide, and have already provided, the Empire State Development Corporation, through its subsidiary, the Erie Canal Harbor Development Corporation should NOT award or approve any contracts, sub-contracts, leases or the like until ESDC, ECHDC, Benderson, and Bass Pro work with the Coalition of Economic Justice and other community interests to reach a Community Benefits Agreement that:

- **Includes a green building and green infrastructure requirement so that all buildings meet the equivalent of LEED-Silver and include effective storm water management and water conservation plans;**
- **Accommodates and nurtures small and local businesses, as opposed to big box retailers, so that more money re-circulates in our immediate community**

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by setting aside appropriately sized commercial spaces for local, independent businesses;

- Ensures the creation of quality permanent jobs that pay a Living Wage;
- Prioritizes and sets legally binding goals for local and minority hiring;
- Requires prevailing rate be paid on all construction jobs, with minority, local hiring, and apprenticeship goals;
- Focuses on mixed use development, and that;
- Maintains existing moderate income housing while making new residential units affordable and available to low and moderate income residents.

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These are key pillars to high road development, development that embraces the needs of our community. Executing high road development strategies becomes even more critical when you consider that Buffalo has consistently ranked within the top ten of poor US cities and that we continue to face staggering employment and population losses.

We are by no means against development; however, we firmly believe that the city of Buffalo cannot afford to pursue another silver bullet solution to our urban poverty, job loss, declining quality of life and failed economic development. The Bass Pro-Benderson plan, as it exists currently, represents such a shortsighted strategy and mechanisms must be implemented to ensure long-term economic growth and community benefit if the project is to proceed and be successful.

It is with this belief that we view the DGEIS. Our organization, therefore, raises the following questions and concerns and wishes to express the absolute need for clarification and coordination between now and final environmental impact statement.

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It should be noted that our questions and concerns are based on the preferred alternative.

**PUBLIC INVESTMENT:**

The first question we have is fairly basic-Where is the money for the development coming from? The fact sheet on the ECHDC website state that as of 2007 the costs for the canal side redevelopment would be \$315 million dollars, which would come from private and public investment. What is the breakdown of this? How much of this project is being paid for by the public-including tax breaks to companies and demolition and remediation for certain sites to makes them shovel ready? What is the actual private investment in this project?

**SUSTAINABILITY & GREEN DESIGN:**

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The DGEIS references sustainability and green design as an objective. Phrases such as "sustainable design features," "Implementation of sustainability strategies {that} would reduce demand on {these} utilities," and "exploring various sustainable design principles," appear in the DGEIS.

While we support the ECHDC's recognition that green design is crucial, we are concerned that clear requirements for the project have not been detailed. We feel that ESDC and ECHDC should require that any buildings constructed or re-constructed as a part of the project should meet the standard of LEED-Silver or its equivalent. Further, Canal Side should have aggressive standards for storm water management and water conservation.

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**SUPPORT FOR LOCAL BUSINESS:**

In the sketch planning for the Canal Side project portion of the DGEIS bullet 2 states that project will contain "A place providing opportunities for smaller retail and entertainment establishments to locate in a shared setting." How is the term 'small' assessed in square footage? Aside from small, is there a clear emphasis on supporting locally owned businesses and local entrepreneurs?

Again, we believe it is necessary to set clear and enforceable goals. 75% of the commercial space outside of Bass Pro should be reserved for locally owned, independent businesses.

The overall project goal goes on to say that the development will be "anchored by a major destination retailer," Bass Pro. When negotiations with Bass Pro began, there were no Bass Pros in the region, but in the meantime hasn't a Bass Pro been built near here? What are the new estimates in terms of dollars that will come in and people that will come in as a result of Bass Pro? And, most importantly, how much of that money will just leave the area because Bass Pros isn't a local entity? It has been clearly documented that national retail chains send more money out of communities than they invest via employees, materials, and taxes.

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**QUALITY JOBS:**

This also prompts the question- does a major destination retailer really foster economic growth? Based on our experience and research, developments like Bass Pro have actually had the opposite effect, exacerbating economic decline. Such developments bring with them poverty wages, hidden tax-payer costs, a pipeline of profit that leads out of our cities, and generally does not cultivate a holistic approach to development.

The DGEIS states that approximately 2,600 permanent jobs will be created as a result of the Canal Side development. What sorts of jobs are these? Are they part-time or full-time? Who will have access to these jobs? Will the jobs provide an adequate income for individuals to provide for their families? Or, are these jobs that will leave workers to rely on public assistance? The estimated average salary for the newly created jobs, according to ECHDC, is \$22,500. Our organization passed a piece of legislation in the City of Buffalo called the Living Wage Ordinance. This law defines the wage needed for a

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family of three to support itself above the poverty line as \$10.70 with benefits provided and \$12.01 without benefits for the year 2010. This translates to an annual gross salary of \$22,256 with benefits or \$24,981 without benefits.

We commend the ECHDC for including the creation of “locally owned retail business with Living Wage jobs” in the project vision. However, we believe that the requirement for payment of a living wage should extend to all business operations proposed for the project and that thresholds for the number of jobs that will be full-time verse part-time should be established. Further, clear and enforceable requirements regarding local and minority hiring should be set forth with regard to the permanent workforce.

In examining experiences of other communities such as Cleveland or Baltimore, it is clear that heavy investments in retail and tourism are only temporary quick fixes to a faltering economy. Curing a broken economy takes significantly more. Baltimore, with a history of manufacturing decline similar to Buffalo, aggressively promoted tourism and redeveloped their Inner Harbor in the 1970’s and 80’s. However, the city neglected to enact standards to ensure that the new tourism jobs were of high quality. As a result, low wages and part time hours are so prevalent that all but three of the city’s non-managerial tourism job titles pay less than the federal poverty line for a family of four; many pay far less.

Our concern regarding the quality of jobs to be created as a result of the Canal Side development extend to the temporary construction jobs as well. Of the several thousand construction jobs, how many will be filled by local labor? Will the construction jobs be subject to a prevailing rate requirement? We firmly believe that the construction of Bass Pro, the Benderson development, as well as all public infrastructure projects related to the overall development should be subject to prevailing rate requirements and should meet clear and enforceable goals regarding minority and local hiring.

#### **MIXED USE/MIXED INCOME:**

The DGEIS states that many of building will be mixed use, to include offices, restaurants, retailers, as well as, approximately 150 residential units. Who would these residential units be available to? We feel a goal of 1/3 of all residential units being made affordable is necessary to ensure the development of a vibrant downtown community, while also being more than achievable.

#### **PARKING/TRANSIT:**

We question the intense increase of proposed parking totaling 2,871 new parking spots, to be located in new parking structures and surface lots. This begs several questions: Who will be responsible for building the parking structures? What is the need for more parking? And, how does more parking encourage connectivity between downtown, our existing cultural and commercial corridors, and the waterfront.

There is already much under-utilized parking in the downtown area. Has there been a market study that justifies the need for more parking? What is the full cost to local and state tax payers for the development and construction of the proposed parking structure?

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Will the construction of the parking structures be considered a public works project and subject to prevailing rate requirements? Will local labor be used for the construction?

The project objectives include, and I quote, "enhancing public access and use of downtown waterfront, including multimodal connections to transit, bicycle, pedestrian, and waterfront networks." More parking seems to be in striking contrast to this objective. One of the goals outlined in the design philosophy is to "reconnect downtown Buffalo to its waterfront through a new, vibrant mixed-use neighborhood." However, the investment in new parking structures seems to indicate that vehicular traffic is being prioritized. All measures should be employed to ensure that this development project encourages tourists and visitors to enjoy all of what Buffalo has to offer, not just an isolated development.

**CONCLUSION:**

To be clear, we recognize the importance of developing our inner harbor and revitalizing a critical piece of our history, increasing access to and use of one of our most amazing natural assets, and creating much needed jobs. But, frankly, we are concerned that this project will not yield an adequate return on our public investment unless a Community Benefits Agreement is established that specifies goals, requirements, and enforcement mechanisms to ensure: implementation of green design standards, local business development, quality job creation, as well as mixed use and mixed income development.

In the 3<sup>rd</sup> poorest city in the country, it seems that we should be extremely considerate of how our tax dollars are spent and that they are being spent wisely. There is no question that in order to be a vibrant, successful city we need businesses to come to Buffalo-we need job creation. However, we need accountable businesses and we need to be supporting the creation of quality jobs, not just any jobs. Moreover, the Canal Side development is not solely about job creation, it is about access to the water, community building, and respect for our most prized natural resource – our water. Applying clear standards for business development will ensure long-term community benefit and is in the best interests of the full community.

I would like to thank you again for the opportunity to share PAI's comments regarding the DGEIS and the Canal Side development. I look forward to continued dialogue with ESDC, ECHDC to ensure development of a waterfront that works for everyone.

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Sincerely,

 Kevin Connor, Co-Director  
Public Accountability Initiative

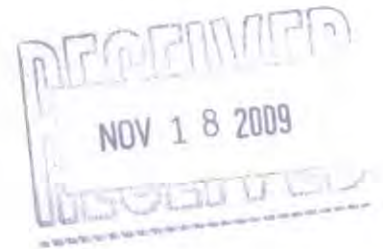
# Homeless Alliance

of Western  
New York



facilitating dialogue & strategic action to end homelessness

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M-36

**Patrick Henry**  
Alliance Chairperson

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Continuum of Care Coordinator

**Kristin Cipollone**  
Research Associate

**Tim Munier**  
Americorps/ Vista Staff

October 20<sup>th</sup>, 2009

Paul Tronolone  
Empire State Development Corporation  
95 Perry Street  
Buffalo, NY 14203

Homeless Alliance of Western New York– DGEIS Comments

Dear Mr. Tronolone, members of ESDC and ECHDC:

M-36.1

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- Includes a green building and green infrastructure requirement so that all buildings meet the equivalent of LEED-Silver and include effective storm water management and water conservation plans;
- Accommodates and nurtures small and local businesses, as opposed to big box retailers, so that more money re-circulates in our immediate community by setting aside appropriately sized commercial spaces for local, independent busi-

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nesses;

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- Ensures the creation of quality permanent jobs that pay a Living Wage;
- Prioritizes and sets legally binding goals for local and minority hiring;
- Requires prevailing rate be paid on all construction jobs, with minority, local hiring, and apprenticeship goals;

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• Focuses on mixed use development, and that;

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• Maintains existing moderate income housing while making new residential units affordable and available to low and moderate income residents.

These are key pillars to high road development, development that embraces the needs of our community. Executing high road development strategies becomes even more critical when you consider that Buffalo has consistently ranked within the top ten of poor US cities and that we continue to face staggering employment and population losses.

(Organization name here) is by no means against development; however, we firmly believe that the city of Buffalo cannot afford to pursue another silver bullet solution to our urban poverty, job loss, declining quality of life and failed economic development. The Bass Pro-Benderson plan, as it exists currently, represents such a shortsighted strategy and mechanisms must be implemented to ensure long-term economic growth and community benefit if the project is to proceed and be successful.

M-36.9

Sincerely,

William T. O'Connell, Esq.  
Executive Director  
Homeless Alliance of WNY

Dear Paul,

M-37.1

you

we just wanted to give some long looks & thoughts to the Canal District downtown. This includes resisting the idea of erecting more parking ramps. Downtown is already loaded w/ parking ramps.

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w'd like to see the district as pedestrian friendly as possible which would exclude large box like stores and the unpleasant walks which take place in the shadow of these businesses.

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I'm also hoping the district will be historically loyal to its roots & not feel just like a shopping mall or "anywhere USA". Please encourage independently owned businesses - small enterprises. This is as opposed to the big box stores & franchises which can ruin the authentic feel the canal district should have.

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George  
School 30  
phys ed teacher

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