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

In the matter of the application of

BROOKLYN HEIGHTS ASSOCIATION, INC.,

Petitioner,

For a Judgment Pursuant to Article 78 and 3001 of the Civil Practice Law and Rules,

-against-

NEW YORK STATE URBAN DEVELOPMENT CORPORATION d/b/a EMPIRE STATE DEVELOPMENT, BROOKLYN BRIDGE PARK DEVELOPMENT CORPORATION, and BROOKLYN BRIDGE PARK CORPORATION d/b/a BROOKLYN BRIDGE PARK,

Respondents,

-and-

RAL Development Services LLC, Oliver's Real Estate Group LLC d/b/a Oliver's Realty Group, Landing A Associates LLC, and Landing B Associates LLC,

Interested Party-Respondents.

Index No.: 155641/2016

AFFIDAVIT OF TODD CASTILOW IN SUPPORT OF BHA'S MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION

STATE OF NEW YORK)
) ss:
COUNTY OF KINGS)

TODD CASTILOW, being duly sworn, deposes and says:

1. I am a resident of One Brooklyn Bridge Park (OBBP) located at 360 Furman St., Brooklyn, New York. I have lived there since May of 2013. In addition to being an elected

member of the condo board since June, 2016, I also serve as the Treasurer. My apartment, on the 12th floor, faces east and as such, I have no direct view of the Pier 6 development sites (which are south of OBBP) and their completion will not impede any view that I currently enjoy. I'm a retired Partner from Accenture where I led a segment of our US technology consulting practice. I make this Affidavit in support of Petitioner Brooklyn Heights Association's motion for a temporary restraining order and/or a preliminary injunction to bar the threatened start of construction of the real estate development at Pier 6 at Brooklyn Bridge Park while the Court is considering the merits of the BHA's Amended Verified Petition challenging the lawfulness of that development.

2. In May, the developer of the sites at Pier 6 provided notice to our condo's managing agent that they were planning to do what they described as "pre-construction work" that involved driving piles in the four corners of each development parcel to test the soil. As one of the residents of OBBP who was concerned that the developer was considering a foundation that might not be sufficient for the planned building, I took notice and made plans to observe the driving of the test piles.

3. The first test pile-driving took place at Parcel A on May 9-11 and a second round took place at Parcel B in the week of June 5. During the 2 to 3 days that four piles were driven on Parcel A, I arranged to observe the construction activity from several vantage points in the southern facing portion of our building (which overlooks the uplands of Pier 6 where Parcels A and B are located) and on the street near the site. What I witnessed was an extremely loud and lengthy set of pile-driving activities. Using decibel meter software on a mobile device, I measured sounds peaking at 100.9 db(A) in an environment where the ambient noise level was roughly 65 db(A). A graph and list of the raw noise measurements I recorded is attached to this affidavit as Exhibit 1. In addition, I also observed significant vibrations that dramatically

increased as I moved to higher and higher floors in the building. On the 12th floor the vibrations were easily observable both on the outside terrace portion of the building as well as much further inside the core portion of the building. Our building experienced comparable noise and vibration from the driving of the four test piles at Parcel B.

4. Because of the concerns raised by a respected engineer and fellow resident of OBBP, I've spent a significant amount of time discussing various techniques and approaches for the design of a foundation for such a relatively tall building in a tidal wetland and flood zone and so near to another residential building. My neighbor and I have discussed our concerns with well-regarded geotechnical and civil engineers. Due to the sandy nature of the soil conditions at Parcel A and B, the foundation will require pilings to be installed that reach through 90 feet of sand, silt and soft soil to the bedrock which lies below. The foundation designs for Parcels A and B – which were provided by the BBPC to the Community Advisory Council and which I have personally reviewed -- include plans to drive 291 steel H piles using a hammer driven pile driver at Parcel A, and a 123 such piles at Parcel B. I understand that Parcel B's foundation requires fewer piles because it is about half the height of Parcel A.

5. Based on the experience and observations of the "pre-construction" pile driving, I am concerned that driving 291 steel H beams to 90 feet for Parcel A and 123 beams at Parcel B will create a massive inconvenience for park-goers and neighbors alike. Given the time period it took to drive only four piles at each of the two sites we expect the high-decibel noise for the driving of the total of 414 piles at Parcels A and B will necessarily continue for months. The contractor told our building's Managing Agent that they estimate two months of pile-driving, and based on my review of the pace of the test pile-driving that estimate seems short, even adjusting for the contractor's likely ability to perform construction pile-driving somewhat more quickly than test pile-driving.

6. The intense noise from this pile-driving activity, which I understand may be threatened to begin shortly, will be unbearable to those who have no choice but to hear it. It will make the park in the vicinity of Pier 6 and Pier 5 and perhaps beyond potentially unusable – and it is being scheduled to occur during the summer period of peak park usage. Pier 6 includes extensive children's playground areas, including multiple swing-sets for various age groups and a water play area. The decibel levels we measured from the test pile-driving risk being harmful to children and adults exposed to such loud noise. In my observation of the test pile-driving, the noise occurred when the piles were being driven, which took 10-20 minutes for each pile following about 30-60 minutes to prepare and set-up. Assuming the contractor coordinates so that two piles can be driven at overlapping times, there will be roughly 20-30 minutes of unbearably loud noise in roughly every 90-minute period during the work-day, which was from 7 am – 4 pm, with a lunch break. I observed that the construction crew uniformly wore noise-protective ear coverings while they were pile-driving, but park-goers and visitors will not have that opportunity. I do not purport to be an audiologist, but common sense suggests that there may be risk to the future hearing capacity of children who spend an hour at the Pier 6 swingsets on a regular basis this summer if this pile-driving is permitted to occur then.

7. And once the piles have been driven additional adverse effects of dust, noise and highly significant disruption will take place for park-goers, neighbors and users of MTA busses. For example, the developer plans to close the "elbow" portion of the loop road (the part that encircles Parcel A to the west and south) during the estimated 18-24 months of construction so that this space may be used for staging of construction equipment and materials. Since much of the traffic entering the loop road at Atlantic and exiting from the Quik Park public garage co-located in OBBP currently uses the elbow to exit back onto Atlantic, closing the elbow will require all of that traffic to continue around the entirety of the loop road so as to exit onto

Furman Street. The traffic will therefore surge on that section of the loop road during the period the elbow section is closed. This includes public buses (B63), delivery trucks, construction vehicles, park goers doing drop-offs, and cars from Quik Park, etc. This will put an inordinate amount of vehicle traffic in an area heavily used by pedestrians (many of whom are children) and bicyclists going to and from the adjacent playgrounds, ice cream shop and soccer field. This diversion of traffic imposes great inconvenience and risk for all concerned.

8. Also, noxious fumes and additional noise will be generated by trucks and construction equipment at the sites, and also from the diesel engines that I understand will be used to power de-watering pumps that will need to be installed to address the inevitable flooding of the excavation. A recent small excavation for a very minor (and uncontroversial) construction project at the opposite (north) side of my building quickly flooded because the water level, so close to the East River, is very close to the surface, varying dramatically twice a day with the tides in the river. The excavations at Parcels A and B will be far larger and deeper and will require pumps to run, day or night, whenever the tidal cycle requires.

9. Finally, our board at the adjacent One Brooklyn Bridge Park condo building is concerned that this pile driving and the associated vibrations might do real damage to our building, as could changes in the water level created by the pumping activity at Parcels A and B. As a result, we have retained a well-respected engineering firm that has prepared recommendations and requests of the developer and general contractor, which we have delivered to Mr. Eric Landau, President of Brooklyn Bridge Park, who has indicated that he has passed these requests on to the developer and followed up. We have not yet received a reply from the developer or general contractor.

1. Dated: June 23 2017

Brooklyn, New York

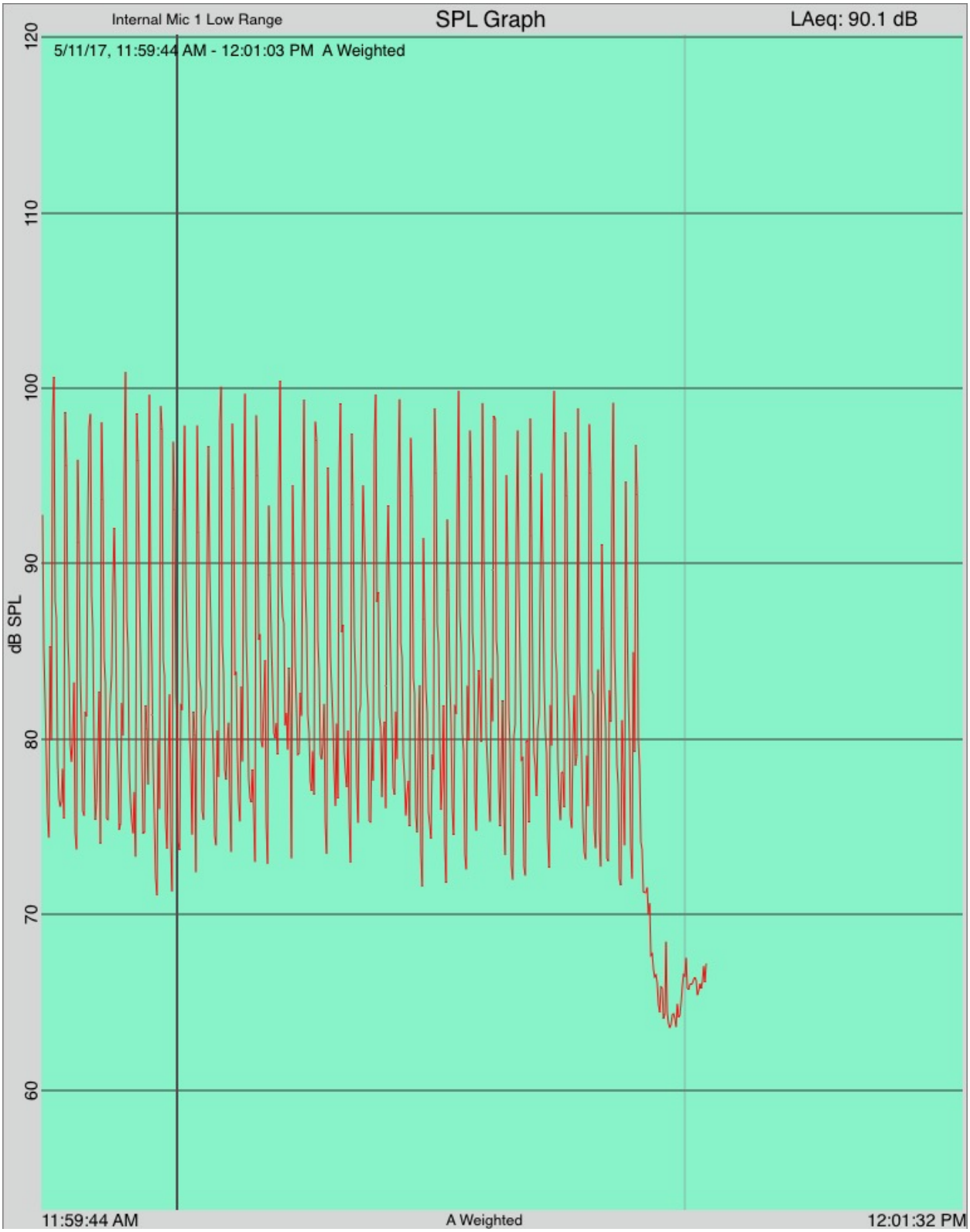
Todd Castilow
TODD CASTILOW

Sworn to before me this
23 day of June, 2017

Peter L. Bray
Notary Public, State of New York
No. 4880477
Qualified in Kings County
Commission Expires Dec. 15, 2018

Peter L. Bray
Notary Public

Exhibit 1


Internal Mic 1 Low Range
SPL Graph
LAeq: 90.1 dB
5/11/17, 11:59:44 AM - 12:01:03 PM A Weighted
120
110
100
90
80
70
60
dB SPL
11:59:44 AM
A Weighted
12:01:32 PM

New File-09

SPL Graph SoundTools v1.4.0 Todd’s iPad battery 60% 5/11/17, 12:01 PM
Single Filter Logging

latitude 0.000
longitude 0.000
Weighting A Weighted
Seconds per point 0.1
Recording All events recorded if enabled
start 5/11/17, 11:59 AM
end 5/11/17, 12:01 PM

point	Leq
overall	90.1
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" 12:00:21.6"	81.1
" 12:00:21.7"	82.0
" 12:00:21.8"	77.6
" 12:00:21.9"	72.9
" 12:00:22.0"	94.5
" 12:00:22.1"	99.4
" 12:00:22.2"	93.4
" 12:00:22.3"	88.9
" 12:00:22.4"	88.5
" 12:00:22.5"	84.3
" 12:00:22.6"	81.9
" 12:00:22.7"	78.2
" 12:00:22.8"	75.5
" 12:00:22.9"	75.3
" 12:00:23.0"	79.9
" 12:00:23.1"	81.6
" 12:00:23.2"	77.7
" 12:00:23.3"	73.9
" 12:00:23.4"	93.6
" 12:00:23.5"	99.7
" 12:00:23.6"	92.4
" 12:00:23.7"	87.3
" 12:00:23.8"	88.4
" 12:00:23.9"	83.4
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" 12:00:24.2"	76.7
" 12:00:24.3"	76.3
" 12:00:24.4"	79.9
" 12:00:24.5"	81.0
" 12:00:24.6"	79.1
" 12:00:24.7"	74.5
" 12:00:24.8"	90.1
" 12:00:24.9"	99.6
" 12:00:25.0"	93.7
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" 12:00:25.2"	87.8
" 12:00:25.3"	84.9
" 12:00:25.4"	80.7
" 12:00:25.5"	80.0
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" 12:00:25.7"	76.9
" 12:00:25.8"	79.9
" 12:00:25.9"	83.1
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" 12:00:26.2"	88.5
" 12:00:26.3"	99.4
" 12:00:26.4"	94.8
" 12:00:26.5"	86.1
" 12:00:26.6"	84.7
" 12:00:26.7"	82.7
" 12:00:26.8"	80.0

" 12:00:26.9"	77.8
" 12:00:27.0"	75.8
" 12:00:27.1"	74.5
" 12:00:27.2"	77.0
" 12:00:27.3"	82.9
" 12:00:27.4"	79.3
" 12:00:27.5"	75.1
" 12:00:27.6"	72.0
" 12:00:27.7"	99.2
" 12:00:27.8"	93.9
" 12:00:27.9"	86.0
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" 12:00:28.4"	74.7
" 12:00:28.5"	72.3
" 12:00:28.6"	74.8
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" 12:00:28.8"	80.3
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" 12:00:29.3"	86.9
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" 12:00:30.7"	88.2
" 12:00:30.8"	86.8
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" 12:00:31.5"	82.0
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" 12:00:31.7"	75.4
" 12:00:31.8"	71.9
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" 12:00:32.3"	84.8
" 12:00:32.4"	81.0
" 12:00:32.5"	79.7
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" 12:00:32.7"	74.6
" 12:00:32.8"	71.9
" 12:00:32.9"	82.4
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" 12:00:33.1"	75.7

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" 12:00:35.5"	74.8
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" 12:00:35.9"	78.6
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" 12:00:36.2"	96.7
" 12:00:36.3"	90.7
" 12:00:36.4"	86.2
" 12:00:36.5"	84.1
" 12:00:36.6"	80.5
" 12:00:36.7"	78.7
" 12:00:36.8"	78.7
" 12:00:36.9"	77.9
" 12:00:37.0"	75.3
" 12:00:37.1"	84.5
" 12:00:37.2"	84.9
" 12:00:37.3"	81.1
" 12:00:37.4"	75.3
" 12:00:37.5"	98.6
" 12:00:37.6"	98.3
" 12:00:37.7"	92.1
" 12:00:37.8"	86.4
" 12:00:37.9"	84.7
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" 12:00:38.3"	74.3
" 12:00:38.4"	73.4
" 12:00:38.5"	82.3
" 12:00:38.6"	82.7
" 12:00:38.7"	77.5
" 12:00:38.8"	73.4
" 12:00:38.9"	98.2
" 12:00:39.0"	97.8
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" 12:00:42.8"	81.4
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" 12:00:56.9"	65.5
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" 12:00:58.3"	63.6

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