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April 10, 2011

Jerry D. Reichelscheimer
Akerman Senterfitt LLP
335 Madison Avenue
26th Floor
New York, NY 10017

Dear Mr. Reichelscheimer,

I represent the Fort Independence Park Neighborhood Association (“FIPNA”) and I am writing in response to your letter dated April 8, 2011. In that letter, you allege that my client has made inaccurate assertions regarding your client, Hugo Subotovsky.

The first objection cited by your client is the statement in Paragraph 7 of the opposition summary that “Jackson buildings look the same.” This, like any other comment dealing with one’s perception of physical appearance, is a statement of opinion and not a factual assertion. More importantly, however, this opinion was made in the context of a public debate on issues of public concern.

The second objection cited by your client seems to deal with the Floor Area Ratio (FAR) of your client’s projects that were identified in the opposition summary. However, you do not specifically state what assertion in the summary you are claiming to be false. The summary states the allowable FAR under the zoning area and compares it to the gross built square footage. Are either of those numbers incorrect? Further, it is explicitly stated in the summary that “It is unclear how Jackson was able to do this.” That is, the author is asking a question about how Jackson was able to exceed the former number. Hence, the comparison between the two numbers is presented as a question and not a factual assertion.

As noted in your letter, and stated at the Land Use meeting, the gross built square footage number is larger because of allowances permitted in the zoning law under the Quality Housing Program. To my client’s knowledge, the numbers cited were neither false, nor made with reckless disregard of whether they were false. More importantly, however, this was a question on an issue of public importance.

The opposition summary is a compilation by a community group expressing concern over the future of its neighborhood. It was not drafted with malice toward your client. Mr. Subotovsky is a public figure whose projects receive significant public financing. As such, the community clearly has the right to comment on these projects.

PLEASE TAKE NOTICE that your letter may be viewed by some as an attempt to squelch a legitimate and important public debate; and

PLEASE TAKE FURTHER NOTICE that should you take legal action against my client, a counterclaim will be filed and my client will seek costs and sanctions.

PLEASE TAKE FURTHER NOTICE that any effort to intimidate, alarm or annoy this public group with the intention of chilling speech will come to no avail and may lead to a "SLAPP" lawsuit being initiated against your client.

I ask that you refrain from further contact with my client and direct any responses to the undersigned.

Very truly yours,

A handwritten signature in cursive script that reads "Ezra B. Glaser".

Ezra B. Glaser, Esq.

cc: Bronx Community Board 8
Damian McShane, Chairperson
Charles Moerdler, Chairperson, Land Use Committee
Daniel Padernacht, Chairperson, Traffic and Transportation Committee