

FAX: (718) 601-7278

At an IAS Term, Part 8, of the Supreme Court of the State of New York, held in and for the County of Bronx, at the Courthouse located at 851 Grand Concourse, Bronx, New York, on the 29<sup>th</sup> Day of July, 2008.

PRESENT: HON. **BETTY OWEN STINSON**  
Justice

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

Index #: 260287/08

In the Matter of the Application of

THE BRONX COUNCIL FOR ENVIRONMENTAL QUALITY (BCEQ), IRA CHARLES LEVENBERG, both individually and in his official capacity as BCEQ President, THE FORT INDEPENDENCE PARK NEIGHBORHOOD ASSOCIATION (FIPNA), PHILIP MCDONNELL, both individually and in his official capacity as FIPNA President, ASSEMBLY MEMBER JEFFREY DINOWITZ, both individually and in his official capacity, COUNCIL MEMBER G. OLIVER KOPPELL, both individually and in his official capacity, MARIO BENITEZ, ANTHONY PEREZ CASSINO, FRANCIS A. CHAPMAN, MICHAEL GARY, FATHER RICHARD GORMAN, SONIA LAPPIN, DAMIAN MCSHANE, MORRIS PALEVSKY, SAUL SCHEINBACH, LYNN SCHWARZ, and CAROLYN SMITH,

**ORDER TO  
SHOW CAUSE**

**Petitioners/Plaintiffs,**

**- against -**

THE NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP), THE NEW YORK CITY DEPARTMENT OF BUILDINGS, THE CITY OF NEW YORK, AND MICHAEL S. BLOOMBERG, individually and in his official capacity as Mayor of the CITY OF NEW YORK,

**Respondents/Defendants,**

Upon the annexed verified petition of of the Petitioners herein, by their attorney, Ezra B. Glaser, Esq., an application will be made before this Court at an IAS Term Part 8, to be held at the Supreme Court, 851 Grand Concourse, Bronx, New York, on the 3<sup>rd</sup> Day of

*Sept 16*

August, 2008, at 9:30 a.m. in the forenoon, or as soon thereafter as counsel may be heard, for a declaratory judgment:

- (1) Ordering the Department of Environmental Protection (hereinafter, "DEP"), to submit an Environmental Impact Statement (EIS) before beginning blasting at Jerome Park Reservoir;
- (2) Ordering the DEP to submit an Environmental Impact Statement (EIS) before beginning the carting of materials from the Jerome Park Reservoir;
- (3) For such other and further relief as this court deems equitable, just and proper.

SUFFICIENT CAUSE APPEARING THEREFORE, it is hereby ORDERED that pending the hearing and determination of this Order to Show Cause, the Defendants/Respondents, the Department of Environmental Protection (hereinafter, "DEP"), is hereby (1) enjoined and restrained from conducting any blasting at Jerome Park Reservoir, and from carting materials in or out of the Jerome Park Reservoir ("JPR") site in association with any blasting; and furthermore,

*R*  
*JSC*  
It is ORDERED that the Defendants/Respondent, DEP, shall be enjoined and restrained from conducting any blasting at the JPR site prior to the attainment of a buildings permit by the Department of Buildings (DOB), unless and until it is adjudged by this court that the attainment of a buildings permit is not necessary;

*R*  
*JSC*  
AND IT IS FURTHER ORDERED, that each of the Defendants/Respondents hereby are directed to produce, upon the return date hereof, or any adjourned date, the following: the relevant records, minutes, notes, and other documentation of all meetings and proceedings relevant to the matters before this honorable Court, including but not limited to issues concerning the decision of the DEP to conduct blasting at Jerome Park Reservoir rather than the originally proposed method present in a previous Environmental Impact Statement (EIS);

*R*  
*JSC*  
AND IT IS FURTHER ORDERED, that leave is hereby granted to petitioners to submit, upon court approval and upon the dates provided by this court, and at the hearing of this

application, such additional Memorandums of Law, legal briefs, affidavits, exhibits, testimony and other proof as petitioner may deem advisable.

SUFFICIENT CAUSE APPEARING THEREFORE, let service of this order and the papers upon which it is granted be deemed due, timely and sufficient if made as follows:

~~a) By personal service upon each of the aforesaid Defendants/Respondents at their offices on or before the \_\_\_\_\_ day of \_\_\_\_\_, 2008; or~~

~~b) By enclosing the same in a securely sealed and duly post-paid wrapper addressed to said Defendants/Respondents at their respective addresses, and by depositing same in a post office branch or post office box regularly maintained by the U.S. Post Office by ordinary first-class mail, on or before the \_\_\_\_\_ day of \_\_\_\_\_, 2008; or~~

~~c) By enclosing the same in a securely sealed and duly post-paid wrapper addressed to said Defendants/Respondents at said address and by sending the same by overnight, next-day delivery by UPS, FEDEX or the U.S. Postal Service on or before the \_\_\_\_\_ day of \_\_\_\_\_, 2008; or~~

d) By personal service upon each of the Defendant/Respondents before the 6<sup>th</sup> day of AUGUST, 2008.

R  
JSE

ENTER

*Ezra B. Glaser*  
JUSTICE OF THE SUPREME COURT