2008 affidavit in support of the petition to invalidate the Final Environmental Impact Statement (FEIS) for the East Village/Lower East Side rezoning.

AFFIDAVIT OF DR. TOM ANGOTTI

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QUALIFICATIONS OF DR. TOM ANGOTTI

1. I am a Professor of Urban Affairs and Planning at Hunter College of the City University of New York, and Director of the Hunter College Center for Community Planning and Development. I have an undergraduate degree in Arts and Sciences, a Masters in City and Regional Planning, and Ph.D. in Urban Planning and Policy Development. I have been a professional planner for over 30 years and have worked
on community-based planning and environmental issues in the New York City area for the last 20 years. For six years I was professor and chair of the Pratt Institute Graduate Center for Planning and the Environment in Brooklyn. I have written in professional journals on the subject of the environment, community-based planning and community development. I am editor of Progressive Planning Magazine, a member of the advisory board of Local Environment, and a regular contributor to Gotham Gazette, the on-line publication of the Citizens Union in New York City. I frequently write about urban planning and the environment in New York City and MIT Press recently published my book about community planning in New York City.

2. From 1988 to 1994 I was a senior planner with the Brooklyn Office of the New York Department of City Planning and prior to that I was a senior planner with the New York City Department of Housing Preservation and Development for a period of two years. During my employment with the Department of City Planning, I was responsible for land use and zoning studies and plans for the Brooklyn waterfront and industry. I provided information for and reviewed environmental impact analyses. A copy of my curriculum vitae is annexed hereto.

3. I co-authored with Kate Ervin a study entitled Analysis of Draft Environmental Impact Statement, East Village/Lower East Side Rezoning by the Hunter College Center for Community Planning & Development (August, 2008), which is attached hereto as evidence.
4. I submit this affidavit in support of the petition to invalidate the Final Environmental Impact Statement (FEIS) for the East Village/Lower East Side rezoning. The rezoning covers a 111-block area in Manhattan Community District 3. This affidavit is based on my personal knowledge and my review of the documents referenced and discussed herein.

SUMMARY OF THE AFFIDAVIT

5. The FEIS is inadequate because:

   a) The FEIS fails to take a *hard look* at potential negative socioeconomic impacts;

   b) The FEIS fails to analyze the *reasonable worst case scenario*;

   c) The FEIS fails to respond to legitimate concerns raised in response to the Draft Environmental Impact Statement;

   d) The FEIS fails to consider the disparate and negative impacts of the project on racial minorities.

   e) The Response to Comments on the DEIS is inadequate.

   f) The build year is inadequate to analyze potential impacts.
THE FEIS FAILS TO TAKE A HARD LOOK

6. The CEQR Technical Manual (2-7) mandates a *hard look* at all likely impacts:

CEQR requires that each probable impact area be given a "hard look"—that is, the environmental review cannot simply acknowledge that there might be an impact; it must consider the likelihood and significance of that impact. Similarly, the environmental review cannot simply dismiss the likelihood of expected impacts occurring without providing reasoning.

7. The Final Environmental Impact Statement *fails to take a hard look* at the socioeconomic impacts of the rezoning. This is discussed in paragraphs 8-21 below, and is summarized as follows:

   a) The FEIS *fails to take a hard look* at how potential impacts may differ significantly within the 111-block rezoning area – particularly in the white, upper-income areas north of Houston Street and the lower-income, minority areas south of Houston. (Par. 8-13)

   b) The FEIS *fails to take a hard look* at the disparate socioeconomic effects of the rezoning on tenants in public housing and rent-stabilized housing, who are disproportionately in low-income and minority households. (Par. 14-16)

   c) The FEIS limits the secondary study area to only ¼ mile, and thereby *fails to take a hard look* at the potential negative impacts on vulnerable low-income, minority populations within ½ mile of the rezoning area. (Par. 17-21)
FAILURE TO TAKE A HARD LOOK AT DIFFERENCES NORTH AND SOUTH OF HOUSTON

8. The FEIS fails to disclose and take a hard look at the wide differences in likely impacts of the rezoning in the areas north and south of Houston Street. The population north of Houston Street is 70% white, has higher incomes, smaller households and higher rates of homeownership. The area south of Houston Street is 78% Asian and Hispanic, median household income is 75% the income north of Houston, household sizes are 65% larger, and there are fewer homeowners. The charts on the following pages illustrate these differences.
Population Characteristics North and South of East Houston Street

**NORTH**
- Non-White: 30%
- White: 70%

**SOUTH**
- White: 30%
- Non-White: 70%

- Asian: 14%
- Non-Asian: 86%

- Asian: 47%
- Non-Asian: 53%

- Hispanic: 21%
- Non-Hispanic: 79%

- Hispanic: 31%
- Non-Hispanic: 69%
Average Household Size North and South of East Houston Street

NORTH  SOUTH

1.75  2.68

Median Household Income North and South of East Houston Street

NORTH  SOUTH

$47,711  $35,954
9. **Income and racial differences between these two areas – above and below Houston -- are substantial and the FEIS fails to disclose and take a hard look at the disparate effects that the rezoning is likely to have on these two areas, thereby obscuring the discriminatory effect of the rezoning.** The Lower East Side/East Village rezoning concentrates new large-scale development opportunities in the area south of Houston and protects the area north of Houston from new out-of-scale development. In comprehensive rezoning plans such as this one the Department of City Planning (DCP) tends to balance *upzoning* (which increases opportunities for development by expanding the amount of permitted floor area) and *downzoning* (which protects the existing buildings because it decreases the permitted floor area). In this case, the protections disproportionately favor the mostly white, higher-income area north of Houston and upzoning disproportionately affects the minority, lower-income area south of Houston. The FEIS hides this disparate impact because it averages the changes over the entire rezoning area.

10. **The FEIS does not take a hard look at the disparate impacts that are likely to occur on Asian, Hispanic, Black, and low-income residents.** The demographic analysis in the FEIS includes no mention of race, even though key socioeconomic characteristics (income, poverty status, household size) are strongly correlated with race. Thus, the most vulnerable populations – those most likely to be impacted and displaced by the proposed actions – are overlooked entirely.
11. The rezoning disproportionately protects areas that are predominantly white and higher-income, to the exclusion of areas that are most heavily populated with low-income residents and people of color. While the proposed rezoning is described as a preservation plan, it actually increases the maximum Floor Area Ration (FAR) by 16% throughout the majority of the rezoned blocks, 34% along all but one of the north-south avenues in the East Village, 109% along Delancey Street, East Houston Street, and Avenue D, and 147% along Chrystie Street. The majority of the 59 blocks north of Houston (43% of the rezoning area) will change from R7-2 to R7A, a marginal increase in FAR. Yet the major corridors with the highest upzoning are only 10-40% white. The map below shows how the largest increases in FAR are in areas below Houston Street and on Avenue D which borders low-income public housing.
12. The FEIS fails to disclose and take a *hard look* at the fact that the area south of Houston is changing even more rapidly than the area north of Houston, a trend that the rezoning would likely accelerate because a disproportionate amount of new development would occur south of Houston. The rezoning would not simply continue this trend of socioeconomic change but significantly accelerate it because more opportunities for development are concentrated south of Houston. Between 1990 and 2000 Hispanic and Black populations below Houston declined from 41 to 31 percent and 12 to 7 percent respectively. While the Asian population increased from 40 to 47%, this represents a higher income Asian population with smaller households – a mark of gentrification. Between 1990 and 2000 median household incomes increased 64% in the area below Houston Street.

13. A larger proportion of the rental properties south of Houston are likely to be redeveloped, thereby placing their low-income tenants at risk. The FEIS does not disclose this likely outcome and thus *fails to take a hard look* at potential impacts. The area south of Houston has the highest proportion of sites projected to be redeveloped as a result of the rezoning (see DEIS Figures 23-3 and 23-4). The area south of Houston also has the highest proportion of rent-stabilized buildings that are built to less than 50-80% of the allowable FAR (Floor Area Ratio), which is one of the criteria that the DCP used in determining potential development sites (see map below). The FEIS fails to consider the impact of the rezoning on the low-income tenants in these buildings.
FAILURE TO DISCLOSE IMPACTS ON PUBLIC HOUSING AND RENT-STABILIZED HOUSEHOLDS

14. The FEIS does not take a hard look at the impact of the rezoning on public housing. The FEIS incorrectly assumes that the 15,110 units of NYCHA (New York City Housing Authority) housing in the area are protected from any and all development pressures. This may have been the case a decade ago but it is no longer true. In June
2006, almost two years before the certification of the Lower East Side/East Village rezoning proposal, an amendment to NYCHA’s Annual Plan for Fiscal Year 2006 stated the agency’s intention to sell the air rights on public housing sites for new infill development to help meet its budget deficit. In a recent report, Borough President Scott Stringer calculated that there were some 7.6 million square feet of potential development rights, enough for some 9,000 new housing units, in the Lower East Side (Community District 3) – fully one fourth of all the development rights on public housing land in Manhattan.¹ There is also widespread suspicion that NYCHA is warehousing apartments for an eventual conversion to market-rate units.² While protecting portions of the East Village, the rezoning would create even greater pressures on NYCHA to sell air rights for market-rate housing on its properties. New higher income residents near NYCHA housing would create increased pressures to further privatize public housing. The FEIS fails to even look at this scenario, much less take a hard look. The large population of Hispanic and Black residents who live in NYCHA housing and the local businesses that serve them will be impacted by the shortage of commercial space for moderately-priced neighborhood-level retail and services that is likely to result from the rezoning. Avenue D and many other streets near public housing are currently lined with small bodegas, discount stores, and groceries that cater to low-income residents living in the Jacob Riis Houses, Wald Senior Center, and Lower East Side NYCHA

developments (see map below with NYCHA Residential Properties). These small businesses are likely to be driven out by increasing rents and replaced by businesses serving a clientele with much higher incomes, resulting in negative economic impacts for low-income residents.
15. The rezoning further increases pressures on public housing because it upzones Avenue D across the street from the projects. Approximately 40% of the rezoned area around Avenue D is designated in the FEIS as Projected Development Sites. Existing development along Avenue D has an average built FAR of well below 3.0, but the proposed FAR is 7.2; thus, the incentive for redevelopment along this corridor is enormous. This will have potentially negative impacts on low-income NYCHA residents, who will lose access to affordable local retail and services, and create pressures on them to move. These impacts were not considered or discussed in the FEIS.

16. The FEIS does not take a hard look at the effect of the rezoning on tenants in rent-stabilized buildings. Rent stabilization affects buildings with six or more units. The FEIS does not even disclose the number of rent-stabilized buildings within the rezoning area and simply discounts any impact by stating that these tenants will be protected from eviction and displacement. This is not the case. In fact, rent stabilization has proven to be a partial and inadequate defense for tenants when rents and property values skyrocket, as they tend to do with any upzoning. New York City has been experiencing a continuing loss in rent-stabilized units. When rents go beyond $2,000 per month rent-stabilized units may be deregulated. More significantly, however, are the illegal conversions taking place as a result of massive evasions of rent protections. As reported in the *NY Times*,³ only blocks away in Stuyvesant Town, some 560 apartment units were converted to market rate in 2007 and another 670 are estimated to be

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converted in 2008. The new owner of Stuyvesant Town is using methods that many tenants are terming harassment to force tenants to move. In another recent case, 15 rent-stabilized tenants were evicted at 47-49 E. 3rd St. in the Lower East Side by a landlord who claimed he wanted to use the building for his residence. Tenant organizations in New York are alarmed at the growing trend of illegal pressure on rent-stabilized tenants by private equity funds, the investment groups often fueled by speculators who aim to convert rent-stabilized buildings to new market opportunities. The FEIS fails to disclose this trend and the impact of the rezoning on the trend even though the rezoning is likely to accelerate the trend in the area. Rent-stabilized tenants who are displaced will confront dwindling opportunities for affordable low-cost housing in the area.

THE SECONDARY STUDY AREA SHOULD BE AT LEAST ½ MILE

17. The FEIS limits the secondary study area to ¼ mile, and thereby fails to take a hard look at the potential negative impacts on vulnerable low-income, minority populations within ½ mile specifically at the southern perimeter of the rezoning area. This includes tenants in public housing and rent-stabilized housing (see par. 14-16). The FEIS also fails to disclose and take a hard look at the potential impact of the rezoning on public housing within ¼ mile of the rezoning.

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18. If we look at the differences in race, income and household size in the area ½ mile from the rezoning area to the south and extending into Chinatown, we find the same disparities that exist between the rezoning areas north and south of Houston. These differences are not pronounced when we look to the north and west of the rezoning area, only to the south. Thus, in order to truly understand socioeconomic trends and the potential impacts of the rezoning, the secondary study area should be expanded from ¼ mile to ½ mile and the secondary study area must be segmented because the areas to the north, west and south are significantly different from one another. They need to be looked at separately.

19. The FEIS uses an extremely narrow interpretation of the CEQR guidelines to justify the ¼ mile study area. This is the third largest rezoning since 1961 and it is only logical that larger rezonings have much wider impacts. The affordable housing units that could potentially be developed under the rezoning could be located within ½ mile of the rezoning area, and would thus have an impact.

20. By limiting the study area to ¼ mile from the rezoning area, the FEIS excludes 5,680 units of public housing from consideration. It also excludes significant portions of Chinatown that are likely to be affected by rising property values and rents due to the rezoning.
21. The FEIS fails to take a hard look at conversions from rentals to owner-occupied units that are likely to increase within the ½ mile area to the south as a result of the rezoning. In the area south of Houston low-income and minority households who rent are being displaced by higher-income households living in units converted to condominiums and cooperatives. In the ½ mile study area south of East Houston, ownership levels jumped from 9.6% to 15.1% of occupied units between 1990 and 2000 although rents did not increase as sharply as elsewhere. During that same time, this area went from having the lowest vacancy rate to the highest vacancy rate, compared to the area north of East Houston Street and the ½ mile study area as a whole (See table below). These conditions reflect increasing speculation in housing; vacancy rates tend to increase when developers buy buildings and tenants are forced to move. The increased vacancies do not reflect a decreasing demand for housing, but rather a changing housing environment that the rezoning not only fails to address but abets because it promotes development south of Houston. The FEIS completely fails to disclose and take a hard look at this trend and the potential effect of the rezoning on the trend.

### Housing Characteristics in ½ Mile Study Area (1990-2000)

<table>
<thead>
<tr>
<th></th>
<th>Housing Units</th>
<th>Occupancy Rate</th>
<th>Vacancy Rate</th>
<th>Owner Occupied</th>
<th>Renter Occupied</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>½ Mile Study Area</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>118,286</td>
<td><strong>95.1%</strong></td>
<td>4.9%</td>
<td><strong>17.0%</strong></td>
<td>83.0%</td>
</tr>
<tr>
<td>1990</td>
<td>113,180</td>
<td>94.5%</td>
<td><strong>5.5%</strong></td>
<td>13.5%</td>
<td><strong>86.5%</strong></td>
</tr>
<tr>
<td><strong>North of East Houston Street</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>75,456</td>
<td><strong>95.4%</strong></td>
<td>4.6%</td>
<td><strong>18.1%</strong></td>
<td>81.9%</td>
</tr>
</tbody>
</table>
FAILURE TO ANALYZE A REASONABLE WORST-CASE SCENARIO

22. The CEQR Manual requires that environmental impact statements consider the Reasonable Worst-Case Scenario (RWCS):

From the range of possible scenarios that are reasonable and likely on the site, the one with the worst environmental consequences should be chosen for analysis. CEQR Manual 2-2)

23. The Reasonable Worst Case Scenario in the FEIS for the Lower East Side/East Village Rezoning should be that NO affordable housing will result from the rezoning. The city’s claim that affordable housing opportunities in the inclusionary housing provisions of the proposed zoning will accomplish the project’s stated goal of promoting affordable housing and protect existing minority and low-income populations is spurious and unfounded. The FEIS repeatedly mischaracterizes the inclusionary zoning by creating the impression that it will automatically and necessarily produce affordable housing. Instead:

a) The inclusionary housing provisions are strictly voluntary and at the discretion of the developer. In exchange for providing 20% of new units as affordable housing, the developer would gain a 20% FAR bonus.
b) Developers usually depend on *public subsidies* for the affordable units, and are not likely to create affordable units when subsidies are not available. There is currently intense competition for dwindling subsidies.

c) The city requires that affordable units be affordable to households earning up to 80% of the Area Median Income (AMI). The AMI is calculated for the metropolitan area and is therefore significantly higher than the median income for New York City neighborhoods like the Lower East Side and Chinatown. As a result, only 25% of households in the neighborhood would qualify for the “affordable” units (see graph below).

![Graph showing the distribution of households qualifying for affordable units.]

24. The FEIS also fails to provide a RWCS for the following reasons:
a) The FEIS fails to consider the worst-case scenario of disproportionate displacement of the Asian and Hispanic populations resulting from the rezoning in the area south of Houston (see paragraphs 8-13).

b) The FEIS fails to provide a RWCS of displacement of public housing and rent-stabilized tenants resulting from the rezoning (see paragraphs 14-16).

c) The FEIS fails to provide a RWCS of displacement within ½ mile of the study area to the south (see paragraphs 17-21).

FAILURE TO TAKE A HARD LOOK AT RACE AND OTHER SOCIOECONOMIC CHARACTERISTICS

25. In paragraphs 8-24 above I illustrated the many ways in which the FEIS fails to disclose the potential disparate impacts of the rezoning on different racial groups. The FEIS only reports statistics from the recent census and does not analyze the data. The FEIS looks at race and other socioeconomic characteristics at the macro-level and fails to take a hard look at the racial differences within census tracts and within the rezoning area. Given the history of zoning and its use to discriminate based on race and other socioeconomic characteristics, as discussed in the following paragraphs, the failure of the FEIS to take a hard look is significant.
26. The FEIS fails to take a hard look at potential secondary displacement that is likely to result from the rezoning and negatively affect low-income and minority households. The FEIS incorrectly uses the CEQR Technical Manual to evade taking a hard look at indirect displacement of tenants, particularly those in public housing and rent-stabilized housing below Houston Street. In its Response to Comments on the DEIS, the FEIS incorrectly asserts that “the analysis of socioeconomic conditions follows the methodology outlined in the CEQR Technical Manual…” (27-68) The CEQR Manual states that “Generally, if the proposed action would increase the population in the study area by less than 5 percent, it would not be large enough to affect socioeconomic trends significantly.” The word “generally” was inserted so that 5 percent is understood as only a broad guideline and not a hard-and-fast rule. The same kind of flexibility is intended when it comes to defining the extent of the secondary area.

27. The FEIS ignores entirely the distinct socioeconomic characteristics of Chinatown. The rezoning concentrates upzoning and new development south of Houston, which includes portions of Chinatown. The FEIS also fails to take into consideration the historic character of Chinatown, one of the oldest ethnic neighborhoods in the city and one that is threatened by gentrification and real estate speculation.

28. The FEIS fails to take a hard look at the specific effects of the rezoning on ethnic business owners south of Houston and within the southern segment of the area within
\( \frac{1}{2} \)-mile of the rezoning area. These businesses are small retail and services that specifically serve the low-income Asian and Latino households in the area. When these businesses are displaced by real estate development that the upzoning will cause, Asian and Latino households will no longer have access to the businesses they need and rely on for basic goods and services. This is likely to create even greater displacement pressures on low-income households, including those living in rent-stabilized and public housing. Chrystie Street, Delancy Street, and Avenue D are all being upzoned, but the existing small businesses on these streets and adjacent blocks are not likely to survive the onset of new market-rate housing and commercial development.

29. **There is a significant body of evidence (some of it cited below) within the field of urban planning that race has been and continues to be a significant factor in zoning and land use decision making.** The Department of City Planning may deny that race plays any role in its rezoning policies, but a simple self-declaration of color-blindness is not sufficient. Indeed, by consciously refusing to address the question of race in rezoning and environmental review, DCP knowingly allows institutional and structural racism to prevail.

30. Urban planning scholars recognize that since the institution of zoning as a regulatory measure, zoning has been used both to exclude and to displace minorities. The most blatant exclusion occurred under Jim Crow in the South but, according to
planning professor Christopher Silver, “the nation’s planning movement, not just its Southern branch, regarded land use controls as an effective social control mechanism for Blacks and other ‘undesirables.’”\(^5\) As noted by Professor Marsha Ritzdorf, “When the U.S. Supreme Court struck down blatantly racial zoning in the *Buchanan v. Warley* case in 1917, communities turned to less obvious but legal ways to create segregated living environments.”\(^6\) Subsequent to the U.S. Supreme Court’s landmark 1926 ruling in *Village of Euclid v. Ambler Realty Corporation*, which upheld the powers of local government to regulate land use, suburban municipalities throughout the nation instituted rules designed to limit the density of new development. Thus, local planning agencies instituted what came to be known as *exclusionary zoning* because regulations of lot size, setback, side and rear yards, and open space requirements, prevented the construction of housing for low- and moderate-income people and de facto excluded minorities who are disproportionately in low- and moderate-income groups. While exclusionary zoning has been challenged widely in some state courts it remains a powerful tool in local planning throughout the United States.

31. In New York City, zoning has also been used both to exclude low- and moderate-income people from some neighborhoods and as a passive tool to reinforce the concentration of noxious environmental hazards in low-income and minority communities. For example, since 2002 DCP claims to have instituted 87 rezonings in

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New York City, its most aggressive rezoning campaign in recent history. The majority of these are in residential neighborhoods with relatively lower densities, many of them disproportionately white, such as Riverdale (Bronx), Bensonhurst (Brooklyn) and Whitestone (Queens). In these neighborhoods DCP has introduced only limited development opportunities through upzoning but overwhelmingly downzones to protect these lower density residential enclaves.

32. In many neighborhoods it is often more decisive when DCP does nothing and fails to change zoning to encourage new development or to protect existing uses. This is an example of “non-decision making,” in which planners consciously fail to intervene to change zoning in low-income and minority communities. This failure to act has been widely recognized by the environmental justice movement in New York City, which has grown since the late 1980s as a significant force in battling the concentration of noxious facilities in communities of color.7 In her comprehensive study of zoning changes from manufacturing to residential and commercial, Dr. Juliana Maantay found that DCP favored conversions in relatively higher-income neighborhoods and lagged in rezoning lower-income minority communities.8 This has had the effect of perpetuating the concentration of noxious facilities in low-income minority communities.

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33. According to a recent study by the Lewis Mumford Center in Albany, New York City is one of the most racially segregated cities in the nation. Zoning clearly plays a role in preserving the status quo, and every urban planner familiar with the local debates and discussions about zoning must be aware how important preserving the status quo or changing it is to every rezoning. Therefore, if the assessment of potential impacts under CEQR is to be complete, it must consider the extent to which racial minorities and low-income groups are affected by the action compared to other groups. This was not done in the Lower East Side/East Village FEIS.

34. Inclusionary zoning was developed decades ago in many cities as a means to counter exclusionary zoning by requiring that new development include low-income housing. New York City's inclusionary zoning provision, however, is not mandatory and does not apply throughout the city. It is therefore relatively weak (see par. 23) and when it is used in low-income neighborhoods where there is significant market-rate development it may very well contribute to a development scenario in which more affordable and low-income housing units are lost than are gained. Thus, simply because the zoning is called inclusionary does not mean that it is inclusionary.

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THE FEIS IS UNRESPONSIVE TO COMMENTS ON THE DEIS

35. In response to the abovementioned Hunter College report which observes that inclusionary zoning is only voluntary and its outcome unpredictable, the FEIS, in its Response to Comments on the Draft Environmental Impact Statement (DEIS), fails to acknowledge that the RWCS would be no affordable housing units and simply repeats deceptive statements made in the DEIS. (See FEIS 27-76)

36. The many comments and concerns about indirect displacement expressed in response to the DEIS suggest that a harder look is needed. The response to these comments and concerns is nothing more than a quote from the CEQR Manual and repetition of the projection that the proposed action would increase the population by 1.7 percent. As argued in paragraph 29 above, this evades taking a hard look at secondary displacement.

37. The Response to Comments (27-70) reasserts the incorrect claim from the FEIS that public housing is protected from the impacts of the rezoning. The Response ignores challenges to this claim in the Hunter College report. As we showed in paragraphs14-16, renters in public housing and in rent-regulated buildings are not necessarily protected from rising land values and their secondary impacts.
THE BUILD YEAR IS INADEQUATE TO ANALYZE POTENTIAL IMPACTS

38. The FEIS elects a build year of only ten years from approval of the rezoning. This does not represent a hard look or a reasonable worst-case scenario because development resulting from the rezoning is likely to occur over a much longer period of time. This is especially true given the recent downturn in the New York City real estate markets.

39. The CEQR Manual recommends the choice of a later build year in such circumstances:

   …in an area that is expected to see substantial development over the near future, it may be most appropriate to choose a later build year from the reasonable range, so that the analysis can address the increases in traffic and other activities resulting from that development in considering project impacts. (CEQR Manual, 2-5)

40. Since the real estate market is expected to decline in New York City during the immediate future, it is clear that the “substantial development” likely to occur as a result of the rezoning may well not occur until 10-20 years from now. This will be the case in particular in the area south of Houston where larger-scale development would occur.