

# Business & Residents Alliance of East Harlem vs. East River Plaza Project, et al. Round 2

By Maria Campos Lebrón

Oral arguments were held on Tuesday, September 27th in a case brought against the East River Plaza project in the United States Court of Appeals for the Second Circuit in lower Manhattan.

The federal lawsuit was first launched in 2003 by the Business and Residents Alliance of East Harlem (BARA) against various defendants, including the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Health and Human Services (HHS), the Upper Manhattan Empowerment Zone Development Corporation (UMEZ), the New York Empowerment Zone and the project developers, TIAGO Holdings.

BARA had previously argued that demolition of the old Washburn Coat Hanger Factory, formerly located along the F.D.R. Drive, from 116th Street to 119th Street, violated Section 106 of the National Historic Preservation Act

of 1966, which mandates that federal expenditures be reviewed by federal and state landmark agencies to determine whether there will be any negative impact on historic sites.

There was no jury present during the appeal; opinions were instead brought before a three judge panel. A strong case against the \$200 million dollar, 1 million-square-foot retail shopping center and parking garage was made by attorney Kevin J. Farrelly, while the defendant agencies and developers were represented by a team of lawyers who dismissed the notion of protected status. The judges will now review both opinions and are expected to make a determination by late October or early November.

Lead plaintiffs in the case include a variety of East Harlem residents, homeowners, property owners and small business owners, among them Raymond Plumey, a local architect.

"It's a 50/50 long shot," said Plumey of the pro-



Proposed site for East River Plaza.

ceedings. "Our argument is that federal expenditures are being used without proper federal review and, as such, the process has been circumvented."

Other plaintiffs named in the appeal are John Kozler, Irene Smith and Pascual Palmieri.

Although the Washburn Wire Factory was demolished in 2002, Plumey explains why the argument still holds weight. "It doesn't matter whether the

building is still standing. Plus, there are other historic resources in the neighborhood that might also be negatively impacted. We have a number of other sensitive properties within a close radius. There's the former Benjamin Franklin High School building, for example, and the Farenga Funeral Parlor on 116th Street. There's also an archeological site on 119th Street that is the former

fishing village of the Wecksquaesgek tribe."

"My concern as a resident and businessperson is that we are losing our architectural and cultural history," he added. "With the proposed Marriott Hotel and Uptown NY, East Harlem won't be the same unless we preserve. I'm not opposed to development in general, only to projects that wipe out our history," said Plumey.

Developers in Soho and

TriBeCa don't eradicate the history of those neighborhoods, and the same respect should be accorded to our neighborhood."

## Background on East River Plaza

The former Washburn Coat Hanger Factory had been vacant since 1982. In 1996, the Blumenfeld Development Group Ltd. (BDG) acquired the site for \$3.1 million at a federal auction. BDG then sought backing from UMEZ and NYEZ with plans to develop it as East River Plaza, a shopping center with Costco and Home Depot serving as anchor tenants. The East River Plaza project has already weathered a number of other lawsuits involving property owners forced to relinquish their land to make way for the mall. One of those displaced through "eminent domain" condemnation was William Minic, who for over 20 years ran a cabinetmaking shop on East 117th Street which was demolished in 2004 to accommodate the project's planned 1,200 car parking garage.

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