

**STATE OF NEW YORK
SUPREME COURT: KINGS COUNTY**

In the Matter of the Application of

JOHN LEYVA, DAVID LUTZ,
and BRUCE MAZER,

Petitioners,

-against-

NEW YORK CITY ECONOMIC
DEVELOPMENT CORPORATION,

Respondent.

Index No. _____

**MEMORANDUM OF LAW
FOR JUDGEMENT PURSUANT
TO ARTICLE 78 OF THE CIVIL
PRACTICE LAW AND RULES**

PRELIMINARY STATEMENT

This case challenges the secrecy of the process used to approve the controlling Vision Plan for a major public redevelopment project on Brooklyn’s waterfront.

The Brooklyn Marine Terminal (“BMT”) is one of the largest publicly controlled waterfront sites in New York City. Its redevelopment carries sweeping implications for the Red Hook and Columbia Street Waterfront District neighborhoods, Brooklyn, and ultimately all of New York. Yet despite the project’s scale, the community’s deep stake in its outcome, and New York’s Open Meetings Law, the public was shut out of the Task Force meetings where the plan was developed, discussed, amended, and ultimately where the final Vision Plan for the site was voted and approved.

This case demands transparency and open access to our democracy and seeks to enforce the public’s right to witness, and ultimately their ability to hold accountable, critical decisions made about public land.

SUMMARY OF ARGUMENT

New York’s Open Meetings Law (“Open Meetings Law”), codified at Public Officers Law §§ 100–111, serves a critical legislative purpose:

It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy. The people must be able to remain informed if they are to retain control over those who are their public servants. It is the only climate under which the commonwealth will prosper and enable the governmental process to operate for the benefit of those who created it.

N.Y. Pub. Off. Law § 100 (McKinney 2025).

Transparency in New York governance is not optional, but rather fundamental to the ethical functioning of government and enforceable in law.

The Open Meetings Law applies to entities that meet the statutory definition of a “public body” under Public Officers Law § 102(2). A “public body” is one that (1) consists of two or more members, (2) requires a quorum to conduct business, (3) was created by or under the authority of a governmental entity (including a public-benefit corporation), and (4) performs a governmental function for the state, an agency, or a public corporation. *Id.*

The New York City Economic Development Corporation (“NYC EDC”) Task Force meets the definition of a public body under Public Officers Law § 102(2) and was therefore subject to the requirements of the Open Meetings Law. The Task Force was a group of more than two members, required quorum, formed and convened by the NYC EDC — a public-benefit corporation— for the express purpose of shaping the policy vision for the redevelopment of the BMT. The Task Force was not a passive advisory group, but rather held a defined membership,

required a quorum to conduct business, and played an essential role in formulating the recommendations that ultimately became the official BMT Vision Plan.

Open Meetings Law, where it applies, requires (1) meetings to be open and accessible to the public, (2) notice of such meetings be provided in advance, (3) minutes summarizing all actions, motions, and votes be made available within a reasonable time, and (4) documents be made available to the public prior to the meeting. *Id.* at §§ 103–106.

The NYC EDC Task Force held its meetings in private, without issuing public notices, providing agendas or meeting materials in advance, or allowing any form of public observation.

In fact, the New York State Committee on Open Government (“COG”), the New York State entity charged with overseeing and advising on the application of Open Meetings Law, reviewed the NYC EDC Task Force and opined that “the task force should be considered a public body subject to the Open Meetings Law.” Exhibit A. The agency further stated that “decisions that ultimately become the policy of a public corporation or agency should be discussed in an open forum.” *Id.*

Petitioners, local community members who were excluded from the Task Force meetings, bring this case seeking a declaration that the law was violated, an annulment of the September 22 vote, and a requirement that future Task Force meetings comply with the Open Meetings Law. The relief sought is narrow, reasonable, and consistent with the public’s right to observe the decisions that shape their communities.

Finally, Petitioners also respectfully seek stay through an Order to Show Cause while this proceeding is pending. Given that the September 22, 2025 vote approving the Vision Plan was conducted in clear violation of Open Meetings Law, and that implementation of the Plan is

rapidly underway, a stay is necessary to preserve the status quo and prevent irreparable harm. Without a stay, further irreversible commitments of resources, contracts, or design changes may occur before this Court has an opportunity to determine the appropriate resolution.

STANDARD OF REVIEW

Article 78 provides the proper procedural vehicle for reviewing whether a public body acted unlawfully, arbitrarily, or in violation of lawful procedure. CPLR § 7803(3). New York courts have repeatedly confirmed that violations of the Open Meetings Law are reviewable through Article 78 proceedings. *Matter of Perez v. City Univ. of N.Y.*, 5 A.D.3d 485, 486 (2d Dep't 2004); *Gordon v. Vill. of Monticello*, 87 N.Y.2d 124, 127–28 (1995).

In *Perez*, the Second Department held that the petitioner properly invoked Article 78 to compel compliance with the Open Meetings Law after being excluded from a public meeting of a university board. The court reaffirmed that such claims are justiciable under CPLR Article 78 because they challenge a governmental body's failure to follow statutory procedure.

Likewise, the Court of Appeals in *New York Civil Liberties Union v. City of Schenectady*, 2 N.Y.3d 657, 666 (2004), recognized that Article 78 is the appropriate means to seek annulment of actions taken in violation of procedural statutes intended to ensure transparency and accountability in government decision-making. The same principle applies here: Petitioners challenge the Task Force's failure to comply with a clear statutory mandate governing open meetings, not the merits of its policy determinations.

LAW AND ARGUMENT

POINT I

PETITIONERS HAVE STANDING

Petitioners have standing under both the traditional and public-interest doctrines.

Petitioners Leyva and Lutz were affirmatively denied access to the September 22, 2025 Task Force meeting, despite being longtime residents of the affected area with a vested interest in decisions concerning their neighborhood. Petitioner Mazer, recognizing that the meeting excluded the public, sought guidance from the State Committee on Open Government instead of attending.

Exclusion from meetings that are required to be public constitutes a direct and concrete injury under the Open Meetings Law—the denial of a statutory right to observe governmental deliberations. *Matter of McCrory v. Vill. of Mamaroneck Bd. of Trustees*, 181 A.D.3d 67, 72 (2d Dep’t 2020); *Matter of Gannett Co., Inc. v. City of Rochester*, 148 A.D.2d 145, 147–48 (4th Dep’t 1989) (holding that media and citizens have standing to enforce OML violations where denied access to deliberations).

Courts further recognize a public-interest exception to standing where the petition seeks to vindicate the public’s collective right to transparency and participation in government decision-making. *Sierra Club v. Vill. of Painted Post*, 134 A.D.3d 1475 (4th Dep’t 2015); *Graziano v. County of Albany*, 3 A.D.3d 982 (3d Dep’t 2004); see also *Matter of Poughkeepsie Newspapers, Inc. v. Mayor’s Intergovernmental Task Force on NYC Water Supply Needs*, 145 A.D.2d 65, 67 (2d Dep’t 1989) (holding that the public’s right of access under the OML warrants broad standing). Enforcement of these transparency mandates does not depend on economic

harm. *Warren v. Giambra*, 12 Misc. 3d 650, 655 (Sup. Ct. Erie Cty. 2006); *Orange County Publications v. Council of Newburgh*, 60 A.D.2d 409 (2d Dep't 1978).

Each Petitioner therefore satisfies both the traditional injury-in-fact requirement and the public-interest exception: as longtime residents directly affected by the BMT redevelopment, their exclusion from the Task Force proceedings is precisely the harm the Open Meetings Law was designed to prevent.

POINT II

THE PETITION IS TIMELY FILED

Article 78 proceedings are governed by a four-month statute of limitations under CPLR § 217(1). The limitations period begins to run when the administrative determination becomes final and binding upon the petitioner and the petitioner is aggrieved. See *Matter of Best Payphones, Inc. v. Dept. of Info. Tech. & Telecom. of City of N.Y.*, 5 N.Y.3d 30, 34–35 (2005). Petitioners challenge the September 22, 2025 meeting of the NYC EDC Task Force, at which the Vision Plan for the BMT was approved in a closed-door session. That vote constituted the Task Force's final and conclusive act to adopt the Plan, which was published and publicly announced as final that same day.

This proceeding was filed within four months of the September 22, 2025 meeting and is therefore timely under CPLR § 217(1).

POINT III

AN ARTICLE 78 IS THE PROPER WAY TO ADDRESS INVALID PROCEDURE

Article 78 provides the procedural mechanism to review whether a public body acted unlawfully, arbitrarily, or in violation of lawful procedure. CPLR 7803(3). Courts have repeatedly recognized Article 78 as the appropriate vehicle for challenging violations of the

Open Meetings Law. *Gordon v. Vill. of Monticello*, 87 N.Y.2d 124, 127–28 (1995); *Specht v. Town of Cornwall*, 13 A.D.3d 380, 381 (2d Dep’t 2004).

POINT IV

THE TASK FORCE IS A “PUBLIC BODY” SUBJECT TO OPEN MEETINGS LAW

Open Meetings Law applies to entities that meet the statutory definition of a “public body” under Public Officers Law § 102(2). A “public body” is one that (1) consists of two or more members, (2) requires a quorum to conduct business, (3) was created by or under the authority of a governmental entity (including a public-benefit corporation), and (4) performs a governmental function for the state, an agency, or a public corporation. *Id.*

Courts interpret the Open Meetings Law broadly in light of its remedial purpose. See *Smith v. City Univ. of N.Y.*, 92 N.Y.2d 707, 713 (1999). As the Court of Appeals explained, the statute is designed to ensure that public business is conducted “in an observable manner,” and its provisions must therefore be “liberally construed.” *Id.*

The NYC EDC Task Force satisfies all statutory criteria as a “public body” to require compliance with Open Meetings Law.

First, the NYC EDC Task Force is a multi-member body, consisting of 28 members. NYC EDC, *NYC EDC Announces BMT Task Force Appointees*, <https://edc.nyc/press-release/nycedc-announces-brooklyn-marine-terminal-task-force-appointees-serve-alongsid> e-rep (last visited Oct. 20, 2025).

Second, the Task Force meetings required a quorum to conduct business and reach collective decisions. While the Task Force’s governing rules are not publicly available given their non-compliance with Open Meetings Law, the structure and operation of the group reflect a

formal decision-making process consistent with public bodies subject to the Open Meetings Law. The Task Force included a formal vote on September 22, 2025, to adopt the final Vision Plan, reflecting deliberation and approval by a representative subset of its members. Thus, the group’s ability to conduct business and adopt binding decisions necessarily rested on the presence of a quorum, satisfying this statutory element.

Third, the Task Force was established and organized by the NYC EDC, which is a public-benefit corporation. See *NYC EDC, About Us – Mission and Governance*, <https://edc.nyc> (last visited Oct. 20, 2025). Under Open Meetings Law, the term “public body” includes any entity “acting on behalf of a public corporation.” Public Officers Law § 102(2). A “public corporation” is defined to include public-benefit corporations. N.Y. Gen. Const. Law § 66(1). Further, the NYC EDC acknowledges that it is subject to transparency statutes, including the Freedom of Information Law (FOIL). See *NYC EDC, FOIL Requests*, <https://edc.nyc/foil-requests> (last visited Oct. 20, 2025). Because the Task Force was created by and acted on behalf of a public-benefit corporation, it is subject to the Open Meetings Law.

Fourth, the Task Force performed a governmental function. It was convened to shape and approve the Vision Plan for redevelopment of the BMT — a vast public waterfront site owned and controlled by the City of New York. The NYC EDC’s own materials describe the Task Force as “responsible for contributing to and approving the Vision Plan for the Brooklyn Marine Terminal.” NYC EDC, *Brooklyn Marine Terminal Task Force & Advisory Groups*, <https://edc.nyc/brooklyn-marine-terminal-task-force-advisory-groups> (last visited Oct. 20, 2025). The Task Force’s actions directly determined how public land will be used, how infrastructure will be redeveloped, and how projects will be evaluated, which are all classic governmental functions at the core of public policy and land-use planning.

The Task Force also had final decision-making authority with respect to the Vision Plan. While the Open Meetings Law does not require such authority as a prerequisite for coverage, New York courts consider it a factor when determining whether Open Meetings Law applies. In *Smith v. City Univ. of N.Y.*, the Court of Appeals explained that an entity with “officially delegated duties and organizational attributes of a substantive nature” that “possessed and exercised real and effective decision-making power” was properly deemed a public body subject to the law. 92 N.Y.2d 707, 713–15 (1999).

Here, Senator Andrew Gounardes, Vice Chair of the Task Force, publicly stated that “the Task Force has final approval over the Master Plan.” Senator Andrew Gounardes, *Reimagining the Brooklyn Marine Terminal*, Senator Andrew Gounardes, <https://www.senatorgounardes.nyc/bmt> (last visited Oct. 22, 2025). Further, this is supported by the NYC EDC Vision Plan published the same day that the Task Force voted to approve it—without modification—confirming that the Plan was finalized through the Task Force’s action. Other Task Force members have shared this understanding of the finality of the Task Force’s vote: Assemblymember Jo Anne Simon, a member of the task force, explained that “Task Force members were instructed that there would be no more changes to the plan and no community review.” *Why I Voted ‘No’ on the Brooklyn Marine Terminal Vision Plan*, <https://nyc.streetsblog.org/2025/09/29/con-why-i-voted-no-on-the-brooklyn-marine-terminal-vision-plan> (last visited Oct 20. 2025), and also Councilmember Alexa Avilés, a member of the task force, likewise noted that “a revised plan ... emerged without any conversation or review,” and that members were told “there would be no more changes to the plan and no community review.” *Joint Statement from 8 Members of the BMT Task Force Vote Against the EDC Proposal*, <https://nyassembly.gov/mem/Jo-Anne-Simon/story/115339> (last visited Oct. 20, 2025).

The interpretation of these elected officials is further confirmed by NYC EDC's subsequent statements. NYC EDC has made numerous statements indicating the plan as "final," including a scheduled public Zoom to "present the Final Vision Plan"—not to deliberate or revise, but to showcase the final plan. NYC EDC, *Presentation of the Final Vision Plan*, https://nycedc.zoom.us/meeting/register/xtaSULn_Qy6SayfaywiAJA#/registration (last visited (Oct. 20, 2025)).

Notably, NYC EDC itself acknowledges that the Vision Plan's implementation will be subject to the Open Meetings Law: an assertion that defies logic where the primary process that established the core principles, values, and use of the site—the Task Force meetings—was not in compliance with Open Meetings Law. Exhibit B, *Brooklyn Marine Terminal Vision Plan*, p.48. Claiming that the official meetings in which the Vision Plan was developed, revised, and formally approved can occur behind closed doors—while only the later implementation phase must comply with Open Meetings Law—defies logic and undermines the very transparency the law was designed to protect.

Finally, requiring NYC EDC to adhere to basic standards of openness and transparency is not only legally appropriate—it directly aligns with NYC's own formal commitments. As NYCEDC proclaims: "NYCEDC is committed to developing projects through an open and transparent process to ensure our work is held accountable to all New Yorkers." NYC EDC, *Transparency*, <https://edc.nyc/transparency> (last visited Oct. 22, 2025).

Accordingly, it should come to no surprise that New York State's own public oversight agency, the New York State Committee on Open Government, reviewed the facts of this case and confirmed that the Task Force should be considered a public body subject to the Open

Meetings Law. Exhibit A. In reaching this opinion, the Committee cites the group’s size, its formal charge, and its quorum-based voting structure. While not binding on this Court, such advisory opinions are, and should be treated as, persuasive authority. *John P. v. Whalen*, 54 N.Y.2d 89, 96 (1981) (holding that advisory opinions issued by administrative agencies—such as the New York State Committee on Open Government—are entitled to deference and considered persuasive authority, particularly when the agency has expertise in the relevant subject matter).

The NYC EDC Task Force meets every statutory criterion for classification as a “public body,” with its function, structure, and conduct place it firmly within the scope of Open Meetings Law.

POINT V

THE NYC EDC TASK FORCE VIOLATED THE OPEN MEETINGS LAW

Open Meetings Law requires meetings of public bodies be (1) open and accessible to the public, (2) adequate notice of such meetings be provided in advance, (3) minutes summarizing all actions, motions, and votes be made available within a reasonable time, and (4) documents scheduled to be discussed be publicly accessible prior to the meeting. N.Y. Pub. Off. Law §§ 103–106.

The NYC EDC Task Force failed to meet each of these core requirements.

First, the Task Force repeatedly excluded the public from observing its meetings. On September 22, 2025—the date the Vision Plan was formally approved—two Petitioners were explicitly barred from entering the building. Verified Petition ¶¶ 20–22. No remote access or livestreaming options were offered for the public to attend virtually, despite the strong public interest in the outcome of the meetings.

Second, neither NYC EDC nor the Task Force issued proper public notice of any of the meetings, as required under N.Y. Pub. Off. Law § 104. The public, including Petitioner Mazer, had no opportunity to prepare for or attend the meetings because the public were not provided proper notice.

Third, there is no evidence that meeting minutes were recorded, and none have been made publicly available, in violation of N.Y. Pub. Off. Law § 106. The law requires public bodies to document all motions, actions, and votes, and to make those records available within a reasonable time, yet no such records exist here.

Fourth, the Task Force failed to provide public access to documents that were scheduled to be discussed during the meetings. Under § 103(e), such documents—including any drafts or iterations of the Vision Plan—must be made available to the public before the meeting at which they are considered. Such public access did not occur.

POINT VI

THE VISION PLAN SHOULD BE ANNULLED

Under Public Officers Law § 107(1), courts are “empowered, in their discretion and upon good cause shown, to declare any act taken by a public body in violation of the Open Meetings Law void in whole or in part.” *Matter of Goetschius v. Bd. of Educ. of Greenburgh Eleven Union Free Sch. Dist.*, 244 A.D.2d 552, 553 (2d Dep’t 1997). In *Matter of Britt v. County of Niagara*, 82 A.D.3d 1528, 1529 (4th Dep’t 2011), the court annulled resolutions adopted in violation of the Open Meetings Law and enjoined respondents from future violations. These authorities make clear that when the public is deprived of its statutory right to open deliberations, annulment of the resulting action is both authorized and warranted.

Annulment is warranted here. The Task Force’s conduct was a textbook violation of the Open Meetings Law: over multiple meetings, there was no public notice, no published agenda, no minutes, no opportunity for attendance, and no means for the public to observe or comment. These violations were carried out by an experienced public benefit corporation, the NYC EDC, which routinely manages public projects and is presumed to know its obligations under New York transparency law.

New York courts have consistently held that where a public body acts in violation of the Open Meetings Law, annulment is an appropriate and necessary remedy to preserve the statute’s purpose. Under Public Officers Law § 107(1), courts are “empowered, in their discretion and upon good cause shown, to declare any act taken by a public body in violation of the Open Meetings Law void in whole or in part.” *Matter of Goetschius v. Bd. of Educ. of Greenburgh Eleven Union Free Sch. Dist.*, 244 A.D.2d 552, 553 (2d Dep’t 1997). In *Goetschius*, the Appellate Division upheld annulment where the record revealed a “persistent pattern of deliberate violations of the Open Meetings Law through insufficient notice, unreasonable starting times, improper convening of executive sessions, and improper exclusion of members of the public.” *Id.* at 553–54.

Likewise, in *Matter of Britt v. County of Niagara*, 82 A.D.3d 1528 (4th Dep’t 2011), the court annulled resolutions adopted in violation of the Open Meetings Law and enjoined respondents from future violations. *Id.* at 1529. The decision underscores that annulment is the appropriate remedy when the public is deprived of its statutory right to observe governmental deliberations.

Where, as here, the violations were categorical and the public was wholly excluded from every stage of the deliberative process, annulment is not merely justified but necessary to safeguard the integrity of public governance and ensure compliance with law. The September 22, 2025 Vision Plan should therefore be annulled in full.

POINT VII
DECLARATORY & INJUNCTIVE RELIEF ARE NECESSARY
TO ENSURE FUTURE COMPLIANCE

Petitioners seek declaratory relief pursuant to CPLR § 3001, as expressly authorized by N.Y. Pub. Off. Law § 107, to establish that the BMT Task Force was subject to the Open Meetings Law and was therefore required to conduct its meetings in accordance with the statute. Declaratory relief is warranted where good cause is shown, and that standard is met here.

Such a declaration will resolve an ongoing and concrete controversy between Petitioners and Respondents. The NYC EDC continues to assert that the Task Force was not subject to the Open Meetings Law and that its meetings and vote did not need to be open to the public. A judicial declaration will clarify the scope of the statute and ensure that future redevelopment processes comply with lawful transparency requirements.

Declaratory relief is proper where a justiciable controversy exists and the requested judgment will have concrete legal effect. *Thome v. Alexander & Louisa Calder Found.*, 70 A.D.3d 88, 99 (1st Dep't 2009). Here, that standard is met. Petitioners contend that the Task Force was subject to the Open Meetings Law, while Respondents dispute that obligation. This disagreement is not theoretical. NYC EDC remains responsible for implementing and advancing the BMT redevelopment and could, at any time, reconstitute a similar advisory or

decision-making group. Without a declaratory judgment, there would be no binding guidance requiring that such a group operate transparently.

Respondents may argue that the Task Force has now been disbanded and that the case is therefore moot. That position would misapprehend the purpose of declaratory and injunctive relief. Courts issue declarations where the challenged conduct is capable of repetition yet likely to evade review. The question of whether NYC EDC must comply with the Open Meetings Law when convening public-facing bodies remains unresolved and has immediate implications for any ongoing or future redevelopment efforts.

Declaratory judgments are properly used to clarify statutory rights and ensure compliance with legal obligations going forward. In *Kamchi v. Weissman*, 125 A.D.3d 142, 155–56 (2d Dep’t 2015), the Second Department granted declaratory relief to confirm that certain meetings of a religious school board violated Open Meetings Law and to require that future meetings comply with statutory transparency requirements. The court emphasized that such relief was appropriate to “guide the parties’ future conduct and prevent further violations of the statute.” The same principle applies here. A declaration that NYC EDC–convened BMT meetings are “public bodies” under Open Meetings Law will provide necessary guidance to ensure that any future planning, advisory, or implementation bodies relating to the BMT operate with public notice, open access, and appropriate record-keeping, as the law requires.

In addition, Petitioners seek injunctive relief, allowable under N.Y. Pub. Off. Law § 107, to prevent further violations of the Open Meetings Law. Section 107(1) expressly authorizes courts to issue injunctive orders where good cause is shown, and that standard is met here. Respondents deny any obligation to comply with the statute and may reconvene a similar

advisory or decision-making body in the future. In *Matter of Britt v. County of Niagara*, 82 A.D.3d 1528, 1529 (4th Dep’t 2011), the court affirmed prospective injunctive relief to ensure that any future meetings of a public body would be conducted in compliance with the law. Similar relief is appropriate here to guarantee that any successor entity involved in the redevelopment of the Brooklyn Marine Terminal operates with the transparency that the Open Meetings Law requires.

Because Respondents’ conduct violated the statute, and because NYC EDC’s continued denial of its obligations creates a real and recurring threat to the public’s right of access, both declaratory and injunctive relief are necessary to safeguard transparency going forward. The Court should declare that the Task Force was a public body subject to Open Meetings Law, that its past actions were unlawful, and that any future NYC EDC-led body performing similar functions must comply fully with the statute.

POINT VII

A STAY OF IMPLEMENTATION IS WARRANTED

Petitioners respectfully request that this Court issue a stay, pursuant to CPLR § 7805, to halt further implementation of the BMT Vision Plan until this proceeding is resolved. CPLR § 7805 authorizes a court to “grant a stay of the proceedings or of the enforcement of the determination at issue,” and courts routinely grant such relief to preserve the status quo where implementation of a potentially unlawful determination would render judicial review ineffectual or cause irreparable harm.

Under Second Department precedent, a stay is appropriate where the petitioner demonstrates (1) a likelihood of success on the merits and (2) that irreparable harm will result in

the absence of interim relief. *Matter of Greenburgh No. 11 Fed'n of Teachers v. Greenburgh No. 11 Union Free Sch. Dist.*, 112 A.D.3d 698, 699 (2d Dep't 2013); see also *Murphy v. County of Nassau*, 203 A.D.2d 339, 340 (2d Dep't 1994) (holding that CPLR 7805 stays are governed by the same equitable considerations as preliminary injunctions under CPLR 5519).

Petitioners have demonstrated a strong likelihood of success on the merits. The NYC EDC's convening of the BMT Task Force violated the Open Meetings Law by failing to provide proper notice, denying public access, and approving the Vision Plan in a closed, unrecorded vote—all actions prohibited by Pub. Off. Law §§ 100-107. The New York State Committee on Open Government has already concluded that the Task Force likely constituted a “public body” subject to these requirements.

Absent a stay, Petitioners and the public face immediate and irreparable harm. NYC EDC is actively advancing the Vision Plan through steps that include: issuing a Request for Expressions of Interest on October 2, 2025; forming a new advisory group to shape environmental review and the General Project Plan; and conducting public presentations that presume the validity of a vote now under judicial review. NYC EDC, *NYCEDC Seeks Port Operators to Propose Viable Strategies for Maritime Operations at BMT* (Oct. 18, 2025), <https://edc.nyc/press-release/nycedc-seeks-port-operators-propose-viable-strategies-maritime-operations-bmt> (last visited October 20, 2025); NYC EDC, *Brooklyn Marine Terminal Project Page*, <https://edc.nyc/project/brooklyn-marine-terminal> (last visited Oct. 20, 2025). These actions risk locking in legal, financial, and political commitments that could not easily be undone. As the Second Department cautioned, permitting implementation of a potentially unlawful determination “may be irreversible or of such nature that subsequent judgment would

be ineffectual.” *East Hampton v. Jorling*, 181 A.D.2d 749, 750 (2d Dep’t 1992), aff’d 81 N.Y.2d 921 (1993).

By contrast, a stay imposes no undue hardship on Respondents. Petitioners do not seek to halt essential operations or safety-related functions—only to maintain the status quo and prevent further entrenchment of a plan approved through unlawful means. The requested stay is narrowly tailored to the Vision Plan and its implementation steps, not to general BMT operations.

Accordingly, Petitioners respectfully request that the Court exercise its discretion under CPLR § 7805 to stay any further implementation, enforcement, or advancement of the Vision Plan pending final determination of this proceeding.

CONCLUSION

For the reasons set forth above, Petitioners respectfully request that their Verified Petition be granted in its entirety, with such other and further relief as this Court deems just and proper.

Dated: October 22, 2025

Respectfully Submitted,

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CERTIFICATION
22 NYCRR § 202.8-B
TO ARTICLE 78 OF THE CIVIL
PRACTICE LAW AND RULES

Pursuant to Part 202.8-b, the undersigned hereby certifies that this Memorandum of Law contains 4801 words and complies with the word count limit of Part 202.8-b.

Dated: October 22, 2025



Michael C. Pope, Esq.