

**DETERMINATION AND FINDINGS BY THE
LOWER MANHATTAN DEVELOPMENT CORPORATION PURSUANT TO EDPL SECTION 204
WITH RESPECT TO THE 130 LIBERTY STREET
LOCATED WITHIN THE WORLD TRADE CENTER MEMORIAL AND CULTURAL PROGRAM LAND
USE IMPROVEMENT AND CIVIC PROJECT**

The real property known as 130 Liberty Street in Manhattan is to be acquired as part of the proposed World Trade Center Memorial and Cultural Program Land Use Improvement and Civic Project (the "Project") which includes the acquisition, cleanup and deconstruction of a 41-story office building sometimes known as the Deutsche Bank building. That building was substantially damaged and became contaminated as a result of the World Trade Center ("WTC") terrorist attacks on September 11, 2001 and requires cleanup. The 130 Liberty Street parcel consists of an entire city block bounded by Washington, Liberty, Greenwich and Albany Streets in Lower Manhattan. It is located immediately south of the current southerly boundary of the WTC Site. The Project is being coordinated among the Lower Manhattan Development Corporation ("LMDC") in cooperation with its parent New York State Urban Development Corporation d/b/a Empire State Development Corporation ("ESDC"), and the Port Authority of New York and New Jersey ("PA"). Among its public purposes, the acquisition, cleanup and deconstruction of 130 Liberty Street will help restore, revitalize and enhance the lower Manhattan community, alleviate the blighted conditions at 130 Liberty Street and further enhance and support the realization of the goals of the Project.

As part of the Project, LMDC shall acquire title to the following 130 Liberty Street real property from the current owner, Deutsche Bank:

ALL that certain plot, piece or parcel of land, situate, lying and being in the borough of Manhattan, County of New York, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of Albany Street and the easterly side of Washington Street;

RUNNING THENCE northerly along the easterly side of Washington Street, 326 feet 10-1/8 inches to the southerly side of Liberty Street;

THENCE easterly along the southerly side of Liberty Street, 212 feet 1-1/2 inches to the westerly side of Greenwich Street;

THENCE southerly along the westerly side of Greenwich Street, 323 feet 7-5/8 inches to the northerly side of Albany Street;

THENCE westerly along the northerly side of Albany Street, 202 feet 3-5/8 inches to the easterly side of Washington Street, the point or place of BEGINNING.

THE FOLLOWING INTERESTS ARE EXCLUDED FROM THIS ACQUISITION: All right, title and interest of the New York City Transit Authority (the "TA") in and to the following property, if and to the extent located within the property being acquired: (a) routes, tracks, tunnels, switches, sidings, extensions, connections, (other than handrails), platforms, structures or terminals; (b) wires, conduits, pipes, ducts, telephone, signal and other communication or service facilities; (c) columns, footings, bracings, foundations and other structural members; and (d) any other devices, equipment and facilities used in connection with the operation or maintenance of the subway system; the acquisition shall nevertheless include all rights under any documents (other than the subway easement and entrance agreements that may be referred to elsewhere on any Acquisition and Damage Map) to the extent they relate to such excluded property and all stairways, passageways and doorways providing access between the adjacent subway stations and either the surface or any building located within the property being acquired.

Public and government utility facilities having a physical manifestation within the area being acquired; all recorded easements, licenses, and other agreements, if any, for such public and governmental utility facilities; and reasonable rights of access to such public, and governmental utility facilities necessary for the maintenance, operation, repair, replacement or use of the same whether or not embodied in recorded instruments.

The right, title and interest of the City of New York (the "City") to property lying within the lines of any street, avenue, or public place, as the same is shown on the present city map.

All equipment and other property of the City, including but not limited to police and fire communication lines, necessary for the maintenance of the public health and safety and having a physical manifestation within the area being acquired; all recorded easements, licenses, and other agreements, if any, for such equipment and other property of the City, and reasonable rights of access to all such equipment and other property of the City necessary for the maintenance, operation, repair, replacement or use of the same whether or not embodied in recorded instruments.

Subway easement agreements, rights of way agreements and entrance agreements whether or not of record. Below the surface of the street subway equipment and subway apparatus.

On June 2, 2004, LMDC affirmed a General Project Plan ("General Project Plan") for the Project. LMDC has also approved a Final Generic Environmental Impact Statement for the World Trade Center Memorial and Redevelopment Plan, including the Project ("FGEIS"). The General Project Plan and FGEIS are on file in LMDC's offices, One Liberty Plaza, 20th floor, New York, New York 10006.

Pursuant to Section 16(2) of the New York State Urban Development Corporation Act, (the "UDC Act"), LMDC filed the General Project Plan, including the findings required pursuant to Section 10 of the UDC Act, in the Office of the County Clerk and City of New York. LMDC has also provided copies of the General Project Plan to the Mayor of the City of New York, the Borough President of Manhattan, the Chair of City Planning Commission, and the Chair of Community Board No. 1.

On May 18, 2004, a duly noticed public hearing was held, in accordance with the provisions of Article 2 of the New York State Eminent Domain Procedure Law ("EDPL") and Sections 6 of the UDC Act, in order, among other things, to inform the public, to solicit comments from the public on the proposed acquisition of 130 Liberty Street, which is part of the Project, and to review the public use to be served by 130 Liberty Street, as part of the Project, and the general impact of the Project on the environment and residents of the locality where the Project is situated.

At the hearing, the public was provided with information concerning the public use, benefits, and purposes to be served by acquisition within the Project area, the reasons for the selection of 130 Liberty Street, and the general effect of the proposed acquisition as part of the Project on the environment and residents of the locality. This information was provided by representatives of LMDC, elaborated upon by a letter from a City Council member and further expanded upon by several members of the public. Copies of the General Project Plan, the Executive Summary of the FGEIS and the FGEIS were made available at the public hearing. The hearing provided an opportunity for the public to comment on the acquisition of 130 Liberty Street, the Project and the public use, benefits, and purposes to be served thereby. The record of the hearing was concluded on May 18, 2004.

All testimony and written comments received at the hearing have been reviewed, made a part of the record, and afforded full consideration. LMDC has also considered and relied upon the facts and analyses set forth in the FGEIS as a basis for its determination and findings.

Pursuant to EDPL § 204, and having given due consideration to the complete hearing record, which includes, among other things, all documents submitted and all public comments, LMDC makes the following findings and determination concerning 130 Liberty Street and the Project:

The Public Use, Benefit, and Purpose to be Served by The Acquisition of 130 Liberty Street As Part Of The Project [EDPL § 204(B)(1)]

As part of the Project, the acquisition will permit the removal of the severely damaged Deutsche Bank building at 130 Liberty Street which became contaminated on September 11, 2001 when dust and debris from the collapse of nearby buildings on the WTC broke approximately 1700 windows of that building and created a 15-story gash on its north face. Since then, repeated media coverage of mold and other contamination in the building have served to stigmatize 130 Liberty

Street. For over a year, the Deutsche Bank building has been shrouded in dark netting which casts a foreboding specter over the WTC Site and adjoining community of Lower Manhattan. As such, it serves as a constant and vivid reminder of the tragic events of September 11, 2001 and thereby hampers the economic redevelopment and revitalization of the WTC Site and the surrounding community and the creation of an appropriate Memorial for the victims of the September 11th terrorists attacks.

Before deconstruction proceeds, the Deutsche Bank building at 130 Liberty Street would be decontaminated so as to avoid the release of possible contaminants into the local community. The building will not be imploded. Previously used methodologies and techniques for the deconstruction of high rise buildings in Manhattan will be observed so as to avoid the release of debris, dust and contamination from the building as deconstruction proceeds.

The acquisition, cleanup and deconstruction of 130 Liberty Street will eliminate the substandard and deteriorated conditions therein and will facilitate the economic and emotional rebuilding of the Lower Manhattan, which will aid its sound growth and redevelopment.

The acquisition, cleanup and deconstruction of 130 Liberty Street will allow for its re-use as open space and as a site for a future high rise building consonant with the Project.

The cleanup and deconstruction of 130 Liberty Street will create jobs during the deconstruction phase as well as create space for a first class building and open space in order to assist in permitting the Project's realization, revitalization and redevelopment. This will assist in the recovery of the area and will yield associated economic, social, aesthetic and other public benefits.

The acquisition, cleanup and deconstruction of 130 Liberty Street will further facilitate the creation of a World Trade Center Memorial and Cultural Program that will help satisfy the need for the physical, financial and emotional recovery following the attacks of September 11th.

Location of 130 Liberty Street and Reasons for Selection of that Location [EDPL § 204(B)(2)]

The description of 130 Liberty Street is set forth in detail above and is located immediately south of the present WTC Site. There are no occupants or tenants in possession of it; hence, no one needs to be dislocated or relocated. The condition of the Deutsche Bank building at 130 Liberty Street and the reasons for its selection are also set forth above. By proceeding with the cleanup and deconstruction, LMDC will be in a position, after a future public hearing and after compliance with all other legal requirements, to make 130 Liberty Street available for purposes compatible with the creation of the World Trade Center Memorial and Cultural Program and to aid in the recovery of the locality. The blighted building on 130 Liberty Street is also to be removed for the economic, social redevelopment and revitalization of the adjacent WTC to proceed. The sooner 130 Liberty Street is acquired, decontaminated and the deconstruction of the Deutsche Bank building thereon proceeds, the sooner the cultural and economic revitalization of Lower Manhattan will occur.

General Effect of 130 Liberty Street Acquisition on the Environment [EDPL § 204(B)(3)]

The general effects on the environment are beneficial in that a damaged and contaminated building will be removed which is now shrouded in dark netting that casts an ominous pall over a significant segment of Lower Manhattan, all of the WTC Site and much of the surrounding community. The acquisition of 130 Liberty Street is an important element of the realizing the public purposes of the Project. Among other things, the FGEIS details the particular impact of 130 Liberty Street on the environment and the Project. 130 Liberty Street is also part of the rehabilitation necessary in order to eliminate the substandard and/or insanitary conditions that currently exist as a result of the tragic September 11, 2001 attacks on the WTC and to assist in the sound growth and redevelopment of Lower Manhattan and the entire City of New York.

The proposed acquisition, cleanup and deconstruction of 130 Liberty Street will also help support the conditions for recovery of office and residential occupancy in Lower Manhattan after the loss of the WTC complex.

Deconstruction of the building at 130 Liberty Street will be somewhat disruptive to the surrounding area. However, in consideration of the overall temporary effects of this disruption and the noise attenuating steps to be followed, these effects should not cause a significant and prolonged adverse general environmental impact on the local community.

General Effect of the Proposed Acquisition, Cleanup and Deconstruction of 130 Liberty Street on the Residents of the Locality [EDPL § 204(B)(3)]

As described above, the proposal would have substantial beneficial environmental, emotional, aesthetic and social benefits for the residents of the City as a whole, as well as the commercial and residential occupants in the locality.

Other Relevant Factors [EDPL § 204(B)(4)]

At the public hearing, oral and written public comments were received from the public, the PA and representatives of the public. City Council member Alan Gerson submitted a letter stating that the Deutsche Bank building has been a major health and environmental concern to the surrounding community as a result of 9/11, that all applicable codes and regulations should be complied with in its deconstruction and that the local community should be further involved.

The PA submitted a letter in support of the proposed acquisition. None of the seven speakers at the public hearing objected to or questioned the public use, benefit or purpose of the proposed acquisition or the proposed deconstruction of the Deutsche Bank building or the Project, but they expressed varying degrees of concern about the extent and amount of contamination in the Deutsche Bank building and the protection of persons in the area during the deconstruction process.

All comments have been given due consideration. There is no further environmental mitigation required in connection with the Project.

DETERMINATION

Based on due consideration of the record and the foregoing findings, it is determined that LMDC should exercise its power of condemnation in order to implement the acquisition of 130 Liberty Street, New York, New York as part of a Land Use Improvement project and to promote the purposes of the Project.

Copies of this Determination and Findings of the Lower Manhattan Development Corporation are available and will be forwarded without cost and, upon request, by writing to:

Lower Manhattan Development Corporation
Attn: Comments WTC Memorial and Cultural Program
One Liberty Plaza, 20th Floor
New York, New York 10006

ATTENTION: ANY PERSON WHO WISHES TO SEEK JUDICIAL REVIEW OF THIS DETERMINATION AND FINDINGS, OR WHO CLAIMS TO BE AGGRIEVED BY SUCH DETERMINATION AND FINDINGS AND WISHES TO CHALLENGE SAME, MUST DO SO, IF AT ALL, (1) BY DULY COMMENCING A LEGAL PROCEEDING IN THE APPELLATE DIVISION, FIRST DEPARTMENT, 27 MADISON AVENUE, NEW YORK, NEW YORK, NO LATER THAN JULY 9, 2004, OTHERWISE ANY SUCH CHALLENGE OR JUDICIAL REVIEW MAY BE TIME BARRED, AND (2) BY DULY SERVING A DEMAND UPON THE LOWER MANHATTAN DEVELOPMENT CORPORATION TO FILE THE RECORD UNDERLYING THIS DETERMINATION AND FINDINGS. THE APPELLATE DIVISION MAY CONSIDER THE PUBLIC USE, BENEFIT OR PURPOSE TO BE SERVED BY THE PROPOSED ACQUISITION AND OTHER MATTERS SET FORTH IN NEW YORK EMINENT DOMAIN PROCEDURE LAW SECTION 207. ANYONE WISHING TO CHALLENGE THE DETERMINATION AND FINDINGS IS ADVISED TO CONSULT AN ATTORNEY PROMPTLY.