

September 8, 2015

Village Clerk
222 Grace Church Street
Suite 120
Port Chester, NY 10573

Re: **UNITED HOSPITAL REDEVELOPMENT**
Draft Environmental Impact Statement

Greetings:

We represent the Sustainable Port Chester Alliance (“SPCA”), a coalition of community organizations and representatives and labor unions that employ members who live and work in Westchester County. The SPCA members are deeply concerned that the Draft Environmental Impact Statement (“DEIS”) for the United Hospital Redevelopment (“the Project”) fails to accurately set forth the likely negative impact that the Project will have on the socio-economic character of Westchester in general and the Village of Port Chester in particular. The DEIS also fails to provide any assurances that the benefits of the Project will flow to the residents of Port Chester. We submit that the DEIS:

1. incorporates an economic model that is frequently criticized for inflating the economic benefits of proposed projects as part of the selling job necessary to obtain publicly funded tax and other economic benefits;
2. grossly inflates the number of jobs and the labor income to be paid to holders of construction and permanent jobs that will be generated by the Project;
3. fails to provide for a Community Benefits Agreement that benefits Port Chester and its residents;
4. ignores the negative impact on the working middle class in Westchester County and Port Chester that will arise from paying minimal wages to the non-union construction workers that are apparently to be employed on the Project,
5. cloaks the enormous profits that will flow to the Developers of the Project based upon their payment of substandard wages to the workers who construct and operate the Project, and
6. ignores a troubling history of Project Developer Starwood Capital’s employment of irresponsible contractors for its projects who engage in unlawful or unsafe conduct.

The members of the SPCA include Don Bosco Workers, Inc.; J. Bruce Baker, Pastor, All Souls Parish; Port Chester Teachers Association; Building and Construction Trades Council of Westchester and Putnam Counties; Blanca Lopez, Port Chester Resident and Affordable Housing Advocate; Communication Workers of America Local 1103, and Local 46 Metallic Lathers and

Reinforcing Ironworkers. These individuals and organizations represent members who live and work in Port Chester and other communities in Westchester and its surrounding counties. They are active citizens and taxpayers who oppose the use of taxpayer money to support construction projects like the Project that contribute to the current assault on working class wages.

The reality is that working people in the United States have seen frozen or falling wages for decades and the American Dream is no longer a reality for millions of hard-working Americans. The Project, if permitted to be built by workers who are paid wages that are significantly lower than the prevailing wages that have been established in Westchester County for construction and building maintenance workers, will negatively impact the prevailing wages and make it more difficult for working men and women in those unions to maintain the wages and benefits that enable them to remain proud working class members of the middle class. The utterly unrealistic labor incomes assumed from the jobs predicted to be in place as of 2018 demonstrate that the DEIS has not taken a hard look at the real impact this Project will have on Port Chester.

I. THE ECONOMIC BENEFITS TO PORT CHESTER THAT THE PROJECT PROMISES RELY UPON AN ECONOMIC FORECASTING MODEL THAT HAS BEEN DESCRIBED AS A TOOL USED BY DEVELOPERS TO SELL OVERVALUED PROJECTS TO LOCAL COMMUNITIES

The Project uses an economic modeling system known as IMPLAN (Impact M for Planning), an input-output modeling system used to estimate the economic and fiscal impacts of investments and/or changes in industry and to forecast tax revenue and employment generation. IMPLAN was originally developed by the USDA Forest Service. A product of the Rural Development Act of 1972, IMPLAN is now operated by the Minnesota IMPLAN Group. The Employment Compensation and Proprietor Income calculations under IMPLAN assume all payroll costs, including payroll taxes and the value of benefits available to employees. This means that the total labor cost calculations presented in the DEIS are not limited to wages but also include the payroll taxes and the costs of any employment benefits paid to workers on the Project. It is also important to note that the construction employment expenses assume full-time employees working a 2,080 hour year. It is thus possible to calculate the average all-in cost of construction wages assumed by the Developers from the information that is set forth in the DEIS.

On May 14, 2013, the Carolina Journal described IMPLAN as “the model of choice for special interests seeking public largesse.” http://www.carolinajournal.com/articles/display_story.html?id=10149 (last viewed, August 31, 2015). IMPLAN has been utilized by the owners of professional sports teams to repeatedly promise favorable economic impacts that will accrue as the result of billion dollar sports stadiums built at public expense that never actually materialize. Economist Donald E. Coffin reported that IMPLAN is a “model” designed to generate large impact numbers to please a client who wants to lobby someone:

Those of us who do sports economics and urban economics seriously are almost constantly having to push back against those kinds of studies. The single most disturbing aspect of the IMPLAN model for local economic analysis is the wildly unreasonable

values th[ey] have for multiplier effects (compared, for example, with the BEA's Regional Input-Output Modeling System). IMPLAN is exactly what you describe it as, a "model" designed to generate large impact numbers to please a client who wants to lobby someone.

Id.

In a February 1, 2008 article entitled "The Number Factory" concerning IMPLAN, the author noted that while IMPLAN is not itself committed to advocacy for particular projects, its users typically were and could manipulate the model based on the chosen inputs:

But the numbers that Implan yields for clients—the number of jobs that ethanol production is projected to bring to a state, the dollars of spending that a casino is expected to generate in the local economy—those numbers are hardly ever neutral. [Implan] isn't in the advocacy business, but its clients are: government agencies, nonprofits, industry associations, independent consultants. They can use Implan software and data to generate numbers that support any side of an argument—and get wildly varying results depending on who's clicking the mouse.

<http://tcbmag.com/Lists-and-Research/Research/The-Number-Factory> (last viewed, August 31, 2015).

Port Chester is being asked to provide millions of dollars of public subsidy based on the positive economic projects set forth in the DEIS which, in turn, is based solely on the IMPLAN model without any demonstration that these economics are firmly grounded in reality.

II. THE DEIS OVERSTATES THE DIRECT, INDIRECT AND INDUCED ECONOMIC BENEFITS TO THE COMMUNITY FROM THE PROJECT

The DEIS uses IMPLAN to forecast economic benefits to the Port Chester community based upon overstated construction costs that are then projected to trigger additional indirect and induced economic benefits that multiply the impact of the initial direct expenditures for labor and goods. If the DEIS overstates the direct economic impact of the Project, the indirect and induced economic benefits resulting from the direct economic benefits are necessarily overstated as well.

The DEIS reports that the Project will generate 1,075 construction jobs which will produce labor income of \$116,000,000.¹ (DEIS, Table III-F-19, at III-F-30). Using those assumed facts, and knowing that IMPLAN assumes that one job equals one year of employment for 2,080 hours, the DEIS projects a total of approximately 2,236,000 hours of construction work

¹ Labor income is defined in Implan as all forms of employment income, including Employee Compensation (wages and benefits) and payments received by self-employed individuals and unincorporated business owners.

to build the Project (1,075 jobs x 2,080 hours = 2,236,000). The Project's assumed average hourly labor income including payroll taxes and the costs of any employment benefits for construction workers can also be calculated from the DEIS information as \$51.88 ($\$116,000,000/2,236,000 \text{ hours} = \51.88).

To forecast labor costs and hours, the IMPLAN database utilizes the BLS Quarterly Census of Employment and Wages (QCEW) data on the county-level industry structure. The BLS QCEW for First Quarter of 2014 construction wage calculations for Westchester County assume a weekly wage of \$1,277 and an hourly wage of \$31.92 per hour. If the Developers of the Project are planning on paying hourly wages of \$31.92, that means that they anticipate employing non-union labor because the average prevailing construction union job in Westchester County is approximately \$73.25 per hour. The DEIS thus assumes that the labor income will be only 43% of the prevailing wage for construction employment in Westchester. Moreover, the record is clear that non-union construction workers are commonly mistreated and do not receive wages anywhere near the BLS QCEW assumed rate which includes the salaries paid to construction managers and executives as well as construction workers.

There are ample reports on the actual circumstances facing non-union construction workers in New York and its surrounding counties. They are frequent victims of wage theft; they are deprived of legally mandated overtime payments; and are uniformly paid far less than the wages assumed by IMPLAN. The experience of members of the SPCA is that \$15 to \$25 are the wage rates actually paid to non-union construction workers in the New York City area. These workers also receive no health or other insurance benefits, no pension and are frequently deprived of workers compensation insurance as well.

If, as is likely, the Project actually pays construction wages at \$25 per hour, or less, without any benefits, the actual amount paid as labor income on the project assuming 2,225,000 work hours is \$55,625,000 or less than one-half of the promised \$116,000,000 in labor income benefit to the community. The indirect and induced economic benefits from the Project will be overstated as well. The real economic benefit from the Project will go to the Developers who will pocket \$61 million, the difference between actual construction labor income of \$55 million and the \$116 million in labor income promised in the DEIS.

The projected 944 jobs during the operations period beginning in 2018 is also highly suspect. The DEIS states that there will be 944 direct jobs created in the Project with labor Income of \$157,097,042. (DEIS Section III F-31.) The DEIS predicts that 225 of these jobs are in stores and food and beverage establishments and 68 jobs are in the proposed limited service hotel, all of which are relatively low wage environments. The average labor income of the 944 jobs is therefore projected to be \$166,416 per year. If the retail, food, beverage and hotel jobs averaged \$40,000 a year in labor income, the balance of these projected 944 jobs would have to average \$233,313 per year to meet the projected labor income of \$157 million, an assumption that defies common sense. While it is possible, and even likely, that some of the newly employed medical professionals could be highly paid, the notion that the average labor income for general office and medical jobs will exceed \$230,000 is not supported by any analysis in the DEIS. To

put that in a real world context, the average household income of Westchester County as reported by the County is \$79,585. (<http://planning.westchestergov.com/images/stories/Census/medianincomeacs05-09.pdf> (last viewed, September 2, 2015). If the direct labor income for the jobs during the operations period is not reliably stated, the predicted indirect and induced labor income is also unreliable.

III. THE DEIS IGNORES THE NEGATIVE IMPACT ON THE WORKING MIDDLE CLASS IN WESTCHESTER COUNTY THAT WILL ARISE FROM PAYING MINIMAL WAGES TO THE NON-UNION CONSTRUCTION WORKERS THAT ARE APPARENTLY TO BE EMPLOYED TO BUILD THE PROJECT

The DEIS cannot be considered in a vacuum. The reality is that working middle class union members are being squeezed by powerful economic forces that threaten the very idea of a middle class in America. The median family saw its income fall by 8% between 2000 and 2012. But the basic pillars of middle-class security – child care, housing, and health care, as well as setting aside modest savings for retirement and college – cost an alarming \$10,600 more in 2012 than it did in 2000. The combination of falling wages and ever more expensive housing, medical and tuition costs have resulted in a sharp drop in the number of Americans who self-identify as members of America’s middle class. Only 51% of Americans say they are in the middle or upper-middle class, down from the 61% average of Americans who self-identified as members of the middle or upper-middle class from 2000 through 2008.

The DEIS does not discuss the negative impact on working middle class wages in Westchester County that will arise from converting well-paid union construction and building maintenance jobs with health benefits and a pension to low paid jobs that have no benefits at all. The DEIS does not discuss the impact on future employment in the construction industry if large, premium jobs like the Project are built at labor rates that are only a fraction of the prevailing wages. The DEIS does not estimate the socio-economic impact of falling wages and the decline in living standards that will accompany any decrease in average construction and building maintenance wages in Westchester County or Port Chester.

The DEIS is also silent on whether the Project will result in any good paying jobs with benefits being held by residents of Port Chester. Port Chester has the second lowest average family income among the 44 cities, towns and villages of Westchester County at \$51,562. Its residents need the assurance of a community partnership agreement in which the residents of Port Chester have the ability to obtain a substantial portion of any good paying jobs that are in fact created by the Project. The Project should not be approved if the Developers plan on using local residents for low-paid work, such as security guards, and saving the better paying work for individuals who are not part of this community. The DEIS does not consider whether the Project will lower or increase the average household income in Port Chester and it should not be approved until this potential negative impact on the economy and socio-economic status of Port Chester is addressed.

The DEIS does not fulfill its obligation to identify and discuss all significant environmental issues related to the Project because it ignores the negative socio-economic impact the Project's low construction industry wages will have upon Westchester County and Port Chester.

IV. THE DEIS CLOAKS THE ENORMOUS PROFITS THAT WILL FLOW TO THE DEVELOPERS OF THE PROJECT DUE TO THEIR PAYMENT OF SUBSTANDARD WAGES TO THE WORKERS WHO CONSTRUCT THE PROJECT

The citizens and political leadership of Port Chester are entitled to know if the developers of the project are earning super profits from the Project. The DEIS purports to show the amount of money that the Project will expend on labor income for the construction of the Project. The DEIS, however, vastly overstates the amount of money that will be paid to the construction workers employed on the project. The DEIS should, at a minimum, be amended to reflect the actual amount of money to be realized as construction labor income and operating jobs for the Project and to show whether the savings from the predicted labor income are going back to the developer as additional and undisclosed profits.

The issue of undisclosed profits to the Developer from the Project is highly relevant in determining whether the Project needs public subsidies in order to be economically feasible, especially where the Developer is requesting substantial sacrifices from Port Chester in the form of additional zoning and a reduction in taxes.

V. THE DEIS FAILS TO TAKE A HARD LOOK AT THE SOCIO-ECONOMIC IMPACT ON PORT CHESTER AND WESTCHESTER ARISING FROM LOW CONSTRUCTION WAGES FOR WORK ON THE PROJECT

The Court of Appeals decision in *Chinese Staff & Workers Ass'n v. New York*, 68 N.Y.2d 359 (1986) redefined the concept of socioeconomic impact under the State Environmental and Quality Review Act ("SEQRA"). The Court recognized that the term "environment" includes issues of "community character" which, we submit, includes the socio-economic status of the individuals who compose the community being impacted by a proposed project. SEQRA defines the environment as "the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution, or growth, and existing community or neighborhood character." (ECL 8-0105[6]; [emphasis supplied])." 68 N.Y.2d at 365. The Court stated:

Thus, the impact that a project may have on population patterns or existing community character, with or without a separate impact on the physical environment, is a relevant concern in an environmental analysis since the statute includes these concerns as elements of the environment. That these factors might generally be regarded as social or economic is irrelevant in view of this explicit definition. By their express terms,

therefore, both SEQRA and CEQR require a lead agency to consider more than impacts upon the physical environment in determining whether to require the preparation of an EIS. In sum, population patterns and neighborhood character are physical conditions of the environment under SEQRA and CEQR regardless of whether there is any impact on the physical environment.

68 N.Y. 2d at 366 (Emphasis supplied; footnotes omitted).

The DEIS fails to take any look at all (let alone the required “hard look”) at the economic disruption to middle class residents of Westchester and Port Chester arising from the Project’s failure to pay prevailing construction wages or even the construction wages assumed in the DEIS. Instead, the DEIS states that no mitigation or review is necessary since the Project assumes new employment will be generated:

Proposed Mitigation

The project is anticipated to generate new employment opportunities during both construction and operation, therefore no significant adverse employment impacts are anticipated and no mitigation is required.

(*Id.* at F-33.)

The DEIS conclusion that “no significant adverse employment impacts are anticipated and no mitigation is required” entirely fails to consider the impact on the working middle class who live in and near the area of the Project of very low non-union construction wages and no health insurance or pension benefits being paid to workers employed to build or operate the Project.

VI. PROJECT DEVELOPER STARWOOD CAPITAL HAS A HISTORY OF EMPLOYING IRRESPONSIBLE CONTRACTORS ON ITS PROJECTS

Certain construction contractors and subcontractors, or their principals, employed on Starwood Capital projects have a history of unsavory, unsafe and even illegal activity that should concern Port Chester and is not addressed in the DEIS.

A. Starwood Capital Group Use of Irresponsible Contractors

- **Representative of Icon NY/NJ Jailed for Embezzling Public Funds, Pled Guilty to Extortion, Previously Debarred from Public Works in NJ**
 - Icon NY/NJ was employed as a general contractor on Starwood’s Hilton Garden Inn at 237 West 54th St from October 2011 through January 2013, according to the NYC Department of Buildings.

- **Icon Representative Guilty of Extortionate Collection of Credit:** In 2009, Manny Bana, representative of Icon NY/NJ, along with 14 others, were charged by the Brooklyn District Attorney with extortion, racketeering, bank fraud, drug trafficking and illegal gambling. In April 2012, Bana pled guilty to extortionate collection of credit in connection with the charges and was sentenced to 12 months probation in connection with the indictment and ordered to pay \$12,500 in restitution.
- **Icon Representative Jailed for Embezzling Public Funds:** Manny Bana was charged with embezzling nearly \$1 million in public funds earmarked for school construction and renovation projects in Edison Township, NJ in 2005. As a result, in 2006 Bana was sentenced to five years in State prison.
- **Icon Representative Previously Debarred by the State of NJ:** According to the NJ Attorney General, in connection with the embezzlement charges, Bana and his previous firm Icon Construction Corp. were also debarred on March 19, 2004 by the New Jersey Schools Construction Corporation and the State Division of Property Management and Construction from receiving public works contracts in New Jersey. Bana and Icon are no longer on the State's debarred contractor list.
- **World Class Demolition Denied License by NYC Business Integrity Commission**
 - World Class Demolition was employed on Starwood's Stella Tower development 425-435 West 50th St. World Class was also employed on Starwood's Walker Tower development at 210 West 18th St.
 - **Business Integrity Commission Background**
 - The **Business Integrity Commission (BIC)** regulates the private carting industry, NYC's public wholesale markets, and the shipboard gambling industry.
 - BIC provides licenses and registrations to business operating in these industries after conducting background investigations of the applicant business and its principals' good character, honesty and integrity. BIC also conducts criminal investigations in the businesses it regulates.
 - **World Class Demolition Denied License by BIC**
 - In 2008, the BIC denied World Class Demolition's application to operate as a Trade Waste Business because the company and its principals "lack good character, honesty and integrity." Specifically, the BIC stated that World Class' application was denied because:
 - The applicants provided false or misleading information to the BIC;

- The applicants were affiliated with two other companies previously denied BIC licenses because they lacked good character, honesty and integrity;
 - The applicants engaged in numerous instances of unregistered trade waste removal activity;
 - The applicants failed to pay taxes and other obligations for which judgments have been entered.
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- **FJM-Ferro Debarred from Public Works in NYS; Executive Arrested for Allegedly Stealing Public Funds and Violating Prevailing Wage Laws**
 - FJM-Ferro Inc. was employed as a construction contractor on Starwood's Stella Tower development at 425-435 West 50th St.
 - FJM-Ferro and its Chief Operating Officer Joseph Casucci are currently debarred from public works projects in New York State until 2016.
 - In 2005, FJM-Ferro's Chief Operating Officer, Joseph Casucci, was arrested by then NYS Attorney General Andrew Cuomo for allegedly participating in a scheme to steal over \$450,000 in State and New York City funds by cheating employees out of legal wages.
 - Public works contracts, which are funded with taxpayer money, require contractors to submit certified weekly payroll reports to verify that the employers have paid legally mandated rates and benefits before they can receive payment. FJM-Ferro's Joseph Casucci allegedly developed a scheme to make it look as though his company was paying legal wages when they were in fact stealing from their workers and public funds.
 - According to the NYS Department of Labor, FJM-Ferro and Casucci entered into a plea agreement for the falsification of payroll records with the NYS Supreme Court to settle these charges.
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- **JM3 Construction Sued for Willfully Violating Federal and State Overtime Laws and Prevailing Wage Laws and for a Worker Injury**
 - JM3 Construction was employed as a construction contractor on **Starwood's Stella Tower at 425-435 West 50th St, 1 Hotel project at 1412 6th Ave and Walker Tower at 210 West 18th St.**
 - In 2013, JM3 employees joined together to file a class action lawsuit against the company alleging serious and willfully violations of state and federal overtime and prevailing wage laws.
 - According to the suit, JM3 allegedly:
 - failed to pay the legally-required NJ and NY prevailing wage rates and supplemental benefits on public works projects;
 - failed to pay the legally-required overtime premium rate for more than 40 hours worked in a week -- in spite of the fact that one worker reported working up to 79 hours a week;
 - paid employees in cash off the books.

- The matter was settled for undisclosed terms without the substantive claims being adjudicated.
- In 2014, JM3 was sued by a subcontracted employee who was injured on another JM3 jobsite.
- In January 2015 the case was discontinued without prejudice, without costs to either party as to the other.
- **RCI Plumbing Corp. Sued for Willfully Violating Federal and State Overtime Laws**
 - RCI Plumbing Corp. is currently employed as a construction contractor on Starwood's Stella Tower at 425-435 West 50th St, the 1 Hotel project at 1412 6th Ave, and 60/90 Furman Street, the Pierhouse at BBP. RCI was previously employed at Starwood's Walker Tower at 210 West 18th St.
 - In 2010, two RCI employees sued the company for allegedly willfully violating overtime laws and cheating their employees out of legally-required overtime pay.
 - In 2013, the matter settled for \$250,000 without the substance of Plaintiffs' claims ever being adjudicated.
- **Greg's Iron Work, Inc. DBA Ferro Fabricators Sued for Willfully Violating Federal and State Overtime Laws, Discrimination and Sexual Harassment**
 - Greg's Iron Work, Inc. DBA Ferro Fabricators was employed as a contractor on Starwood's One Hotel at 1412 6th Ave.
 - In 2013, an employee of Greg's Iron Work sued the company for allegedly forcing him to work more than 12 hours a day and 40 hours a week without receiving legally-required overtime pay.
 - Additionally, the employee alleges that he was discriminated against on the basis of his ethnicity and sexual orientation, and that he was eventually terminated in response to complaining about this harassment.
 - The case was settled in February, 2014 without the substance of Plaintiff's claims ever being adjudicated.
- **Chief Fire Prevention and Mechanical Corp. Sued in Class Action Suit for Unpaid Wages and Overtime and Settled Overtime Wage Violationsⁱ**
 - Chief Fire was employed as a contractor at 1412 6th Ave, Starwood's One Hotel.
 - In May 2010, an employee of Chief Fire initiated a class action lawsuit for unpaid overtime and minimum wage violations from his time of employment with Chief Fire, 2005-2007.
 - In December 2010, the parties agreed to a settlement of the employee's claims.

- Separately, The U.S. Department of Labor found Overtime wage violations from 2/13/2008 to 7/31/2010. The company paid \$4,888.05 in back wages.
- **Rotavele Elevator Company has been sued 3 times for injuries from elevator accidents**
 - Rotavele was employed by Starwood on 1412 6th Avenue between 2012 and 2013.
 - In 2013, two police officers were in an elevator operated by Rotavele at another site when it allegedly “plummeted four floors” and injured them.ⁱⁱ They both sued Rotavele in 2014.
 - Similarly, an elevator abruptly fell several stories with plaintiff Sean McCreery inside, resulting in serious injuries. In 2014, McCreery sued Rotavele and property owner 451 Lexington Realty LLC. The case is still active.
 - In 2009, a worker sued Rotavele when he was allegedly injured by an elevator falling while he was working on it. The complaint was dismissed.
- **Spring Scaffolding named as Third Party Defendant in Worker Injury Case and Faces Criminal Charges**
 - Spring Scaffolding currently has a valid work permit at 233 Spring Street.
 - An employee was allegedly injured by a saw while working on another site for Spring Scaffolding.
 - In 2010, the employee sued Jet Equipment, and Spring Scaffolding was later named in the case as a third party defendant. It was settled out of court and the case was dismissed with prejudice.
 - On January 13, 2015, 5 criminal charges were filed against Spring Scaffolding. They are scheduled to appear in court on April 1, 2015.
- **Bayport Construction Violates Wage and Hour Law**
 - Bayport has had a valid work permit for Starwood project The Pierhouse at 60 Furman Street since December 2014.
 - In 2009, Bayport was found to have violated Federal wage and hour laws 217 times.
 - Bayport paid backpay to 100 workers totaling \$471,644.

B. Starwood Capital Group NYC Construction Health and Safety Concerns

- **The Stella Tower at 425-435 West 50th St:** Luxury condo conversion was developed by Starwood Capital Group, JDS Development Group and Property Markets Group.
 - **2 Worker Accidents in One Month:**
 - On February 21, 2014, a serious construction accident occurred when a worker with no harness fell from a scaffold that allegedly had no

- rails. The NYC Department of Buildings issued a Partial Stop Work Order in response to the accident on February 27, 2014. The Partial Stop Work Order was rescinded on March 5, 2014.
 - On March, 13, 2014 a second worker was reportedly injured on the site.
 - **Multiple OSHA Violations and Fines**
 - In response to the first accident, OSHA issued two serious safety violations against JM3 Construction at Starwood's Stella Tower on April 8th, 2014 and imposed fined of \$6,300. These fines were later reduced to \$3,150. OSHA defines a serious violation as one that could “result in death or serious physical harm.”
 - **Worker Injury Leads to Stop Work Order and DOB Fines**
 - Responding to a worker fall and injury, The DOB issued a partial stop work order on 10/8/2014. An additional Partial Stop Work Order was issued on 10/9/14 for failure to have permit for façade work and not having a Site Safety Plan.
 - Both Stop Work Orders were rescinded on 10/29/14.
 - Subcontractor Alfred Murphy was fined \$1,600 for failing to have the proper hooks, life lines and tiebacks in place.
 - Subcontractor S&E Scaffold was fined \$2,600 for failure to safeguard all persons and property affected by construction operations.
- **Walker Tower at 210 West 18th St:** Luxury condo conversion financed by Starwood and completed in 2013. Starwood’s 210 West 18th St has experienced multiple worker accidents and two separate OSHA violations for unsafe activity since 2011.
 - **Multiple OSHA Violations and Fines:**
 - On 5/10/12, OSHA opened an inspection that led to fines of \$3,500 imposed on contractor World Class Demolition for dangerous construction practices after a worker fell and was injured when a partial floor collapsed occurred on the 20th floor. The worker had no safe anchor point for his safety harness. The DOB issued also issued a safety violation in response.
 - On 6/8/12, OSHA opened an inspection that led to fines of \$1,200 imposed of contractor J. United Electrical Contracting Corp for safety violations. The fine was subsequently reduced to \$600.
 - On 6/8/12, OSHA opened an inspection that led to fines of \$6,300 imposed against contractor JM3 Construction for two serious safety violations at the site. The fine was subsequently reduced to \$3,150.
 - On 6/8/12, OSHA opened an inspection that led to fines of \$1,600 imposed against contractor I.J. Peiser and Sons for a serious safety violation on the site. The fine was subsequently reduced to \$800.
 - **Additional Worker Accidents:**

- On 9/20/11 a steel beam slipped and crushed a worker's leg. The DOB issued a Partial Stop Work Order at the site in response.
 - On 1/2/13, the DOB reported that an elevator at the site dropped causing worker injuries. The DOB issued a safety violation.
 - **NYC Department of Buildings (DOB) Violations:**
 - A total of 18 DOB violations and more than \$18,000 in New York City Department of Buildings fines for unsafe construction activity were issued for this job since 2011.
 - Between 2011 and 2012 the project was shut down partially on at least 4 occasions for dangerous construction activity.

- **237 West 54th St:** Hilton Garden Inn developed by a Joint Venture partnership including Starwood Capital and completed in 2013.
 - **NYC DOB Violations:**
 - This project had been shut down, fully or partially, by the NYC Department of Buildings (DOB) on at least nine separate occasions since August 2011.
 - In one incident, the DOB shut down the site when a piece of a steel beam fell from the 30th floor of the project onto a neighboring building. Two months later, the DOB issued another Stop Work Order when a piece of iron fell from the building.
 - The DOB shut down the site multiple times for failing to protect workers and the public with proper safety netting on the site, for undermining the foundation of a neighboring property and other dangerous activities.
 - **Project Shut Down Due to Worker Accident:**
 - The Department of Buildings issued a Partial Stop Work Order on May 21, 2012 after a worker was injured while pouring concrete due to a lack of overhead protection.

- **1 Hotel at 1412 6th Ave:** Luxury hotel conversion currently being developed by Starwood Capital.
 - **NYC Department of Buildings Violation:**
 - On 10/14/13, a piece of masonry fell onto the sidewalk and struck a pedestrian. The DOB issued a violation for failing to safeguard all people and property affected by construction.
 - This project was partially shut down by the NYC Department of Buildings on at least three occasions since 2012 for unsafe construction activity. Most recently, on May 10, 2014, an inspection revealed that concrete was being poured after hours without a variance permit by subcontractor Spring Line Corp. A Partial Stop Work order was issued on May 12, 2014. Work resumed on June 12, 2014 when the permit was acquired. A \$400 fine was imposed.

The DEIS does not address Starwood Capital's history of utilizing irresponsible contractors despite the impact on Port Chester that will arise if the Project is built in an unsafe manner or is plagued by unlawful conduct. The DEIS does not suggest or even discuss mitigation measures that could be taken to address the issues raised on prior Starwood Capital projects in the New York Metropolitan area.

The Sustainable Port Chester Alliance reserves the right to make additional objections to the Project based on the DEIS and any additional information that becomes available concerning the Project.

Respectfully,

Thomas M. Kennedy

cc: Sustainable Port Chester Alliance Members
Mayor Dennis G. Pilla
Trustee Gregory K. Adams
Trustee Daniel Brakewood
Trustee Gene Ceccarelli
Trustee Joseph D. Kenner
Trustee Luis A. Marino
Trustee Saverio L. Terenzi
