

Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION
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INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

APPLICATION #: 150319 PQK – 141 Livingston Street Brooklyn Courts Lease

In the matter of an application submitted by the NYC Mayor's Office of Criminal Justice and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the property at 141 Livingston Street in Downtown Brooklyn, seeking acquisition and expansion approval in order to authorize the execution of a new lease for continued use of the current court facility as a relocation plan is in process.

COMMUNITY DISTRICT NO. 2

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BOROUGH PRESIDENT

August 5, 2015

DATE

RECOMMENDATION FOR THE 141 LIVINGSTON STREET BROOKLYN COURTS LEASE - 150319 PQK

NYC Mayor's Office of Criminal Justice (MOCJ) and the Department of Citywide Administrative Services (DCAS) are seeking acquisition and expansion approval in order to authorize the execution of a new lease, pursuant to Section 197-c of the New York City Charter, for the property at 141 Livingston Street in Downtown Brooklyn within Community Board 2. The current facility is intended to serve in the interim until the facility is to be relocated. Therefore, a request has been made for continued use of the current court facility at 141 Livingston Street as a relocation plan is in process.

On June 1st, 2015, the Borough President held a public hearing on the proposed acquisition and expansion of court facilities at 141 Livingston Street. There were two speakers opposing this item, representatives from Brooklyn Tenants Unit (BTU) and Flatbush Tenant Coalition (FTC). The speakers stated that the existing court space has been deplorable, dysfunctional and insufficient for court uses for many years. It was noted that creation of a task force of tenant advocates, elected officials, and city and state agencies, with decision making authority, as well as creation of an advisory board consisting of appropriate stakeholders, would insure the proper direction of all aspects of the lease renewal and necessary improvements.

The representatives for the applicants, MOCJ and DCAS, noted that until the ULURP is approved and a lease is obtained, the applicant has retained a license for the aforementioned location. As part of the license work, the applicant has negotiated with the landlord that quick fixes will be done in the interim. So far the fixes include renovation of approximately 9,000 sf of additional space that will serve to accommodate the current crowding issue, quick fixes to the elevator and addressing the heating and cooling systems as they exist presently. As part of the license agreement the landlord has agreed to hire consultants to develop a complete scope of work to address the more substantial issues that will be done under the lease. All the construction work and documents for this work will be done under the license, until the point that the ULURP is approved.

While the Deputy Borough President looks forward to having this temporary space receive the much needed and long awaited improvements, in the hopes of ultimately moving the court operations to a state-of-the-art facility, the Deputy Borough President raised consideration for the input of the court users in order to understand the dynamics of being the end user. It is important to understand exactly how this particular upgrade for temporary space is going to accommodate the end user. The representative for the applicant noted that having the community be involved in the process is important to both MOCJ and DCAS, and a stakeholder group will be convened for all the users involved. The applicant has been working with City Legislative Affairs to identify the agencies and determine the scope of their involvement.

The Deputy Borough President inquired about receiving the finalized information in regard to the stakeholder group in order to invite various community agencies and stakeholders to participate in the discussion of necessary user improvements. The representative for the applicants noted that as soon as the process is up and running, communication will be open and an invitation will be extended to the Borough President's Office to participate in the stakeholder discussion.

The representative for MOCJ noted that the files have already been removed from the 9,000 sf previously used Civil Court storage space in order to allow for construction. This additional space will be completely renovated to accommodate court office functions, in order to recoup the two courtrooms that currently house such office space. The projected completion of this work and relocation of the uses is dependent on determination of the specific uses to be assigned to this space. The representative estimates that once the specific uses are determined, the work and relocation should be finalized by the end of the calendar year.

In response to the Borough President's inquiry about expediting the architectural/engineering assessments for improvements/upgrades of the existing facilities, the representative stated that the license has just been executed and applicants will make sure the landlord hires consultants as soon as possible. The representative noted that applicants will be involved in discussions with the landlord to press for the delivery of these documents as soon as possible. The representative also noted that majority of the work on the ninth floor has already been completed.

In response to the Deputy Borough President's inquiry whether delay/pause on rent will be allowed if any further delays are experienced during the renovation process, the representative stated that there is no clause to cover such delays but the applicants will work vigorously with the landlord to insure that work is completed diligently and in a timely manner.

In response to the Borough President's concern for consideration of the space flow issue, with people lining up at street level during pre-opening hours and being exposed to the elements, the MOCJ representative stated that the problem involves the physical limitations of the existing lobby space. The representative stated that the biggest problem is the fact that once people cue-up and go through the magnetometers, there is very little space between that point and the five available elevators, of which three are sometimes not running. Unfortunately there is no physical solution to this problem at the current court location. The representative notes that the only way to resolve this flow issue would be to provide more staff on the top floors, in order to improve functionality, and to introduce earlier opening hours. The Deputy Borough President notes that it is important to consider all possible solutions in resolving this flow and circulation issue and requests that any proposed solutions and/or recommendations be shared with the Brooklyn Borough President's Office.

In response to the Borough President's policy that DCAS utilize Minority and Women-Owned Business Enterprises (MWBE) and Locally-Based Enterprises (LBE), the representative stated that currently the work at 141 Livingston Street is landlord work and the City is not paying for this to be completed. Efforts will be made in order to ensure the landlord provides for participation of MWBE and LBE. If there is any additional work incurred by the Office of Court Administration, that contract will undoubtedly include the provision for and participation of MWBE and LBE.

The Deputy Borough President notes that as part of doing business with the City and the City signing off on leases paid by City tax payer dollars, there is a connection to providing a public benefit. This can allow for exploration of possible opportunity for property owners to provide an extra level of service such as inclusion of 20% participation of MWBE and LBE, consistent with Local Law 1. The representative stated that unfortunately this is not an available provision for privately owned spaces but considerations will be given to that affect.

Consideration

CB 2 approved this application, with 30 in favor, 2 against and 2 abstaining, with conditions that DCAS expedite the relocation timetable and provide period updates to the community board.

The approximately 210,000 sf, fifteen story office building on the site is currently used for Housing, Civil and Small Claims Courts. There is a public parking garage under the building which is not reserved for court purposes.

Each court that operates under 141 Livingston Street is part of the State Unified Court System has a distinct function. Currently 273 employees are assigned to the courts. This includes 104 Housing Court employees, 92 assigned to Civil Court, 8 assigned to Small Claims Court and 69 Court Officers. Civil Court handles approximately 100,000 cases per year, Housing Court approximately 75,000 cases per year and Small Claims Court receives approximately 6,700 cases per year.

This application would facilitate the acquisition of a new lease and expansion of court facilities. The new lease expected duration is up to ten years with the option to cancel after five years. It will specify improvements to the building and will facilitate the uninterrupted occupancy of the courts in their current location while preparations are made to relocate. The entire relocation will take approximately five years to complete. By expanding onto the full ninth floor, court uses will occupy the entire building. There will be approximately 9,000 sf of expansion space on the ninth floor which is used by Civil Court for staging files. Utilization of this space has not been finalized but could potentially include court offices and waiting areas to ease overcrowding in the hallways and stairwells.

Since 141 Livingston Street was always intended to serve as a temporary site for the courts, the expectation that the courts would eventually relocate contributed to the lack of maintenance and upkeep of the building. Several improvements to the building systems are planned in order to address the issues resulting from deferred maintenance. The elevators will be repaired and maintained in good working order. The bathrooms will be upgraded and each perimeter cooling/heating unit will be inspected and repaired, or refurbished if necessary. Once the new lease is signed, the documents will be carried out for the following: new burners of the heating boiler; new cooling tower with additional capacity; upgrades to existing fire alarm systems; upgrades to full ADA compliance; and a Certificate of Occupancy.

A prior consideration to relocate the Housing Court to 283 Adams Street did not occur because it was subsequently assigned to the Department of Education and converted into two high schools.

The Borough President believes that the proposed expansion and lease renewal would provide for a sufficient interim location for the courts while in the process of finalizing the move to a new location. Therefore, he believes that facilitating a lease for what is primarily memorializing an interim-leased facility, is an appropriate interim land use action.

Though the Borough President is generally supportive of the acquisition of the new lease and expansion of court operations onto the full ninth floor, he has concerns regarding the lack of means for user input, inadequate people flow and overall circulation of the space which results in court users being exposed to the elements, the time frame for assessing existing systems/conditions and expediting building improvements/upgrades, and uncertainty of participation of Minority and Women-Owned Business Enterprises (MWBE) and Locally-Based Enterprises (LBE).

Stakeholder Taskforce and Improvements

The Borough President believes that optimal functionality and circulation of publicly-accessible spaces within these courts rely heavily on the input of the members of the public and their advocates, who utilize these spaces on a daily basis. Consideration should be given to the input of these court users in order to understand the dynamics of being the end user. It is important to understand their experiences and recognize their suggestions in order to best accommodate them during the remaining years this building serves as court space. An effective means for input would be to create a task force and advisory board consisting of tenant advocate stakeholders, Community Board 2, elected officials, and appropriate City and State agencies, to oversee proper direction of all aspects of carrying out necessary operational and physical improvements. A stakeholder taskforce would facilitate involvement and participation of the various stakeholders in the overall design and improvement process.

From 8:30AM through 4:30PM, on average about 3,000 visitors per day pass through the security screening process to access the building and court services. However, the lack of space in the ground floor lobby results in extensive crowding as people line up in preparation for the security process. This ultimately results in numbers of court users waiting outside of the building exposed to various weather elements; meanwhile, the upper floor waiting areas remain empty. Introducing earlier operating hours would allow the court users to go through the security process enabling them to move through the limited lobby space to their appropriate waiting destinations upstairs.

Provisions for improvements to the building systems at 141 Livingston Street should not be depended on the execution lease agreement when they can be facilitated immediately under a license agreement. It is important to initiate various necessary steps to expedite completion of the improvements. This includes the intended architectural and engineering assessments of existing systems and conditions to understand the necessary building improvements and system upgrades. In regard to more extensive improvements that cannot be completed before the lease goes into effect, it is important to hold the landlord accountable for completing the improvements in a timely manner.

The Borough President believes that the MOCJ and DCAS should create a taskforce and advisory board consisting of tenant advocate stakeholders, Community Board 2, elected officials, and appropriate City and State agencies, to oversee proper direction of all aspects of the lease renewal and completion of the necessary improvements. He believes that the courts should introduce earlier operating hours allowing court users to go through the security process, enabling them to move through the limited lobby space to the appropriate waiting area upstairs. Further, various steps should be initiated now to accelerate the least complex improvements. MOCJ and DCAS should expedite the intended architectural and engineering assessments of the existing systems and conditions according to the license agreement prior to the execution of a new lease. The new lease should include timing commitments in order to hold the landlord accountable for a timely completion of the improvements and system upgrades; including a lease payment reduction schedule if the landlord misses deadlines.

Jobs

The Borough President is concerned that too many residents of Brooklyn are unemployed or underemployed. It is his policy to promote economic development as a means of creating more employment opportunities as well as promoting Brooklyn-based businesses, including those that qualify as MWBE and LBE. As a facility that would be requiring extensive renovations and system upgrades, this lease renewal and expansion provide an opportunity for the MOCJ and DCAS to retain Brooklyn-based moving contractors and subcontractors, especially those that are designated LBEs, consistent with section 6-108.1 of the City's Administrative Code, and MWBE establishments, as a means to meet or exceed standards per Local Law 1 (not less than 20 percent participation).

While the expansion and renovation will be entirely contracted out by the landlord, the lease is being funded through City tax payer dollars. The Borough President believes that DCAS should explore leveraging the City leasing of private property to require provisions for participation of MWBE and LBE, consistent with Local Law 1, and to coordinate the monitoring of such participation with an appropriate agency.

The City Council should obtain such a commitment from the Administration in writing that such terms would be incorporated into the lease prior to waiving its right to call up the application or otherwise grant its approval.

Recommendation

Be it resolved that the Borough President of Brooklyn, pursuant to section 197-c of the New York City Charter, recommends that the City Planning Commission and City Council approve the land use action requested according to the following conditions:

1. That Mayor's Office of Criminal Justice and the Department of Citywide Administrative Services create a task force and advisory board consisting of tenant advocate stakeholders, Community Board 2, elected officials, and appropriate City and State agencies, to oversee proper direction of all aspects of the lease renewal and completion of the necessary improvements, prior to the City Council's consideration waiving its right to call up the application;
2. That Mayor's Office of Criminal Justice coordinates, in consultation with tenant advocate stakeholders, opening hours for the operation of lobby security and upper floor court waiting rooms, staffed by court personnel, in advance of standard Court hours, in a manner to provide for shifting of waiting time for early arrivals within the building.
3. That Mayor's Office of Criminal Justice and the Department of Citywide Administrative Services incorporate in the lease negotiations and lease agreement, provisions for the following:
 - a. That the status of the quick fixes be provided to the City Council in advance of when the City Council consideration waiving its right to call up the application;
 - b. That prior to the execution of a new lease, it be demonstrated that the intended architectural and engineering assessments of the existing systems and conditions had been expedited according to the license agreement;
 - c. That the lease include timing commitments for the necessary building improvements and system upgrades, with a lease payment reduction schedule for the landlord missing deadlines;

- d. The new lease shall require the landlord to retain Brooklyn-based contractors and subcontractors, especially those that are designated LBEs consistent with section 6-108.1 of the City's Administrative Code, and MWBE and LBE establishments, as a means to meet or exceed standards per Local Law 1 (not less than 20 percent participation), as well as to coordinate the monitoring of such participation with an appropriate monitoring agency.

The City Council shall obtain such a commitment from the Administration in writing that such terms would be implemented by the agencies or otherwise incorporated in the lease prior to waiving its right to call up the application or otherwise grant its approval.