

*Enter  
Forthwith*

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

BILL DE BLASIO, Individually, and in his capacity as the Public Advocate for the City of New York, BOERUM HILL ASSOCIATION, BROOKLYN HEIGHTS ASSOCIATION, CARROLL GARDENS NEIGHBORHOOD ASSOCIATION, COBBLE HILL ASSOCIATION, RIVERSIDE TENANTS' ASSOCIATION, WYKOFF GARDENS ASSOCIATION, INC., AND KATE MACKENZIE,

Petitioners,

For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules,

-against-

STATE UNIVERSITY OF NEW YORK, TRUSTEES OF STATE UNIVERSITY OF NEW YORK, NEW YORK STATE DEPARTMENT OF HEALTH, AND NIRAV R. SHAH, as Commissioner of the New York State Department of Health,

Respondents.

Index No. 13007/13

Assigned to Justice Baynes

**ORDER**

2013 OCT 15 AM 10:28

KINGS COUNTY CLERK  
FILED

*RR*

WHEREAS, the Public Advocate of the City of New York, Bill de Blasio, in his official and personal capacities, filed a Verified Petition dated July 19, 2013, and a Corrected Verified Amended Petition dated July 22, 2013;

WHEREAS, the Public Advocate of the City of New York, Bill de Blasio, in his official and personal capacities, filed a Second Amended Verified Petition dated August 2, 2013 (the "Petition"), by which he added as co-petitioners Kate MacKenzie as an individual, and the following community groups: Boerum Hill Association, Brooklyn Heights Association, Carroll

Gardens Neighborhood Association, Cobble Hill Association, Riverside Tenants' Association, Wykoff Gardens Association, Inc. (the "Community Group Petitioners");

WHEREAS, the Petitioners submitted in support of their Petition the following papers: affidavit of Bill de Blasio, dated July 19, 2013; affidavit of Dr. Alice M. Garner, dated July 19, 2013; affirmation of Dr. Alice M. Garner; affirmation of Dr. Saul Melman; affidavit of Shellyann Burke, dated July 21, 2013; affirmation of Dr. Robert Levey; affidavit of Elsie Rosario, dated July 21, 2013; affidavit of Kate MacKenzie, dated July 30, 2013; affidavit of Maria Pagano, President of the Carroll Gardens Neighborhood Association, dated July 30, 2013; affidavit of William Ringler, current member and former Chairperson of the Riverside Tenants' Association, dated July 30, 2013; affidavit of Roy Sloane, President of Cobble Hill Association, dated August 1, 2013; affidavit of Judy Stanton, Executive Director of Brooklyn Heights Association, dated August 1, 2013; affidavit of Howard Kolins, President of Boerum Hill Association, dated July 31, 2013; affidavit of Charlene Nimmons, President of Wykoff Gardens Association, Inc., dated August 1, 2013; the Memorandum of Law in Support of Petitioners' Opposition to Respondents' Motion to Dismiss Petition/Amended Petition, dated August 2, 2013; and the Stipulation Granting Leave to File Second Amended Petition, dated August 13, 2013;

WHEREAS, the Respondents jointly moved to dismiss the Petition and submitted in support thereof the affirmation of Frank V. Carone with exhibits annexed thereto, dated July 24, 2013, the affidavit of John F. Williams, dated July 24, 2013, and the memorandum law in support of the motion to dismiss, dated July 24, 2013;

WHEREAS, this Court heard oral argument from the parties on August 7, 8, and 9, 2013, and on September 12, 2013 issued a decision (the "Decision") and directed the parties to

settle an Order, and in the Decision determined that the Community Group Petitioners had standing to bring the Petition;

WHEREAS, Plaintiffs-Petitioners New York State Nurses Association (“NYSNA”), 1199 SEIU United Healthcare Workers East (“1199”), Concerned Physicians of LICH, LLC (“Concerned Physicians”), and Carl Biers had filed a companion action in the same Court, index number 5814/2013 (the “Companion Action”);

WHEREAS, on September 12, 2013, the Court issued a decision in the Companion Action as well (the “Companion Decision”);

WHEREAS, the Court stated in the Decision that, to the extent any issues raised in the Petition overlapped with those raised in the Companion Action, the Court made identical determinations with respect to any such overlapping issues in the Decision as the Court set forth in the Companion Decision;

WHEREAS, among the determinations common to both actions, the Court determined in the Companion Decision that the parties “have raised issues of law forming the basis for summary judgment,” that “there are no issues of fact for trial of this matter (other than the contempt allegations raised by the plaintiffs-petitioners, which the court will address at another time)”; and that “the plaintiffs-petitioners’ are entitled to summary judgment on the injunctive and declaratory relief they seek to the extent set forth” in the Companion Decision and therefore in the Decision;

NOW, THEREFORE,

IT IS HEREBY ORDERED that the Respondents are permanently enjoined from acting on any closure plan submitted by Respondents State University of New York, Trustees of State University of New York, State University of New York Downstate Medical Center, State

University of New York Downstate Medical Center Council, or John F. Williams, MD, President of the State University of New York Downstate Medical Center (the “SUNY Respondents”) to Respondents Department of Health and Nirav R. Shaw with respect to Long Island College Hospital;

IT IS FURTHER ORDERED that the SUNY Respondents are permanently enjoined from closing Long Island College Hospital in furtherance of any closure plan already submitted to the Department of Health;

IT IS FURTHER ORDERED that the SUNY Respondents are permanently enjoined from closing Long Island College Hospital in furtherance of any closure plan submitted to the Department of Health or otherwise without a closure plan approved pursuant to regulations that satisfy the requirements of law, including article I, §§ 6, article III, § 1 and article IV, § 1 of the New York State Constitution, and the Fourteenth Amendment of the United States Constitution;

IT IS FURTHER ORDERED that the First Cause of Action in the Petition is dismissed for failure to state a claim;

IT IS FURTHER ORDERED that the Respondents’ motion to dismiss is denied with respect to the Second through Twelfth Causes of Action in the Petition insofar as these Causes of Action are brought by the Community Group Petitioners, for the same reasons set forth in the Companion Decision;

IT IS FURTHER ORDERED that judgment is entered in favor of the Community Group Petitioners with respect to the Second through Eleventh Causes of Action in the Petition, for the same reasons set forth in the Companion Decision;

IT IS FURTHER ORDERED that no judgment is entered with respect to the Twelfth Cause of Action in the Petition insofar as that Cause of Action raises contempt allegations that the Court will consider at a later time;

IT IS FURTHER ORDERED that all claims by the Public Advocate Bill de Blasio in his official and personal capacities and all claims by Kate MacKenzie in the Petition are dismissed for want of capacity or standing; and

IT IS FURTHER ORDERED that the Petitioners may seek an award of fees and other expenses to the extent permitted by law, including by application pursuant to the New York State Equal Access to Justice Act, CPLR 8600 *et seq.*

Dated: New York, New York

~~September~~, 2013  
October 11, 2013

ENTER:

*Johnny L. Baynes*  
Hon. Johnny L. Baynes, J.S.C.

HON. JOHNNY LEE BAYNES

*Nancy T. Smith*  
*clerk*

FILED  
2013 OCT 15 AM 10:36  
KINGS COUNTY CLERK

2013 OCT 15 AM 10:28  
KINGS COUNTY CLERK  
FILED

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