BOERUM HILL ASSOCIATION BROOKLYN HEIGHTS ASSOCIATION
CARROLL CARDENS NEIGHBORHOOD ASSOCIATION
COBBLE HILL ASSOCIATION RIVERSIDE TENANTS' ASSOCIATION
WYKOFF GARDENS ASSOCIATION, INC.

OPEN LETTER TO THE COMMUNITY AND SUNY

January 22, 2014

Dear Mayor Bill de Blasio, Public Advocate Letitia James, Comptroller Scott Stringer, Congresswoman Nydia Velázquez, Borough President Eric Adams, State Senator Daniel Squadron, Assemblywoman Joan Millman, Councilmember Brad Lander, Councilmember Stephen Levin, and Councilmember Carlos Menchaca:

You have supported the LICH community—our doctors, nurses, hospital employees, and community members—since SUNY Chairman Carl McCall announced the decision to close the hospital a year ago. Your efforts, joining public demonstrations, meeting with officials, and even being arrested, have been a critical factor in keeping the hospital open. For that, we are deeply grateful.

We share your belief that SUNY's RFP process has not been conducted in the best interests of the health needs of our communities. It has been neither fair nor transparent. Indeed, no community stakeholders, not even our elected representatives, were consulted during preparation of the RFP or the evaluation of responses.

We are asking that the current RFP process be dismissed and that it be replaced by a new RFP process that, at a minimum, includes stakeholder voting power and that could result in a genuine hospital operator maintaining LICH as a hospital.

SUNY did not consider community health needs in its decision to close and sell LICH.

How can New York State close a hospital without carefully analyzing the result? There has been no assessment of health needs and no account of demographic changes in western Brooklyn. As we were reminded during Hurricane Sandy last year, a full-service hospital plays a vital role during regional disasters, yet no disaster-preparedness assessment has been done.

In deciding to close LICH, SUNY has disregarded the impact on transportation-starved Red Hook—designated a Health Professional Shortage Area by the U.S. Department of Health and Human Services—and on other hospitals and emergency rooms in the area.

The RFP's financial requirements improperly discouraged responses from full-service hospital operators.

Simply put, the decision to sell LICH was first and foremost a response to SUNY's financial distress. As Controller DiNapoli's January 2013 audit makes clear, SUNY's real problem is that Albany slashed its financial support to SUNY Downstate: *"Between 2010 and 2011, direct State tax support from SUNY to the Hospital [Downstate] went from $36 million to $27 million; a decline of $9 million. Moreover, between fiscal years 2007-08 and 2011-12, annual State support decreased by $23.5 million."*

We believe that SUNY's RFP substantially misrepresents LICH's true liabilities. This conclusion is supported by Controller DiNapoli's audit and Justice Carolyn Demarest's Decision and Order of August 2013. According to the Controller's audit, LICH's operating losses for all of 2010 were $4.7 million. According to Justice Demarest, "SUNY-Downstate's actual losses attributable to LICH approximate $30 million dollars at this time," i.e. by August 2013.

At the December 2013 meeting of SUNY Trustees, Chairman McCall presented a very different picture. He offered a slide entitled *"LICH Liabilities,"* which claimed, without support, that LICH's liabilities totaled $513 million and therefore justified the selection of RFP respondent Fortis Property Group, a real estate developer:

NYS PIT bonds as of 9/30/2013	**$118 million**
SUNY loan	**$75 million**
Cost to exit LICH	**$180 million**
Othmer Endowment	**$140 million**
Total	**$513 million**

Chairman McCall's use of these figures is disturbing:

The **PIT bonds** are a liability for a real estate developer but not for a hospital operator: they only need to be repaid immediately if a not-for-profit entity does not operate LICH.

The **SUNY loan**, according to SUNY's own records, was a line of credit for Downstate Medical Center and has absolutely nothing to do with LICH. This is demonstrated by at least three sources: the SUNY Board's minutes for June 12, 2012; the SUNY Financial Fact Book for the June 30, 2012 Financial Year; and this remark by SUNY's Interim Chief Financial Officer and Vice Chancellor Robert Haelen at the January 13, 2014 meeting of the SUNY Board: *"The loan to Downstate was $75 million and that was a loan to the operation of Downstate the hospital there. It was not made at the time for LICH. Okay, so it was separate, and the Sustainability Plan has built into it a way to repay that 75 million."*

The **$180 million exit** cost is a mystery without documentation or explanation.

The **Othmer Endowment** should be a $140 million asset, not a liability. It is a liability only if the money is gone. The redirection of the Othmer Endowment funds is spelled out most clearly in section 7.10 of the Asset Purchase Agreement that governed SUNY's acquisition of LICH in 2011. In the Agreement, SUNY agreed to repay $24.6 million that

Continuum owed to the Othmer Endowment. Another $85.7 million was used to set up a malpractice trust in case money was needed to settle pre-SUNY malpractice cases.

There is no public accounting of the Long Island College Hospital Malpractice Fund, a not-for profit entity, except for a postponement for filing its 2012 federal tax return that expired on November 13, 2013. An unknown portion of that money—possibly a very large sum—automatically reverts back to SUNY under Section 7.10(e) of the Asset Purchase Agreement. The Malpractice Fund's remaining assets need to be revealed to the public. SUNY must account for this money before making any further representation of LICH's liabilities.

By inflating LICH liabilities, SUNY insured that no hospital operator would respond to the RFP. Medical services would, instead, only be an afterthought to a condo development. We believe that health care comes first. Excess properties should be developed if needed to support the mission of a hospital. Making medical services an appendage to a condo development demonstrates exactly the opposite outcome that a proper RFP would have produced.

We want to help you develop a better RFP process and a better healthcare solution.

We can do better. We have a duty to ensure that healthcare needs come first—before capital returns for developers. We want to work with you to protect the health of our neighbors, especially the most vulnerable, who will, inevitably, suffer the most from inadequate healthcare in western Brooklyn.

Howard Kolins, President
Boerum Hall Association

Roy Sloane, President
Cobble Hill Association

Alexandra Bowie, President
Brooklyn Heights Association

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