

B.J. Jones

President & Chief Executive Officer

Battery Park City Authority

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New York, NY 10281

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April 20, 2023

Council Member Christopher Marte
New York City Council, District 1
65 East Broadway
New York, NY 10002

Dear Council Member Marte:

Thank you for your April 14, 2023 letter regarding ground rents in Battery Park City. This is a complex issue, and it is important that we as policymakers operate from a set of shared facts to best serve our constituents and the broader public. In addition to what has been provided publicly previously on bpca.ny.gov and in numerous public meetings, the below is intended to provide you accurate context and additional understanding.

Your concern regarding “the jump from the current \$2 per square foot to the proposed \$10 per square foot” does not accurately reflect the current ground lease structure and history. It is important to note that, as was common practice during the time in which the ground leases were executed, all ground leases include periodic “Fair Market Value” rent escalations through 2069. The Authority has acknowledged repeatedly that these “FMV Rent Resets,” which, notably, existed in the leases at the time owners purchased their units, are based on formulas that may cause significant spikes in ground rent.

Consistent with this acknowledgement, the Authority has a demonstrated commitment and record of negotiating in good faith to replace the FMV Rent Resets with a fiscally responsible alternative. In 2011 and 2012, the Authority negotiated with 12 buildings, through the Homeowner’s Coalition, to eliminate certain future FMV Rent Resets. The resulting rent schedules, negotiated by and agreed to by each condominium board (and the Homeowner’s Coalition) do include rent escalations over time. The pace of increase for these 12 buildings varies (as was agreed to, if not suggested by, the condominiums involved), with the rent for these 12 buildings culminating between around \$8.28 to \$11.61 by 2038.

Again, this past August, the Authority negotiated with and entered into an agreement with the River and Warren condominium building, eliminating its looming FMV Rent Reset and replacing it instead with a ground rent increase from \$3.37/sf to \$5.82/sf, with annual, predictable escalations thereafter, culminating with a ground rent of \$9.05/sf in 2036. To be clear, the amendments that BPCA agreed to in 2011/12 and again last summer have resulted in a *reduction* in ground rent that otherwise would have to be paid by residents as per their lease. The lease modifications agreed to by BPCA have saved condominium owners upwards of \$300 million in ground rent increases.

A few buildings have upcoming contractual FMV Rent Resets between now and 2030. As it has before, given the potential impact of these resets on homeowners in our community, BPCA has been clear that it is willing to negotiate a replacement of these FMV Rent Resets with some other fiscally responsible alternative. And, insofar as all buildings have additional FMV Rent



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Resets through the remainder of their lease terms in 2069, the Authority has been and remains on the record that it is willing to discuss replacing all remaining resets in a fiscally responsible manner that reflects a fair market value for the Lower Manhattan waterfront property being rented by these homeowners.

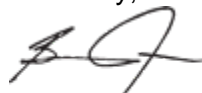
Battery Park City residents are fortunate that the Authority is able to spend a portion of the funds we collect to support the operating and capital needs of our neighborhood specifically (a structure unique to BPC). It also is important to note, however, that the balance of those revenues is obligated to New York City to support vital City services and, historically, the development of truly affordable housing. So, while the Homeowner's Coalition seeks amendments that, when adjusting for inflation, would mean the Authority would collect less from condominium owners in future years than we collect today, the Authority stands by its fiduciary responsibility to value its leases – public assets – in accordance with the market, which escalates over time.

At the same time, the Authority recognizes that some condominium owners may have a demonstrated financial need for ground rent relief. To address such circumstances, the Authority is developing a program to provide assistance to those with incomes below a certain threshold of the Area Median Income (current thinking, subject to change, is <130% AMI), the broad contours of which are available on our website. Such a program would be consistent with citywide taxpayer benefit programs, which also are means-tested. Relatedly, it is our understanding that recent State legislation authorizing the extension of means-tested benefit programs for low-income seniors and New Yorkers with disabilities requires the enactment of local legislation in order for the City to apply the benefits. We would welcome your leadership in pursuit of that laudable policy goal.

Finally, regarding your inquiry about negotiations pertaining to the Authority's Master Lease, please note that no such negotiations are occurring. As you know, recent legislation requires the Authority to extend the Master Lease's term to 2119. We are required to notify and consult with the City 60 days prior to doing so, and have initiated that process. Once the required notification and consultation period has elapsed, I anticipate seeking approval from the BPCA Board to amend the Master Lease as prescribed by the legislation. That meeting will take place in accordance with the Open Meetings Law, and the resulting Master Lease Amendment will be available for viewing by the public on the Authority's website (as is the current Master Lease and its amendments). Please also note, the legislation requires only that we extend the term of the Master Lease and does not require any action with respect to the ground lease of any individual building. It is important to remember that the City also retains its repurchase option for Battery Park City at all times, and thus may weigh in on any path forward it deems appropriate.

We welcome your commitment to working with us on this important issue. As always, my team and I remain available to speak with you regarding these and any other matters concerning our shared constituencies.

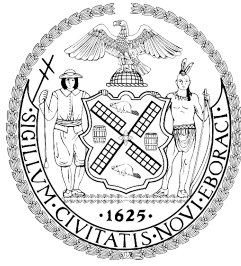
Sincerely,



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Christopher Marte

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B.J. Jones
President & CEO, Battery Park City Authority
200 Liberty Street, 24th
New York, NY 10281

April 14, 2023

Subject: Upcoming Negotiations With Battery Park City Homeowners Coalition

Dear President Jones,

I am writing to express my concerns regarding the proposed increase in ground rent for condominium owners in Battery Park City. The jump from the current \$2 per square foot to the proposed \$10 per square foot is an outrageous increase that will place an extreme burden on residents of this community. I urge you to negotiate in good faith with the Battery Park City Homeowners Coalition to find an increase that can meet your goals of generating revenue for the Battery Park City Authority without pushing out residents who are already struggling to afford to stay in their increasingly expensive community.

While I understand the need for revenue generation, I strongly believe that the Authority should explore alternative measures that could mitigate the impact on our residents. I recommend that the Authority increase the financial contribution of commercial and residential buildings in Battery Park City, specifically the multi-billion dollar corporate landlords, who pay a much smaller percentage than homeowners.

Furthermore, I once again urge the Authority to increase transparency on negotiations with the City of New York regarding the extension of the Battery Park City lease. My office, as well as the residents of Battery Park City, would like to know the state of negotiations. If they have not begun, action must be taken to schedule these discussions with the City immediately. If negotiations have begun, we need to know what is being proposed and where things stand. Regardless, my office and the Homeowners Coalition must be informed and given the opportunity to be active members of negotiations with the City.

I understand the challenges that the Authority faces in balancing its financial needs with its obligations to the community, but I believe that there is a fairer and more equitable way to distribute the burden of these costs. I am committed to working with you to find a solution that

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meets the needs of our community while also ensuring the long-term financial sustainability of the Battery Park City Authority.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher Marte", with a stylized, cursive script.

Christopher Marte
New York City Council Member