

**Property Rights Foundation of America®**  
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**Update — Willets Point Businesses Struggle against Creeping Regulatory Taking**

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*Irene Prestigiacomio:* Good morning ladies and gentlemen and Carol and Peter. I'm Irene Prestigiacomio. I'm a property owner at Willets Point from the late 50s through my husband Sal Presti. I bought my first car from him. Upon his passing in 1989 I became the sole owner with my daughter, Jennifer.

I must apologize to you all this morning because I don't have a prepared statement for today. I fully intended to have one detailing all the egregious and deceitful tactics employed by the "dark side," as I refer to them now. The dark side being: former Mayor Bloomberg, who, in his quest to fulfill his wealthy friends desire for our property; his friend being Fred Wilpon, who owns the Mets baseball team and coincidentally the development firm who was awarded the right to develop Willets Point; Mayor Bill de Blasio and his wealthy investor friends interested in Willets Point for whatever the traffic will bear and the most financially lucrative investment for them, not for us. Then there's borough president Melinda Katz and City Councilman Francisco Moya and their big money investors who want Willets Point for a soccer stadium and other interests. And last but by no means least, King Cuomo, Andrew Cuomo, the Governor of New York and his very wealthy investor friends who want to turn Willets Point into a sports and entertainment destination just five miles from Manhattan and easily accessible by the new LaGuardia International Airport and the new AirTrain, which will go right through Willets Point, possibly on my property. They're well into construction and nearing completion.

My timetable to prepare the statement for today was interrupted twice, back to back, by two funerals each over four hours away by car. I had just arrived home to New Jersey from one and within a day had to attend another one, secondly. It made me think while I was driving, just as an aside here, that that's another method they have for taking your property: attrition. Somebody dies and there's nobody to fight them. What happens. Well, it happened to, as Carol mentioned, to Joe Ardizzone, the owner of property in Willets Point. He died. His family weren't around. They weren't interested. Nobody was. They sold it to a guy who came in and said, "I'll take it

from you. I'll give you \$4 million." They took it. It's now back on the market, immediately. They want no less than \$30 million. It's just outrageous.

I did make bullet point notes on the generously supplied little note pads that they leave in the hotel rooms. I had a bag full of notes and I took them up and I'll make my speech from that – my statement. But then I had to leave to drive here. I had no more time. I get the note pads here and last night I just put this together. So, forgive me and thank you for your patience.

*Mr. LoScalzo:* I am Robert LoScalzo, documentary video producer who has been following the situation at Willets Point since 2007. I'm going to start with just enough background so you understand what Willets Point is, then I'll get into the main point: The willful neglect and restrictions imposed by the City of New York that are putting a stranglehold on Willets Point property and business owners, who are eager to find some recourse.

Willets Point consists of 62 acres located in Queens, New York. It is across the Flushing Bay from LaGuardia Airport, and directly across the street from Citi Field stadium, where the Mets play baseball. It's about 5 miles from Manhattan – a desirable location.

For decades, Willets Point was the home of hundreds of industrial businesses, doing everything from food distribution, to construction headquarters, to recycling of sawdust into various products, to automotive repair. There are many of these businesses throughout a vast area. Last year, our presentation here focused on the fact that many of them are still "Open for Business."

Notwithstanding all of that activity, in 2008, the administration of then-Mayor Michael Bloomberg announced that the City would take over and "redevelop" Willets Point. All of the existing industrial businesses throughout the 62 acres would have to leave; the City would acquire all of the property by any means necessary; and it would become the "next great neighborhood," with housing, retail stores, perhaps a convention center, open space, and so on.

So, in 2008, Willets Point was designated an urban renewal area; rezoned and designated a "Special District" with unique zoning requirements; and restrictive environmental E-designations were placed on all of the lots.

Flash forward ten years to the present: The City has acquired roughly one-third of the entire site, evicted the businesses from that third, and razed the structures that used to be there – preparing that portion of the land for development.

Meanwhile, throughout the other two-thirds of the area, probably 100 businesses continue to operate, on property that's still privately owned. Irene is one of those property owners.

However, the property and business owners are extremely frustrated because they are being denied the full enjoyment and benefits of the property. If not literally a "regulatory taking," the owners have at least already lost quite a lot, because of circumstances that the City has made.

Let me give you some examples.

## Street Decay

First, because the area is slated for “redevelopment,” the City has basically abandoned its responsibility to maintain the public streets, instead neglecting them to the point of severe dilapidation. If these street conditions existed in any other City neighborhood, they would be handled immediately as an emergency, and repaired. The crumbled roadways prevent customer access, and extend emergency response times, in the event they would need to get in.

And the City continues to neglect the roadways – even though the property and business owners have done everything they can to demand that the City repair them. And have been persistent over many years.

They’ve testified at annual budget hearings held by the local Community Board and by the Queens Borough Board. As a result, those agencies have voted to include Willets Point street repair on their annual lists of budget priorities, going as far as to declare: “This area has been neglected by the City of New York and needs a total capital reconstruction to include sidewalks, sewers and street lighting”; that road repair “must be implemented now”; and that the poor conditions are “long past what tax paying individuals and businesses should expect from their city.”

However, despite being included in the recommended budget priorities year after year, the City never allocates the funds, and the streets are never repaired.

Earlier this year, Willets Point United sent two letters to the new City Council member representing the area, Francisco Moya, requesting his help to obtain street repair services from the City. Mr. Moya did not respond at all to either letter.

Last summer, a property owner raised the issue in-person with the Commissioner of the City’s Department of Transportation, Polly Trottenberg, who would say only that Willets Point streets are “challenging” to address.

Meanwhile, the City’s Economic Development Corporation – which is in charge of the Willets Point redevelopment – also is not helping to obtain street repair for the existing businesses, instead saying that the streets might be improved whenever development eventually occurs.

Again, if these horrendous conditions cropped up anywhere else, they would be dealt with right away as an emergency. Here, it’s just in perpetual limbo, with responsible officials refusing to act. It’s a complete breakdown of the provision of City services.

## Street closures

Now, making matters worse, the City has started to close access to streets within the area that it controls – which naturally will divert traffic onto the streets that remain open, which the existing business and their customers need to use. And apparently, the City will divert the additional traffic onto those remaining roads, without first repairing them so they would stand some chance of handling the increased traffic.

On this map, in red you see the streets that the City intends to close. Customers driving along the perimeter won't be able to turn in. I especially want to show you Willets Point Boulevard, which has been the main thoroughfare into Willets Point and which intersects at the south with Roosevelt Avenue, a key roadway that also carries the elevated number 7 subway line.

If you stand here on Willets Point Boulevard and look towards Roosevelt Avenue, you see this ...

That's the elevated number 7 subway line. Here we are closer, and you can imagine people traveling via Roosevelt Avenue to get to the businesses at Willets Point.

Now if we turn around 180 degrees, this is what a prospective customer sees nowadays when they look toward Willets Point ...

The demolition down to the foundations together with the closed streets gives a visual impression of a "no-man's land": you might not even notice that there are still a hundred businesses operating, beyond all of that. Even turning in closer, the effect is the same. The closed area is both a physical and a psychological barrier to the businesses.

The City knows that there could be legal claims or causes of action, resulting from closing those streets.

In fact, the City and the developer that will build on a portion of the site have executed an agreement, by which the developer releases the City "from any and all claims or causes of action whatsoever against the City of New York, by reason of acquisition, discontinuance and/or closing of said streets ... or by reason of flooding."

The developer may have waived those claims, but the existing property and business owners have not. They would like to bring those claims.

Beyond the condition of the streets and the elimination of access, let me tell you about two other restrictions on the existing property owners.

200,000 square foot threshold, to access the higher Floor Area Ratio

As we get into this, are you familiar with the concept of Floor Area Ratio? It's the ratio of the permissible buildable floor space (how high the building can go), to the amount of bare land underneath. So, a Floor Area Ratio of 2.0 essentially means that you can build a two-story building.

One more thing you need to know: Each private property owner at Willets Point owns fewer than 200,000 square feet. Each private lot consists of fewer than 200,000 square feet.

The City amended its zoning text to include a Special Willets Point District, which distinguishes between lots consisting of less than 200,000 square feet, and lots consisting of at least 200,000 square feet.

The Special District text specifies that “zoning lots containing less than 200,000 square feet of lot area shall not exceed a floor area ratio of 2.0”.

However, for zoning lots that contain at least 200,000 square feet – which the City can assemble and then provide to a developer of its choosing – the permitted Floor Area Ratio may be as high as 5.0, depending on a lot’s size and location.

So, the existing property owners are denied the opportunity to leverage the higher Floor Area Ratios, which for all intents and purposes are only available to a future developer of the City’s choosing.

And, allowing only a low Floor Area Ratio to existing property owners is a dis-incentive to them developing their properties. It keeps the status quo, which conveniently feeds the City’s claim that the properties are underutilized and in need of redevelopment.

#### E-designation on every lot

Finally, in 2008 the City placed an “E-designation” on every Willets Point lot. An E-designation is a New York City zoning map label, which means that due to suspected environmental contamination, the Department of Buildings cannot issue a building permit, unless the property owner first conducts Phase I and Phase II Environmental Site Assessments; remediates the land to the satisfaction of the City’s Department of Environmental Protection; and also has a construction health and safety plan approved by DEP.

The City placed these E-designations on all of the lots, without actually performing environmental tests on them – but instead, after doing a Phase I Environmental Assessment which “identified the potential for contamination due to current and past usage,” and a Phase II Environmental Assessment on public streets which concluded that “petroleum and potentially other contamination is expected to be widespread on private properties within the District.” On the basis of those vague conclusions, each property owner ends up getting an E-designation – which again, is a dis-incentive to them developing their properties.

#### Summary of Constraints

To summarize the constraints that are tying the hands of property and business owners:

- Urban renewal designation
- City’s refusal to repair dilapidated streets, leading to a negative reputation and bad public perception
- Street closures
- Restricted Floor Area Ratio
- E-designations due to suspected contamination

## Consequences

As a result, property and business owners find that they:

- Cannot realize maximum benefits of the property
- Cannot obtain bank loans or refinancing
- Potential buyers are discouraged – No mortgage
- “Total freeze on the mobility of the property.”

They're interested in pursuing legal action to establish that a taking of some kind has occurred, and possibly seek monetary compensation.

## Two Acres

Before I wrap up, I would like to shift gears and briefly tell you about an initiative that Irene and I recently carried out.

In 2013, the Bloomberg administration gave two acres of publicly-owned Willets Point property to the intended developer. The two acres are here in red. Although the property is worth tens of millions, the City accepted one dollar from the developer. I'll zoom out so you can see where the two acres are located, near the center of Willets Point.

The property was given, to facilitate the developer's larger plan, which intended to use nearby parkland as the site of a commercial shopping mall.

As we've described here in prior years, a coalition of civic organizations, a state senator, business and property owners brought a lawsuit challenging the construction of a shopping mall on public parkland.

The Court of Appeals finally ruled in 2017 that the planned construction on parkland lacks legislative approval, and cannot proceed without it.

Despite that decision, however, the developer still owns the two acres, that were given to it to facilitate a project that it cannot deliver. Fortunately, the project contract addresses this scenario.

It contains a “call option,” which allows the City to reclaim the two acres “if there is a final determination in a Legal Proceeding which would prevent the Project from being developed.” Which is now the case. Per the contract, there's a deadline of this December, for the City to exercise the option.

Still, in more than one year since the court decision, the City has not acted to take back the two acres for the taxpayers. We suspected that City officials might not even be aware that they can do so. And as for the developer – They might even hope that the deadline passes with the City taking no action, in which case the developer would then own the property, permanently. Property that's worth tens of millions of dollars.

So, we decided to make a big issue of this – especially to be sure that City officials cannot later say they were unaware of the opportunity to reclaim the property.

We produced a video, which we published on YouTube, which features Irene carefully explaining the property that's involved, the terms of the contract, and what City officials need to do by the December deadline.

The local press helped to publicize it, and we mailed the video link and press clippings to the responsible City officials.

The local Community Board saw the video, and last month they adopted the issue as their own – demanding that the City reclaim the two acres from the developer well before any deadline.

Irene has handed out copies of that newspaper article, and if you want to see the video, find it by searching on YouTube for “Willets Point Property Alert.”

### Conclusion

So, in conclusion, if you consider everything I've presented here, there's an outrageous contrast. On the one hand, taxpaying property and business owners see their pleas ignored and their options frozen by the City; while on the other hand, a developer may get to permanently keep tens of millions of dollars' worth of property, due to a bureaucratic oversight which the City may never have intended to correct – except for our vigilance.

Thank you.