

The Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

October 2017

Re: Opposition to S6721 and A8419—The Marx Brothers Playground Alienation Bill
(Located in the block between 96th & 97th Street, from Second to First Avenue)

Dear Governor Cuomo,

I oppose the alienation bill and ask that you veto it for the following reasons:

- Playgrounds should not be turned into development sites: Alienation of the Marx Brothers Playground will transfer ownership of the playground from the City of New York (through one of its agencies) to the Education Construction Fund (ECF; a NYS agency) in order to create 769,800 square feet of new floor area under the Zoning Resolution, enabling the construction of Avalon Bay's 700-foot tall residential tower. This extra floor area cannot exist as long as the City owns the playground and it is under any control of the NYC Department of Parks and Recreation because according to the NYC Zoning Resolution (Section 12-10) playgrounds are considered "public parks" and have no floor area. Therefore, this proposal circumvents the zoning regulations.
- This is the first time a NYC playground has been alienated for construction of a for-profit residential building: The floor area created by the alienation of this NYC playground will be transferred to Avalon Bay, a for-profit developer, for market rate residential construction, with the minimum 30 percent affordable housing required by law, plus two new schools and one replacement, as justification for the tower's height and park alienation. This floor area (along with the rezoning) will allow a tower nearly three times as tall as would otherwise be allowed. This is spot zoning.
- Your approval of the bill will set an alarming precedent: It makes targets out of the more than 250 similar city-owned playground and parks throughout the five boroughs—and others throughout the state—for potential massive development at the cost of community playgrounds and parks.
- The bill provides no enforceable guarantees for the playground's continued existence: ECF could develop the new playground site using the excess floor area not incorporated into the current project. There are no legal guarantees the playground will remain intact in perpetuity.
- There was a lack of due process in obtaining City Council approval: The conversion of the Marx Brothers Playground to a development site should have been governed by a new city-wide zoning text amendment, not buried in State alienation legislation. Such an amendment would have gone through the required city-wide review process involving public hearings and inputs from all 59 community boards, the five borough presidents, the City Planning Commission and finally the City Council. The amendment process would have afforded communities the opportunity to require height limits and other stipulations that respect the context of each neighborhood for any new construction. It would have insured critical focus by each council member instead of customary deference to the originating council member, the City Council Speaker.

Thank you for your consideration.

Signature: _____ Date: _____

Name (printed): _____

Address: _____

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