UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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14TH STREET COALITION, JULIANNE BOND & JUDY PESIN, CO-CHAIRS;
DISABLED IN ACTION OF METROPOLITAN NEW YORK, INC.;
COUNCIL OF CHELSEA BLOCK ASSOCIATIONS, WILLIAM BOROCK, PRESIDENT;
FLATIRON ALLIANCE, INC., MICHELE GOLDEN & SUSAN FINLEY, CO-DIRECTORS;
WEST 12TH STREET BLOCK ASSOCIATION, MARGUERITE MARTIN, CO-CHAIR;
UPPER WEST 13TH STREET BLOCK ASSOCIATION, INC., JEFFREY RYAN, PRESIDENT;
WEST 13TH STREET 100 BLOCK ASSOCIATION, INC., GARY TOMEI, PRESIDENT;
100/200 WEST 15TH STREET BLOCK ASSOCIATION, STEVEN SIROTA & KIMON REZOS, CO-CHAIRS;
100 WEST 16TH STREET BLOCK ASSOCIATION, PAUL J. GRONKI, PRESIDENT;
100 WEST 17TH & 18TH STREETS BLOCK ASSOCIATION, JUDY KLEIN AND MICHAEL GLASSMAN, CO-PRESIDENTS;
16TH STREET TENANTS CORP., SHERRIE LEVY, VICE PRESIDENT;
CAMBRIDGE OWNERS CORPORATION, DAVID R. MARCUS, TREASURER;
VICTORIA OWNERS CORPORATION, JAMES HELLER, TREASURER;
160 W. 16TH STREET OWNERS CORPORATION, PAUL J. GRONKI, PRESIDENT;
PROGRESSIVE ACTION OF LOWER MANHATTAN-NEW YORK PROGRESSIVE ACTION NETWORK, INC., ARTHUR Z. SCHWARTZ, TREASURER;
504 DEMOCRATIC CLUB, MICHAEL SCHWEINSBERG, PRESIDENT;
JOHN WETHERHOLD; and
MILAGROS FRANCO,

Plaintiffs,

–against–

18 Civ. 2925

VERIFIED COMPLAINT

METROPOLITAN TRANSPORTATION AUTHORITY;
NEW YORK CITY TRANSIT AUTHORITY;
CITY OF NEW YORK DEPARTMENT OF
TRANSPORTATION; and
FEDERAL TRANSPORTATION ADMINISTRATION,

Defendants.

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Plaintiffs, by their undersigned attorney, Arthur Z. Schwartz of Advocates for Justice, as and for a Verified Complaint, allege as follows.

INTRODUCTION

1. This is a lawsuit seeking declaratory and injunctive relief addressed to a plan, adopted by defendants METROPOLITAN TRANSPORTATION AUTHORITY ("MTA"), NEW YORK CITY TRANSIT AUTHORITY ("NYCTA"), and the CITY OF NEW YORK DEPARTMENT OF TRANSPORTATION ("DOT"), and funded largely by the government of the United States through the FEDERAL TRANSPORTATION ADMINISTRATION ("FTA"), to (a) shut down a subway (the Canarsie Tunnel) tunnel running between Brooklyn and Manhattan, utilized by a subway line known as the "L Train," in order to repair the Canarsie Tunnel because of damage caused by Hurricane Sandy in 2012; (b) reconfigure 14th Street in Manhattan so as to widen sidewalks and eliminate passenger car traffic; (c) build a two-way protected bike lane on 13th Street in Manhattan; (d) to reconfigure traffic on the Manhattan Bridge and provide for hundreds of new bus trips from L Train stops in Brooklyn to 14th Street in Manhattan; and (e) renovate three subway stations in Manhattan and two in Brooklyn without making those stations accessible to persons with disabilities.

2. Plaintiffs bring this suit pursuant to:

a. the National Environmental Policy Act ("NEPA");

b. the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12131 *et seq.*; Section 405 of the Rehabilitation Act of 1973 ("Section 504"); the NYC Human Rights Law ("NYCHRL), NYC Administrative Code § 8-101 *et seq.*; and

c. the N.Y. State Environmental Quality Review Act ("SEQRA"), and the NY City Environmental Quality Review Act ("CEQRA"), 62 RCNY Chapter 5, and NY City Executive Order 91, 43 RCNY Chapter 6.

3. This suit is brought in order to:

a. compel the preparation of an Environmental Impact Statement ("EIS"), required by NEPA and SEQRA;

b. compel inclusion in the plan of actions which would make all stations on the L Line become accessible to people with disabilities; and

c. stay any funding of,or work on the Canarsie Tunnel shutdown.

4. This governmental action, by both a New York State Authority and the City of New York, promises to create unprecedented dislocation affecting hundreds of thousands of New Yorkers, most notably 150-200,000 residents of north-central Brooklyn, including Williamsburg and Bushwick, who commute, on a daily basis to their jobs in Manhattan utilizing the NYCTA's L Train; and hundreds of thousands of residents of Manhattan's Lower East Side, Greenwich Village, and Soho, who will have the fabric of their neighborhoods disrupted by a huge increase in the number of busses (diesel busses at that), the closure of streets, the elimination of automobile access to 14th Street, and the creation of a two-way protected bike lane on an already over-congested side street. Yet despite scores of "community meetings" and all sorts of obscure "modeling," neither the MTA (which is in charge of the L Train tunnel construction) nor the DOT has done an EIS, as required by SEQRA and NEPA, both of which are applicable to this

billion dollar-plus plan. On top of that, although the MTA, and its subsidiary NYCTA, are upgrading all of the subway stations along the shuttered L Train line, at least five and perhaps more of these stations will not be accessible to people with disabilities, despite clear requirements of the ADA and the NYC Human Rights Law. This Court's intervention is sorely needed.

JURISDICTION

5. This Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1331, 1343, 1367, and 2201. This Court's pendent jurisdiction is also invoked.

6. Plaintiffs are as follows:

a. Plaintiff 14th Street Coalition is a New York unincorporated association consisting of block associations, many of which are Plaintiffs. Julianne Bond and Judy Pesin are its Co-Chairs.

b. Plaintiff Disabled in Action of Metropolitan New York, Inc. is a New York State not-for-profit membership corporation advocating for the rights of the disabled.

c. Plaintiff Council of Chelsea Block Associations is a not-for-profit corporation consisting of numerous block associations. William Borock is its President.

d. Plaintiff Flatiron Alliance, Inc. is a not-for-profit membership corporation. Its members are residential and commercial tenants and owners of co-ops & condos; it works to Preserve and Protect the Flatiron District. Michele Golden & Susan Finley are its Co-Directors.

e. Plaintiff West 12th Street Block Association is a New York not-for-profit corporation whose members reside on West 12th Street between Fifth and Seventh Avenues in Manhattan. Marguerite Martin is its Co-Chair.

f. Plaintiff Upper West 13th Street Block Association, Inc. is a New York not-for-profit corporation, whose members reside on the block of West 13th Street between Fifth and Sixth Avenues in Manhattan. Jeffrey Ryan is its President.

g. Plaintiff West 13th Street 100 Block Association, Inc. is a New York not-for-profit corporation whose members reside on West 13th Street between Fifth and Sixth Avenues in Manhattan. Gary Tomei is its President.

h. Plaintiff 100/200 West 15th Street Block Association is an unincorporated block association whose members reside on West 15th Street between Sixth and Eighth Avenues in Manhattan. Steven Sirota & Kimon Rezos are its Co-Chairs.

i. Plaintiff 100 West 16th Street Block Association is an unincorporated membership association whose members reside on West 16th Street between Sixth and Seventh Avenues in Manhattan. Paul J. Gronki is its President.

j. Plaintiff 100 West 17th & 18th Streets Block Association is an unincorporated membership association whose members reside on West 17th and West 18th Streets between Sixth and Seventh Avenues in Manhattan. Judy Klein And Michael Glassman are its Co-Presidents.

k. Plaintiff 16th Street Tenants Corp. is a New York cooperative apartment corporation which owns 16 West 16th Street in Manhattan. Sherrie Levy is its Vice President.

l. Plaintiff Cambridge Owners Corporation is a New York cooperative apartment corporation which owns 175 West 13th Street in Manhattan. David R. Marcus is its Treasurer.

m. Plaintiff Victoria Owners Corporation is a New York cooperative apartment corporation which owns 7 East 14th Street in Manhattan. James Heller is its Treasurer.

n. Plaintiff 130 West 16th Street Owners Corporation is a New York cooperative apartment corporation which owns 130 West 16th Street in Manhattan. Paul J. Gronki is its President.

o. Plaintiff Progressive Action of Lower Manhattan-New York Progressive Action Network, Inc. is a New York not-for-profit corporation and social justice organization whose members live in Manhattan south of 42nd Street. Arthur Z. Schwartz is its Treasurer.

p. Plaintiff 504 Democratic Club is a union corporation association which advocates for the rights of people with disabilities. Michael Schweinsberg is its President.

q. Plaintiff John Wetherhold is a resident of 13 West 13th Street, in Manhattan.

r. Plaintiff Milagros Franco is a resident of 319 East 21 21st Street in Manhattan. Milagros Franco is disabled and cannot ambulate without the aid of a wheelchair. She works at the Brooklyn Center for the Independence of the Disabled.

7. Defendants are as follows:

a. The MTA is a public benefit corporation chartered by the New York State Legislature under the Metropolitan Transportation Authority Act, N.Y. Pub. Auth. Law § 1260 et seq., and is a public entity that provides public transportation within the meaning of 42 U.S.C. § 12141, 49 C.F.R. § 37.3, and is therefore subject to Title II of the ADA, and its implementing regulations for entities providing public transportation, 28 C.F.R. Part 35 and 49 C.F.R. Part 37.

b. NYC Transit is a public benefit corporation pursuant to N.Y. Pub. Auth. Law § 1200 et seq., and a subsidiary of the MTA, and is a public entity that provides public transportation within the meaning of 42 U.S.C. § 12141, 49 C.F.R. § 37.3, and is therefore subject to Title II of the ADA and its implementing regulations for entities providing public transportation, 28 C.F.R. Part 35 and 49 C.F.R. Part 37.

c. Defendant the City of New York ("NYC") is a New York State municipality with its main offices in the County of New York. The Department of Transportation (DOT) is an agency of the City, created under the NYC Charter, with a Commissioner who reports to the Mayor; DOT is responsible for the management of much of New York City's transportation infrastructure.

d. The Federal Transit Administration ("FTA") is an agency within the United States Department of Transportation ("USDOT") that provides financial and technical assistance to local public transportation systems. *See* 43 U.S.C. § 5301 *et seq.* Headed by an Administrator who is appointed by the President of the United States, the FTA functions through a Washington, D.C., headquarters office and ten regional offices which assist transit agencies in all states, the District of Columbia, and the territories. Until 1991, it was known as the Urban Mass Transportation Administration ("UMTA"). Public transportation includes buses, subways, light rail, commuter rail, monorail, passenger ferry boats, trolleys, inclined railways, and people movers. The federal government, through the FTA, provides financial assistance to develop new transit systems and improve, maintain, and operate existing systems. The FTA oversees grants to state and local transit providers, primarily through its ten regional offices. These providers are responsible for managing their programs in accordance with federal requirements, and the FTA is

responsible for ensuring that grantees follow federal mandates along with statutory and administrative requirements.

National Environmental Policy Act

8. NEPA grew out of the increased public appreciation and concern for the environment that developed during the during the 1960s, amid increased industrialization, urban and suburban growth, and pollution across the United States.

9. Since its passage, NEPA has been applied to any major project, whether on a federal, state, or local level, that involves federal funding, work performed by the federal government, or permits issued by a federal agency. Court decisions have expanded the requirement for NEPA-related environmental studies to include actions where permits issued by a federal agency are required regardless of whether federal funds are spent to implement the action, to include actions that are entirely funded and managed by private-sector entities where a federal permit is required. This legal interpretation is based on the rationale that obtaining a permit from a federal agency requires one or more federal employees (or contractors in some instances) to process and approve a permit application, inherently resulting in federal funds being expended to support the proposed action, even if no federal funds are directly allocated to finance a particular action.

10. The purpose of NEPA is to ensure that environmental factors are weighted equally when compared to other factors in the decision making process undertaken by federal agencies and to establish a national environmental policy. In 42 USC Section 4331 Congressional described the national environmental policy as follows:

> (a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and

> new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.
>
> (b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may--
>
> (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
>
> (2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;
>
> (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
>
> (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;
>
> (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
>
> (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
>
> (c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

11. The purpose of NEPA is to ensure that environmental factors are weighted equally when compared to other factors in the decision-making process undertaken by federal agencies. NEPA establishes this national environmental policy by requiring federal agencies to

prepare an environmental impact statement (an EIS) to accompany reports and recommendations for Congressional funding. In practice, a project is required to meet NEPA guidelines when a federal agency provides any portion of financing for the project. However, review of a project by a federal employee can be viewed as a federal action, and in such a case, it requires NEPA-compliant analysis performance. Congress expressed these requirements at 42 USC Section 4332 as follows:

> The Congress authorizes and directs that, to the fullest extent possible:
>
> (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all agencies of the Federal Government shall--
>
> (A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment;
>
> (B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by subchapter II of this chapter, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;
>
> (C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on--
>
> (i) the environmental impact of the proposed action,
>
> (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
>
> (iii) alternatives to the proposed action,
>
> (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
>
> (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

> Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, and shall accompany the proposal through the existing agency review processes;
>
> (D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:
>
> (i) the State agency or official has statewide jurisdiction and has the responsibility for such action,
>
> (ii) the responsible Federal official furnishes guidance and participates in such preparation,
>
> (iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and
>
> (iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement. The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this chapter; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.
>
> (E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources…

12. 40 CFR Parts 1500 through 1508 provide regulations applicable to and binding on all Federal agencies for implementing the procedural provisions of the National Environmental Policy Act. In 40 CFR Section 1500.3 titled "Mandate", the regulations provide:

> These regulations, unlike the predecessor guidelines, are not confined to sec. 102(2)(C)(environmental impact statements). The regulations apply to the whole of section 102(2). The provisions of the Act and of these regulations must be read together as a whole in order to comply with the spirit and letter of the law. It is the Council's intention that judicial review of agency compliance with these regulations not occur before an agency has filed the final environmental impact statement, or has made a final finding of no significant impact (when such a finding will result in action affecting the environment), or takes action that will result in irreparable injury.

13. The NEPA process is the evaluation of the relevant environmental effects of a federal project or action mandated by NEPA. This process begins when an agency develops a proposal addressing a need to take action. If it is determined that the proposed action is covered under NEPA, there are three levels of analysis that a federal agency must undertake to comply with the law. These three levels include the preparation of a Categorical Exclusion ("CatEx"); an environmental assessment ("EA"); and either a Finding of No Significant Impact ("FONSI"), or, alternatively, the preparation and drafting of an environmental impact statement ("EIS").

14. The Preparation of an Environmental Assessment or a Finding of No Significant Impact ("FONSI"): EAs are concise public documents that include the need for a proposal, a list of alternatives, and a list of agencies and persons consulted in the proposal's drafting. The purpose of an EA is to determine the significance of the proposal's environmental outcomes and to look at alternatives of achieving the agency's objectives. An EA is supposed to provide sufficient evidence and analysis for determining whether to prepare an EIS, aid an agency's compliance with NEPA when no EIS is necessary, and it facilitates preparing an EIS when one is necessary. Most agency procedures do not require public involvement prior to finalizing an EA document; however, agencies advise that a public comment period is considered at the draft EA stage. EAs need to be of sufficient length to ensure that the underlying decision to prepare an EIS is legitimate, but they should not attempt to substitute an EIS.

15. If no substantial effects on the environment are found after investigation and the drafting of an EA, the agency must produce a FONSI. This document explains why an action will not have a significant effect on the human environment and includes the EA or a summary of the EA that supports the FONSI determination.

16. The relevant NEPA regulations, found at 40 CFR § 1501.4, detail the requirements:

> In determining whether to prepare an environmental impact statement the Federal agency shall:
>
> (a) Determine under its procedures supplementing these regulations (described in § 1507.3) whether the proposal is one which:
>
> (1) Normally requires an environmental impact statement, or
>
> (2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).
>
> (b) If the proposed action is not covered by paragraph (a) of this section, prepare an environmental assessment (§ 1508.9). The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing assessments required by § 1508.9(a)(1).
>
> (c) Based on the environmental assessment make its determination whether to prepare an environmental impact statement.
>
> (d) Commence the scoping process (§ 1501.7), if the agency will prepare an environmental impact statement.
>
> (e) Prepare a finding of no significant impact (§ 1508.13), if the agency determines on the basis of the environmental assessment not to prepare a statement.
>
> (1) The agency shall make the finding of no significant impact available to the affected public as specified in § 1506.6.
>
> (2) In certain limited circumstances, which the agency may cover in its procedures under § 1507.3, the agency shall make the finding of no significant impact available for public review (including State and areawide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. The circumstances are:

> (i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to § 1507.3, or
>
> (ii) The nature of the proposed action is one without precedent.

17. The process, quite clearly, is a public one.

18. If it is determined that a proposed Federal action does not qualify for a FONSI, then the responsible agency must prepare an EIS. The purpose of an EIS is to help public officials make informed decisions based on the relevant environmental consequences and the alternatives available. The drafting of an EIS includes public parties, outside parties, and other federal agency input concerning its preparation. These groups subsequently comment on the draft EIS. An EIS is required to describe the environmental impacts of the proposed action, any adverse environmental impacts that cannot be avoided should the proposal be implemented, the reasonable alternatives to the proposed action, the relationship between local short-term uses of man's environment along with the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources that would be involved in the proposed action.

19. An agency may undertake the drafting of an EIS without the initial drafting of the EA. This may happen if the agency believes that the action will have a significant impact on the human or natural environment or if the action is considered an environmentally controversial issue. The responsible decision-maker is required to review the final EIS before reaching a final decision regarding the course of action to be taken. The decision-maker must weigh the potential environmental impacts along with other pertinent considerations in reaching the final decision. A Record of Decision ("ROD") is issued which record the agency's final decision.

20. 40 C.F.R. § 1501.7 describes the "scoping" process integral to the EA:

There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping. As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent (§ 1508.22) in the Federal Register except as provided in § 1507.3(e).

(a) As part of the scoping process the lead agency shall:

(1) Invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), unless there is a limited exception under § 1507.3(c). An agency may give notice in accordance with § 1506.6.

(2) Determine the scope (§ 1508.25) and the significant issues to be analyzed in depth in the environmental impact statement.

(3) Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (§ 1506.3), narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

(4) Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.

(5) Indicate any public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration.

(6) Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement as provided in § 1502.25.

(7) Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decision making schedule.

(b) As part of the scoping process the lead agency may:

(1) Set page limits on environmental documents (§ 1502.7).

(2) Set time limits (§ 1501.8).

(3) Adopt procedures under § 1507.3 to combine its environmental assessment process with its scoping process.

(4) Hold an early scoping meeting or meetings which may be integrated with any other early planning meeting the agency has. Such a scoping meeting will often be appropriate when the impacts of a particular action are confined to specific sites.

(c) An agency shall revise the determinations made under paragraphs (a) and (b) of this section if substantial changes are made later in the proposed action, or if significant new circumstances or information arise which bear on the proposal or its impacts.

21. The requirement of having an EIS is fairly broad. 40 C.F.R. § 1502.3 states:

As required by sec. 102(2)(C) of NEPA environmental impact statements (§1508.11) are to be included in every recommendation or report.

On proposals (§ 1508.23).
For legislation and (§ 1508.17).
Other major Federal actions (§ 1508.18).
Significantly (§ 1508.27).
Affecting (§§ 1508.3, 1508.8).
The quality of the human environment (§ 1508.14).

22. 40 C.F.R. § 1502.4 expounds on this requirement:

§ 1502.4 Major Federal actions requiring the preparation of environmental impact statements.

(a) Agencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined. Agencies shall use the criteria for scope (§ 1508.25) to determine which proposal(s) shall be the subject of a particular statement. Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.

(b) Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations (§ 1508.18). Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decision making.

(c) When preparing statements on broad actions (including proposals by more than one agency), agencies may find it useful to evaluate the proposal(s) in one of the following ways:

> (1) Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.
>
> (2) Generically, including actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter.
>
> (3) By stage of technological development including federal or federally assisted research, development or demonstration programs for new technologies which, if applied, could significantly affect the quality of the human environment. Statements shall be prepared on such programs and shall be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives…

23. Section 1508.25 defines the scope of an EIS:

> Scope consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. The scope of an individual statement may depend on its relationships to other statements (§§ 1502.20 and 1508.28). To determine the scope of environmental impact statements, agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:
>
> (a) Actions (other than unconnected single actions) which may be:
>
> (1) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:
>
> (i) Automatically trigger other actions which may require environmental impact statements.
>
> (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.
>
> (iii) Are interdependent parts of a larger action and depend on the larger action for their justification.
>
> (2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.
>
> (3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions

> or reasonable alternatives to such actions is to treat them in a single impact statement.
>
> (b) Alternatives, which include:
>
> (1) No action alternative.
> (2) Other reasonable courses of actions.
> (3) Mitigation measures (not in the proposed action).
>
> (c) Impacts, which may be:
>
> (1) direct;
> (2) indirect;
> (3) cumulative.

NY State Environmental Quality Review Act

24. To ensure the "laudable goal" of placing environmental concerns alongside economic interests in the land use decision-making process, the "Legislature created an elaborate procedural framework, SEQRA, requiring parties to consider the environmental ramifications of their actions as early as possible." *Matter of King v. Saratoga Bd. of Supervisors*, 89 NY2d 341, 347 (1996).

25. SEQRA requires government agencies to consider the environmental impacts of proposed actions. See N.Y. Envir. Conser. Law § 8-0I09. Rules and regulations promulgated as a result of the law distinguish between Type I, Type II, and Unlisted Actions. See 6 NYCRR § 6I7.3. Type I Actions are enumerated and considered more likely to require an Environmental Impact Statement ("EIS"). See 6 NYCRR § 6I7.4(b)(I)-(II). Type II Actions, also enumerated, generally do not require environmental review. See 6 NYCRR § 6I7.5(c)(1)-(37). All other actions are Unlisted Actions and thus, like Type I Actions, may require environmental review. See 6 NYCRR § 6I7.3(c). Among Type I Actions are actions that involve physical alteration of 2.5 acres which are contiguous to a historic district and publicly owned parkland. see 6 NYCRR 614.4(b)(9) and (10).

26. Proposed Type I and Unlisted Actions require the lead agency (which here would be either the MTA or the DOT, or perhaps both, DOT with respect to the street restructuring, and MTA/NYCTA with respect to the L Train, subway stations and the tunnel work) to either issue a negative declaration as to environmental impact or draft an EIS. A negative declaration is legally sufficient if the lead agency has identified all relevant environmental impacts, thoroughly analyzed such impacts, and provided a written explanation of the reasoning that supports the negative declaration.[1] Thus, a negative declaration is improper and legally insufficient if the agency fails to identify a relevant environmental impact, thoroughly analyze the impacts identified, or explain the reasoning behind its negative declaration.[2]

27. In order to assess whether a proposed action will have a significant environmental impact, agencies must take a "hard look" at the proposed action and its effects.[3] A "hard look" involves a level of granularity that includes, for example, a discussion of alternatives "sufficient to permit a comparative assessment of the alternative discussed."[4] Actions also must be evaluated in terms of their "reasonably related" long-term, short-term, direct, indirect, and cumulative impacts,[5] and must be analyzed with other actions that are part of a long-range plan, likely to be subsequently undertaken, or dependent on approval of the initial action. See 6 NYCRR § 6I7.7(c)(2). Significance is also evaluated in connection with the proposed action's

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[1] *Dunk v. City of Watertown*, 11 A.D.3d 1024, 784 N.Y.S.2d (App. Div. 4th Dep't 2004); *See also* New York State Dep't of Environmental Conservation, *The SEQRA Handbook* 80 (3rd Ed. 20I0), http://www .dec.ny.gov/docs/ permits_ ej_operations_pdf/seqrhandbook.pdf.

[2] *Defreetsville Area Neighborhood Ass 'n, Inc. v. Town of North Greenbrush*, 299 A.D.2d 63I, 750 N.Y.S.2d I64 (App. Div. 3d Dep't 2002) (finding environmental review improper when town adopted resolution issuing negative declaration of environmental significance regarding rezoning plans but failed to consider that rezoning would lead to the construction of retail shopping center).

[3] *MYC New York Marina v. Town Board of East Hampton*, I7 Misc.3d 75I (Sup. Ct. Erie County 2007) (citing Aldrich v. Pattison, I07 A.D.2d 258,266,486 N.Y.S.2d 23 (App. Div. 2d Dep't I985).

[4] *MYC New York Marina v. Town Board of East Hampton*, I7 Misc.3d 75I (Sup. Ct. Erie County 2007)

[5] *Chinese Staff Workers Ass'n v. City of New York*, 68 N.Y.2d 359, 367 (1986).

setting, probable occurrence, duration, irreversibility, geographic scope, magnitude, and the number of people affected. *See* 6 NYCRR §§ 617.7(c)(3).

28. The New York Court of Appeals has held that the "[t]hreshold at which an environmental impact statement must be prepared is relatively low."[6] If an action is determined to have a significant impact, the EIS must provide a description of: short-term and long-term effects; unavoidable effects; possible alternatives, including the effects of taking no action at all;[7] public resource commitments; possible mitigation measures; the action's growth-inducing characteristics; use of energy; solid waste implications; affects groundwater protection; and any other information consistent with the Commissioner's guidelines. 6 NYCRR § 617.9

29. The New York Court of Appeals has weighed "population patterns" and "existing community character" as relevant when evaluating an agency's EIS.[8] Indeed, agencies must consider an action's secondary and long-term effects on "population patterns, community goals, and neighborhood character," including any "potential acceleration of the displacement of local residents and businesses."[9] Such considerations are analogous to public health, which, again, is a factor identified in regulations and agency guidance. See also *Teich v. Bucheit*, 221 AD2d 452 (2d Dep't 1995), *Hand v. Hospital for Special Surgery*, 943 N.Y.S.2d 792 (Sup. Ct. N.Y. County 2012).

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[6] *Chinese Staff Workers Ass 'n v. City of New York*, 68 N.Y.2d 359 (1986).

[7] *MYC New York Marina v. Town Board of East Hampton*, 17 Misc.3d 751 (Sup. Ct. Erie County 2007) (rejecting board's environmental review where it did not consider "no action" alternative and therefore failed to take a requisite "hard look" at the environmental impact of rezoning as required under SEQRA).

[8] *Chinese Staff Workers Ass 'n v. City of New York*, 68 N.Y.2d 359, 365 (1986) (reversing appellate court's grant of summary judgment to respondents and granting petitioner's cross-motion for same, finding that lead agencies did not take requisite hard look because they failed to include project's secondary, long-term, and social effects on population patterns and community character in EIS).

[9] *Chinese Staff Workers Ass'n v. City of New York*, 68 N.Y.2d 359, 367 (1986); N.Y. Envir. Conser. Law § 8-0105(6)

30. While SEQRA does not specifically include health in its broad definition of "environment,"[10] state regulations clearly do—for example, 6 NYCRR § 617.2 lists "human health" in its definition of "environment." 6 NYCCR § 617.2(1) Consistent with this is the Commissioner of Environmental Conservation's *SEQRA Manual*, which instructs agencies to consider "community health,"[11] and the Mayor's Office of Environmental Coordination's *CEQR [City Environmental Quality Review] Manual*, which dedicates an entire chapter to "public health."[12] Additionally, agencies must consider whether the action will create "a hazard to human health" or cause a "material conflict with a community's current plans or goals as officially approved or adopted." *See* 6 NYCRR § 617.7(c)(1)(iv), (vii). Thus, agencies must consider whether the proposed action will affect health, and if so, whether that impact would be significant.

New York City Environmental Regulations

31. New York City supplements SEQRA with its own set of regulations, commencing at § 5-02 of the Rules of the City of New York (RCNY), which continues and supplements Executive Order No. 91 [43 RCNY §§ 6-01 et seq.] of August 24, 1977, as amended (Executive Order 91).

32. Section 6-02 of Executive Order 91, "Definitions," contains the following relevant definitions:

a. "Action" means any activity of an agency, other than an exempt action enumerated in § 6-04 of this chapter, including but not limited to the following: (1) non-

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[10] N.Y. Envir. Conser. Law § 8-0105(6)

[11] New York State Department of Environmental Conservation, *The SEQRA Handbook* 83 (3rd Ed. 201 0), http://www.dec.ny.gov/docs/permits_ej_operations_pdf/seqrhandbook.pdf.

[12] New York City Mayor's Office of Environmental Coordination, *CEQR – City Environmental Quality Review: Technical Manual* (March 2014) (*see* Chapter 20),http://www.nyc.gov/htmVoec/downloads/pdf/20 14_ceqr_tm/20 14_ceqr_technical_manual.pdf

ministerial decisions on physical activities such as construction or other activities which change the use or appearance of any natural resource or structure;

b. "Environment" means the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution or growth, and existing community or neighborhood character.

c. "Negative declaration" means a written statement prepared by the lead agencies after conducting an environmental analysis of an action which announces that the lead agencies have determined that the action will not have a significant effect on the environment.

d. "Notice of determination" means a written statement prepared by the lead agencies after conducting an environmental analysis of an action which announces that the lead agencies have determined that the action may have a significant effect on the environment, thus requiring the preparation of an EIS

33. Section 6-06 of Executive Order 91 sets forth the criteria for a Determination of Significant Effect:

> Criteria. (a) An action may have a significant effect on the environment if it can reasonably be expected to lead to one of the following consequences:
>
> (1) a substantial adverse change to ambient air or water quality or noise levels or in solid waste production, drainage, erosion or flooding;
>
> (2) the removal or destruction of large quantities of vegetation or fauna, the substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on critical habitat areas, or the substantial affecting of a rare or endangered species of animal or plant or the habitat of such a species;
>
> (3) the encouraging or attracting of a large number of people to a place or places for more than a few days relative to the number of people who would come to such a place absent the action;

> (4) the creation of a material conflict with a community's existing plans or goals as officially approved or adopted;
>
> (5) the impairment of the character or quality of important historical, archeological, architectural or aesthetic resources (including the demolition or alteration of a structure which is eligible for inclusion in an official inventory of such resources), or of existing community or neighborhood character;
>
> (6) a major change in the use of either the quantity or type of energy;
>
> (7) the creation of a hazard to human health or safety;
>
> (8) a substantial change in the use or intensity of use of land or other natural resources or in their capacity to support existing uses, except where such a change has been included, referred to, or implicit in a broad "programmatic" EIS prepared pursuant to § 6-13 of this chapter.
>
> (9) the creation of a material demand for other actions which would result in one of the above consequences;
>
> (10) changes in two or more elements of the environment, no one of which is substantial, but taken together result in a material change to the environment.

34. Section 5.05(c)(6) of the City Regulations mandates that An action listed in 62 RCNY § 5-05(c)(2), (4), (5), (6), (8), or (11)-(13) of these rules "shall remain subject to environmental review if the project site is: (i) wholly or partially within any historic building, structure, facility, site or district that is calendared for consideration or eligible for designation as a New York City Landmark, Interior Landmark or Scenic Landmark; (ii) substantially contiguous to any historic building, structure, facility, site or district that is designated, calendared for consideration or eligible for designation as a New York City Landmark, Interior Landmark or Scenic Landmark; or (iii) wholly or partially within or substantially contiguous to any historic building, structure, facility, site or district, or archaeological or prehistoric site that is listed, proposed for listing or eligible for listing on the State Register of Historic Places or National Register of Historic Places."

35. Section 6.07(b)(1) (1) of the Executive Order describes the requirement that at minimum there be a Negative Declaration:

> If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to §§ 6-04 and 6-15 of this chapter, respectively, and that the action will not have a significant effect on the environment, they shall issue a Negative Declaration which shall contain the following information: (i) an action identifying number; (ii) a brief description of the action; (iii) the proposed location of the action; (iv) a statement that the lead agencies have determined that the action will not have a significant effect on the environment; (v) a statement setting forth the reasons supporting the lead agencies' determination.

36. Section 6.07(3) of the Executive Order, titled "Notice of Determination," states that: "If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to §§ 6-04 and 6-15 of this chapter, respectively, and that the action may have a significant effect on the environment, they shall issue a Notice of Determination which shall contain the following information: (i) an action description number; (ii) a brief description of the action; (iii) the proposed location of the action; (iv) a brief description of the possible significant effects on the environment of the action."

37. Section 5-07 of the CEQRA Regulations describes the procedure as follows:

> Scoping. Following the issuance of a notice of determination (positive declaration), the lead agency shall coordinate the scoping process, which shall ensure that all interested and involved agencies (including the City Council where it is interested or involved), the applicant, the OEC, community and borough boards, borough presidents and the public are able to participate. The scoping process shall include a public scoping meeting and take place in accordance with the following procedure:
>
> (a) Draft Scope. Within fifteen days after issuance of a notice of determination (positive declaration), the lead agency shall issue a draft scope, which may be prepared by the applicant but must be approved by the lead agency. …
>
> (b) Public Notice and Comment. Upon issuance of the draft scope and not less than thirty nor more than forty-five days prior to the holding

> of the public scoping meeting, the lead agency shall publish in the City Record a notice indicating that a draft environmental impact statement will be prepared for the proposed action and requesting public comment with respect to the identification of issues to be addressed in the draft environmental impact statement. Such notice shall be in a format provided by the OEC and shall state that the draft scope and the environmental assessment statement may be obtained by any member of the public from the lead agency and/or the OEC. Such notice shall also contain the date, time and place of the public scoping meeting, shall provide that written comments will be accepted by the lead agency through the tenth day following such meeting, and shall set forth guidelines for public participation in such meeting.
>
> (c) Agency Notice and Comment. Upon issuance of the draft scope and not less than thirty nor more than forty-five days prior to the holding of the public scoping meeting, the lead agency shall circulate the draft scope and the environmental assessment statement to all interested and involved agencies (including the City Council where it is interested or involved) … . Together with the draft scope and the environmental assessment statement, a letter shall be circulated indicating the date, time and place of the public scoping meeting, and stating that comments will be accepted by the lead agency through the tenth day following such meeting. The lead agency may consult with other agencies regarding their comments, and shall forward any written comments received pursuant to this subdivision to the OEC.
>
> (d) Public Scoping Meeting. The lead agency shall chair the public scoping meeting. In addition to the lead agency, all other interested and involved agencies that choose to send representatives (including the City Council where it is interested or involved) … may participate. The meeting shall include an opportunity for the public to observe discussion among interested and involved agencies, agencies entitled to send representatives, the applicant and the OEC. Reasonable time shall be provided for the public to comment with respect to the identification of issues to be addressed in the draft environmental impact statement. …
>
> (e) Final Scope. Within thirty days after the public scoping meeting, the lead agency shall issue a final scope … Where a lead agency receives substantial new information after issuance of a final scope, it may amend the final scope to reflect such information.

38. Agencies such as DOT may be responsible for the EIS. Executive Order 91 § 6-08(b)(1) (b) states that "When an action which may have a significant effect on the

environment is initiated by an agency, the initiating agency shall be directly responsible for the preparation of a draft EIS."

39. Executive Order 91 describes the EIS content at § 6-09(d) (d):

> The body of all draft and final EIS's shall contain at least the following:
>
> (1) a description of the proposed action and its environmental setting;
>
> (2) a statement of the environmental impacts of the proposed action, including its short-term and long-term effects, and typically associated environmental effects;
>
> (3) an identification of any adverse environmental effects which cannot be avoided if the proposed action is implemented;
>
> (4) a discussion of the social and economic impacts of the proposed action;
>
> (5) a discussion of alternatives to the proposed action and the comparable impacts and effects of such alternatives;
>
> (6) an identification of any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;
>
> (7) a description of mitigation measures proposed to minimize adverse environmental impacts;
>
> (8) a description of any growth-inducing aspects of the proposed action, where applicable and significant;
>
> (9) a discussion of the effects of the proposed action on the use and conservation of energy, where applicable and significant;
>
> (10) a list of underlying studies, reports or other information obtained and considered in preparing the statement; and
>
> (11) (for the final EIS only) copies or a summary of the substantive comments received in response to the draft EIS and the applicant's response to such comments.

40. Section 6-10 describes the process to follow upon completion of a draft:

> Draft Environmental Impact Statements - Procedures.
>
> (a) Notice of Completion. Upon the satisfactory completion of a draft EIS, the lead agencies shall immediately prepare, file and make available for public inspection a Notice of Completion as provided in

paragraphs (1), (2) and (3) of this subdivision. Where a proposed action is simultaneously subject to the Uniform Land Use Review Procedure ("ULURP"), the City Planning Commission shall not certify an application pursuant to ULURP until a Notice of Completion has been filed as provided in paragraph (3) of this subdivision.

(1) Contents of Notice of Completion. All Notices of Completion shall contain the following: (i) an action identifying number; (ii) a brief description of the action; (iii) the location of the action and its potential impacts and effects; and (iv) a statement that comments on the draft EIS are requested and will be received and considered by the lead agencies at their offices. The Notice shall specify the public review and comment period on the draft EIS, which shall be for not less than 30 calendar days from the date of filing and circulation of the notice, or not less than 10 calendar days following the close of a public hearing on the draft EIS, whichever last occurs.

(2) Circulating Notice of Completion. All Notices of Completion shall be circulated to the following: (i) all other agencies, including federal and state agencies, involved in the proposed action; (ii) all persons who have requested it; (iii) the editor of the State Bulletin; (iv) the State clearinghouse; (v) the appropriate regional clearinghouse designated under the Federal Office of Management and Budget Circular A-95.

(3) Filing Notice of Completion. All Notices of Completion shall be filed with and made available for public inspection by the following: (i) the Commissioner of DEC; (ii) the regional director of DEC; (iii) the agency applicant, where applicable; (iv) the appropriate Community Planning Board(s); (v) the City Clerk; (vi) the lead agencies.

(b) Filing and availability of draft EIS. [City clerk function transferred to OEC, City Planning Rules § 5-02(b)(4).] All draft EIS's shall be filed with and made available for public inspection by the same persons and agencies with whom Notices of Completion must be filed pursuant to paragraph (a)(3) of this section.

(c) Public hearings on draft EIS.

(1) Upon completion of a draft EIS, the lead agencies shall conduct a public hearing on the draft EIS.

(2) The hearing shall commence no less than 15 calendar days or more than 60 calendar days after the filing of a draft EIS pursuant to subdivision (b) of this section, except where a different hearing date is required as appropriate under another law or regulation. (3) Notice of the public hearing may be contained in the Notice of Completion or, if not so contained, shall be given in the same manner in which the

> Notice of Completion is circulated and filed pursuant to subdivision (a) of this section. In either case, the notice of hearing shall also be published at least 10 calendar days in advance of the public hearing in a newspaper of general circulation in the area of the potential impact and effect of the proposed action.

41. Section 6-11 describes the process for drafting and releasing the Final Environmental Impact Statements:

> (a) Except as provided in paragraph (1) of this subdivision, the lead agencies shall prepare or cause to be prepared a final EIS within 30 calendar days after the close of a public hearing.
>
> (1) If the proposed action has been withdrawn or if, on the basis of the draft EIS and the hearing, the lead agencies have determined that the action will not have a significant effect on the environment, no final EIS shall be prepared. In such cases, the lead agencies shall prepare, file and circulate a Negative Declaration as prescribed in § 6-07 of this chapter.
>
> (2) The final EIS shall reflect a revision and updating of the matters contained in the draft EIS in light of further review by the lead agencies, comments received and the record of the public hearing.
>
> (b) Immediately upon the completion of a final EIS, the lead agencies shall prepare, file, circulate and make available for public inspection a Notice of Completion of a final EIS in a manner specified in § 6-11(a) of this chapter, provided, however, that the Notice shall not contain the statement described in subparagraph (a)(1)(iv) of such section.
>
> (c) Immediately upon completion of a final EIS, copies shall be filed and made available for public inspection in the same manner as the draft EIS pursuant to § 6-1l(b) of this chapter.

Americans with Disabilities Act

42. Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12132, prohibits a public entity from excluding a person with a disability from participating in or otherwise benefiting from its programs, or otherwise discriminating against a person on the basis of disability: "No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."

43. The term "disability" includes physical and mental conditions that substantially limit one or more major life activities. 42 U.S.C. § 12102(2).

44. A "qualified individual with a disability" means an "individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity." 42 U.S.C. § 12131(2).

45. Plaintiff Milagros Franco, the board members and the members of organizational Plaintiff DIA, are persons with disabilities within the meaning of the statute in that they have conditions that substantially limit one or more major life activities, such as walking. They are also qualified in that they live in, work in, and/or travel within New York City and thus are eligible to benefit from MTA's and DOT's program of subway stations.

46. A "public entity" includes state and local governments, their agencies, and their instrumentalities. 42 U.S.C. § 12131(1). The MTA, NYC Transit, and NYC-DOT are public entities within the meaning of 42 U.S.C. § 12131 and 28 C.F.R. § 35.104.

47. The failure to alter existing facilities used in the provision of designated public transportation services "in such a manner that, to the maximum extent feasible, the altered portions to the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations" is an act of discrimination under Title II of the ADA. 42 U.S.C. § 12147(a),

48. Subway stations are "facility[ies] . . . used in the provision of designated public transportation services" within the meaning of 42 U.S.C. § 12147(a).

49. Congress authorized the United States Department of Transportation to promulgate regulations implementing the ADA's provisions concerning access to public transportation. 42 U.S.C. § 12149(a).

50. One of these regulations, codified at 49 C.F.R. § 37.43(a)(1), applies to alterations of transit facilities "in a way that affects or could affect the usability of the facility or part of the facility."

51. Transit authorities supervising such alterations, such as the MTA and NYC Transit, must "make the alterations . . . in such a manner, to the maximum extent feasible, that the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations." *Id.*

52. The regulations further define an "alteration" to an existing transit facility as including, but not limited to, "remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions." 49 C.F.R. § 37.3.

Section 504 of the Rehabilitation Act of 1973

53. Section 504 of the Rehabilitation Act of 1973 provides that "no otherwise qualified individual with a disability in the United States . . . shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." 29 U.S.C. § 794(a).

54. Plaintiff Franco and members of organizational Plaintiff DIA, are "otherwise qualified individuals with disabilities" within the meaning of Section 504 in that they have impairments which substantially limit one or more major life activities, such as walking, and

have reason to and are otherwise eligible to participate in Defendants' subway program at the Middletown Road station. See 29 U.S.C. § 705(20)(B) (referencing 42 U.S.C. § 12102).

55. Defendants MTA, NYC Transit, and NYC-DOT are recipients of federal financial assistance within the meaning of Section 504 and have received such federal financial assistance at all times relevant to the claims asserted in this Complaint.

56. Defendants MTA and NYC Transit are instrumentalities of the New York State government.

57. All of the operations of Defendants MTA, NYC Transit, and NYC-DOT are "program[s] or activit[ies]" within the meaning of the Rehabilitation Act. 29 U.S.C. § 794(b)(1)(A).

58. The term "discrimination" as defined by Section 504 includes the failure to alter existing facilities used in the provision of designated public transportation services "in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations." 42 U.S.C. § 12147(a).

59. The U.S. Department of Transportation regulations implementing Section 504 provide that "[n]o qualified person with a disability shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance administered by the Department of Transportation." 49 C.F.R. § 27.7(a).

60. The prohibition on discrimination in the U.S. Department of Transportation regulations applies to "aid, benefit, or service provided under a program or activity receiving Federal financial assistance," including "any aid, benefit, or service provided in or through a

facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance." 49 C.F.R. § 27.7(b)(6).

61. Transit authorities supervising alterations that affect or could affect the usability of transit facility in whole or in part, such as the MTA, NYC Transit, and NYC DOT must "make the alterations . . . in such a manner, to the maximum extent feasible, that the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations." 49 C.F.R. § 37.43(a)(1).

62. The regulations further define an "alteration" to an existing transit facility as including, but not limited to, "remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions." 49 C.F.R. § 37.3.

63. Subway station renewal projects which include "remodeling," "renovation," "rehabilitation," "reconstruction," and "changes or rearrangement in structural parts or elements," are "alterations" within the meaning of 49 C.F.R. § 37.3.

64. The replacement of staircases connecting the street, mezzanine, and platforms as part of a station renewal project is an alteration that affects the usability of the station pursuant to 49 C.F.R. § 37.43(a)(1).

NYC Human Rights Law

65. The New York City Human Rights Law ("NYCHRL"), N.Y.C. Admin. Code § 8-107(4)(a), provides that "[i]t shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation because of the actual or perceived . . . disability . . . status of

any person directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof . . .”

66. The term “person” includes corporations. N.Y.C. Admin. Code § 8-102(1).

67. The MTA is a public benefit corporation and thus is a person within the meaning of N.Y.C. Admin. Code § 8-102(1).

68. Likewise, NYC Transit is a subsidiary of the MTA and thus is a person within the meaning of N.Y.C. Admin. Code § 8-102(1).

69. The term “place or provider of public accommodation” includes “providers, whether licensed or unlicensed, of goods, services, facilities, accommodations, advantages or privileges of any kind.

70. The various L Train subway stations constitute a public accommodation within the meaning of the NYCHRL because it is a place where the MTA and NYC Transit offer access to the program of subway services to the general public.

71. As persons within the meaning of the NYCHRL, Defendants MTA and NYCTA act as the “managers” of the L Train subway stations

72. The NYCHRL further requires that persons “shall make reasonable accommodation to enable a person with a disability to . . . enjoy the right or rights in question provided that the disability is known or should have been known by the covered entity.” N.Y.C. Admin. Code § 8-107(15). The term “covered entity” is defined as a person required to comply with any provision of the NYCHRL.

73. The MTA, and NYC Transit qualify as covered entities and must make reasonable accommodations necessary to allow persons with disabilities the opportunity to benefit from Defendants’ subway program pursuant to N.Y.C. Admin. Code § 8-107(15).

FACTS RELEVANT TO ALL CLAIMS

74. The L Train was built in 1924; it connects Manhattan and Brooklyn.

75. It crosses under the East River, connecting Williamsburg to East 14th Street in Manhattan through a cast iron tunnel with concrete liner. There are two tubes in tunnel, each carrying one track.

76. Forty trains per hour go through the tunnel during peak travel times. 225,000 riders go through the Canarsie Tunnel each weekday

77. Over the last decade, the L has experienced tremendous growth and emerged as one of the NYC subway system's busiest subway lines. Since 1990, ridership on the L has more than tripled. It has quintupled at Williamsburg's Bedford Ave Station alone. This growth has helped fuel revitalization in the local housing market and business development in several neighborhoods along the line.

78. According to the MTA a total of 400,000 daily riders currently use the L,

79. 225,000 people use the L tunnel between Brooklyn and Manhattan daily. The MTA states that 50,000 people travel solely in Manhattan on a daily basis, and 125,000 people travel solely in Brooklyn.

80. For context, about as many people take the L to Manhattan during peak AM hours (24,100) as the combined total that cross all six East River bridges and tunnels into the Central Business District in private vehicles (25,500).

81. In 2012, Superstorm Sandy flooded the 92-year-old tubes of the Canarsie Tunnel with seven million gallons of salt water, damaging vital infrastructure and systems in the 7,110-foot-long tunnel.

82. While the MTA was able to drain the tubes and restore service just 10 days after the storm, it was clear that the damage Sandy left in its wake significantly shortened the useful life of the tunnel. The MTA says that the tubes are currently safe and that they continue to monitor conditions closely, but the damage can only be addressed through a full reconstruction of the tunnel.

83. The most devastating damage occurred in the duct banks, concrete structures that provide a protected pathway for the miles of cables and circuits necessary for the communication, power, and safety of the trains. The salt water also caused damage to the tube structure, signal and other electrical equipment, and accelerated the deterioration of track and track ties.

84. In January 2016, the L Line between Bedford and Eighth Avenues was proposed for a partial or full shutdown so that the MTA could repair the tunnels. The repair, which was projected to start in April 2019, would replace damaged communications, power and signal wires, third rails and tracks, duct banks, pump rooms, circuit breaker houses, tunnel lighting, concrete lining, and fire protection systems. Three new electric substations would provide more power to run more trains during rush hours.

85. The work proposed will be extensive: demolition and reconstruction of approximately 60,000 linear feet of duct banks, 14,400 linear feet of track and track bed, 270,000 linear feet of cable ducts and associated cables, repair of 7,000 linear feet of concrete lining, and the installation of tunnel lighting and fire systems. The tunnel will be also be protected from future storms by incorporating resiliency measures such as the construction of durable cables and ducts and the installation of a new discharge line.

86. When it decided to do the work, the MTA considered either shuttering the entire segment for eighteen months, or operating two segments for three years: a one-track segment between Bedford Street in Brooklyn and Eighth Avenue in Manhattan with a 5-train-per-hour capacity in either direction, and regular service between Lorimer Street and Rockaway Parkway. For both options, the Third Avenue station in Manhattan would be closed and new exits and elevators to the First Avenue and Bedford Avenue stations would be added. The renovations were projected to cost between $800 million and $1 billion.

87. Community meetings were held in Brooklyn and Manhattan to determine which of the two options would be better accepted by the affected communities. On July 25, 2016, it was announced that the MTA had chosen the 18-month full closure option. (See Exhibit A) The *New York Post* described the closure with the headline, "2019 is the year Williamsburg dies." According to the MTA this option was selected after its surveys revealed that 77 percent of L train riders preferred the 18-month closure option.

88. To provide alternate service, the MTA devised preliminary mitigation plans (see Exhibit B), proposing additional shuttle bus, ferry, and subway service, extending G trains from four cars to eight, and running the M to Midtown Manhattan daily. A ferry route between Williamsburg and East Village, Manhattan, might be instituted, the M14A and M14D buses on 14th Street might be converted to Select Bus Service; and dedicated bus lanes would be placed on crosstown corridors in Manhattan. The MTA would institute two out-of-system subway transfers, free if paid via MetroCard: one between Broadway on the IND Crosstown Line and Lorimer Street on the BMT Jamaica Line, and one between Livonia Avenue on the Canarsie Line and Junius Street on the IRT New Lots Line. Preliminary documents also proposed that the four toll-free East River bridges between Manhattan and Long Island (the Queensboro,

Williamsburg, Manhattan, and Brooklyn Bridges) might gain a high-occupancy vehicle ("HOV") restriction of at least three passengers per vehicle during rush hours.

89. The MTA named Judlau Contracting and TC Electric as the project's contractors on April 3, 2017, at which time the duration of the shutdown was shortened to 15 months. See Exhibit C. It offered the contractors a $188,000-a-day bonus for completing work up to 60 days early as well as a $15 million bonus for completing the project on time; the MTA also stipulated that the companies would need to pay a fine of $410,000 for each day that work is delayed past the 15-month deadline. The joint venture is also responsible for renovating the First Avenue station in Manhattan and the Bedford Avenue station in Brooklyn during the shutdown, as well as adding platform screen doors to the Third Avenue station in Manhattan.

90. On or about December 17, 2017, the MTA and the New York City Department of Transportation released a more concrete mitigation plan (see Exhibit D), based on their projections that 80% of riders would transfer to other subway services to get to Manhattan, while 15% would use buses. An HOV restriction on the Williamsburg Bridge during rush hours would allow it to accommodate three SBS routes between Brooklyn and Manhattan. One route would go from SoHo, Manhattan, to the Bedford Avenue station in Brooklyn; a second would connect SoHo to the Grand Street station in Brooklyn; and a third would stretch from Union Square, Manhattan, to the Grand Street station. In addition, 14th Street between Third and Ninth Avenues would be converted into a bus-only corridor during rush hours to accommodate an SBS route across 14th Street, connecting to a ferry route at Stuyvesant Cove Park near 23rd Street. The mitigation plan also entailed improvements to six subway stations, new entrances at two stations, enlarged crosswalks near these subway stations, longer G and C trains, three free out-of-system transfers, increased service on the G, J/Z and M, and a weekend extension of the M train

to 96th Street and Second Avenue. Finally, the plan included an expansion of New York City's privately-operated bike share system, Citi Bike, as well as upgrades to bike lanes on Brooklyn's Grand Street and the installation of Manhattan's first two-way crosstown bike lane on 13th Street. Some subway entrances on each of the affected routes would also be reopened.

91. MTA has made plans with the DOT for extensive bussing to go on across the Manhattan Bridge into Manhattan and up to 14th Street. The Williamsburg Bridge will serve as the major connection for L Shuttle buses. High Occupancy Vehicle (HOV-3) restrictions will be added to the Williamsburg Bridge during peak hours, to allow for more efficient movement over the bridge. NYC DOT is also designing *temporary* bus lanes that provide transit priority across much of the shuttle bus corridors.

92. Station renovation. During the project, Bedford Avenue station in Brooklyn and both Union Square and First Avenue station in Manhattan will receive significant accessibility and capacity upgrades. Several other stations will be upgraded or revitalized.

93. First Avenue station improvements in Manhattan (at Avenue A) will include:

a. Building new station entrances on both sides of the 14th street.

b. Installing new elevators serving both platforms.

c. Installing new turnstiles and MetroCard vending machines.

94. Bedford Avenue Station Improvements in Brooklyn (Bedford Avenue Entrance) will include:

a. Adding two new street-level stairways

b. Adding platform stair capacity

c. Expanding the mezzanine

d. Adding new elevators

e. Adding turnstiles.

95. Union Square Station improvements will include

a. Augmented turnstile capacity

b. Reconfiguration and widening of stairs between the Broadway line N, Q, R &W and the L line to improve passenger circulation on the stairs and on the platform.

c. Addition of a new escalator from the L train platform to the station's mezzanine.

96. Third Avenue station improvements will include pilot program introducing Platform Screen Doors—similar to those on the AirTrain.

97. Other Stations will also be improved:

a. All five L Line stations in Manhattan will have improvements such as refurbished stairways and new lighting and painting.

b. Four L Line stations in Brooklyn and one in Manhattan—at Morgan Avenue, DeKalb Avenue, Halsey Street, Bushwick Avenue-Aberdeen Street in Brooklyn, and 6th Avenue in Manhattan—will see repaired or replaced wall tiles, columns, platform edges, and floors.

98. 14th Street Corridor Changes. No street will be more affected by the L Train disruption than 14th Street. 14th Street is a vital mixed-use corridor which supports a mix of institutional, commercial and residential uses. The corridor today is a major destination point for 16 subway lines including the L Train. In addition to the 275,000 daily passengers on the L Train, the M14A/D local bus service carries 33,000 daily passengers on the street's surface.

99. According to the MTA, when the L Train service is suspended, this corridor will need to serve upwards of 84,000 bus transit customers each day, making the corridor one of the busiest bus corridors per mile in the world.

100. On December 17, 2018 the MTA and NYC DOT announced a final plan for street design and service plan related to the 14th Street corridor. See Exhibit D.

101. The 14th Street corridor is bounded on the south by Greenwich Village and on the north by Chelsea. Both neighborhoods, on the blocks contiguous to 14th Street, have a proliferation of 19th century townhouses, and early 20th Century multi-story buildings. The area running from University Place to Washington Street, from 13th Street south to West 4th Street has been established as the Greenwich Village Historic District. On the north side of 14th Street, between University Place/Union Square West and Park Avenue/4th Avenue, lies Union Square, a public park built in 1882, which is on the National Register of Historic Places.

102. 14th Street Busway. Under the DOT/MTA Plan the core of 14th Street (3rd to Ninth Avenues eastbound and 3rd to 8th Avenues westbound) will serve as an exclusive "busway" (meaning no cars or trucks allowed) with peak hour restrictions. The area has also been described as a "People Way." Bus lanes will be added past both sides of the busway as well. An upgraded Select Bus Service (SBS) treatment on 14th Street will bring temporary bus bulbs, bus lanes, and expanded sidewalks (12 ft. on both the north and south sides) to the corridor. NYC DOT will also add new pedestrian only space along Union Square West from 14th to 15th Streets and 16th to 17th Streets.

103. 13th St Bikeway. The December 17, 2018 plan also announced that the DOT will add Manhattan's first two-way protected crosstown bike lane to 13th Street (initially slated for the south side of the street, but now changed to the north side of the street) providing connection

to a new bike parking hub on University Place from 13th to 14th Streets. That block of University Place, which had connected to 14th Street, will be closed (traffic coming north on University Place will either have to turn east on East 12th Street or west on East 13th Street.)

104. Closing 14th Street to cars and trucks will reroute that traffic through the side streets north of 14th street – principally 18th through 22nd streets, and to 12th and 13th Streets south of 14th Street. The streets south of 12th Street, running through the already congested Greenwich and East Villages, do not provide direct connections to either West Street or the FDR Drive until you get down to Houston Street. The streets just north of 14th Street are blocked by Union Square (15th & 16th streets), by Stuyvesant Town (15th to 19th streets), and by Peter Cooper Village (21st & 22nd streets). To add to the traffic, NYC DOT is proposing a pedestrian mall that would shut down Union Square West from 14th Street to 17th Street, forcing all traffic coming down Broadway to either turn west on East 17th Street or east on East 18th Street.

105. This leaves 12th Street, 13th Street and 20th Street as the only ways to get across Manhattan between Houston and 23rd streets. Residents of those three streets and neighboring streets have grave concerns regarding the re-routing of commercial traffic onto those streets as a result of the "People Way." All of these streets are narrow mixed-use/residential streets that are already constantly backed up with traffic. Because of existing building construction, cars, bikes and delivery trucks, traffic on these streets is already often at a virtual standstill. 13th Street, with its bikeway, will have such a narrow car lane that a car or taxi stopping to pick someone up will stop traffic entirely. An oil delivery truck will shut down the block for 30-60 minutes.

106. Closing 14th Street to vehicular traffic will cause horrific traffic jams on 12th, 13th, 15th, 16th, 17th Street, and even 18th Street, as well as north-south avenues including 8th, 7th, 6th, 5th, 4th, and 3rd Avenue, and Broadway, Park Avenue, and University Place. The

traffic will bring with it air pollution, noise pollution. The streets will be harder to cross and bike riding will be impossible. Perhaps most importantly, the movement of ambulance and fire vehicles will be impeded. The western side of the 14th Street corridor has no hospital. The nearest hospital is Mt. Sinai-Beth Israel medical Center on First Avenue and 16th Street. Ambulances picking up patients at the Northwell Health "stand alone emergency room," on 12th Street and 7th Avenue, must transport often critically ill people from 12th and 7th across town.

107. Besides heightened levels of pollution and noise from idling cars, for hire vehicles, and trucks, increased traffic (especially heavy trucks) risks severely damaging the street and neighborhood infrastructure. The whole neighborhood consists of and sits on century-old infrastructure, hollow sidewalks and historic landmarked buildings and includes a high-pressure steam pipe running under some of the streets, including 20th Street, and a century-old water main intersects at 20th Street and 5th Avenue. and then runs down 5th Avenue. This century-old steam pipe still has sections that use wood and leather gaskets.

108. As MTA/NYCTA and NYC-DOT have developed these plans they have held numerous public meetings, and attended at least one hearing at each of the affected Community Boards. Those community residents attending, including all members of the Plaintiff organizations, have felt that (a) their complaints and suggestions were being politely listened to, and politely ignored, (b) that there was no available means of challenging statistics and analysis central to the decision making process, either about how to proceed with the project, or how to proceed with mitigation; and (c) that the statistical data was faulty (i.e., a traffic count of 14th Street did not include trucks and other commercial vehicles).

109. At no time has the MTA, NYC Transit, NYC-DOT done a formal published Environmental Assessment, and at no time during the two-year-old process has any of those agencies done an Environmental Impact Statement, draft of otherwise.

110. NYC-DOT has insisted, at all times, that it and the MTA are complying with NEPA and SEQRA (see correspondence annexed as Exhibit E), but in response to demands for proof, it has supplied nothing.

111. Despite the fact that nearly a billion dollars in Federal funding is being spent on this project, the FTA, upon information and belief, has, at no time, demanded that an Environmental Assessment or Environmental Impact Statement be done by the other Defendants.

AS AND FOR A FIRST
CAUSE OF ACTION
(National Environmental Procedure Act)

112. The aforedesccribed MTA/ NYC and NYC-DOT project materially affects the human environment in a broad geographic area, and is being built in large part with Federal funds.

113. The failure to prepare and properly file and publish an Environmental Assessment and an Environmental Impact Statement violates NEPA, 42 USC Section 4332, and its attendant regulations.

AS AND FOR A SECOND
CAUSE OF ACTION
(NY State Environmental Quality Review Act)

114. The aforedesccribed MTA/ NYC and NYC-DOT project materially affects the environment in a broad geographic area, and, in part, is a large enough project contiguous to a public park and an historic district to be considered a Type 1 Action.

115. The failure to take a "hard look," and prepare and properly file and publish an Environmental Assessment and an Environmental Impact Statement violates SEQRA, and its

attendant regulations, as well (in the case of the NYC-DOT) as CEQRA and NYC Executive Order 91.

AS AND FOR A THIRD
CAUSE OF ACTION
(Americans With Disabilities Act)

116. The station renewal projects planned for the L Train Stations in Brooklyn and Manhattan include "remodeling," "renovation," "rehabilitation," "reconstruction," and "changes or rearrangement in structural parts or elements," and thus will an "alteration" within the meaning of 49 C.F.R. § 37.3.

117. The replacement of staircases connecting the street, mezzanine, and platforms at the various L Train station during the L Train station renewal project is an alteration that affects the usability of the station pursuant to 49 C.F.R. § 37.43(a)(1).

118. Defendant MTA and NYCTA have failed to plan for the installation of elevators at half of the L Train stations s when making alterations that affect the usability of the station, including replacing staircases, in violation of Title II of the ADA.

119. Defendants' conduct constitutes an ongoing and continuous violation of the ADA. Unless restrained from doing so, Defendants will continue to violate the law

AS AND FOR A FOURTH
CAUSE OF ACTION
(Section 504 of the Rehabilitation Act)

120. Defendants have discriminated against and continue to discriminate against Plaintiffs by denying them the opportunity to participate in or benefit from the aid, benefit, or service offered at L Train Stations which are not service by elevators. 49 C.F.R. § 27.7(b)(1)(i).

121. Transit authorities supervising alterations that affect or could affect the usability of transit facility in whole or in part, such as the MTA and NYC Transit, must "make the

alterations . . . in such a manner, to the maximum extent feasible, that the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations." 49 C.F.R. § 37.43(a)(1).

122. The regulations further define an "alteration" to an existing transit facility as including, but not limited to, "remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions." 49 C.F.R. § 37.3.

123. The station renewal project scheduled to be undertaken at various L Train Stations in 2019-2020 included "remodeling," "renovation," "rehabilitation," "reconstruction," and "changes or rearrangement in structural parts or elements," and thus was an "alteration" within the meaning of 49 C.F.R. § 37.3.

124. The replacement of staircases connecting the street, mezzanine, and platforms at L Train stations during the 2019-2020 station renewal project is an alteration that affects the usability of the station pursuant to 49 C.F.R. § 37.43(a)(1).

125. Defendants' failure to install elevators at all L Train stations when making alterations that affect the usability of those stations, including replacing staircases, violates Section 504.

126. Defendants MTA and NYCTA have made plans to violate Section 504 and the regulations promulgated there under by excluding Plaintiffs from participation in, denying Plaintiffs the benefits of, and subjecting Plaintiffs to discrimination based solely by reason of their disabilities in the benefits and services of Defendants' subway program on the L Train Line.

127. Defendants' conduct constitutes an ongoing and continuous violation of Section 504.

AS AND FOR A FIFTH
CAUSE OF ACTION
(NYC Human Rights Law)

128. The MTA and NYC Transit, qualify as covered entities and must make reasonable accommodations necessary to allow persons with disabilities the opportunity to benefit from Defendants' subway program pursuant to N.Y.C. Admin. Code § 8-107(15).

129. Defendants have made inadequate or no plans to offer reasonable accommodations to allow persons with disabilities the opportunity to use the services offered at half of the stations on the L Train, even though they will all be renovated.

INJURY

130. The failure to act in accordance with NEPA, SEQRA, CEQRA, Executive Order 91, the ADA, and the NYCHRL, has caused the Plaintiffs, and the residents of Manhattan below 23rd Street, and the residents of Williamsburg and west-central Brooklyn irreparable injury, in that (a) they have been deprived of their statutory right to meaningful involvement in the decision making process concerning the L Train- Canarsie Tunnel Project, (b) they have been deprived of the opportunity to examine transparent statistics and analysis of impacts and alternatives, and (c) they have been deprived of the opportunity to challenge the mitigation choices made by the MTA/NYCTA and the DOT, or the lack of consideration of mitigation alternatives.

131. In the case of those with disabilities and those representing persons with disabilities, the aforedescribed actions have served to deprive those Plaintiffs, and those they represent, of their right to an accessible transportation system.

132. Through their above-described conduct, Defendants have caused and will continue to cause Plaintiffs immediate and irreparable injury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray:

1. That this Court direct an expedited course of discovery so that timely litigation of this matter may proceed prior to the commencement of the LTrain–Canarsie Tunnel Project

2. That this Court enter a declaratory judgment declaring that by acting as described herein above all Defendants have violated the rights of the various Plaintiffs under NEPA , that MTA, NYCTA and NYC-DOT have violated Plaintiffs' rights under SEQRA and CEQRA, and that MTA and NYCTA have violated Plaintiffs right under the ADA, Section 504, and the NYC Human Rights Law.

3. That this Court enjoin any further action on the part of defendants to proceed with the L Train- Canarsie Tunnel Project unless and until the Defendants MTA, NYCTA, and NYC-DOT comply with NEPA, SEQRA, CEQRA, NYC Executive Order 91, the ADA, Section 504, and the NYC Human Rights Law.

4. That this Court enter an award of attorneys' fees and costs.

5. That this Court grant such other and further relief as is just and equitable.

Dated: April 3, 2018
New York, New York

ADVOCATES FOR JUSTICE,
CHARTERED ATTORNEYS
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By: /s/
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VERIFICATION

Arthur Z. Schwartz, Treasurer for Progressive Action of Lower Manhattan-New York Progressive Action Network, Inc., a plaintiff herein, verifies that the aforestated Complaint is true to his knowledge, information, and belief.

Dated: April 3, 2018
New York, New York

/s/
ARTHUR Z. SCHWARTZ