

DAILY NEWS

A Net gain for Brooklyn

November 27th, 2009

High court did right by the city in Atlantic Yards lawsuit EDITORIALS Friday, November 27th 2009, 4:00 AM The state's highest court has given a crucial go-ahead to plans to build a pro basketball arena and a major housing development at one of Brooklyn's great crossroads. Good for the judges. Good for New York. There is much to like in the Court of Appeals decision regarding the Atlantic Yards project, starting with new hopes that the Nets will have a home in the city for the 2011 season and that thousands of apartments will rise on land that has been fallow for more than four decades. By a 6-to-1 vote, the court dealt a small band of opponents a 26th straight defeat in their legal war of attrition against a project that grew only more critical as a jobs producer with the economic downturn. Hats off to developer Bruce Ratner for persevering through six years worth of regulatory approvals and lawsuits. It is to New York's shame that moving even the worthiest projects off the drawing boards is so difficult in a town that prides itself on getting big things done. All you need are some chanting pickets and a stack of summonses. On the upside, the court rendered expeditious judgment, positioning Ratner to meet a year-end deadline for financing the start of construction and - even more important - established a wise standard for the use of eminent domain in New York State. Lawyers for a handful of property owners - among the few who have not sold to Ratner at handsome prices - had asked the court for nothing less than a radical reinterpretation of the state Constitution. Many feared the panel would take an aggressively activist approach in keeping with a recent tendency to flex its judicial muscle. Didn't happen. The panel declined to repudiate the U.S. Supreme Court's controversial Kelo decision, upholding the taking of a Connecticut home to make way for a now-abandoned commercial development. Instead, the majority threaded a fine needle. It affirmed that New York may take property by eminent domain only for public use - except when an area has been deemed to be blighted. The court also established that it would not second-guess a blight finding that was reasonable. The Atlantic Yards zone, at the intersection of Atlantic and Flatbush Aves., fit the blight definition well beyond reason. With the small exception of a slice occupied by the complaining property owners, the tract has been a designated urban renewal area since 1968 and has stood vacant for all that time. Much of it is occupied by a below-grade cut for the Long Island Rail Road. Now, if New York is lucky, Ratner will get to work on the arena, perhaps to be home court for LeBron James (we can dream), followed by 6,000 residential units - a third of them affordable - and 8 acres of open space. The public interest has been served.