

NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

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For Immediate Release

**APPEALS COURT REJECTS LOWER COURT RULING IN
HUNTS POINT MARKET CASE,
GIVING CITY SWEEPING WIN AND ALLOWING CITY'S
ECONOMIC DEVELOPMENT CORP. TO FINALIZE
LEASE NEGOTIATIONS WITH BALDOR**

***BALDOR SPECIALTY FOODS MAY OCCUPY FORMER A&P WAREHOUSE SITE
AT HUNTS POINT PRODUCE MARKET IN THE BRONX***

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New York, Nov. 9, 2006 – A midlevel appellate court today gave the City a sweeping win in reversing a lower court ruling that had prevented the City's Economic Development Corp. (EDC) from negotiating a lease for a former A&P warehouse in the Hunts Point Food Distribution Center in The Bronx.

The Appellate Division, First Department, ruled unanimously (5-0) in favor of the City. Key points included that:

- The petitioner, the Hunts Point Terminal Produce Cooperative Association (which leases the 126-acre New York City Terminal Market, commonly known as the "Hunts Point Produce Market," from the City) does NOT have standing to challenge EDC's choice of a new company, Baldor Specialty Foods, Inc., as the new lessee for a former A&P warehouse site. The Cooperative had proposed incorporating the A&P site into its existing market.
- The Court rejected the lower court's finding that the City had engaged in any form of collusion in selecting Baldor. It said: "We find nothing in the RFP ["request-for-proposal"] process in this case that was either hidden or biased in favor of Baldor." (Editor's Note: An RFP process in this case is solicitation for lease offers.)
- It reversed the trial court's finding that EDC Executive Vice President Brian Murphy's court testimony in the case was not credible.
- The Court found that EDC acted rationally in its selection process and noted "that there was ample evidence from which the EDC could conclude that Baldor submitted the superior proposal; and that the Cooperative's proposal fell far short in comparison."
- The Court's ruling will allow EDC to proceed with the leasing process to Baldor, which will in turn allow City-owned property to be put to an important use that will benefit all taxpayers. It will also benefit citizens of The Bronx by increasing local employment opportunities and upgrading local City property in the Hunts Point Food Distribution Center.

“This is an important project for the Hunts Point Peninsula that will bring hundreds of new jobs and private investment to the South Bronx, and we’re very pleased to be able to move forward with it,” said Interim EDC President Joshua J. Sirefman. “I want to thank the Law Department for its hard work, enabling us to put the City-owned site to productive use.”

Corporation Counsel Michael A. Cardozo hailed the Court’s ruling, saying: “This is a tremendous victory for the City, vindicating the legality, propriety and fairness of EDC’s lease selection process. It unequivocally rejects the baseless accusations leveled by the Coop, and affirms that the lower court’s ruling was contrary to the evidence.”

Terri Feinstein Sasanow, Senior Counsel in the Law Department’s Commercial & Real Estate Litigation Division, handled the case with Leonard Koerner, Lawrence S. Kahn, Eric A. Rundbaken, Nancy F. Brodie, Michael S. Adler and Drake A. Colley.

Sasanow added, “We are very gratified that the Court upheld what we knew all along – that EDC’s actions were in all respects legal, proper and fair.”

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