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VIA CERTIFIED MAIL AND EMAIL

April 30, 2025

Alessandro Olivieri
General Counsel – New York City Parks Department
The Arsenal
830 Fifth Avenue, Room 313
New York, New York 10065

Re: Potential Legal Action Concerning the Expulsion of Recreational
Users of Silver Lake Park Road

Dear Mr. Olivieri,

This firm is advising the Alliance to Save Silver Lake Park concerning the Parks Department's recent decision to expel recreational users from Silver Lake Park Road and replace them with motor vehicles. For the reasons set forth below, this initiative must be fully reversed. It evaded community input, *increases* the risk that someone is hurt within Silver Lake Park, and robs the local community of a key recreational asset. It may also be actionable.

The Status Quo Before April 25, 2025

For decades, Silver Lake Park Road has been closed to vehicular traffic on weekends, permitting Staten Islanders to use the road for recreational purposes without the constant threat of motorists (who recently killed six Staten Islanders in four months).¹ Five years ago, the road was closed to vehicular traffic and permanently opened to recreational use on a full-time basis. As Borough Commissioner Lynda Ricciardone ("Ricciardone") recently acknowledged, the Parks Department maintained recreational access to Silver Lake Park Road "due to the positive experiences park patrons were having, and the positive feedback we have received." Nevertheless, on April 25, 2025, Parks evicted all recreational users of Silver Lake Park Road.

¹ Eric Bascome, *An SOS on Staten Island roads: Pedestrian deaths soar amid traffic mayhem, gridlock*, STATEN ISLAND ADVANCE, dated Feb. 13, 2025, available at <https://www.silive.com/data/2025/02/an-sos-on-staten-island-roads-pedestrian-deaths-soar-amid-traffic-mayhem-gridlock.html>.

A Crime and an Unrelated Policy Decision

On April 3, 2025, a woman was reportedly sexually assaulted in Silver Lake Park.² Where in the park the offense occurred has not been disclosed, nor has the NYPD identified a perpetrator. Six days later, Borough President Vito Fossella (“Fossella”), District Attorney Michael McMahon (“McMahon”), and Assistant Chief Melissa Eger “stood resolute” at a press conference in front of the entrance to Silver Lake Park Road. During that conference, McMahon proposed a “commonsense” solution to the problem presented by a single crime committed somewhere in the park: ejecting *all* recreational users of Silver Lake Park Road and replacing them with motor vehicles. How that would accomplish the goal was largely left unexplained, as was why introducing motor vehicle traffic into a park would improve safety for users.

Since the announcement, the community—which was not consulted in any meaningful respect—has spoken out: letters written to the Staten Island Advance describe the danger posed by the introduction of cars, the loss of critical (and *safe*) recreational space, and the inanity of the claimed reason for the policy change³; a well-attended rally was held in Silver Lake Park on April 19, 2025,⁴ while the publisher of the Staten Island Advance publicly questioned the decision to evict recreational users from Silver Lake Park Road.⁵

Following the April 9 press conference during which Fossella and McMahon announced their intention to eject recreational users from Silver Lake Park Road, the issue arose at an area committee meeting for Community Board 1. During that meeting, which was recorded, a representative of McMahon’s office clarified that McMahon’s demand of the Parks Department had been made prior to the sexual assault that had formed the pretext for the ejection of recreational users.⁶

² Luke Petely, *Staten Island officials promise security, vigilance following park assault*, STATEN ISLAND ADVANCE, dated Apr. 9, 2025, available at <https://www.silive.com/crime-safety/2025/04/staten-island-officials-promise-security-vigilance-following-park-assault.html>.

³ See, e.g., Michael Cassidy, *Park traffic won’t prevent rape*, STATEN ISLAND ADVANCE, dated Apr. 16, 2025, available at <https://www.silive.com/opinion/letters/2025/04/park-traffic-wont-prevent-rape-letter-to-the-editor.html>; Ed Yetman, *Reopening Silver Lake Road won’t make it safer*, STATEN ISLAND ADVANCE, dated Apr. 17, 2025, available at <https://www.silive.com/opinion/letters/2025/04/reopening-silver-lake-road-wont-make-it-safer-letter-to-the-editor.html>; Sarah Yuster, *Park road opening warranted more community input*, STATEN ISLAND ADVANCE, dated Apr. 27, 2025, available at <https://www.silive.com/opinion/letters/2025/04/park-road-opening-warranted-more-community-input-letter-to-the-editor.html>; Amanda Straniere, *Reopening the park roadway will only make things worse*, STATEN ISLAND ADVANCE, dated Apr. 26, 2025, available at <https://www.silive.com/opinion/letters/2025/04/reopening-the-park-roadway-will-only-make-things-worse-letter-to-the-editor.html>.

⁴ Kevin Duggan, *Staten Islanders Fight to Keep Park Car-Free*, STREETSBLOG NYC, dated Apr. 18, 2025, available at <https://nyc.streetsblog.org/2025/04/18/staten-islanders-fight-to-keep-park-car-free>.

⁵ Brian Laline, *Turning a negative into a positive*, STATEN ISLAND ADVANCE, dated Apr. 20, 2025, available at <https://www.silive.com/news/2025/04/turning-a-negative-into-a-positive-from-the-editor.html>.

⁶ A video of the Community Board 1 area committee meeting can be found here: <https://vimeo.com/1075883671>. During the meeting, a staffer from McMahon’s office “clarifie[d] for the record” that the letter requesting the ejection of recreational users of Silver Lake Park Road was sent on March 14, 2025, weeks

That is, *the eviction of recreational users from Silver Lake Park Road had nothing to do with the sexual assault that Fossella and McMahon highlighted in their press conference*. Instead, the apparent basis for the decision was something else; something as yet undisclosed. It may simply be that McMahon or Fossella wished for a scenic shortcut. Or some other reason. But the reason proffered by McMahon and accepted by the Parks Department was not, apparently, the *real* reason.

Our Intention to Sue

Article 78 of the New York Civil Practice and Rules permits citizen challenges to “arbitrary and capricious” agency determinations *See* CPLR § 7804. The decision to evict recreational users from Silver Lake Park Road and replace them with motor vehicles was exactly that. It arose from no apparent community input, asserts a baseless theory of crime prevention, and deliberately overlooks the risks that arise from putting cars in parks.

The decision was not only a policy failure, but also a process one. By evicting recreational users from Silver Lake Park Road, the Parks Department rendered a designated protected bike lane unusable,⁷ tore down 17 adolescent and mature trees (in a *park* to make way for *cars*), and robbed the community of an accessible recreational space for people with disabilities, including people who use wheelchairs, walkers, and other mobility devices.⁸ To the degree any environmental impact assessment was conducted—as likely required by state and city law—its findings were not disclosed. As you know, “a park is a recreational pleasure area set aside to promote public health and welfare, and as such ‘no objects, however worthy, which have no connection with park purposes, should be permitted to encroach upon [parkland] without legislative authority plainly conferred.’” *Friends of Van Cortlandt Park v. City of New York*, 95 N.Y.2d 623, 630 (N.Y. 2001) (quoting *Williams v. Gallatin*, 229 N.Y. 248, 253–254 (N.Y. 1920)). It is for that reason that city and state law require a transparent and public policymaking process before parkland may be converted into a different use; process that the Parks Department appears not to have provided.

Finally, the apparent use of a pretext—here, incredibly, a sexual assault—demonstrates the arbitrariness of this initiative: If public officials cannot publicly admit the reason for their decision and instead rely upon events that occur *after* the decision is made, the decision will not withstand judicial scrutiny. But it need not go that far. The Parks Department has an opportunity to, in the words of Borough Commissioner Linda Ricciardone, “keep[] our parks vehicle-free” as a “benefit

before the regrettable assault that was later used as an explanation for the decision. We anticipate that the letter sent by McMahon to the Parks Department will be disclosed eventually, along with its date of transmission. FOIL requests calling for their disclosure have been filed, and will be followed up upon.

⁷ See NYC Department of Transportation, 2024 NYC Bike Map, available at <https://www.nyc.gov/html/dot/downloads/pdf/nyc-bike-map-2024.pdf>.

⁸ Apart from the poor condition of the sidewalk that runs parallel to Silver Lake Park Road, it is also not wide enough for users in wheelchairs, or parents with strollers, to cross paths with any other user of the path. How this is consistent with the Parks Department’s required Five Year Accessibility Plan is unclear, and something we intend to explore. See NYC Parks Department, *Five Year Accessibility Plan Under Local Law 12 (2024-2028)*, dated July 17, 2024, available at https://static.nycgovparks.org/images/pagefiles/200/Parks-5-Year-Plan-24-28-v3-for-Web_66a3f7339354f.pdf.

to all those who use them.” Failing to do so will invite litigation, and a public assessment as to how the Parks Department adopted the conclusion that cars will protect people.⁹

Sincerely,



Christopher B. Greene

cc: New York City Parks Commissioner Sue Donoghue
 New York City Department of Transportation Commissioner Ydanis Rodriguez
 New York City Council Member Kamillah Hanks
 Staten Island Borough President Vito Fossella
 Staten Island Borough Parks Commissioner Lynda Ricciardone
 Staten Island District Attorney Michael McMahon
 New York State Assemblyman Sam Pirozzolo

⁹ See Eric Bascome et al., *Stories from the 'Boulevard of Death': Staten Islanders share harrowing Hylan experiences*, STATEN ISLAND ADVANCE, dated Apr. 21, 2025, available at <https://www.silive.com/transportation/2025/04/stories-from-the-boulevard-of-death-staten-islanders-share-harrowing-hylan-experiences.html>; Matt Matteo, *More heartbreak on Staten Island streets: A look at 7 pedestrian deaths in last 4 months*, STATEN ISLAND ADVANCE, dated Mar. 8, 2025, available at <https://www.silive.com/news/2025/03/more-heartbreak-on-staten-island-streets-a-look-at-7-pedestrian-deaths-in-last-4-months.html>.