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De Blasio's Top Attorney on Eminent Domain

By Sally Goldenberg

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The de Blasio administration is willing to use eminent domain in certain circumstances to advance its affordable housing plans, the mayor's top lawyer said Thursday.

Zachary Carter, the city's corporation counsel, was asked about eminent domain by an audience member attending a Citizens Budget Commission breakfast where Carter had delivered a speech on reforms to the NYPD.

The questioner wanted to know the extent to which the city would use its powers of eminent domain to ultimately achieve the mayor's goal of creating 80,000 new apartments and preserving another 120,000 that would be reserved for low- and moderate-income earners.

"It should be difficult to take someone's property," Carter said. "It is a last resort, but a case can sometimes and often can be made that it is ... appropriate so long as the compensation is just. If those elements are met and we believe that there's precedents under the circumstances, the Law Department would certainly recommend the use of it in appropriate circumstances."

The administration intends to use eminent domain to seize three vacant beachfront sites in the Coney Island section of Brooklyn so it can continue with plans for economic development as part of a rezoning approved by the City Council in 2009.

A spokesman for the city's parks department said in an email last month that, "NYC Parks' activation of these vacant lots has been planned and supported by the community for many years. It's a significant step toward increased parkland for the neighborhood, and providing improvements like new sewers and roads and the development of much-needed mixed-income housing that the neighborhood badly needs."

In one of the more controversial uses of eminent domain, Empire State Development seized properties for the construction of the Atlantic Yards project in Brooklyn, now called Pacific Park.

The Bloomberg administration also initially considering using the tactic to clear tenants out of Willets Point so it could rezone the area, a project now stalled for other legal reasons. It eventually was not used.