

NEIGHBORS FOR BETTER BIKE LANES

Seniors for Safety

For Immediate Release

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Statement of Neighbors for Better Bike Lanes and Seniors for Safety:

Prospect Park West Bike Lane Plaintiffs Today Voluntarily End Their Lawsuit

Today, we the members of Neighbors for Better Bike Lanes and Seniors for Safety executed a stipulation to voluntarily bring to a close our lawsuit against the New York City Department of Transportation regarding the Prospect Park West Bike Lane.

We initiated this lawsuit more than five years ago, in March 2011. Recently, we secured a victory in court, with Justice Bert Bunyan dismissing the City's statute-of-limitations defense and ruling that our lawsuit was in fact commenced in a timely way and so could proceed to a hearing based on its merits.

Why, then, have we decided to voluntarily dismiss our lawsuit now, after five years of litigation and on the heels of our recent court victory?

The reason is simple. We continue to believe that the City's decision in January 2011 to make the PPW bike lane permanent was arbitrary, capricious, and unlawful—based on distorted traffic and safety data cherry-picked by the City. Our recent court win would finally have allowed this to be argued in a merits-based hearing. But, we also recognize that, more than five years later, permanent removal of the PPW bike lane—the primary relief we requested when we initially filed our lawsuit—is impractical. We acknowledge that, for better or worse, and despite the disingenuous means by which we believe it was installed, the PPW bike lane is here to stay. At this point, given the long passage of time, we believe the most responsible choice for our groups' members and our community is to ensure that the bike lane is as safe and effective as possible, rather than to prolong a debate in the courts that, whatever its outcome, is unlikely to result in any significant change.

The history of the Prospect Park West bike lane installation and our legal actions surrounding it are useful to recount here so that both our historical motivations and the rationale of our decision today are clear.

Back in June 2010, the City installed a bike lane on Prospect Park West on a trial basis, for the dual purpose of facilitating "traffic calming" goals and providing a public recreational amenity. Its configuration was then new and its safety impacts unknown. We had serious concerns about this untested configuration and the City's failure to meaningfully consider

what we viewed as reasonable and preferable alternatives—including either of the two configurations contained in DOT’s own New York City Master Bicycle Plan. However, the City publicly committed to conduct a rigorous 6-month before-and-after safety study, to be followed by an opportunity for public comment. We relied on that promise and waited in good faith for the results of the City’s study.

After reviewing the study results, released in January 2011, we concluded that the City had presented a cherry-picked picture of the safety impacts on Prospect Park West and in Park Slope. Specifically, we believed—and continue to believe—that the City distorted the before-and-after data to claim, falsely, that crashes and injuries decreased after the PPW bike lane was installed. The City’s own data showed just the opposite: that both crashes and injuries increased, year-to-year, after the trial installation of the bike lane. In short, the City represented to the public that the PPW bike lane had made Park Slope safer, when the opposite was true. And it was this manipulation of data—in our view, a serious breach of the public trust—that motivated us to file a lawsuit two months later, in March 2011, seeking to have DOT’s decision to install the lane annulled and to have PPW restored to its original configuration.

That our various critics have vociferously oversimplified this case into a pro-bike/anti-bike “war” is a shame, because this has obscured what our case has always truly been about: that the end does not justify the means and popularity should never trump safety.

From the outset we have believed that bikes must be effectively introduced as a critical feature of the City’s evolving public transportation infrastructure. In fact, some of our groups’ members are civic leaders who participated in the formulation of the City’s transportation policy and plans well before this bike lane’s installation. However, we believe the evidentiary record and recent court decision in our favor confirm our view that the previous administration was purposely misleading with regard to the temporary nature of the original project. Then, once the original safety study was completed, we believe the City presented cherry picked data to create a falsely positive impression of the project’s safety impact. These actions, taken together, helped the City move the project forward while avoiding appropriate scrutiny and oversight or the thoughtful consideration of possible alternatives. Further, the City’s actions skewed the public debate and led to unfair ridicule toward those community members with legitimate concerns about the project. Neighbors for Better Bike Lanes and Seniors for Safety have always acted within our rights as citizens and with our community’s best interests at heart.

When we filed our lawsuit in March 2011, we expected that it would be resolved quickly, as legal challenges to agency actions typically are. However, in June 2011, the City sought to dismiss our lawsuit on the ground that the statute of limitations had expired. The City argued that our lawsuit was not filed in a timely manner because, the City claimed, the bike lane had not been installed on a trial basis but, rather, on a permanent basis—despite what the community had been told for months by the City, by elected officials, by pro-bike-lane

advocates, and by the news media: that the results of the 6-month-trial study data would form the basis of the decision as to the bike lane's permanence.

For nearly five years, this is what our lawsuit was thereby obliged to focus on: not the merits of our challenge to the City's manipulation of its study data, but whether the bike lane had been installed on a permanent or trial basis. In March 2016, after a four-day evidentiary hearing at which it considered both witness testimony and documentary evidence, the Court held that our lawsuit had, in fact, been filed within the time limits and dismissed the City's statute-of-limitations defense.

It is now September 2016, more than five years after we filed suit and six years after the bike lane was first installed with no measurable impact on safety despite the City's claims to the contrary. For at least two years after the initial June 2010 installation of the bike lane, the City's own safety data showed that crashes actually increased persistently during that period (and even after that, the data show no safety improvement attributable to the lane). Yet we have been obliged to spend most of that time contesting the City's meritless statute-of-limitations defense, which the Court has now rejected. We now have been granted the opportunity to proceed to consideration of the merits of our study-data-distortion claims, which is what we sought in the first place—before the lengthy distraction of the City's statute-of-limitations defense intervened.

But, of course, the facts on the ground today look very different than they did in 2011 when we filed suit. We now recognize that, on a practical level, after nearly six years, the PPW bike lane is likely here to stay. Though many community members continue to oppose the bike lane, others support it. Most importantly, we no longer believe that a lawsuit seeking removal of the lane—the remedy we sought over five years ago—is the most constructive action our groups can take to improve public safety and transportation policy in New York City. This is why we are voluntary and unilaterally dismissing our lawsuit.

To be clear, the City is not a party to this decision, and we have received no consideration for it. We are making this decision for one reason, and one reason only: because, in our view, it best serves the interests of our members and the community we love.

Unlike the previous administration, the current leadership of DOT has made strides in increasing the transparency of its decision-making and in improving public transportation safety, consistent with its ambitious Vision Zero initiative. We commend it for that. Going forward, we will continue to work with the City and other stakeholders to ensure that the PPW bike lane operates safely and effectively; that DOT presents future projects with greater transparency and full, open, and honest consultation with the communities affected by them; and that the City's broader transportation policy balances and serves the interests of all New Yorkers, not just advocates for biking interests.

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