

Please see quotes from Joshua Stein on page 1 and 2.

Reprinted from the February 2018 issue of Law360.



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | [www.law360.com](http://www.law360.com)  
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | [customerservice@law360.com](mailto:customerservice@law360.com)

## Developers Eyeing Midtown East Projects, But Face Hurdles

By **Andrew McIntyre**

Law360 (February 23, 2018, 1:26 PM EST) -- Questions abounded as to how developers would react after New York City last year finalized plans to rezone dozens of blocks in Midtown East, but several recently announced projects have lawyers saying the area could see a surge of development activity — although challenges remain.

JPMorgan Chase said earlier this week it plans to demolish its headquarters there and build a new 70-story building, and the city also recently said it had reached a deal to create a pedestrian plaza at Pershing Square East.

And those early project approvals, which are possible thanks to the new zoning in the area, could have a ripple effect as owners across the 78-block stretch of newly rezoned Midtown East consider redevelopment, although cost, timing delays and difficulty of getting tenants out of properties are all still major hurdles, according to attorneys.

"It's very positive ... that an institution such as JPM is building its headquarters ... establishing the beachhead ... in East Midtown, where obviously there are always opportunities everywhere," said Ross Moskowitz of Stroock & Stroock & Lavan LLP.

"Since the approval, there has been a lot of interest in starting to really look at existing stock and understanding how to reposition properties. ... I think the community would say they're surprised that there's a project already coming off the papers," Moskowitz added.

The new zoning allows for additional building density and opens up a market for air rights transfers, and also funnels money into public improvements projects in the area.

Prior to the new plan, air rights could only be transferred between adjacent properties, but now owners can buy air rights from properties within the new 78-block zone.

"If you look at the Chase [deal] ..., that's a dramatic and very quick response to the new zoning," said Joshua Stein of Joshua Stein PLLC. "Chase probably couldn't do with 270 Park what it plans to do if the Midtown East zoning did not exist. They would have done something else."

The examples of the Chase and the Pershing Square pedestrian projects — the latter an example of an early city approval of a public improvements projects — on the one hand are proof that development is quickly moving forward in the area, although those projects don't face some of the hurdles that other future ones will, lawyers say.

For one, a major challenge to redevelopment in the area is figuring out how to get a building that's leased to dozens of tenants vacant in a timely and cost-efficient manner, a problem Chase did not have.

"You can plan to have all your leases expire at the same time, which will make it easy to not renew leases and have an empty building," Stein said.

But that's not the norm, and is risky, since companies might plan to have a building vacant years in advance and then find it's not the right time to redevelop when that time comes.

Stein likened coordinating leases to the difficulty of a chess game.

"It's a horribly slow, difficult and expensive process," Stein said.

Indeed, cost factors in many ways. Future rents, for one, would have to be higher to justify the costs, which introduces financial risk since landing a tenant to pay, say, \$150, \$200 or even more per square foot could be a challenge.

And there are also construction costs, as well as loss of rental income during the process.

"It's typically a four-to-five-year time frame from vacating a building, taking it down and putting up a new building. What is that loss of income, plus the fee cost of construction, going to mean versus the additional square footage you are given by the city?" said Edward Mermelstein of RheemBell & Mermelstein LLP.

But still, clients have shown interest in doing deals in the area, lawyers say.

Development "happens to be coming out of the box sooner than most people anticipated ... [and] we've gotten a number of calls from owners in the new area who are wanting to better understand what does their zoning allow, what could they do, how could they maintain or increase the size of their building," Moskowitz said.

"And not just the Park Avenue clients, but also clients more on the edges of the district," Moskowitz added.

As to further development in the area, lawyers say developers will have to weigh the pros and cons of the additional and modern space, versus all of the challenges that still remain, despite efforts from the city to encourage new development.

"At the end of the day, it's a question of dollars and cents," Mermelstein said. "Developers are looking to take down their building, and are looking potentially at additional square footage that is going to be added to the space, and how that will affect the bottom line."

But despite the challenges, lawyers say the early activity in Midtown East following the new zoning is a good sign that further development may follow.

"What I do see is definitely a construction boom that's going to result in this specific area," Mermelstein said.

--Editing by Rebecca Flanagan and Kelly Duncan.

---

All Content © 2003-2018, Portfolio Media, Inc.