

I-81 Viaduct Project  
New York State Department of Transportation, Region 3  
333 East Washington Street  
Syracuse, NY 13202

New York Civil Liberties Union  
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**Comment of the New York Civil Liberties Union, The New York Affiliate of the American Civil Liberties Union, in Response to New York State Department of Transportation's 2022 Final Environmental Impact Statement for the redevelopment of Interstate 81**



ACLU of New York

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Donna Lieberman  
Executive Director

Wendy Stryker  
President

Dear Mark Frechette,

We write following the NYSDOT's publication of the Final Environmental Impact Statement ("FEIS") on the I-81 viaduct project. The New York Civil Liberties Union (NYCLU) has been deeply involved in the I-81 public participation process to ensure that the Black community living in the shadow of the I-81 viaduct does not suffer further harms from its reconstruction and redevelopment. While we commend the NYSDOT on its adoption of several important recommendations advanced by the NYCLU and others, we have deep concerns that NYSDOT continues to ignore the health needs of the environmental justice community.

**NYCLU Advocacy History**

As we have identified in our previous communications to you regarding this project, the original construction of the I-81 highway razed a Black community, displacing thousands of people, and demolished over 500 homes and businesses. The NYCLU is committed to a reconciliation of past harms caused by the highway and ensuring equitable distribution of benefits to the most impacted community. See [Building A Better Future: The Structural Racism Built into I-81 and How to Tear it Down](#). (Attached Ex. A).

Our Report, *Building A Better Future*, is a comprehensive analysis of the multi-generational racial and environmental impact of the I-81 overpass in Syracuse and was written in deep collaboration with residents of the environmental justice community. The report expressly supports the removal of the viaduct and explains how the redevelopment proposal can avoid repeating the mistakes of the past.

In addition, the NYCLU submitted comments on the Draft Environmental Impact Statement ("NYCLU DEIS public comment"), see attached Ex. B, in which the NYCLU reiterated its support for the demolition of the raised viaduct. We also raised concerns with NYSDOT's conclusion that the environmental justice community—primarily Black neighborhoods adjacent to the viaduct—will not be impacted by the I-81 Project. The impacts we highlighted include exposure to increased air pollution, lead, fugitive dust,



and the disposition of land that will become usable as part of the reconstruction and its contribution to displacement in this predominantly Black and low-income neighborhood. Our public comment highlighted this confluence of indirect and direct effects that must be addressed to prevent the past from repeating itself. Addressing these direct and indirect effects is aligned with the Biden Administration's renewed dedication to racial and environmental justice. As President Biden's executive orders set forth, the administration is committed to undoing the harms of environmental racism and advancing racial equity and support to underserved communities.<sup>1</sup>

Throughout this process, the NYCLU worked with the environmental justice community to collect postcards that captured their concerns about the project. Our partnership with the community led to the submission of over 5,000 public comments via NYCLU postcards. These comments reiterated the need for protections for the communities most vulnerable during construction, the safeguarding of future land use in the footprint of the project, the prevention of displacement from this project, and ensuring jobs go to impacted residents.

### **Community Advocacy Achievements**

We are pleased that the NYSDOT has responded to and adequately addressed many of our concerns in the FEIS. For example, in the DEIS public comment we raised concerns with air quality and monitoring in the environmental justice community. The NYSDOT committed in the FEIS to locate a monitor outdoors in the vicinity of STEAM at Dr. King elementary school. In addition, NYSDOT will create an outdoor ambient air quality monitoring program to be implemented during construction of the Project and overseen by NYSDOT. (Chapter 4 (Table 4-7), Section 6-2-3, and Section 6-4-4 of this FDR/FEIS).

The NYSDOT also reconsidered and moved the roundabout location as a result of the community's sustained advocacy. (See NYCLU DEIS Part I Section c). The NYCLU, alongside coalition partners and community members, held a [march and rally](#) to protest the siting of the on and off ramp. In response to the community's concerns, NYSDOT is no longer proposing a roundabout at MLK, Jr. East. The new roundabout proposed at Van Buren Street is sufficiently more than 600 feet from STEAM at Dr. King elementary school. Furthermore, we commend the NYSDOT moving the roadway further east, and it no longer intersects with MLK Jr., East. (See FEIS Sections 6-4-4.1 and 6-4-4.2). We appreciate this partnership and commend the NYSDOT reconsideration.

Finally, in response to the concerns over future land use highlighted in hundreds of public comments submitted by the NYCLU, we commend the NYSDOT for committing to establish a Land Use Working Group during final design prior to the start of the construction phases. (Appendix M-5 Responses, R 9-257A). The NYSDOT stated the purpose of the Land Use Working Group is to work with the community and interested stakeholders such as NYCLU, SHA, Syracuse School District, and others in developing the framework for use of potential surplus property. (Id). This a good start toward achieving an equitable outcome of the I-81 Project.

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<sup>1</sup> Executive Order 14008, 86 FR 7619 and Executive Order 13985 86 FR 7009



We support the NYSDOT plan to review the surplus land and to divest its real property interest to a grantee. (R 9-257). Doing so will promote the equitable transfers of the four acres of land adjacent to STEAM at Dr. King elementary school, MLK into a Community Land Trust for the Black community. However, we reiterate the need for the NYSDOT to transfer these four acres of land to the City of Syracuse with a contingency that the land must be developed into a community land trust, and provide resources, oversight, and development by residents living adjacent to the I-81 viaduct.

### **More Work To Be Done**

There are some conclusions by the NYSDOT that remain unchanged and that will harm the community. We are gravely concerned about the NYSDOT's inexplicable conclusion that "the community will not be impacted by construction." The report and the comments submitted make clear that this is not based in fact. Only by ignoring the health needs of the environmental justice community could the NYSDOT come to this conclusion.

Numerous commentors are asking for more protections during construction. For example, "Pioneer Homes resident Tara Harris proceeded to say she has a doctor's note, which stated that her respiratory health would be negatively impacted by living so close to a construction site and her doctor advised her to relocate" to which NYSDOT responded: "considering health conditions of residents is outside the scope of this project." Similarly, the Syracuse Common Council President presented a question to NYSDOT representative "what is preventing the NYSDOT from doing a health needs assessment?" She went on to say, "the community needs health protections." The NYSDOT simply responded by saying "Highway law." This is not a satisfactory response when people's ability to protect themselves is compromised.

Specifically, we are concerned with lead exposure. Clearly, demolishing a viaduct with decades of embedded lead from paint and gasoline in conjunction with other particulate matter will exacerbate the already high rates of lead poisoning in this Black neighborhood. In the NYCLU's DEIS public comment, we identified that Black children in Syracuse have some of the highest rates of lead poisoning in the nation. (See NYCLU DEIS comments at Section I-part a). We raised concerns about protecting them from construction lead by conducting a health needs assessment. But the FEIS does not address any of these concerns, leaving all questions of lead protection to an unspecified "set of construction mitigation measures and best practices for the Project." (See, Appendix M5, R 9-254 (see Table 4-7 of this FDR/FEIS)).

Instead of the specific attention and mitigation to the predominately Black neighborhood adjacent to the viaduct required by Title VI, the NYSDOT relies on "the Contractors...Lead Exposure Plan". (See, Appendix M5, R 9-254). That plan focuses on practices and measures to ensure the safety and health of employees, not residents. To claim that somehow by extension, this plan would protect the general public is a gross misstep by NYSDOT. This is not sufficient. We again are demanding the NYSDOT consider the cumulative disproportionate impact of lead on this community. To that end, the NYSDOT must first test the raised viaduct for the level of lead prior to demolition.



The NYSDOT should require the contractor to use a higher, more protective level of protection for residents during construction, and supply residents with lead resistant abatement technology while providing independent monitoring and oversight.

Furthermore, to fully understand the impact of lead or fugitive dust on this already over-exposed community the NYSDOT must conduct a health needs assessment. This assessment will serve as a baseline for meeting the mitigation needs required to prevent harm. This assessment will determine who must be relocated due to the fugitive dust and hazards of construction

In return, the health needs assessment would provide meaningful insight as to the need for a relocation effort. We previously raised concerns about NYSDOT failing to establish a relocation center for vulnerable residents who must relocate to protect their health or even their lives. The FEIS continues to ignore that request.

The one size fits all conclusion that a community living in an environmentally unjust neighborhood will not be impacted by construction in their backyards prevents the NYSDOT from taking adequate mitigation measures.

Furthermore, as highlighted in the NYCLU public comment on the DEIS, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., requires that the NYSDOT not impose disproportional adverse impacts on the basis of race. The goal of Title VI of the Civil Rights Act is to acknowledge the harm caused by federal agencies to Black communities and prevent further and/or disproportionate harm.

It is not too late for the NYSDOT to correct course and consider all of the impacts of the replacement of the I-81 viaduct, especially disproportionate impacts on the environmental justice community next to the viaduct. Thank you for your consideration and we look forward to continuing to collaborate with your office to ensure the I-81 redevelopment project is a model for the nation. Please contact Lanessa Owens-Chaplin at [lchaplin@nyclu.org](mailto:lchaplin@nyclu.org) with any questions or to set up a meeting.

Sincerely,

Lanessa Owens-Chaplin

Lanessa Owens-Chaplin  
Director, Environmental Justice Project  
New York Civil Liberties Union