

Edgar Filing: Empire State Realty Trust, Inc. - Form 425

Empire State Realty Trust, Inc.  
Form 425  
February 05, 2013

Filed by Empire State Realty Trust, Inc.

and Empire State Realty OP, L.P.

Pursuant to Rule 425 under the Securities Act of 1933

Subject Companies: Empire State Realty Trust, Inc.

Commission File No. for Registration Statement

on Form S-4: 333-179486

Empire State Realty OP, L.P.

Commission File No. for Registration Statement

on Form S-4: 333-179486-01

The following is the updated information website of Malkin Holdings LLC concerning Empire State Realty Trust, Inc.

This website does not constitute an offer to sell or the solicitation of an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

**NOTIFICATION: IMPORTANT INFORMATION**

Each of the three public entities, Empire State Building Associates L.L.C., 60 East 42nd St. Associates L.L.C., and 250 West 57th St. Associates L.L.C. (the Companies) and their agents and Malkin Holdings LLC (the supervisor), Empire State Realty Trust (the REIT), Empire State Realty OP, L.P., and each officer and director of the Companies or of the REIT may be deemed to be a participant in the solicitation of consents in connection with the proposed consolidation. The names of such persons and a description of their interests in the Companies and the REIT are set forth, respectively, in each Company's Annual Report on Form 10-K for the year ended December 31, 2011 and the REIT's Registration Statement on Form S-4 and proxy/consent solicitation statement, which have been filed with the SEC.

Investors in the Companies are urged to review such Registration Statement on Form S-4, the prospectus/consent solicitation statement and other related documents now filed or to be filed with the SEC and available on this website, because they contain important information. You can obtain them without charge on the SEC's website at [www.sec.gov](http://www.sec.gov). You can also obtain without charge a copy of the prospectus/consent solicitation and the supplements relating to the individual entities by contacting Ned H. Cohen at (212) 687-8700 at Malkin Holdings.

Certain links provided in the Letters to Participants section of this website to the Form S-4 link to Amendment No. 6 of the Registration Statement on Form S-4, which was the last amendment filed prior to the SEC declaring the Registration Statement on Form S-4 effective. The prospectus/consent solicitation mailed to participants is in the form of the preliminary prospectus/consent solicitation statement included in Amendment No. 6.

There are material risks and conflicts of interest associated with the consolidation. You should carefully review the sections entitled **Risk Factors** and **Conflicts of Interest** and the more detailed discussion of the tax consequences of the consolidation under the section entitled **U.S. Federal Income Tax Considerations** in the prospectus/consent solicitation statement which has been filed with the SEC.

#### FORWARD-LOOKING STATEMENTS

This website contains forward-looking statements. In particular, statements pertaining to the REIT's and the Companies capital resources, portfolio performance, dividend policy and results of operations contain forward-looking statements. Likewise, the REIT's unaudited pro forma financial statements and all of its statements regarding anticipated growth in the REIT's portfolio from operations, acquisitions and anticipated market conditions, demographics and results of operations are forward-looking statements. Forward-looking statements involve numerous risks and uncertainties and you should not rely on them as predictions of future events. You can identify forward-looking statements by the use of forward-looking terminology such as *believes, expects, may, will, should, seeks, preliminary, approximately, intends, plans, estimates, contemplates, aims, continues, would or anticipates* or the negative of these words and phrases or similar words or phrases. Forward-looking statements depend on assumptions, data or methods which may be incorrect or imprecise and the company may not be able to realize them. The REIT and the supervisor do not guarantee that the transactions and events described will happen as described (or that they will happen at all). The factors, among others, could cause actual results and future events to differ materially from those set forth or contemplated in the forward-looking statements are: included in this website or set forth in the prospectus/consent solicitation statement under the headings **Risk Factors**, **Management's Discussion and Analysis of Financial Condition and Results of Operations of Empire State Realty Trust, Inc.** and **The Company Business and Properties**.

While forward-looking statements reflect the REIT's or the supervisor's, as applicable, good faith beliefs, they are not guarantees of future performance. The REIT and the supervisor disclaim any obligation to publicly update or revise any forward-looking statement to reflect changes in underlying assumptions or factors, of new information, data or methods, future events or other changes after the date of this prospectus, except as required by applicable law. For a further discussion of these and other factors that could impact the REIT's future results, performance or transactions, see the section in the prospectus/consent solicitation statement entitled **Risk Factors**. You should not place undue reliance on any forward-looking statements, which are based only on information currently available to the REIT (or to third parties making the forward-looking statements).

I ACKNOWLEDGE THE NOTIFICATION

I Do Not Acknowledge this Notification

You must acknowledge this notification to enter the site and enter your login credentials

Welcome to Malkin Holding LLC's participation information website concerning Empire State Realty Trust, Inc. The content of this site can be accessed only by participants in the following entities: Empire State Building Associates L.L.C., 60 East 42nd St. Associates L.L.C. and 250 West 57th St. Associates L.L.C. If you do not have a password, please contact [inquiries@malkinholdings.com](mailto:inquiries@malkinholdings.com) or call (212) 850-2705.

This website has been created by Malkin Holdings LLC to provide participants with information about the planned consolidation of office and retail properties it supervises into a publicly traded Real Estate Investment Trust (REIT). This website currently contains documents that the REIT and the Companies have filed with the Securities and Exchange Commission (SEC), including the prospectus consent solicitation statement, and letters sent to participants, as well as answers to Frequently Asked Questions (FAQ).

Last updated on February 1st, 2013

Investor Login

Note: You should have received a login. Please contact [inquiries@malkinholdings.com](mailto:inquiries@malkinholdings.com) or call (212) 850-2705 with any question or to receive a password.

Password

[            ]

Forgot your password?

LOGIN

*Please note for security reasons, after 2 hours you will be logged out and must re-enter your password to regain entry to the site.*

[Forgot Your Password](#)

[Log in](#)

If you do not have a password, please contact [inquiries@malkinholdings.com](mailto:inquiries@malkinholdings.com) or call (212) 850-2705.

Password [            ]

Three generations of the Wien and Malkin Family    Peter L. Malkin, Chairman (left), and Anthony E. Malkin, President (right), with portrait of Lawrence A. Wien (1905 - 1988).

[Home](#)

[Welcome](#)

This website has been created by Malkin Holdings LLC to provide participants with information about the planned consolidation of office and retail properties it supervises into a publicly traded real estate investment trust (REIT).

Lawrence A. Wien founded Wien & Malkin in 1929 and has been credited with developing the first flow-through tax treatment real estate syndications ever conducted. Peter L. Malkin is Chairman of Malkin Holdings LLC. He worked with the late Lawrence Wien (his father-in-law) for 30 years in the acquisition, ownership, and operation of real estate, until Mr. Wien's death in 1988. Anthony E. Malkin is President of Malkin Holdings LLC and has been working alongside Peter Malkin since 1989.

The website also contains informational videos in which Peter and Anthony Malkin discuss the proposed consolidation, opportunities to register for conference calls with Peter and Anthony Malkin, instructions on how to fill out your consent form, video tours of properties to be consolidated, other property information, letters sent to participants, answers to Frequently Asked Questions (FAQ), and opportunities to pose questions.

This website contains the prospectus/consent solicitation through which a vote will be taken on the consolidation of various properties into a REIT, Empire State Realty Trust, Inc. The prospectus/consent solicitation statement has been filed by the REIT and Empire State Realty OP, L.P., its operating partnership.

We look forward to assisting you in your review.

Onward and upward.

Last updated on December 21, 2012

#### How to Vote

How do I vote **FOR** the consolidation, the third-party portfolio proposal, and the voluntary reimbursement program for litigation and arbitration costs?

The consent form provides boxes for you to enter your vote separately with respect to each of the consolidation proposal, the third-party portfolio proposal, and the voluntary reimbursement program for litigation and arbitration costs. Simply indicate your vote in the applicable box.

The form also provides boxes for you to elect the form of consideration you wish to receive in the consolidation as one or a combination of Class A Stock and/ or Operating Partnership Units with or without Class B Stock. Simply indicate your desired percentage in each case.

[CLICK HERE TO VIEW WHAT A COMPLETED CONSENT FORM WOULD LOOK LIKE.](#)

[CLICK HERE TO VIEW AN INSTRUCTIONAL VIDEO ON HOW TO COMPLETE YOUR CONSENT FORM.](#)

This sample shows a Consent Form as if completed by an individual U.S. investor (exempt from back-up withholding) who is supporting all the proposals and is electing a 98% TAX-DEFERRED TREATMENT and VOTING securities by electing 100% Operating Partnership Units with Class B Stock.

Investors wanting a 100% tax deferred treatment should instead elect 100% Operating Partnership Units without Class B Stock.

Investors wanting 100% taxable treatment should instead elect only 100% Class A Stock.

After you have completed the foregoing voting and election, please submit the consent form as soon as possible (a) by mail to MacKenzie Partners, 105 Madison Avenue, NY, NY 10016 in the postage-paid envelope that came with your mailing or (b) by fax to 212-929-0308, so your participation interest may be promptly voted FOR or AGAINST each proposal.

If you sign and submit your consent form without indicating your vote on either the consolidation proposal or the third-party portfolio proposal, your participation interest will be counted as a vote FOR such proposal.

If you do not submit your consent form or you indicate on your consent form that you ABSTAIN from any proposal, it will have the effect of voting AGAINST such proposal.

Please return your consent form in the prepaid envelope provided to MacKenzie Partners as soon as possible.

Discussions with Peter and Anthony Malkin

[Click here to watch the video](#)

## 1 Investment Options

In the proposed consolidation of properties and initial public offering ( IPO ), you have a choice regarding which type of security you would like to receive in exchange for your current investment interest. These options include receiving:

100% Tax Deferred Operating Partnership ( OP ) Units; or

98% Tax Deferred combination of OP Units and Class B Shares in the publicly traded REIT; or

100% taxable Class A Shares in the publicly traded REIT.

In the video linked above, Peter and Anthony Malkin describe the different features of your options to help you make a decision that best meets your objectives.

Should you have additional questions, please e-mail us at [inquiries@malkinholdings.com](mailto:inquiries@malkinholdings.com) or please contact Mackenzie at 1-888-410-7850.

[Please click here for disclaimer.](#)

If you are having difficulty watching the video, you can download the video to watch it.

[Click here to Download the video](#)

[Click here to watch the video](#)

[Skip Introduction](#)      [Skip Conclusion](#)

## 2 History and Structure

As an investor in a two-tiered entity, you hold an interest in a unique ownership structure.

In this video, Peter and Anthony Malkin provide background on the two-tiered ownership structure of the Empire State Building, One Grand Central Place and 250 West 57th Street.

We believe the history of these unique investment structures is critical to understanding what you currently own and may help you to evaluate the proposed consolidation of properties and initial public offering.

Should you have additional questions, please e-mail us at [inquiries@malkinholdings.com](mailto:inquiries@malkinholdings.com) or please contact MacKenzie at 1-888-410-7850.

[Click here to watch the video](#)

[Skip Introduction](#)      [Skip Conclusion](#)

[Please click here for disclaimer.](#)

If you are having difficulty watching the video, you can download the video to watch it.

[Click here to Download the video](#)



### 3 Process and Properties

Malkin Holdings LLC supervises many office buildings and retail properties in Manhattan, Fairfield County, CT and Westchester County, NY.

In the video linked above, Peter and Anthony Malkin explain why they believe it would be beneficial to combine these properties into a diversified real estate portfolio which will be owned by the REIT.

Should you have additional questions, please e-mail us at [inquiries@malkinholdings.com](mailto:inquiries@malkinholdings.com) or please contact MacKenzie at 1-888-410-7850.

[Please click here for disclaimer.](#)

If you are having difficulty watching the video, you can download the video to watch it.

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### 4 Why IPO Now

Many investors have asked: Why pursue an IPO? And why now?

In the video linked above, Peter and Anthony Malkin address this question and how they believe investors will benefit.

Should you have additional questions, please e-mail us at [inquiries@malkinholdings.com](mailto:inquiries@malkinholdings.com) or please contact MacKenzie at 1-888-410-7850.

[Please click here for disclaimer.](#)

If you are having difficulty watching the video, you can download the video to watch it.

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[Skip Introduction](#)      [Skip Conclusion](#)

5 Should I Vote For or Against the Proposed Transaction

In the video linked below, Peter and Anthony Malkin discuss key points about the transaction including the benefits of consolidation/ IPO vs. the downside of maintaining the status quo to help you make your voting decision.

Should you have additional questions, please e-mail us at [inquiries@malkinholdings.com](mailto:inquiries@malkinholdings.com) or please contact Mackenzie at 1-888-410-7850.

[Please click here for disclaimer.](#)

If you are having difficulty watching the video, you can download the video to watch it.

[Click here to Download the video](#)

[Click here to watch the video](#)

There are material risks and conflicts of interest associated with the consolidation. You should carefully review the sections entitled Risk Factors and Conflicts of Interest in the prospectus/consent solicitation which has been filed with and declared effective by the SEC. There can be no assurance that participants will realize the benefits described in the videos, including the potential increase in distributions and capital appreciation. In addition, such prospectus/consent solicitation includes a more detailed discussion of the tax consequences of the consolidation.

We also caution you that this letter contains forward-looking statements. These forward-looking statements, including the potential for more consistent distributions than the status quo, with greater potential for increased distributions as a holder of operating partnership units or common stock than as a participant in a subject LLC, and the potential for additional capital appreciation over time, are based on our beliefs and expectations as applicable, which may not be correct. Important factors that could cause such actual results to differ materially from the expectations reflected in these forward-looking statements include those set forth in the prospectus/consent solicitation.

While we believe that the terms of the consolidation are fair and in the best interests of participants, there can never be any guaranty that the consideration you will receive from the consolidation represents the fair market value of your interests.

This communication shall not constitute an offer to sell or the solicitation of an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

Each of the three public entities, Empire State Building Associates L.L.C., 60 East 42nd St. Associates L.L.C., and 250 West 57th St. Associates L.L.C. (the Companies ) and their agents and Malkin Holdings LLC (the Supervisor ), Empire State Realty Trust, Inc. (the REIT ), Empire State Realty OP, L.P., and each officer and director of the Companies, the Supervisor or of the REIT may be deemed to be a participant in the solicitation of consents in connection with the proposed consolidation. The names of such persons and a description of their interests in the Companies and the REIT are set forth, respectively, in each Company s Annual Report on Form 10-K for the year ended December 31, 2011, the REIT s Registration Statement on Form S-4, and the prospectus/consent solicitation which have been filed with the SEC.

Investors in the Companies are urged to review the Registration Statement on Form S-4, the prospectus/consent solicitation and other related documents now filed or to be filed with the SEC, because they contain important information. You can obtain them without charge on the SEC s website at [www.sec.gov](http://www.sec.gov). You can also obtain without charge a copy of the prospectus/consent solicitation and the supplements relating to the individual entities by contacting Ned H. Cohen at 212-687-8700 at Malkin Holdings LLC.

#### 1 How to Vote Instructions

[Click here to watch video](#)

This instructional video describes how to complete your consent form.

For more information on how to vote please [click here](#)

If you are having difficulty watching the video, you can download the video to watch it.

[Click here to Download the video](#)

<<<same disclaimer used as the Discussions With Peter and Anthony Malkin videos>>>

Please view two videos which give you a brief tour of the properties included in the proposed consolidation and IPO.

[Click here to watch the video](#)

## 1 Manhattan's Premier Pre-War Trophy Portfolio

W&H Properties includes 9 pre-war office buildings. All the properties are located in the most accessible areas of midtown Manhattan. Top to bottom upgrades included new lobbies, elevators, windows, bathrooms, common corridors and upgraded building systems.

If you are having difficulty watching the video, you can download the video to watch it.

[Click here to Download the video](#)

[Click here to watch the video](#)

## 2 Presenting Malkin Properties Premier Property Portfolio

Malkin Properties and its affiliates own and manage office and retail in Manhattan, Westchester, NY and Fairfield, CT. Every Malkin property offers a broad range of services and amenities, including responsive building management, as well as unsurpassed quality, service and convenience with easy access to transportation.

If you are having difficulty watching the video, you can download the video to watch it.

[Click here to Download the video](#)

## Frequently Asked Questions

Note: Terms used but not otherwise defined in these Frequently Asked Questions have the meaning set forth in the prospectus/consent solicitation statement.

Q: What am I being asked to approve?

Q: Will I get taxed on my investment if I vote for the consolidation?

Q: What will happen if we are consolidated?

Q: Will I receive special one-time distributions if there is consolidation/IPO?

Q: What will happen to my distributions if the proposed transaction moves forward?

Q: But what about distributions for investors under the current structure will my distributions decrease?

Q: Why is Malkin Holdings recommending the proposed transaction?

Q: What happens to my interest if the transaction proceeds?

Q: Which type of securities should I choose?

Q: Who is Malkin Holdings LLC?

Q: What happened to Lawrence A. Wien and Wien & Malkin?

Q: Can't things just stay the way they are?

Q: Could ESBA purchase the Helmsley estate's interest?

Q: Could the ESB become a REIT on its own?

Q: Will ESB investors be shortchanged by combining a marquee property such as ESB with other, less iconic properties?

Q: How do I know the valuations are fair?

Q: What is the status of the ESB turnaround?

Q: What about all these lawsuits that were filed – did the Malkins do something wrong?

Q: What are the override interests?

Q: Why do the Malkins get payment on these interests in the proposed transaction?

Q: When can I sell OP Units or shares of Class A common stock of the REIT after the consolidation and the IPO?

Q: When are OP Units exchangeable for shares of common stock?

Q: What is a REIT, and why will the company elect to be a REIT?

Q: When do you expect the consolidation to be completed?

Q: If I own participation interests in more than one subject LLC, what should I do?

Q: Information in the prospectus/consent solicitation statement is based on a \$10,000 original investment. Where can I find information about my actual original investment?

Q: Is it true that the transaction will cause participants to pay an \$85 million tax bill for the Malkins?

Q: Is MacKenzie the proxy solicitor the same group who has launched the recent tender offer?

Q: What am I being asked to approve?

A: Malkin Holdings LLC is asking for your consent to the following three items:

Consolidation: a consolidation of your subject LLC with seventeen other properties and one development site and certain related management companies into one company intended to qualify as a real estate investment trust ( REIT ) for U.S. federal income tax purposes;

Third-party sale: a potential sale or transfer of your subject LLC's interest to a third party as part of a portfolio transaction of the properties and management companies to be contributed to the REIT if the aggregate consideration is at least 115% of the aggregate exchange value and Malkin Holdings LLC determines that the offer price represents an adequate premium above the value that is expected to be realized over time from the consideration; and

Reimbursement: voluntary pro rata reimbursement to Malkin Holdings LLC and Peter L. Malkin for the prior advances of all costs, plus interest, incurred in connection with litigations and arbitrations with the former property manager and leasing agent. Importantly, each of these proposals is subject to a separate consent. You may approve of one, two, all three or none of these proposals.

Q: Will I get taxed on my investment if I vote for the consolidation?

A: Not if you choose OP Units, which are expected to be 100% tax-deferred, meaning you only get taxed on the gain on your investment only at the time of a future capital transaction. You also have the option of deferring 98% of your taxes by choosing a combination of OP Units and Class B shares. These are the same options offered to the investors in the private entities and the Malkin family.

Q: What will happen if we are consolidated?

A: Following the consolidation, if approved, the REIT will be launched as a public company with its Class A common stock and certain of its OP Units expected to be listed on the New York Stock Exchange ( NYSE ).

Q: Will I receive special one-time distributions if there is consolidation/IPO?

A: Yes, you will receive your share of the following special one-time additional distributions, but only if the consolidation/IPO closes:

distribution equal to your subject LLC's existing reserves in excess of working capital.

distribution equal to your subject LLC's share of expenditures relating to the consolidation and IPO, which will be reimbursed to your subject LLC by the REIT out of IPO proceeds.

payment to you of your share of the proceeds of the settlement of the class action, subject to approval of the settlement by the court.

Investors in the subject LLCs will not pay any portion of the class action settlement.

Q: What will happen to my distributions if the proposed transaction moves forward?

A: We believe you have greater potential for increased distributions as an investor in the REIT than if you stayed with your current interest. We also believe your dividends will be more stable and consistent, because they will be derived from a portfolio of properties rather than just one. In fact, now that the Form S-4 is effective, we have estimated an initial annual distribution per \$10,000 original investment for the initial 12 month period of the REIT as a public company following the initial public offering ( IPO ) (which is based on our estimated cash available for distribution for such period). You can compare this estimated distribution to prior years' distributions. This estimate is based on the calculations and assumptions set forth in the prospectus/ consent solicitation statement, and the REIT cannot assure you that its actual results will be equal or comparable to such estimate.

Q: But what about distributions for investors under the current structure will my distributions decrease?

A: No, but we believe you have greater potential for increased distributions as an investor in the REIT than if you stayed just with an interest in your subject LLC. In addition, as with the other properties, we believe your REIT distributions will be more stable and consistent, because they will be derived from a portfolio of properties rather than just one.

Q: Why is Malkin Holdings recommending the proposed transaction?

A: Malkin Holdings believes the proposed transaction represents the best opportunity to enhance the value of your investment. Investors in a publicly-traded REIT will benefit from:

Tax Deferral: as detailed above, you may exchange your current interest for OP Units, which are expected to be 100% tax-deferred, and pay no tax in connection with the transaction. Tax on the gain of your investment would only be incurred at such time as there is a future capital transaction, such as if and when you decide to sell your shares/units.

**More Consistent Distributions Paid Quarterly With Greater Potential for Increased Distributions:** we believe investors have greater potential for increased distributions following the proposed transaction than as a participant in their subject LLC from improved performance, potential growth from acquisitions and a better capital structure, made possible by the combined balance sheet of all the properties. REITs are also required to distribute at least 90% of their annual REIT taxable income to stockholders, which will result in regular, quarterly dividends.

**Potential for Liquidity at Time of your Choosing:** There is currently no efficient public market where you can sell all or part of your interest. And while there have been some sales over the years, we believe they have been conducted at significant discounts to the true market price. By listing the Class A common stock and OP Units on the NYSE, there will be a true market price available, and investors will be able to see the price of shares or units any time and sell all or part of their interest at a time of their choosing, following an initial lock up period.

**More Efficient Access to Capital:** combining the properties would create a unified balance sheet, providing the REIT with greater and more efficient access to debt and equity capital and borrowings.

**Diversification:** many investors now have an investment in just one property, all your eggs in one basket . Through the consolidation, investors will diversify their holdings across a portfolio of properties. Diversification is one of the first principles of sound investing and will allow for less uncertainty due to developments at any one property.

**Growth Opportunities:** a REIT has substantial opportunities to pursue growth opportunities, such as buying properties which are expected to produce additional value, through better access to debt and equity capital.

**Modern, More Efficient Corporate Governance:** Corporate governance and operations will become more efficient and transparent. The proposed REIT's board of directors will be comprised of six independent directors and one inside director and will be accountable to all investors, including major institutional investors. This eliminates the costly and time-consuming steps under the current structure, which affects the subject LLCs' ability to take advantage of favorable opportunities.



**Greater Transparency:** as an investor in a public company with securities listed on the NYSE, you will have the ability to see quarterly earnings reports and mandated SEC disclosures of material events. You would also enjoy all the protections afforded all public stockholders through SEC, NYSE, and Dodd-Frank rules and regulations.

**Simplified Tax Filing:** instead of a K-1 for each investment, which is often received too late to make an April 15th filing, Class A or B common stockholders will receive one form 1099 and OP Unit holders will receive one form K-1. The REIT will aim to deliver all these forms by March 31st so investors will not have to file returns on extension.

**Allows Sale of Helmsley Interest Without Disruption:** The Helmsley estate holds a veto in the operating lessee of the ESB and large positions in the operating lessees of One Grand Central Place and 250 West 57th Street. If the estate does not have the ability to liquidate its interest through the consolidation and IPO, we expect it to sell its interests to an unknown third party. This means that if the transaction does not proceed, there is the potential that an unknown third party could make decisions that could result in deadlocks over a range of issues, including decisions which could meaningfully reduce the amount available for distribution.

Q: What happens to my interest if the transaction proceeds?

A: You will have the option to elect to receive Class A common stock in the REIT, OP Units, or a combination of Class B common stock and OP Units.

Q: Which type of securities should I choose?

A: Malkin Holdings LLC cannot advise you on which securities to choose, but you have a range of options from which to pick, depending on your financial objectives.

OP Units carry full distribution rights but are without voting rights. However, OP Units are expected to be 100% tax deferred, with tax owed on any gain on your investment only at the time of a future capital transaction.

Class B Shares carry full dividend rights and 50 votes for every Class B Share. Because OP Units do not have voting rights, we are offering the option to receive Class B Shares instead of 2% of the OP Units you otherwise would receive. For example, if you were eligible to receive 100 OP Units, you could instead choose 98 OP Units and 2 Class B Shares thereby receiving the same voting rights as if you chose 100 Class A Shares and deferring 98% of your taxes.

Class A Shares carry full voting and distribution rights, but are taxable at the time of the consolidation.

A more thorough description of the securities from which you can choose is contained at pages 94-96 of the prospectus/consent solicitation statement.

Q: Who is Malkin Holdings LLC?

A: Malkin Holdings LLC created your investment, is the supervisor of your LLC, has been the supervisor since its creation, and has over 80 years of experience in real estate investment and supervision on behalf of investors. It provides all asset management services for, and supervises the operations of, your subject LLC.

Q: What happened to Lawrence A. Wien and Wien & Malkin?

A: Malkin Holdings is the same legal entity as Wien & Malkin, having converted to a limited liability company and changed its name to Malkin Holdings in 2009 21 years after the death of Lawrence A. Wien in 1988. It was created by Lawrence A. Wien, and has continued to be controlled and managed by members of the Wien family during that time. Its Chairman, Peter L. Malkin, is Mr. Wien's son-in-law, and was his partner for three decades and participated in structuring and completing the purchase of the ESB with Mr. Wien and Harry B. Helmsley in 1961. Its President, Anthony E. Malkin, is Mr. Wien's grandson, Peter L. Malkin's son, and has been Peter L. Malkin's partner for more than two decades. Anthony E. Malkin with his management team, under the Chairmanship of Peter L. Malkin, is responsible for the renovation, repositioning and/or acquisition of every property in the proposed consolidation and IPO.

Q: Can't things just stay the way they are?

A: No. Leona Helmsley's estate must sell its interest in ESBA's operating lessee, Empire State Building Company L.L.C. (ESBC). This is not an option it is a requirement under the will of Leona Helmsley. The Helmsley estate's interest and the Malkin family's interest hold equal veto rights on decisions made by ESBC. ESBC decisions control property operation and use of cash flow, thus determining the amount of cash available for ESBA distributions. If the consolidation

is not completed, the Helmsley estate will have to find another way to liquidate its real estate holdings. In that case, the Helmsley estate could sell to a person or group which would then have such veto on decisions by ESBC, thereby creating the potential for stalemate and a resulting impairment of ESBA distributions.

Q: Could ESBA purchase the Helmsley estate's interest?

A: We do not believe this is realistic. ESBA receives a low basic rent and highly variable overage rent from ESBC to cover costs and to service and repay loans. ESBC is not required to operate in such a way as to maximize cash flow or overage rent payments. Based on our experience in financings (more than \$2.9 billion in financing since Anthony E. Malkin joined Peter L. Malkin at Malkin Holdings in 1989), including three financings for ESB since 2001, we do not believe that ESBA would be able to borrow the necessary amounts to acquire the Helmsley estate's interest. In addition, ESBA would require a new consent from ESBA participants for any financing to buy out the Helmsley estate's interests.

Q: Could the ESB become a REIT on its own?

A: We do not believe that is realistic or desirable. Any ESB-only REIT would require the consent of ESBC which is controlled by the Malkin family and the Helmsley estate, which have consented only to the consolidation and IPO as currently proposed. We have been advised that a single-asset REIT is not typical, and most potential REIT investors (the great majority of which are institutional investors) would not react favorably to such a REIT. One reason is that a stand-alone REIT would bear many of the same ongoing expenses of a REIT owning a portfolio of properties without the benefit of other properties to share them with. We believe these expenses would make it less attractive to investors and diminish value to ESB investors.

Q: Will ESB investors be shortchanged by combining a marquee property such as ESB with other, less iconic properties?

A: No. All of the buildings in the proposed consolidation are financially stable, and their relative results and growth prospects were considered when Duff & Phelps, a national independent valuation expert, calculated how much of the exchange value each building would get in connection with the proposed consolidation. For example, ESB represents 34% of the square footage of the total portfolio but is receiving 56% of the exchange value in the proposed transaction. That disproportionate value reflects Duff & Phelps's independent assessment of what is a fair allocation of value for ESB, which takes into account ESB's future growth prospects.

Q: How do I know the valuations are fair?

A: To produce the exchange values and render a fairness opinion, Malkin Holdings chose Duff & Phelps based upon its reputation and independence. Duff & Phelps is an internationally recognized firm with an excellent reputation which is well skilled in providing valuation services for a broad variety of real estate firms. Duff & Phelps began by appraising the value of each of the 18 office and retail properties and the development site to be included in the REIT that would be created as part of the consolidation. Then, Duff & Phelps allocated such property's value to each of the present entities holding an interest in that property, based in part on information and representations provided by Malkin Holdings LLC. Valuation materials which Duff & Phelps provided to us or used in connection with the valuations have been filed in Appendices A, B and C to the prospectus/consent solicitation statement which you can review, including the financial projections used by Duff & Phelps in its exchange valuation process for all the properties.

Q: What is the status of the ESB turnaround?

A: The program is in progress. The lobby has been restored, the observatory largely has been upgraded, and new leases have been concluded for over 1.5 million square feet of office and retail space. However, to complete the comprehensive program for renovation and repositioning of ESB, additional capital of approximately \$185.0 million to \$225.0 million, in addition to the additional costs for tenant improvements and leasing commission, will be required through 2016.

Q: What about all these lawsuits that were filed did the Malkins do something wrong?

A: No. Virtually all large deals get challenged in court. These claims now have been settled by written agreement with no admission of wrongdoing. In fact, after plaintiffs' counsel reviewed thousands of documents and interviewed many witnesses, the plaintiffs now support the proposed transaction. Investors in the subject LLCs will bear no cost in connection with such settlement and will participate in receiving the settlement proceeds.

Q: What are the override interests?

A: The Malkin group has from the inception of these entities and/or subsequent investor consents been entitled to share in excess cash distributions through overrides. For example, from overage rent distributions since the time the ESBA investment was created, Malkin Holdings has been the recipient of a 6% override from ESBA, which has been paid from distributions, and 93.99% of ESBA investors have voluntarily consented to a capital override, which provides the Malkin group with a 10% override to Malkin

Holdings from capital transaction proceeds in excess of a return of capital, for reasons that included giving Malkin Holdings an incentive to manage the building in a way that would maximize capital proceeds and thereby further align the interests of Malkin Holdings with investors. Overrides from excess distributions are also in effect for investors in 60 East 42nd and 250 West 57th based on the original entity documents and/or subsequent investor consents.

Q: Why do the Malkins get payment on these interests in the proposed transaction?

A: By contract, the Malkins are entitled to distributions on the override interests out of the proceeds from a capital event, which includes any transfer of the property of the subject LLCs. The proposed consolidation is a capital event. In the proposed consolidation and IPO, control of the combined enterprise will be transferred from the supervisor, the Malkin Holdings group, and the Helmsley estate to a board comprised of six independent directors out of a seven-member board of directors. For example, many existing investors in the private entities and the other public entities who currently do not own interests in ESB (44% by aggregate exchange value) will own collectively an indirect interest in ESB and the other properties, and the existing investors in ESBA will own 28% of ESB and each of the other properties, after the consolidation and IPO through their new interests in the publicly-traded REIT, representing a significant transfer of ownership in all the properties. Thus, the proposed consolidation represents a transfer to a new entity with substantial additional assets, substantial new investors, and a new governance structure in no way a continuation of the prior entities or the same investors.

Q: When can I sell OP Units or shares of Class A common stock of the REIT after the consolidation and the IPO?

A: After the closing of the consolidation and the IPO, each participant (except the Malkin Family, whose members are subject to a longer restrictive period in which they cannot sell) will have the ability to sell up to 50% of both the OP Units and Class A or Class B common stock received in the consolidation at any time after the 180th day following the IPO pricing date and the balance of the OP Units and Class A or Class B common stock 12 months after the IPO pricing date. In addition, each participant that receives OP Units may, immediately following the consolidation and the IPO, sell up to approximately 4% of the OP Units issued to him or her (assuming all of the participants in each subject LLC elect to receive OP Units).

Q: When are OP Units exchangeable for shares of common stock?

A: Beginning 12 months after the completion of the IPO, each holder of OP Units will have the right to require the operating partnership to redeem all or a portion of its OP Units for a cash amount equal to the then-current market value of one share of Class A common stock per OP Unit, or, at the REIT's election, to exchange each such OP Unit for a share of Class A common stock on a one-for-one basis.

Q: What is a REIT, and why will the company elect to be a REIT?

A: A REIT is an entity that has elected and qualifies to be taxed as a real estate investment trust under the Internal Revenue Code of 1986. The primary benefit of REIT qualification is that a REIT is generally entitled to a deduction for dividends that it pays and, therefore, is not subject to U.S. federal corporate income tax on the net income distributed to its stockholders. To maintain this status, a REIT must distribute at least 90% of its REIT taxable income each year.

Q: When do you expect the consolidation to be completed?

A: We plan to complete the consolidation as soon as possible after the receipt of the approval by the required vote of your subject LLC's participants and the approval by the required vote of the other subject LLCs' participants, conditioned on the closing of the IPO. While we are unable to estimate the closing date of the consolidation, by its terms it is required to be completed no later than December 31, 2014.

Q: If I own participation interests in more than one subject LLC, what should I do?

A: For each subject LLC in which you own a participation interest, in the same mailing in which you received the prospectus/consent solicitation statement you have received a transmittal letter, supplement and consent form which provides for vote with respect to the consolidation proposal and the third-party portfolio proposal. Regardless of how many subject LLCs in which you own a participation interest, you have received a single copy of the prospectus/consent solicitation statement. Participants in each subject LLC will vote separately on whether or not to approve the consolidation. Accordingly, if you hold participation interests in more than one subject LLC, you must complete one consent form for each subject LLC in which you are a participant.

Q: Information in the prospectus/consent solicitation statement is based on a \$10,000 original investment. Where can I find information about my actual original investment?

A: Information is presented in the prospectus/consent solicitation statement based on a \$10,000 original investment to allow participants to determine the effect on them individually. Information regarding the amount of your actual original investment will be provided on the consent form sent to you.

Q: Is it true that the transaction will cause participants to pay an \$85 million tax bill for the Malkins?

A: No. No Payment to the Malkins would be required upon the consolidation, IPO or a sale to a third-party. The tax protection agreement only requires payment where, following the IPO, the REIT's independent board directors decided to sell (or failed to maintain certain debt with respect to) one or more of four designated assets within a certain time frame. Not only is no such transaction contemplated at this time, but the independent board members will be subject to a fiduciary duty which would require them to determine that the sale was in the best interests of the REIT before any such transaction could occur.

Q: Is MacKenzie the proxy solicitor the same group who has launched the recent tender offer?

A: No. The group making the tender offer consists of entities reportedly affiliated with MacKenzie Capital Management in Moraga, California. Such entities are not related to Malkin Holdings or its proxy solicitor MacKenzie Partners, Inc.

Register For a Conference Call

Now that the S-4 is effective, we are hosting conference calls for investors to provide information and answer questions on the proposed transaction. There are nearly 4,000 investors involved in this consent process, and three entities for which a vote is to be taken. To make the calls work, there are scheduled separate calls for each investment entity and the number of attendees on each call will necessarily be limited.

We will schedule as many calls as are required for every interested investor to be able to participate. We have set aside several initial dates and times for these calls. If you wish to participate, please select the entity you are invested in below. This will lead to a calendar which will enable you to choose the time(s) most convenient for you and fill in your contact information with the option to submit a question. Once you have done this, you will receive an email with instructions on how to access the call. If none of the available times is convenient for you, or if all calls are filled, please contact MacKenzie at 1-888-410-7850 and we will contact you with new call dates.

Please click on the entity for which you are an investor or advisor to sign up:

Empire State Building Associates L.L.C. <<button>>

60 East 42<sup>nd</sup> St. Associates L.L.C. <<button>>

250 West 57<sup>th</sup> St. Associates L.L.C. <<button>>

<<<For each entity the page looks like this>>>

Empire State Building Associates L.L.C. Conference Call Registration

If you are having difficulties scheduling a call, please contact our proxy solicitor MacKenzie Partners L.L.C. at **1-888-410-7850**.

*Registration for calls close the prior day at 5 pm EST*

Please click on a day to start registration

<<<CALENDAR, Dates provided thru Mar. 1>>>

Cancel booking

Start time	End time	Investor Entity Call Type	Select One
09:00 AM	10:00 AM	Empire State Building Associates L.L.C.	Book
10:00 AM	11:00 AM	Empire State Building Associates L.L.C.	Book

<<When a call has been filled it says registration is closed >>

Proceed to booking

<<<Shows the above calls the investor has selected>>

Name

E-mail

Phone

Submit a question

To ensure your question is answered, please type it in the adjacent box. Depending upon the number of questions received in advance of the call, there may not be time to answer questions posed during the call. There will always be an opportunity for any question to be answered offline, after a conference call.

Are you an investor or an advisor in this entity? Check box

<<<if this is not checked, it will say at the bottom in red: You must be an investor or advisor to access this call. Please contact MacKenzie at 1-888-410-7850 with any questions. >>>



Continue Cancel

<<<info submitted is shown for investor to confirm>>>

Submit Cancel

Thank you! We will e-mail you shortly with your dial in and passcode.

Media/News

[Click here to see Anthony Malkin on Bloomberg TV speak publicly for the first time about the Malkin Holdings proposals.](#)

[Click here to read David Levitt's 1/29/13 Bloomberg article.](#)

[Click here to read Brad Thomas's 1/28/13 TheStreet.com article.](#)

[Click here to read Aaron Elstein's 1/22/13 Crain's New York article.](#)

Properties To Be Consolidated

The Empire State Building (350 5th Avenue)

New York, New York

The world's most famous office building, The Empire State Building was built in 1931. It occupies the entire blockfront from 33rd Street to 34th Street on Fifth Avenue, anchoring the east side of the 34th street corridor in midtown Manhattan. The building is also a tourist destination; it offers panoramic views of New York and neighboring states from its world-famous observatories that draw millions of visitors per year. It is located within walking distance of mass public transportation, multiple parking garages, world-class shopping, dining and lodging.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

One Grand Central Place (60 East 42nd Street)

New York, New York

One Grand Central Place, located at 60 East 42nd St., was built in 1930. The building comprises premier office space and lower-level and ground-floor retail space. It is located on 42nd Street, between Park and Madison Avenues, directly across the street from Grand Central Terminal, located within walking distance of multiple parking garages, world-class shopping, dining and lodging.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

250 West 57th Street

New York, New York

Built in 1921, 250 West 57 St. occupies the entire blockfront of 57th Street between Broadway and Eighth Avenue. The building comprises premier office space and ground-floor and lower-level retail space. It is close to Columbus Circle and the new media headquarters concentration in New York City, and is located within walking distance of multiple parking garages, world-class shopping, dining and lodging. Its close proximity to mass transportation includes direct access to numerous subway lines and bus routes.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

First Stamford Place

Stamford, Connecticut

First Stamford Place was built in 1986. The office complex is located in Stamford, Connecticut, adjacent to the Stamford Transportation Center which serves the Metro North commuter line with express service to Grand Central Terminal. Its close proximity to mass transportation at the Stamford Transportation Center includes access to Acela Express, Amtrak and Metro North train services; Connecticut transit buses with local and inter-county service to Westchester County, New York; taxis; and van pool transportation options.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

1333 Broadway

New York, New York

1333 Broadway was built in 1915. It occupies the northwest corner of 35th Street and Broadway. The building comprises premier office space and lower-level, ground-floor and second-floor retail space. It is located between the nearby Times Square and Herald Square transportation hubs, directly across from the Macy's flagship location, located within walking distance of multiple parking garages, world-class shopping, dining and lodging. Its close proximity to mass transportation includes numerous subway lines and bus routes; Pennsylvania Station; Grand Central Terminal; the Port Authority Bus Terminal; and PATH train services.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

1359 Broadway

New York, New York

1359 Broadway was built in 1924. The building comprises premier office space and ground-floor retail space. It occupies the northwest corner of 36th Street and Broadway, between the nearby Times Square and Herald Square transportation hubs, located within walking distance of multiple parking garages, world-class shopping, dining and lodging. Its close proximity to mass transportation includes numerous subway lines and bus routes; Pennsylvania Station; Grand Central Terminal; the Port Authority Bus Terminal; and PATH train services.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

1350 Broadway

New York, New York

1350 Broadway was built in 1929. The building comprises premier office space and ground-floor retail space. It occupies the entire block amidst Broadway, Sixth Avenue, 35th and 36th Streets. It is between the nearby Times Square and Herald Square transportation hubs, located within walking distance of multiple parking garages, world-class shopping, dining and lodging. Its close proximity to mass transportation includes numerous subway lines; numerous bus routes; Pennsylvania Station; Grand Central Terminal; the Port Authority Bus Terminal; and PATH train services.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

501 Seventh Avenue

New York, New York

Built in 1923, 501 Seventh Avenue occupies the northeast corner of 37th Street and Seventh Avenue. It comprises premier office space, apparel showroom space and ground-floor retail space. The building is located between the Times Square and Herald Square transportation hubs, within close proximity to numerous subway lines and bus routes, within walking distance of multiple parking garages, world-class shopping, dining and lodging.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

## Metro Center

Stamford, Connecticut

Metro Center was built in 1987. The office building is located in Stamford, Connecticut, near the Stamford Transportation Center which serves the Metro North commuter line with express service to Grand Central Terminal. Its close proximity to mass transportation at the Stamford Transportation Center includes access to Acela Express, Amtrak and Metro North train services; Connecticut transit buses with local and inter-county service to Westchester County, New York; taxis; and van pool transportation options. Tenants also have access to a secured structured parking facility within the building.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

## 10 Union Square

New York, New York

10 Union Square was built in 1988. The retail property is situated on the entire blockfront between 14th and 15th Streets on the east side of Union Square. The ground-floor and lower-level condominium unit, located at the base of a 29-story mixed-use development known as the Zeckendorf Towers, comprises of rentable retail space. Its close proximity to mass transportation includes numerous subway lines, the PATH trains and bus routes, and it is located atop one of the busiest subway stations in New York City.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

## 1010 Third Avenue

New York, New York

1010 Third Avenue was built in 1963. The retail property is located at the northwest corner of 60th Street and Third Avenue, directly adjacent to Bloomingdale's flagship store, located in the heart of one of Manhattan's Upper East Side's most vibrant office, retail and residential neighborhoods. The three-story condominium unit, located at the base of a 20-story mixed use residential condominium building, comprises retail condominium space and a condominium parking garage unit, and is constructed of brick. Its close proximity to mass transportation includes numerous subway lines and bus routes.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

## 77 West 55th Street

New York, New York

77 West 55th Street was built in 1962. The retail property is located at the northeast corner of Sixth Avenue and 55th Street, a well-established 24-hour destination that attracts day-time workers, convenience and destination shoppers, tourists and residents. The ground-floor condominium unit, situated at the base of a 20-story residential condominium building, comprises retail condominium space and a condominium parking garage unit, and is constructed of brick. Its close proximity to mass transportation includes numerous subway lines and bus routes.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

## 500 Mamaroneck Avenue

Harrison, New York

500 Mamaroneck Avenue was built in 1986. The office building is constructed of a mirrored glass curtain wall on 35 landscaped acres in Harrison, New York. Its close proximity to mass transportation includes the Mamaroneck and White Plains train stations, which provide access to Metro North train services. Tenants have access to tenants-only shuttle service to the Mamaroneck train station. Tenants also have access to free on-site parking.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

10 Bank Street

White Plains, New York

10 Bank Street was built in 1989. The office building is located in downtown White Plains, New York, immediately adjacent to the White Plains Transportation Center, which serves the Metro North commuter line with express service to Grand Central Terminal. Its close proximity to mass transportation includes the Metro North Commuter Line; the Bee-Line Bus System, providing service to the Port Chester, Metro North Railroad, New Haven Line; taxis; and access to major highways. Tenants also have access to a six-level secured structured parking facility that is connected to the building.

1542 Third Avenue

New York, New York

1542 Third Avenue was built in 1991. The retail property is located on the west side of Third Avenue between East 86th and 87th Streets and the north side of 86th Street between Lexington and Third Avenues in Manhattan's Upper East Side. The ground-floor retail condominium unit, located at the base of a 25-story luxury residential condominium building, comprises of retail space and is constructed of brick. Its close proximity to mass transportation includes numerous subway lines and bus routes.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

MerrittView (383 Main Avenue)

Norwalk, Connecticut

383 Main Avenue was built in 1985. The office building is located in Norwalk, Connecticut, at the intersection of the Super 7 Expressway and the Merritt Parkway, with immediate access to the Super 7 Expressway, Exits 40A and 40B of the Merritt Parkway and the Metro North Commuter Railroad. Its close proximity to mass transportation includes the South Norwalk Railroad Station and Merritt 7 Station, which provide access to Metro North train services. Tenants have access to a tenants-only shuttle van service to the South Norwalk Transportation Center and Merritt 7 Station. Tenants also have access to free on-site, structured parking on which the building sits.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

69-97 Main Street

Westport, Connecticut

69-97 Main Street was built in 1922. The adjacent retail units are located on Main Street in Westport, Connecticut, one of Fairfield County's most affluent shopping districts with one of the country's highest concentrations of major national, regional and local retail tenants. Its dual entrances provide direct public access to the stores from Main Street and Parker Harding Plaza, a public parking lot directly behind the property, and it is located in close proximity to major highways.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

103-107 Main Street

Westport, Connecticut

103-107 Main Street was built in 1900. The adjacent retail units are located on Main Street in Westport, Connecticut, one of Fairfield County's most affluent shopping districts with one of the country's highest concentrations of major national, regional and local retail tenants. The single-story structure comprises of high-end retail space and restaurant space and is constructed of brick and masonry. Its dual entrances provide direct public access to the stores from Main Street and Parker Harding Plaza, a public parking lot directly behind the property, and it is located in close proximity to major highways.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

Option Properties

112-122 West 34th Street

New York, New York

112-122 West 34th Street is an office property in midtown Manhattan. The building is in transition from a garment tenant profile. The company's management team believes that, if acquired, 112-122 West 34th Street would be consistent with the company's portfolio composition and strategic direction.

[Read More \(Please download Adobe Acrobat Reader to view this link\)](#)

1400 Broadway

New York, New York

1400 Broadway is an office property in midtown Manhattan. The company's management team believes that, if acquired, 1400 Broadway would be consistent with the company's portfolio composition and strategic direction.

[Read More \(Please download an Adobe Acrobat Reader to view this link\)](#)

## Letters to Participants

Malkin Holdings LLC has sent several letters to participants since it filed its preliminary Form S-4 with the Securities and Exchange Commission (SEC) on February 13, 2012. These letters, which have also been filed with the SEC, can be found here. Malkin Holdings LLC plans to send additional letters to participants and will post them to this page after they are mailed to participants and filed with the SEC. We believe these letters continue to provide a useful reference at this time, understanding that subsequent letters or filings with the SEC contain updates.

Also posted here is a letter sent to ESBA investors by Martin Cowan in which he explains to them why they cannot rely on the financial analysis which he prepared and was used by Richard Edelman. ([click here to view the link](#))

Letters of February 13, 2012 ([click here to view links below](#)):

Informs participants that the preliminary Form S-4 has been filed with the SEC and notifies them of the intention to consolidate properties and form a publicly traded real estate investment trust (REIT).

Empire State Building Associates L.L.C. ([click here to view the link](#))

60 East 42nd St. Associates L.L.C. ([click here to view the link](#))

250 West 57th St. Associates L.L.C. ([click here to view the link](#))

Letter of March 16, 2012: ([click here to view the link](#))

Stop, Look and Listen letter which explains that participants need not take any action until after the SEC declares the Form S-4 effective.

Letter of April 4, 2012: ([click here to view the link](#))

Provides an overview of the consolidation and Initial Public Offering (IPO) process.

Letter of May 11, 2012: (click here to view the link)

Discusses the history of the two-tier, lessor/lessee ownership structure created for several properties supervised by Malkin Holdings LLC and the role of the supervisor.

Letter of May 31, 2012: (click here to view the link)

Provides details on the Helmsley estate's required sale of its real estate holdings, the potential impact for investors and certain benefits of the proposed consolidation and IPO.

Letters of July 2, 2012 (click here to view links below):

Informs participants about the new OP Unit structure that would give all participants the option to defer any tax that could be triggered by the proposed consolidation.

Empire State Building Associates L.L.C. (click here to view the link)

60 East 42nd St. Associates L.L.C. and 250 West 57th St. Associates L.L.C. (click here to view the link)

Letters of July 23, 2012 (click here to view links below):

Details the equity interests the Malkin family will receive as part of this transaction.

Empire State Building Associates L.L.C. (click here to view the link)

60 East 42nd St. Associates L.L.C. (click here to view the link)

250 West 57th St. Associates L.L.C. (click here to view the link)

Letters of August 6, 2012 (click here to view links below):

Q&A addressing issues that have been raised by ESBA investors.

Empire State Building Associates L.L.C. (click here to view the link)

60 East 42nd St. Associates L.L.C. (click here to view the link)

250 West 57th St. Associates L.L.C. (click here to view the link)



Letters of August 24, 2012: (click here to view links below)

Addresses questions about value allocation.

Empire State Building Associates L.L.C. (click here to view the link)

60 East 42nd St. Associates L.L.C. (click here to view the link)

250 West 57th St. Associates L.L.C. (click here to view the link)

Letter of September 6, 2012: (click here to view the link)

Provides information about the six independent directors who will become members of the Board of Directors of Empire State Realty Trust on the completion of the IPO.

Letter of November 9: (click here to view the link)

Addresses what we believe are material misrepresentations made by the Edelmans and persons working with them.

Letter of November 19, 2012: (click here to view the link)

Provides several updates including the settlement of the class action lawsuit, as well as other steps being taken to prepare for potentially becoming a public company.

Letter of December 7, 2012: (click here to view the link)

Sets the record straight about a certain individual who had reached out to ESBA participants.

Letter of January 7, 2013: (click here to view the link)

Informs participants that the SEC has declared the S-4 effective and provides participants with important letter sent by Martin Cowan, in which Mr. Cowan admits that the financial analysis he provided and which was used by Richard Edelman contains inadvertent errors and cannot be relied upon.

Letter of January 21, 2013: (click here to view the link)

Informs investors that a website has been launched to help them access information about the transaction.

Letters of January 21, 2013: (click here to view links below)

Cover letter accompanying the prospectus/consent solicitation which provides an overview of the consolidation and other proposals. Among other important information, the letter includes a discussion of the benefits of the transaction, the documents that are being provided in the mailing, and the different types of consideration available.

Letter of January 23, 2013: (click here to view the link)

Describes commemorative Wall of Recognition to be installed at Empire State Building for ESBA investors and how to participate.

Letter of January 25, 2013: (click here to view the link)

Addresses what we believe are additional material misrepresentations made by the Edelman group.

Send Us Questions/ Comments

Please let us know what you are thinking, any question you may have, and any way in which we can help you with your review of the important information on this website. We will be back to you promptly. Thank you!

Name

Email

Company

optional

Phone

optional

Question/ Comment

SEND

Our Contact Information

Contact Info

Proxy Solicitor Agent:

Malkin Holdings LLC

c/o MacKenzie Partners, Inc.

105 Madison Avenue 17th Floor

New York, NY 10016

T (888) 410-7850

Malkin Holdings:

Malkin Holdings LLC

One Grand Central Place

60 East 42nd Street

New York, NY 10165

T (212) 687-8700

F (212) 983-1385

[inquiries@malkinholdings.com](mailto:inquiries@malkinholdings.com)

Important Information

This website does not constitute an offer to sell or the solicitation of an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

Each of the three public entities, Empire State Building Associates L.L.C., 60 East 42nd St. Associates L.L.C., and 250 West 57th St. Associates L.L.C. (the Companies) and their agents and Malkin Holdings LLC (the supervisor), Empire State Realty Trust, Inc. (the REIT), Empire State Realty OP, L.P., and each officer and director of the Companies, the supervisor or of the REIT may be deemed to be a participant in the solicitation of consents in connection with the proposed consolidation. The names of such persons and a description of their interests in the Companies and the REIT are set forth, respectively, in each Company's Annual Report on Form 10-K for the year ended December 31, 2011 and the REIT's Registration Statement on Form S-4 and the prospectus/consent solicitation statement, which have been filed with the SEC.

Investors in the Companies are urged to review such Registration Statement on Form S-4, the prospectus/consent solicitation statement, and other related documents now filed or to be filed with the SEC and available on this website, because they contain important information. You can obtain them without charge on the SEC's website at [www.sec.gov](http://www.sec.gov).

There are material risks and conflicts of interest associated with the consolidation. You should carefully review the sections entitled Risk Factors and Conflicts of Interest in the prospectus/consent solicitation statement which has been filed with the SEC.

#### FORWARD-LOOKING STATEMENTS

This website contains forward-looking statements. In particular, statements pertaining to the REIT's and the Companies capital resources, portfolio performance, dividend policy and results of operations contain forward-looking statements. Likewise, the REIT's unaudited pro forma financial statements and all of its statements regarding anticipated growth in the REIT's portfolio from operations, acquisitions and anticipated market conditions, demographics and results of operations are forward-looking statements. Forward-looking statements involve numerous risks and uncertainties and you should not rely on them as predictions of future events. You can identify forward-looking statements by the use of forward-looking terminology such as believes, expects, may, will, should, seeks, preliminary, approximately, intends, plans, estimates, contemplates, aims, continues, would or anticipates or the negative of these words and phrases or similar words or phrases. Forward-looking statements depend on assumptions, data or methods which may be incorrect or imprecise and the company may not be able to realize them. The REIT and the supervisor do not guarantee that the transactions and events described will happen as described (or that they will happen at all). The factors, among others, could cause actual results and future events to differ materially from those set forth or contemplated in the forward-looking statements are: included in this website or set forth in the prospectus/consent solicitation statement under the headings Risk Factors, Management's Discussion and Analysis of Financial Condition and Results of Operations of Empire State Realty Trust, Inc. and The Company Business and Properties.

## Edgar Filing: Empire State Realty Trust, Inc. - Form 425

While forward-looking statements reflect the REIT's or the supervisor's, as applicable, good faith beliefs, they are not guarantees of future performance. The REIT and the supervisor disclaim any obligation to publicly update or revise any forward-looking statement to reflect changes in underlying assumptions or factors, of new information, data or methods, future events or other changes after the date of this prospectus, except as required by applicable law. For a further discussion of these and other factors that could impact the REIT's future results, performance or transactions, see the section in the prospectus/consent solicitation statement entitled "Risk Factors." You should not place undue reliance on any forward-looking statements, which are based only on information currently available to the REIT (or to third parties making the forward-looking statements).

### SEC Filings

Source: <http://www.sec.gov/> | RRS Feed

Filings	Description	Date Filed	Size	View
425	Prospectuses and communications, business combinations Acc-no: 0001193125-13- 020812 (34 Act)	1/23/2013	16KB	Documents
424B3	Prospectus [Rule 424(b)(3)] Acc-no: 0001193125-13-020666 (33 Act)	1/23/2013	5MB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-13-019091 (34 Act)	1/22/2013	2MB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-13-018458 (34 Act)	1/22/2013	610KB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-13-018445 (34 Act)	1/22/2013	236KB	Documents
424B3	Prospectus [Rule 424(b)(3)] Acc-no: 0001193125-13-018290 (33 Act)	1/22/2013	30MB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-13-005172 (34 Act)	1/7/2013	15KB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-13-003601 (34 Act)	1/4/2013	23KB	Documents
EFFECT	Notice of Effectiveness Acc-no: 9999999995-12-003612 (33 Act)	12/21/2012	2KB	Documents
S-4/A	[Amend] Registration of securities, business combinations Acc-no: 0001193125-12-512349 (33 Act)	12/21/2012	36MB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-509204 (34 Act)	12/20/2012	12KB	Documents
S-4/A	[Amend] Registration of securities, business combinations Acc-no: 0001193125-12-504011 (33 Act)	12/17/2012	37MB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-500137 (34 Act)	11/12/2012	49KB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-495258 (34 Act)	12/7/2012	12KB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-476259 (34 Act)	11/20/2012	21KB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-465449 (34 Act)	11/13/2012	21KB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-465218 (34 Act)	11/13/2012	67KB	Documents
S-4/A	[Amend]Registration of securities, business combinations Acc-no: 0001193125-12-449241 (33 Act)	11/2/2012	92MB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-383049 (34 Act)	9/6/2012	28KB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-368344 (34 Act)	8/24/2012	165KB	Documents
S-4/A	[Amend]Registration of securities, business combinations Acc-no: 0001193125-12-351400 (33 Act)	8/13/2012	35MB	Documents

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Filings	Description	Date Filed	Size	View
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-340845 (34 Act)	8/7/2012	138KB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-338044 (34 Act)	8/6/2012	29KB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-325720 (34 Act)	7/31/2012	13KB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-310470 (34 Act)	7/23/2012	70KB	Documents
S-4/A	[Amend]Registration of securities, business combinations Acc-no: 0001193125-12-293929 (33 Act)	7/3/2012	26MB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-292003 (34 Act)	7/2/2012	44KB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-255356 (34 Act)	5/31/2012	18KB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-228652 (34 Act)	5/11/2012	15KB	Documents
S-4/A	[Amend]Registration of securities, business combinations Acc-no: 0001193125-12-216509 (33 Act)	5/8/2012	16MB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-149786 (34 Act)	4/4/2012	13KB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-119407 (34 Act)	3/16/2012	14KB	Documents
425	Prospectuses and communications, business combinations Acc-no: 0001193125-12-059273 (34 Act)	2/14/2012	22KB	Documents
S-4	Registration of securities, business combinations Acc-no: 0001193125-12-054391 (33 Act)	2/13/2012	20MB	Documents

## Private Policy

### Malkin Holdings LLC Privacy Policy

Malkin Holdings LLC knows your privacy is important to you, and we want you to know it is important to us too. We created this Policy to explain the types of information we collect through EmpireStateRealtyTrust.com (the Site ) and the ways in which we will use, disclose and protect this information once it is collected. By visiting our Site, you agree to the terms of this Privacy Policy as they may be amended from time to time.

Here are a few general principles to keep in mind as you read through this Policy:

The Site is owned and operated by Malkin Holdings LLC and contains information about its affiliates and Empire State Realty Trust, Inc., Empire State Realty OP, L.P., Empire State Building Associates L.L.C., 60 East 42nd Street Associates L.L.C. and 250 West 57th Street Associates L.L.C. (referred to collectively in this policy as we, us, our and other similar pronouns).

As our business evolves, this Policy may change, so check back to this page periodically to make sure you understand how your personal information will be treated.

This Policy is incorporated into, and part of, our Terms of Use, which govern your use of our sites as a whole.

This Policy does not apply to information which you may provide to us, or which we may obtain, other than through the Site, such as over the phone, by mail, or in person, or through other web sites maintained by us or our affiliates.

If you are located outside the United States, you should know that the information you provide to us is being transmitted to us and processed in the United States and will be protected subject to this privacy policy and United States laws, which may not be as protective as the laws in your country. By using the Site, you agree to this.

What information is collected on this Site?

### User-Provided Information

Personal Information is information that can be used to identify you as an individual or allow someone to contact you, as well as information associated with such information. We may collect Personal Information such as your name; e-mail addresses; whether you are a current investor; company name; telephone number; and the content of any messages that you send to us. For example, we collect Personal Information when you submit a comment or question to us using the contact us feature on the Site.

## Cookies

We use a technology known as cookies in order to allow you to remain logged in during your use of the Site. Cookies will not track your use of the Site, and any information that may be obtained via cookies will not be saved or retained in any way on our server. The cookies we use will expire when you close your browser window.

We will not retain any Site usage information that is linked or linkable in any way to a user's Personal Information or log-in credentials.

By using our Web Site, you consent to our use of the technologies as described above.

How is your information used?

We or one of our service providers may use the information we collect from and about you to perform the following business functions:

enabling users to use our Site and its features

administering the Site

responding to your requests, questions, and concerns

developing new features on the Site

protecting our rights and property

other purposes disclosed when personal information is submitted to us

Do we share Personal Information with others?

Generally, we will not share your information that we collect on the Site with unaffiliated third parties other than sharing with third parties who need your information in order to provide services to or for us.

In addition, we may share your information with third parties (i) when we believe in good faith that disclosure is necessary to protect our rights or property, protect your safety or the safety of others, investigate fraud or respond to a government, judicial or other legal request, or to comply with the law and (ii) in connection with a corporate change or dissolution, including for example a merger, acquisition, reorganization, consolidation, bankruptcy, liquidation, sale of assets or wind down of business.

## Security

While we endeavor to protect the security and integrity of sensitive Personal Information collected via the Site, due to the inherent nature of the Internet as an open global communications vehicle, we cannot guarantee that any information, during transmission through the Internet or while stored on our system or otherwise in our care, will be absolutely safe from intrusion by others, such as hackers.

If you correspond with us by e-mail or using Web forms like a contact us feature on our Site, you should be aware that your transmission might not be secure. A third party could view the information you send in transit by such means. We will have no liability for disclosure of your information due to errors or unauthorized acts of third parties during or after transmission.



You are responsible for maintaining the strict confidentiality of any log-in information, and you shall be responsible for any activity engaged in by a person to whom you have provided log-in information, whether or not you authorized such activity. Please notify us of any unauthorized use of log-in information or any other breach of security.

If we believe the security of your Personal Information in our care may have been compromised, we may seek to notify you of that development. If a notification is appropriate, we will endeavor to notify you reasonably promptly under the circumstances. If we have your e-mail address, we may notify you by e-mail. You consent to our use of e-mail as a means of such notification.

#### Linked-To Web Sites

The Site may contain links that lead to other web sites. We are not responsible for these other sites, and so their posted privacy policies (not this Policy) will govern the collection and use of your information on them. We encourage you to read the privacy statements of each web site visited after leaving the Site to learn about how your information is treated by others.

#### Changes to this Privacy Policy

We may change this Policy from time to time. When we do, we will let you know by posting the changed Policy on this page with a new "Last Updated" date. In some cases (for example, if we significantly expand our use or sharing of your Personal Information), we may also tell you about changes by additional means, such as by sending an e-mail to the e-mail address we have on file for you. In some cases, we may request your consent to the changes.

#### Contact Us

If you have any questions or comments regarding our privacy practices, you may contact us at:

Malkin Holdings LLC

One Grand Central Place

60 East 42nd Street

New York, NY 10165

Telephone: (212) 687-8700

Fax: (212) 983-1385

Email: [inquiries@malkinholdings.com](mailto:inquiries@malkinholdings.com)

Attention: Privacy Policy

Effective Date: January 19, 2013

[Terms of Use](#)

[Terms of use](#)

## Website Terms of Use

Thank you for visiting the EmpireStateRealtyTrust.com website. Please read these Terms of Use carefully before using this website. By accessing this website in any manner (whether automated or otherwise), you agree to be bound by these Terms of Use and any additional terms and conditions that are referenced below or otherwise may apply to specific areas of this site.

Certain features, software, documents, videos or information that you download from our website may be subject to additional terms and conditions presented to you at the time that you use or download them.

You represent that you are legally able to accept these Terms of Use, and affirm that you are of legal age to form a binding contract. If you do not agree to these Terms of Use, you may not use this site.

We reserve the right to change these Terms of Use at any time. Such changes will be effective when posted. By continuing to use the site after we post any such changes, you accept the Terms of Use as modified.

## No Solicitation or Offer is Intended by Use of this Site

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## Rules of Conduct

There are a few rules of conduct that you are required to follow when you use this website:

Do not harvest (or collect) information from the site using an automated software tool or manually on a mass basis (unless we have given you separate written permission to do so). This includes information about Empire State Realty Trust, Inc., Empire State Realty OP, L.P., Empire State Building Associates L.L.C., 60 East 42nd Street Associates L.L.C., 250 West 57th Street Associates L.L.C. or Malkin Holdings, documents and videos available on the site.

Do not use automated means to access the site, or gain unauthorized access to the site or to any account or computer system connected to the site.

Do not stream catch (download, store or transmit copies of streamed content).

Do not obtain, or attempt to obtain, access to areas of the site or our systems that are not intended for access by you.

Do not flood the site with requests or otherwise overburden, disrupt or harm the site or its systems.

Do not circumvent or reverse engineer the site or its systems.

Do not restrict or inhibit another user or users from using and enjoying this site.

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To access this site you are required to log-in [using a user name and password previously provided to you by Malkin Holdings.] You are responsible for all activity occurring when this site is accessed through your account, whether authorized by you or not. Therefore, if you create an account, be sure to protect the confidentiality of your account password. We are not liable for any loss or damage arising from your failure to protect your password or account information.

#### Electronic Communications

The communications between you and us via this site use electronic means, whether you visit this site or send us an email, or whether we post notices on this site or communicate with you via email. For contractual purposes, you consent to receive communications from us in an electronic form, and you agree that all terms and conditions, agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications would satisfy if it were in writing. The foregoing does not affect your non-waivable rights.

#### Changes to This Site

We reserve the right to make changes to, or to suspend or discontinue (temporarily or permanently), this site or any portion of this site. You agree that we will not be liable to you or to any third party for any such modification, suspension or discontinuance.

#### Suspension or Termination of Access

We have the right to deny access to, and to suspend or terminate your access to, the site, or to any features or portions of the site, at any time and for any reason, including for any violation by you of these Terms of Use. In the event that we suspend or terminate your access to and/or use of the site, you will continue to be bound by the Terms of Use that were in effect as of the date of your suspension or termination.

#### Linking Policies

This site may contain links to third party websites. Such links are provided for your convenience only, and you access them at your own risk. We are not responsible for, and do not endorse, the content of any such sites, nor do we take responsibility for the accuracy of any such sites. The content on such sites will not have been developed or otherwise reviewed by Malkin Holdings, which is not responsible for damages or losses caused by any delays, defects or omissions that may exist in the services, information or other content provided in such site, whether actual, alleged, consequential or punitive. Malkin Holdings makes no guarantee or representation as to, and shall have no liability for, any electronic content delivered by any third party, including, without limitation, the accuracy, subject matter, quality or timeliness of any electronic content. When you visit a linked site you should read the terms of use and privacy policy that govern that particular linked site.

#### Indemnification

You agree to indemnify, defend and hold us and our affiliates, and our respective directors, officers, employees and agents, harmless from and against any claims, liabilities, losses, damages, costs and expenses, including reasonable attorneys' fees, arising from your use of this site, your submissions to this site, or any violation of these Terms of Use, or applicable law, by you or by someone accessing the site via your account. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter subject to indemnification by you, in which event you agree to cooperate with us in defending such claims. This indemnification, defense and hold harmless obligation will survive these Terms of Use and the termination of your use of this site.

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Applicable Law; No Waiver; Severability

These Terms of Use, and the relationship between you and us, will be governed by the laws of the United States and the State of New York, without giving effect to any principles of conflicts of law. Our failure to exercise or enforce any right or provision of these Terms of Use will not constitute a waiver of such right or provision. If any provision of these Terms of Use is found by a court of competent jurisdiction to be invalid, you and we nevertheless agree that the court should endeavor to give effect to intentions as reflected in the provision, and the other provisions of these terms and conditions will remain in full force and effect.

Governing Jurisdiction

ANY DISPUTE WILL BE LITIGATED BY EITHER PARTY IN A COURT OF COMPETENT JURISDICTION ONLY IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK OR, IF SUCH COURT WOULD NOT HAVE JURISDICTION OVER THE MATTER, THEN ONLY IN A NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN, CITY OF NEW YORK. EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THESE COURTS AND AGREES NOT TO COMMENCE ANY LEGAL ACTION UNDER OR IN CONNECTION WITH THE SUBJECT MATTER OF THIS TERMS OF USE IN ANY OTHER COURT OR FORUM. EACH PARTY WAIVES ANY OBJECTION TO THE LAYING OF THE VENUE OF ANY LEGAL ACTION BROUGHT UNDER OR IN CONNECTION WITH THE SUBJECT MATTER OF THIS TERMS OF USE IN THE FEDERAL OR STATE COURTS SITTING IN THE BOROUGH OF MANHATTAN, CITY OF NEW YORK, AND AGREES NOT TO PLEAD OR CLAIM IN SUCH COURTS THAT ANY SUCH ACTION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

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#### Other

These Terms of Use and any additional terms and conditions that are referenced herein or otherwise may apply to specific areas of this site, constitute the entire agreement between us and you with respect to this website.

This agreement is personal to you and you may not assign it to anyone.

If any provision of these Terms of Use is found to be unlawful, void, or for any reason unenforceable, then that provision will be deemed severable from these Terms of Use and will not affect the validity and enforceability of any remaining provisions. These Terms of Use are not intended to benefit any third party, and do not create any third party beneficiaries. Accordingly, these Terms of Use may only be invoked or enforced by you or us.

YOU AGREE THAT REGARDLESS OF ANY STATUTE OR LAW TO THE CONTRARY, ANY CLAIM OR CAUSE OF ACTION THAT YOU MAY HAVE ARISING OUT OF OR RELATED TO USE OF THIS SITE, OR THESE TERMS OF USE, MUST BE FILED BY YOU WITHIN ONE YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION ACCRUED OR BE PERMANENTLY BARRED.

Last Updated: January 19, 2013

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**EMPIRE STATE BUILDING ASSOCIATES L.L.C.**

**CONSENT FORM**

Reference is made to the Prospectus/Consent Solicitation Statement and the related Prospectus Supplement and Notice of Consent Solicitation to Participants, each dated January 21, 2013. The undersigned participant in the entity named above (the "subject LLC") hereby votes as set forth below with respect to all participation interests in the subject LLC which the undersigned may be entitled to vote:

*Please check the appropriate box.*

**1. PROPOSED CONSOLIDATION**

**FOR** ☐

**AGAINST** ☐

**ABSTAIN** ☐

The consolidation (the "consolidation") of the subject LLC into Empire State Realty Trust, Inc. (the "company") as described in the Prospectus/Consent Solicitation Statement and the Supplement referred to below, including the authorization of Malkin Holdings LLC (the "supervisor") to take, on behalf of the subject LLC, any and all actions that are necessary or appropriate to carry out the consolidation. By voting for the consolidation, the undersigned hereby agrees to all the terms of the Contribution Agreement attached as Appendix B to the Prospectus Supplement (the "Supplement") with respect to the subject LLC (the "Contribution Agreement").

**2. ELECTION OF CONSIDERATION IN A CONSOLIDATION**

*NOTE: In the consolidation, as described in the Prospectus/Consent Solicitation Statement:*

(i) if you elect to receive operating partnership units of Empire State Realty OP, L.P. ( "Operating Partnership Units" ), it is generally expected that you should be treated as receiving the Operating Partnership Units in a tax-deferred transaction; and

(ii) if you elect to receive any Class A common stock of Empire State Realty Trust, Inc. ( "Class A Stock" ) or Class B common stock of Empire State Realty Trust, Inc. ( "Class B Stock" ), it is generally expected that you should be treated as receiving such common stock in a taxable

transaction.

Participants should read the discussion under the heading *U.S. Federal Income Tax Considerations U.S. Federal Income Tax Consequences of the Consolidation* in the Prospectus/Consent Solicitation Statement for information regarding the tax consequences of the consolidation.

I elect to receive my consideration in a consolidation in the following percentages, which must total 100%:

- (a) % **OPERATING PARTNERSHIP UNITS**, without taking any Class B Stock in place of any such Operating Partnership Units.
- (b) 100% **OPERATING PARTNERSHIP UNITS with CLASS B STOCK**, on the basis that I will receive one share of Class B Stock (entitling me to 50 votes) in place of one Operating Partnership Unit out of every 50 Operating Partnership Units which I would otherwise receive.
- (c) % **CLASS A STOCK**
- Items (a), (b), and (c) must total 100%.

To the extent the percentages filled in above total less than 100% or are not filled in at all, the unelected amount will be deemed to be an election for Operating Partnership Units under Item (a).

**3. PROPOSED THIRD-PARTY PORTFOLIO SALE**

**FOR** ☐

**AGAINST** ☐

**ABSTAIN** ☐

Authorization of the supervisor to approve an offer from an unaffiliated third-party to purchase the consolidated portfolio if a definitive agreement is signed by December 31, 2015, and to take on behalf of the subject LLC any and all actions that are necessary or appropriate to carry out the foregoing, on the terms described in the Prospectus/Consent Solicitation Statement and Supplement.

**4. REQUEST FOR VOLUNTARY PRO RATA REIMBURSEMENT FOR LITIGATION AND ARBITRATION COSTS**

**CONSENTS TO** ☐

**DOES NOT CONSENT TO** ☐

**ABSTAIN** ☐

Voluntary pro rata reimbursement to the supervisor and Peter L. Malkin as described in the Prospectus/Consent Solicitation Statement and Supplement for the prior advances of all costs, plus interest, incurred in connection with litigations and arbitrations with the former property manager and leasing agent of the property in which the subject LLC owns an interest.

\*\*\*\*\*

**THIS CONSENT SOLICITATION IS MADE ON BEHALF OF THE SUPERVISOR, MALKIN HOLDINGS LLC. THE SUPERVISOR RECOMMENDS THAT PARTICIPANTS CONSENT TO EACH OF THE FOREGOING ITEMS.**

**WHAT EACH PARTICIPANT RECEIVES IN THE CONSOLIDATION OR THIRD-PARTY PORTFOLIO SALE WILL BE BASED ON THE ALLOCATION MADE IN ACCORDANCE WITH THE EXCHANGE VALUE SHOWN IN THE PROSPECTUS/CONSENT SOLICITATION AS MADE BY DUFF & PHELPS, LLC (THE INDEPENDENT VALUER ) AND THE ENTERPRISE VALUE DETERMINED IN THE COMPANY'S INITIAL PUBLIC OFFERING (THE IPO ) OR SUCH SALE.**

**IF THIS CONSENT FORM IS SIGNED AND RETURNED WITHOUT A CHOICE INDICATED AS TO ITEMS 1 OR 3, THE PARTICIPANT WILL BE DEEMED TO HAVE CONSENTED TO SUCH ITEM. IF THIS CONSENT FORM IS SIGNED AND RETURNED WITHOUT A CHOICE INDICATED AS TO ITEM 4, THE PARTICIPANT WILL BE DEEMED NOT TO HAVE CONSENTED TO SUCH ITEM.**

**IF YOU HAVE ANY QUESTIONS OR NEED ASSISTANCE IN COMPLETING THIS FORM, PLEASE CALL MACKENZIE PARTNERS, INC. (888-410-7850), WHICH HAS BEEN ENGAGED BY THE SUPERVISOR TO ASSIST IN ANSWERING PARTICIPANT INQUIRIES.**

**PLEASE SIGN, DATE AND PROMPTLY RETURN THIS CONSENT FORM, INCLUDING (1) THE ENCLOSED CERTIFICATE OF NON-FOREIGN STATUS (IF APPLICABLE) AND (2) THE ENCLOSED INTERNAL REVENUE SERVICE FORM W-9 (OR OTHER APPLICABLE FORM), ALL IN THE ENVELOPE PROVIDED. NO POSTAGE IS REQUIRED IF MAILED IN THE U.S. (ALTERNATIVELY, YOU MAY FAX TO 212-929-0308)**

If you own participation interests in more than one group in the subject LLC, your consent applies to all such interests.

This consent form signature page also constitutes the signature page for the Lockup Agreement, the form of which is the exhibit to the Contribution Agreement. This consent form signature page also constitutes the signature page for the Limited Partnership Agreement and Registration Rights Agreement, the forms of which are attached as Appendixes D and E, respectively, to the Supplement. By executing this consent form, you agree to be bound by each such applicable agreement in the form attached to the Contribution Agreement or the Supplement, as applicable, all with the same effect as if you signed that agreement. Execution of this page constitutes execution of each such agreement, and the undersigned authorizes this page to be attached as a counterpart signature page for each such agreement.

## Edgar Filing: Empire State Realty Trust, Inc. - Form 425

This consent form must be completed and returned before the expiration date determined by the supervisor.

Date: Month/Day, 2013

Name of Participant:

Investor ID#:

Original investment: \$

Exchange Value\*: \$

Voluntary Reimbursement Share: \$

John Doe

Signature(s) of Participant or Authorized Signatory

Signature(s) of Participant or Authorized Signatory

Title (if Trust or entity)

Title (if Trust or entity)

Please sign your name exactly as shown in print above. If there are two or more joint holders, all such holders must sign. If signing as attorney-in-fact, executor, administrator, trustee or guardian, please give your full title. If signing for an entity (corporation, partnership, or limited liability company), please give your full title (officer, partner, or authorized person). If more than one signature is required, this consent form may be executed in separate counterparts.

**\* Exchange value has been derived from the appraisal by the Independent Valuer and does not represent the value of the consideration you will receive in the consolidation, which will be based on the enterprise value determined in connection with the pricing of the IPO. The enterprise value (which is based on the IPO price) will be determined by, among other things, market conditions at the time of pricing of the IPO, the historical and future performance of the company and its portfolio of properties and the market's view of the company's net asset value and other valuation metrics. Today, some REITs' common stock trades at a premium to perceived net asset value and others trade at a discount to perceived net asset value. The market's view of the company's net asset value determined in connection with the IPO could be less than the exchange values determined based on the Appraisal. The Appraisal was undertaken in connection with establishing relative value for the purpose of allocation of interests in the company among contributors of interests in the properties and not to establish the value of shares of common stock in the company upon completion of the IPO. In contrast, the pricing of REIT initial public offerings generally takes into account different factors not considered in the Appraisal, including current conditions in the securities markets, investor preferences and the market's view of the company's management team. Additionally, the Appraisal did not take into account transaction costs for the consolidation and the IPO.**

The supervisor believes that initial public offering pricing for REIT common stock generally is at a discount to the market price for common stock of well-established, publicly-traded REITs, and that the company's IPO pricing will be no different. For this and other reasons, the supervisor expects that the enterprise value at the pricing of the IPO will be lower than the aggregate exchange value at the pricing of the IPO, and such discount at the pricing of the IPO could be material and substantial. This discount cannot be determined until the pricing of the IPO. As the company continues to develop a track record as a public company, the supervisor believes that the company's trading price following the IPO will be based on, among other things, the company's historical and future performance, its performance relative to its peers, market conditions generally and its continued seasoning in the public markets. The company currently intends to pay regular quarterly dividends based on the performance of the company and its portfolio of properties, rather than just one property, and those distributions are required to be at least 90% of annual REIT taxable income (determined without regard to the deduction for dividends paid, and excluding net capital gains) to maintain its qualification as a REIT. REIT taxable income will be determined by the performance of the portfolio of the company's properties and unaffected by its stock price.

**CERTIFICATION OF NON-FOREIGN STATUS (INDIVIDUAL PARTICIPANT)**

Reference is made to the Prospectus/Consent Solicitation Statement and the related Supplement and Notice of Consent Solicitation to Participants, each dated \_\_\_\_\_, 2013 (the "Consent Solicitations").

To inform Empire State Realty OP, L.P. that withholding of tax is not required upon the consummation of the transactions contemplated in the Consent Solicitations, the undersigned hereby certifies the following:

1. My name is John Doe.
2. I am not a nonresident alien for purposes of U.S. federal income taxation;
3. My U.S. taxpayer identifying number (Social Security number) is; and
4. My home address is 123 Circle Lane, City, State, Zip.

I understand that this certificate may be disclosed to the Internal Revenue Service by Empire State Realty OP, L.P. and that any false statement I have made here could be punished by fine, imprisonment or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete.

Date: Month/Day, 2013

John Doe  
Signatur