Supplemental Disclosures Contained in Empire State Realty Trust, Inc.'s Preliminary S-4/A and Rule 425 SEC Filings Prior to September 28, 2012

During the course of the parties' discussions and negotiations leading up to the execution of the Stipulation of Settlement, the parties discussed the allegations in the Complaints filed in March 2012, as well as other issues regarding the Consolidation and the contents of the S-4.

During the time such negotiations and discussions occurred, Empire State Realty Trust, Inc. ("ESRT") made amended and supplemental filings to the February 13, 2012 Preliminary Form S-4 Registration Statement ("S-4"). Those amended and supplemental filings contained, among other things, the following material disclosures. Defendants agree that Class Counsel and the Actions were material factors in the inclusion of the following disclosures in the listed SEC filings, which disclosures substantially benefit the Class. As a result of those discussions, as well as the other terms of the Stipulation, the parties agree that the transactions proposed in the preliminary Form S-4 present potential benefits, including the opportunity for liquidity and capital appreciation, that merit the Participants' serious consideration and that each of named class representatives intends to support the transactions as modified.

A. ESRT Pre-Effective Amendment No. 1 to the S-4 dated May 8, 2012 contained the following material, supplemental disclosures: (i) details of the interests of the Malkin Holdings Group and the Helmsley Estate in the Consolidation (p. 24-25); (ii) details about the nature of the relationship between the lessor and lessee entities, including facts that support the appropriateness of employing a joint venture methodology to assign exchange value between certain entities (p. 22-23); (iii) details about the derivation and applicability of the overrides being paid to the Malkin Defendants (p. 41); (iv) charts detailing the ownership of participation interests in the Public LLCs by members of the Malkin Holdings Group (p. 168); (v) the Supervisor's reasons for the use of the 50/50 Allocation and JV methodology in assigning exchange value to the Public LLCs (p. 192-195); (vi) the possible conflicts arising from using one independent valuer and the belief of the Supervisor that the appraisals by the independent valuer serve the purposes of representing all parties fairly and that the consolidation is fair to all participants regardless of the absence of any such independent representative (p. 230).

B. A letter to investors in the three Public LLCs that was filed with the SEC by ESRT pursuant to Rule 425 under the Securities Act of 1933 ("Rule 425") on May 31, 2012, provided supplemental disclosures regarding: (i) the Helmsley Estate's impetus to sell its ownership interests and the risks associated if those interests (including the Helmsley Estate's blocking interests) were sold to a third party buyer as an alternative to the proposed consolidation, (ii) the proposed centralized management structure of the post-consolidation

company, and (iii) a comparison between current property-specific distributions to investors from rent and overage rent versus post-consolidation REIT distributions.

C. ESRT Pre-Effective Amendment No. 2 to the S-4 dated July 3, 2012 contained the following material, supplemental disclosures: (i) a detailed comparison, in chart form, of the allocation of value of each of the subject LLCs and their operating lessees using the JV versus the DCF methods (p.210); (ii) supplemental information about why the Supervisor did not believe that the DCF method shown and the allocation of valuation shown by the independent valuer's preliminary draft valuation was appropriate based on the facts and the terms of the contracts between the lessor and lessee, among other things (p. 207-212); (iii) the independent valuer's "Project Legacy" Fairness Opinion, detailing its work and assumptions, was provided to the participants as Exhibit 99.46 to the S-4; (iv) a prominent explanation that the value of ESRT could change substantially between the date that the consents are received by the participants and the date of consummation of the consolidation, and that the consolidation may be consummated regardless of how significant such changes are and may be consummated notwithstanding such changes (p. 16); and (v) additional information about what benefits the supervisor believes will be provided to participants through the consolidation (p. 33-36)

D. Letters to investors in the three Public LLCs that were filed with the SEC by ESRT pursuant to Rule 425 on July 23, 2012, providing supplemental disclosures regarding: (i) a description of the Malkin family's interests in the properties subject to the proposed consolidation, including direct ownership interests, override interests, and interests in management companies, (ii) the methodology by which these Malkin family interests were valued by the independent valuer, (iii) the possibility that the exchange values to the Malkin family interests, like those of other investors, could be adjusted by the independent valuer, in the final exchange valuation calculations, and (iv) a specific quantification of the preliminary exchange values assigned by the independent valuer to the interests of the Malkin family and to other investors in certain properties subject to the consolidation.

E. Letters to investors in the three Public LLCs that were filed with the SEC by ESRT pursuant to Rule 425 on August 7, 2012, providing supplemental disclosure regarding the topics addressed in the May 31, 2012 Rule 425 filing referenced above, as well as: (i) the benefits of the change to permit broader investor access to operating units and Class B stock, (ii) the quality of assets subject to the proposed consolidation and the status of their improvements, (iii) further explanation of the benefits of the proposed consolidation, (iv) that the Malkin family's largest single interest is in the Empire State Building and that they have no plan to sell any of their interests, and (v) the reasons why a standalone REIT with the Empire State Building as its only asset was not pursued.

F. ESRT Pre-Effective Amendment No. 3 to the S-4 dated August 13, 2012 contained the following material, supplemental disclosures: (i) additional detailed comparisons between the JV and DCF methods (p. 210); (ii) information about the Supervisor's request that the independent valuer prepare an illustrative valuation to show participants the effect of the application of the DCF method for valuing the residual interest in the properties owned by the Public LLCs (p. 210); (iii) the independent valuer's detailed illustration and calculations of the changes in value, provided as Exhibit 99.48 to the S-4 (p. 210 and Exhibit 99.48); and (iv) information concerning the import of the aggregate exchange values and the hypothetical $10 per share exchange value used in the S-4, and clarifying that the actual number of operating partnership units and shares of common stock allocated to each participant will be determined based on ESRT's enterprise value, which is determined by the market conditions and the performance of the portfolio at the time of the IPO and may be higher or lower than the aggregate exchange value in the S-4 (p 230).

G. Letters to investors in the three Public LLCs that were filed with the SEC by ESRT pursuant to Rule 425 on August 24, 2012 providing supplemental disclosure regarding: (i) the informational inputs used by the independent valuer in determining the value ascribed by it to the 18 properties and the development site to be included in the proposed consolidation, (ii) the process by which the independent valuer generated financial projections and appraised values for such properties, and (iii) the method by which the independent valuer allocated exchange value between the respective sides of the two-tiered properties subject to the consolidation, (iv) the differences resulting from the independent valuer's use of the JV method instead of a DCF method.

DISCLOSURES ADDED TO S-4 SUBSEQUENT TO
EXECUTION OF THE STIPULATION OF SETTLEMENT

Q&A

Q: WHAT IS THE DIFFERENCE BETWEEN HOW THE EXCHANGE VALUE WAS DETERMINED AND HOW THE ENTERPRISE VALUE OF THE COMPANY WILL BE DETERMINED?

A: In the prospectus/consent solicitation, there are descriptions of the exchange values of the subject LLCs and discussion of the enterprise value in valuing the consideration that participants will receive. The following summarizes how the exchange value and the enterprise value are determined. The aggregate exchange value is the sum of the exchange values of each of the subject LLCs, private entities and the management companies. These exchange values were calculated by the independent valuer based on the Appraisal (after making certain adjustments). The description of the Appraisal is set forth under "Reports, Opinions and Appraisals—Appraisal" and the adjustments to the Appraisal to calculate the exchange values is set forth under "Exchange Value and Allocation of Operating Partnership Units and Common Stock—Derivation of Exchange Values." The enterprise value is the value of the company after completion of the consolidation (but immediately before the IPO). While this prospectus/consent solicitation shows the value of the consideration that you would receive based on the exchange value solely for illustrative purposes, the actual value of your consideration will be based on the enterprise value. The enterprise value is the value of the company determined based on IPO price rather than the appraised value. The enterprise value will equal the total number of shares of common stock and total number of operating partnership units issuable in the consolidation (excluding any shares of common stock issued in the IPO, and assuming all participants in the private entities receive shares of common stock or operating partnership units and not cash) multiplied by the IPO price. The enterprise value will not be known until the IPO pricing date. The prospectus for the IPO will show the number of shares of common stock and operating partnership units outstanding immediately before the IPO (which may be different from the hypothetical number of shares calculated by dividing the aggregate exchange value by the $10 per share hypothetical price per share) and the IPO price. 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. The Appraisal was undertaken in connection with establishing relative pre-consolidation 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 IPO.

Q: WHAT DISCRETION DOES THE SUPERVISOR AND THE HELMSLEY ESTATE HAVE NOT TO PROCEED WITH THE IPO?

A: The company will proceed with the IPO only if the IPO is approved by a pricing committee formed in connection with the IPO. The pricing committee will have the authority to evaluate market conditions, determine the desirability of continuing to pursue the IPO and approve the price and terms of the IPO, based, in part, on discussions with the underwriters retained for the IPO. The pricing committee will consist of representatives of the supervisor and a representative of the Helmsley estate, who must act unanimously to approve the IPO. Accordingly, the supervisor and the Helmsley estate each have the discretion to determine whether the IPO will proceed. If the IPO does not close, the consolidation will not close.

Q: HAVE THERE BEEN PRIOR TRANSACTIONS THAT ARE COMPARABLE TO THE CONSOLIDATION?

A: The proposed consolidation and IPO include many elements that generally are not present in other transactions. These elements include the acquisitions of properties and assets from more than 20 private entities and the three publicly registered entities, the acquisition of the properties from the subject LLCs in a transaction in which the securities are being registered on a Registration Statement on Form S-4 that is subject to the SEC's roll-up regulations, certain of the subject LLCs and the private entities having a two-tier ownership structure, and an IPO by the company following completion of the solicitation of the participants in the subject LLCs and simultaneously with the closing of the consolidation. As a result, the supervisor believes that the consolidation is a unique transaction and is not aware of any comparable transaction.

Q: WHO WILL PAY TRANSACTION EXPENSES RELATING TO THE CONSOLIDATION AND THE IPO IF THE CONSOLIDATION CLOSES AND THE IPO IS CONSUMMATED, AND WHO WILL PAY THE TRANSACTION COSTS RELATING TO THE CONSOLIDATION AND THE IPO IF THE CONSOLIDATION DOES NOT CLOSE?

A: If the company acquires the property of your subject LLC in the consolidation and the IPO is consummated, the company will bear all consolidation and IPO expenses. Your subject LLC will be reimbursed for the consolidation expenses previously paid by it out of the proceeds from the IPO and the amount reimbursed will be distributed to participants in your subject LLC. Each of Empire State Building Associates L.L.C., 60 East 42nd St. Associates L.L.C. and 250 West 57th St. Associates L.L.C.'s allocable share of the costs of the consolidation and IPO as of September 30, 2012 are $16,024,725, $4,286,205, and $2,232,502, respectively. The supervisor estimates that the aggregate costs of the consolidation and IPO will be approximately $75,000,000 and that each of Empire State Building Associates L.L.C., 60 East 42nd St. Associates L.L.C. and 250 West 57th St. Associates L.L.C.'s allocable share of such aggregate costs will be approximately $18,600,000, $4,900,000 and $2,600,000, respectively. If the consolidation does not close or your subject LLC does not approve the consolidation, your subject LLC will bear its proportionate share of the consolidation and IPO expenses based on exchange values and will not be reimbursed for the consolidation and IPO expenses previously paid by it.

Q: WILL I RECEIVE A DISTRIBUTION OF CASH FROM MY SUBJECT LLC AT THE CLOSING OF THE CONSOLIDATION?

A: The subject LLCs will distribute promptly following the closing any excess cash held by them at the time of the closing of the consolidation. The cash to be distributed by a subject LLC will be (i) any cash held by such entity at the closing in excess of the normalized level of net working capital for such entity, as determined by the supervisor, (ii) the consolidation expenses reimbursed by the operating partnership to the subject LLC at the closing of the consolidation out of proceeds of the IPO and (iii) overage rent that will have accrued through the date of the closing of the consolidation. The following table shows, for each of the subject LLCs, the amount of cash at September 30, 2012 which would have been available for distribution by the subject LLCs (in addition to any amounts that would have been distributable out of accrued overage rent) had the closing occurred on such date; the amount of reimbursement for costs incurred in connection with the consolidation and the IPO out of the proceeds of the IPO entitled to be received by the subject LLCs as of September 30, 2012; total distributions by each subject LLC and to each participant per $10,000 original investment out of such excess cash (including such reimbursements); the payment under the voluntary pro rata reimbursement program per $10,000 original investment; the amount of cash distributions that would be received by participants who consent to the voluntary pro rata reimbursement program per $10,000 original investment and the additional proceeds to be received by participants from the class action settlement per $10,000 original investment.

Available Cash	**Reimbursement of Costs in Connection with the Consolidation and IPO**	**Total Distribution to Participants**	**Total Distribution to Participants per $10,000 Original Investment(1)**	**Payment under Voluntary Pro Rata Reimbursement Program per $10,000 Original Investment**	**Distribution to Participants Who Consent to the Voluntary Pro Rata Reimbursement Program per $10,000 Original Investment**	**Additional Proceeds to be Received by Participants from the Class Action Settlement per $10,000 Original Investment(2)**
Empire State Building Associates L.L.C. $3,350,000	$15,500,000	$18,850,000	$5,012	$1,029	$3,983	$9,840(3)
60 East 42nd St. Associates L.L.C. $150,000	$3,600,000	$ 3,750,000	$5,357	$2,410	$2,947	$6,530
250 West 57th St. Associates L.L.C. $380,000	$1,800,000	$2,180,000	$6,055	$2,080	$3,975	$6,370(4)

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(1) The actual amount of distributions will be based on cash available at closing of the consolidation and no assurance can be given that these cash amounts will be available for distribution.

(2) The allocation of settlement proceeds from the class action settlement is in addition to the distributions shown elsewhere in this table. The allocation of net settlement proceeds (that is, net of any court-awarded attorneys' fees and expenses) shown in the table is based on the current plan of allocation proposed by counsel for the class plaintiffs. The settlement and the allocation of settlement proceeds are approximate and subject to court approval, and the proposed allocation is subject to revision by counsel for the class. They are not effective until such court approval is final, including the resolution of any appeal.

(3) $8,350 per $10,000 original investment for participants not subject to voluntary capital override.

(4) $4,700 per $10,000 original investment for participants not subject to voluntary capital override.

RISK FACTORS

There is currently litigation pending, and the potential for additional litigation, associated with the consolidation. The company may incur costs from these litigations. In March 2012, five putative class actions, or the Class Actions, were filed in New York State Supreme Court, New York County by participants in Empire State Building Associates L.L.C. and several other entities supervised by the supervisor (on March 1, 2012, March 7, 2012, March 12, 2012, March 14, 2012 and March 19, 2012). The plaintiffs assert claims against Malkin Holdings LLC, Malkin Properties, L.L.C., Malkin Properties of New York, L.L.C., Malkin Properties of Connecticut, Inc., Malkin Construction Corp., Anthony E. Malkin, Peter L. Malkin, the Helmsley estate, the operating partnership and the company for breach of fiduciary duty, unjust enrichment, and/or aiding and abetting breach of fiduciary duty. They allege, among other things, that the terms of the transaction and the process by which it was structured (including the valuation that was employed) are unfair to the participants, the consolidation provides excessive benefits to the Malkin Holdings group and the then-draft prospectus/consent solicitation filed

with the SEC failed to make adequate disclosure to permit a fully- informed decision about the proposed transaction. The complaints seek money damages and injunctive relief preventing the proposed transaction. The actions were consolidated and co-lead plaintiffs' counsel were appointed by the New York State Supreme Court by order dated June 26, 2012. The parties entered into a Stipulation of Settlement dated September 28, 2012, resolving the Class Actions.

The defendants in the Stipulation of Settlement denied that they committed any violation of law or breached any of their duties and did not admit that they had any liability to the plaintiffs. Members of the putative class have the right to opt out of the monetary portion of the settlement, but not the portion providing for equitable relief. Although a Stipulation of Settlement has been entered into, there can be no assurance that the New York State Supreme Court will approve the settlement. In such event, the proposed settlement as contemplated by the Stipulation of Settlement may be terminated. Accordingly, no assurances can be given that the Class Actions will be settled or that the defendants will be successful in the outcome of any of these pending or future lawsuits, and as a result, the company may incur costs associated with defending or settling such litigation or paying any judgment if the company loses. In addition, the company may be required to pay damage awards or settlements.

If the New York State Supreme Court does not approve the settlement, the company cannot reasonably assess the timing or outcome of this litigation, estimate the amount of loss, or assess its effect, if any, on its financial statements. The payment in settlement of the Class Actions will be made by the Helmsley estate and the Malkin Holdings group and certain participants in the private entities who agree to contribute. Neither the company nor the operating partnership will bear any of the settlement payment. For a description of the terms of the settlement, see "The Company Business and Properties – Legal Proceedings."

Additionally, there is a risk that other third parties will assert claims against the company or the supervisor, including, without limitation, that the supervisor breached its fiduciary duties to participants in the subject LLCs and the private entities or that the consolidation violates the relevant operating agreements, and third parties may commence litigation against the company or the supervisor. As a result, the company may incur costs associated with defending or settling such litigation or paying any judgment if it loses.

THE COMPANY BUSINESS AND PROPERTIES – LEGAL PROCEEDINGS

Legal Proceedings

From time to time, the company is party to various lawsuits, claims for negligence and other legal proceedings that arise in the ordinary course of the company's business. Except as described below, the company is not currently a party, as plaintiff or defendant, to any legal proceedings which, individually or in the aggregate, would be expected to have a material effect on the company's business, financial condition or results of operations if determined adversely to the company.

In March 2012, five putative class actions, or the Class Actions, were filed in New York State Supreme Court, New York County by participants in Empire State Building Associates L.L.C. and several other entities supervised by the supervisor (on March 1, 2012, March 7, 2012, March 12, 2012, March 14, 2012 and March 19, 2012). The plaintiffs assert claims against Malkin Holdings LLC, Malkin Properties, L.L.C., Malkin Properties of New York, L.L.C., Malkin Properties of Connecticut, Inc., Malkin Construction Corp., Anthony E. Malkin, Peter L. Malkin, the Helmsley estate, the operating partnership and the company for breach of fiduciary duty, unjust enrichment, and/or aiding and abetting breach of fiduciary duty. They allege, among other things, that the terms of the transaction and the process by which it was structured

(including the valuation that was employed) are unfair to the participants, the consolidation provides excessive benefits to the Malkin Holdings group and the then-draft prospectus/consent solicitation filed with the SEC failed to make adequate disclosure to permit a fully informed decision about the proposed transaction. The complaints seek money damages and injunctive relief preventing the proposed transaction. The actions were consolidated and co-lead plaintiffs' counsel were appointed by the New York State Supreme Court by order dated June 26, 2012. Furthermore, an underlying premise of the Class Actions, as noted in discussions among plaintiffs counsel and defendants' counsel, was that the consolidation had been structured in such a manner that would cause the subject LLC participants immediately to incur substantial tax liabilities.

The parties entered into a Stipulation of Settlement dated September 28, 2012, resolving the Class Actions. The Stipulation of Settlement recites that the consolidation was approved by overwhelming consent of the participants in the private entities. The Stipulation of Settlement states that counsel for the plaintiff class satisfied themselves that they have received adequate access to relevant information, including the independent valuer's valuation process and methodology, that the disclosures in the Registration Statement on Form S-4, as amended, are appropriate, that the transaction presents potential benefits, including the opportunity for liquidity and capital appreciation, that merit the participants' serious consideration and that each of named class representatives intends to support the transaction as modified. The Stipulation of Settlement further states that counsel for the plaintiff class are satisfied that the claims regarding tax implications, enhanced disclosures, appraisals and exchange values of the properties that would be consolidated into the company, and the interests of the participants in the subject LLCs and the private entities, have been addressed adequately, and they have concluded that the

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settlement pursuant to the Stipulation of Settlement and opportunity to consider the proposed transaction on the basis of revised consent solicitations are fair, reasonable, adequate and in the best interests of the plaintiff class. The defendants in the Stipulation of Settlement denied that they committed any violation of law or breached any of their duties and did not admit that they had any liability to the plaintiffs.

The terms of the settlement include, among other things (i) a payment of $55 million, with a minimum of 80% in cash and maximum of 20% in freely-tradable shares of common stock and/or freely-tradable operating partnership units (all of which will be paid by the Malkin Holdings group (provided that no member of the Malkin Holdings group that would become a direct or indirect subsidiary of the company in the consolidation will have any liability for such payment) and the Helmsley estate and certain participants in the private entities who agree to contribute) to be distributed, after reimbursement of plaintiffs' counsel's court-approved expenses and payment of plaintiffs' counsel's court-approved attorneys' fees and, in the case of shares of common stock and/or operating partnership units, after the termination of specified lock-up periods, to participants in the subject LLCs and the private entities pursuant to a plan of allocation to be prepared by counsel for plaintiffs; (ii) defendants' agreement that (a) the IPO will be on the basis of a firm commitment underwriting; (b) if, during the solicitation period, any of the three subject LLC's percentage of total exchange value is lower than what is stated in the final prospectus/consent solicitation by 10% or more, such decrease will be promptly disclosed by defendants to investors in the subject LLCs; and (c) unless total gross proceeds of $600,000,000 are raised in the IPO, defendants will not proceed with the transaction without further approval of the subject LLCs; and (iii) defendants' agreement to make additional disclosures in this prospectus/consent solicitation regarding certain matters (which are included

herein). Defendants have also acknowledged the work of plaintiffs and their counsel was a material factor in defendants' implementation of the change in the consolidation that, as originally proposed, would have required the exchange of participation interests for Class A common stock, which are taxable on receipt, and that now permits participants instead to elect to receive operating partnership units and Class B common stock, which permit tax deferral. Participants in the subject LLCs and private entities will not be required to bear any portion of the settlement payment. The payment in settlement of the Class Actions will be made by the Helmsley estate and the Malkin Holdings group (provided that no member of the Malkin Holdings group that would become a direct or indirect subsidiary of the company in the consolidation will have any liability for such payment) and certain participants in the private entities who agree to contribute. The company and the operating partnership will not bear any of the settlement payment.

The settlement further provides for the certification of a class of participants in the three subject LLCs and all of the private entities, other than defendants and other related persons and entities, and a release of any claims of the members of the class against defendants and related persons and entities, as well as underwriters and other advisors. The release in the settlement excludes certain claims, including but not limited to, claims arising from or related to any supplement to the Registration Statement on Form S-4 that is declared effective to which the plaintiffs' counsel objects in writing, which objection will not be unreasonably made or delayed, so long as plaintiffs' counsel has had adequate opportunity to review such supplement. Members of the putative class have the right to opt out of the monetary portion of the settlement, but not the portion providing for equitable relief.

The settlement is subject to court approval. It is not effective until such court approval is final, including the resolution of any appeal. Defendants continue to deny any wrongdoing or liability in connection with the allegations in the Class Actions.