



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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Delores Rubin
Chair

JESSE R. BODINE
District Manager

February 11, 2016

Martin Rebholz
Manhattan Borough Commissioner
NYC Dept. of Buildings
280 Broadway
New York, New York 10007

**Re: Non-Zoning Compliant Demolition
559 West 22nd Street – AKA 162 Eleventh Avenue (Block 694, Lot 1)
DOB Applications No. 121574536, 121498370**

Dear Borough Commissioner Rebholz:

On the recommendation of its Chelsea Land Use Committee, acting in consultation with its Housing, Health and Human Services Committee, Manhattan Community Board No. 4 (CB4), by a vote of 38 in favor, 0 opposed, 0 abstaining and 0 present but not eligible to vote, voted to request that the New York City Department of Buildings (DOB) revoke application No. 121574536 for the interior demolition of 559 West 22nd Street and rescind application No. 121498370 for the addition of two-and-a-half floors to the property. CB4 bases its requests on the belief that applications regarding this property contain false and materially misleading statements and do not meet the requirements for demolition.

Furthermore, in light of recent DOB approval of another demolition application that was not in compliance with the Zoning Resolution, CB4 requests a meeting with you to clarify the system it uses to track protected residential buildings subject to ZR 98-70 for the Special West Chelsea District (SWCD), ZR 121-50 for the Special Garment Center District and ZR 93-90 for the Special Hudson Yards District.

I. Background

559 West 22nd Street is a four story building located between Tenth and Eleventh Avenues, in Subarea D of the Special West Chelsea District (SWCD). It therefore is subject to ZR 98-70, which subjects the property to the modified harassment provisions of paragraphs (a) through (d) of ZR 93-90, and to the demolition provisions of 93-91.

The building has been a single room occupancy (SRO) building since 1943. Beginning in March 2013, a series of job applications relating to the partial demolition of the building (DOB No.

121574536) and for the addition of two-and-a-half floors (DOB No. 121498370) was submitted to DOB. The demolition application was approved on the day the application was filed, while the application for the vertical addition was not approved until February 5, 2015, nearly two years after it was filed.

Under the provisions of ZR 98-70, buildings in the SWCD, including 559 West 22nd Street, are subject to demolition restrictions contained in ZR 93-91, as approved by the City Council in 2005 and adopted in October 2011.

In order to be exempt from these demolition restrictions, a building must be:

- under an active government-funded program; or
- a hotel; or
- a school dormitory; or
- a clubhouse

559 West 22nd Street is in none of these categories and thus is not exempt from the SWCD demolition restrictions.

A building can also be demolished if it:

- has received a Certificate of No Harassment (CONH); and
- has been deemed unsafe; or
- cannot feasibly be rehabilitated through any government funding program

HPD first issued a CONH to the owners of 559 West 22nd Street in June of 2014. Based on information from an inspection conducted by the Department of Housing Preservation and Development (HPD) in that building, there was a determination to suspend the CONH on April 7, 2015. That suspension was lifted on August 24, 2015. Additionally, 559 West 22nd Street has not been deemed unsafe by DOB nor has the owner sought funding from any of the multiple HPD programs available for building rehabilitation, including the Multifamily Preservation Loan Program, the Participation Loan Program, and 8A.

559 West 22nd thus does not meet the criteria and is not a candidate for legal demolition.

II. False DOB Filings - Demolition and Planned Work

Beginning in March 2013, thirteen job applications were submitted to DOB for 559 West 22nd Street:

DOB Applications Filed Between March 2013 and October 2015

Application No.	Date Filed	Description on Application ¹
121498370	3/4/2013	Zoning filing for addition of 2.5 floors
121574536	3/26/2013	Interior demolition and construction throughout; <u>no change in egress or occupancy</u>
121570834	5/10/13	Installation of plywood enclosure fence; no change in egress or occupancy
121523672	7/8/2013	Interior structural and foundation work throughout; no change in egress or occupancy
121767338	9/9/2013	Interior sprinkler work throughout; no change in egress or occupancy
121767329	9/9/2013	Interior plumbing work throughout; no change in egress or occupancy
121767347	9/9/2013	Mechanical duct work throughout; no change in egress or occupancy
121756439	10/11/2013	Interior renovation throughout; <u>no change in egress or occupancy</u>
122029875	6/4/2014	Installation of temporary bracing in conjunction with <u>partial demolition of existing building</u>
122029866	06/04/2014	Excavation, temporary bracing and underpinning
121756439	6/8/2015	Post-Approval Amendment
121756439	7/1/2015	Post-Approval Amendment
121767338	10/23/15	Post-Approval Amendment

Application No. 121498370, dated March 4, 2013, for the addition of two-and-a-half floors at 559 West 22nd Street, and application No. 121574536, dated March 26, 2013, for the interior demolition of the building, predate all other related applications noted above.

Therefore, the first two applications and all subsequent applications should have included forms indicating that the proposed work would:

- Change the number of dwelling units in the building
- Change the number of kitchens *and* bathrooms in the building
- Change the layout, configuration, *and* location of any portion of a dwelling unit
- Change the layout, configuration *and* location of any portion of a kitchen or bathroom

¹ Emphasis added.

- Demolish dwelling units *and* portions of the building serving dwelling units
- Change the use *and* occupancy of dwelling units

Over the course of two years, several professionals submitted false statements in response to questions contained in the first two job applications and in multiple subsequent applications. All of the forms with false statements were accepted by DOB.

CB4 believes that these false DOB filings were made in order to avoid compliance with SWCD zoning requirements regarding a Certificate of No Harassment and demolition restrictions.

III. False HPD Filings

The DOB applications were accompanied by corresponding HPD1 Anti-Harassment Area Checklist forms and HPD3 Single Room Occupancy Multiple Dwelling forms that contained false statements.²

Some of the submitted HPD1 forms state that 559 West 22nd Street is an exempt building, or that the proposed work is exempt, contradicting statements made in other HPD1 forms. The false statement that the building is not a multiple dwelling has been made nine times since March 2013. This statement is inconsistent with statements on other forms, but more importantly it is an incorrect statement that should have been noted by any professional reviewing the application.

Furthermore, within the Special West Chelsea District, residential buildings cannot be demolished, nor can they undergo a Material Alteration without first obtaining a Certificate of no Harassment. In Section 93-90 of the Zoning Resolution, a Material Alteration is defined as follows:

(13) Material alteration³

“Material alteration” shall mean any alteration to a #multiple dwelling# or other #building#, including, but not limited to, **an alteration which reduces or increases the #floor area# of the #multiple dwelling# or other #building#**, #converts floor area# from #residential# to non-#residential use#, changes the number or layout of #dwelling units# or #rooming units#, or adds or removes kitchens or bathrooms; provided, however, that #material alteration# shall not include:

(i) an #incidental alteration# which does not change the layout of #dwelling units# or #rooming units#, or

² See Appendix A

³ Emphasis added.

- (ii) a repair or replacement of existing elements of such #multiple dwelling# or other #building# without materially modifying such elements.

Approval for the material alteration of 559 West 22nd Street was received before an application for a Certificate of No Harassment was in place and thus was invalid.

IV. Non-Compliance with SWCD Zoning Requirements

CB4 believes that in submitting forms containing false statements, the applicants actively sought to avoid complying with the SWCD zoning requirements. We also believe that the applications and their corresponding forms with false and inconsistent statements shroud the full intent of the proposed work.

CB4 believes that the developer intends a complete interior demolition and a vertical addition, both contrary to the Zoning Resolution.

V. Conclusion and Requests

During the West Side rezonings of West Chelsea, Hudson Yards and the Western Railyards, CB4 worked to preserve the affordable housing and community character in the neighborhoods of Chelsea and Clinton/Hells Kitchen, creating a balance between development and preservation. The City's Zoning Resolution has been a key tool in achieving that goal.

However, by approving the demolition of 559 West 22nd Street, a building protected from such demolition by the Zoning Resolution, DOB has negated the Board's efforts and demonstrated the need for proper systems to ensure that job applications adhere to the Zoning Resolution.

Based on the series of false statements in every job filing and the lack of compliance with the Zoning Resolution, CB4 requests the following immediate actions with regard to the proposed work at 559 West 22nd Street:

- An audit of DOB applications No. 121574536, 121498370, 121570834, 121523672, 121767338, 121767329, 121767347, 121756439, 122029875, 122029866, 121756439, 121756439, and 121767338.
- The complete revocation of DOB application No. 121574536.
- The rescinding of the plan approval for DOB application No. 121498370.

The Board has serious concerns regarding DOB approval of demolition applications claiming to have no effect on the number of units in a building. We therefore request a meeting with you in order to clarify DOB's protocol for residential buildings in the West Chelsea, Hudson Yards, and Garment Center Special Districts protected from demolition under Sections 98-70, 93-90 and 121-50 of the Zoning Resolution.

Sincerely,



Delores Rubin
MCB4 Chair



John Lee Compton, Co-Chair
Chelsea Land Use Committee



Betty Mackintosh, Co-Chair
Chelsea Land Use Committee

Cc: Hon. Gale A. Brewer
Hon. Brad Hoylman, State Senate
Hon. Richard Gottfried, State Assembly
Hon. Corey Johnson, City Council

HPD1 Anti-Harassment Area Checklist Responses¹

Application Number: Date Filed: Applicant:	121498370 3/4/2013 Glasgow ²	121574536 3/26/2013 Glasgow	121570834 5/10/2013 Glasgow	121523672 7/8/2013 Hughes ⁸	121767338 9/9/2013 Tucci	121767329 9/9/2013 Tucci	121767347 9/9/2013 Tucci	121756439 10/11/2013 Glasgow	122029875 6/4/2014 Bronzino	122029866 6/4/2014 Bronzino	121756439 6/8/2015 Glasgow	121756439 7/1/2015 Glasgow	121767338 10/23/2015 Ryan
Structure is on a cure requirement or cure compliance lot		No	No		No	No	No	No	No	No	No	No	No
Proposed work is exempt from alteration/demolition, or structure is exempt		Yes	Yes		No	No	No	Yes	No	No	Yes	Yes	No
Work does not include a material alteration		No	No		No	No	No	No	Yes	Yes	No	No	No
Alteration is to provide accessibility		No	No		No	No	No	No	No	No	No	No	No
Work does not include the full or partial demolition of a multiple dwelling		No	No		No	No	No	No	No	No	No	No	No
Not a multiple dwelling		Yes	Yes		Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes
Multiple dwelling initially occupied for residential purposes after 1/1/1974		No	No		No	No	No	No	No	No	No	No	No
City-owned multiple dwelling		No	No		No	No	No	No	No	No	No	No	No
Exempt hotel		No	No		No	No	No	No	No	No	No	No	No
Multiple dwelling restricted for clubhouse of school dormitory		No	No		No	No	No	No	No	No	No	No	No
Exempt institutional residence		No	No		No	No	No	No	No	No	No	No	No
Multiple dwelling that is subject of an HPD program		No	No		No	No	No	No	No	No	No	No	No

¹ False statements noted in grey.

² Although required to do so, the applicant did not complete an HPD3 Form.

HPD3 Single Room Occupancy Multiple Dwelling Responses³

Application Number: Date Filed: Applicant:	121498370 3/4/2013 Glasgow	121574536 3/26/2013 Glasgow	121570834 5/10/2013 Glasgow	121523672 7/8/2013 Hughes	121767338 9/9/2013 Tucci	121767329 9/9/2013 Tucci	121767347 9/9/2013 Tucci	121756439 10/11/2013 Glasgow	122029875 6/4/2014 Bronzino	122029866 6/4/2014 Bronzino	121756439 6/8/2015 Glasgow	121756439 7/1/2015 Glasgow	121767338 10/23/2015 Ryan
Change in number of units		No	No	Yes	No	No	No	No	No	No	No	No	No
Change in number of kitchens or bathrooms		No	No	Yes	No	No	No	No	No	No	No	No	No
Change in layout, configuration or location of any portion of a dwelling unit		No	No	Yes	No	No	No	No	No	No	No	No	No
Change in layout, configuration or location of any portion of a kitchen or bathroom		No	No	Yes	No	No	No	No	No	No	No	No	No
Demolishes any dwelling unit and/or demolishes any portion of the building serving dwelling units		No	No	Yes	No	No	No	No	No	No	No	No	No
Change in use or occupancy of any dwelling unit or occupancy of any portion of the building		No	No	Yes	No	No	No	No	No	No	No	No	No
Purpose of work is to make public areas accessible without altering any dwelling unit		Yes	Yes	Yes	Yes	Yes	Yes	Yes	No answer	No answer	Yes	Yes	Yes
Purpose of work is to make a dwelling unit accessible		Yes	Yes	Yes	Yes	Yes	Yes	Yes	No answer	No answer	Yes	Yes	Yes
Work will be performed by a city agency or by a contractor pursuant to a contract with a city agency		Yes	Yes	Yes	Yes	Yes	Yes	Yes	No answer	No answer	Yes	Yes	Yes

³ False statements noted in grey .