



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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Delores Rubin
Chair

Jesse Bodine
District Manager

December 29, 2017

Maria Torres-Springer
Commissioner
Department of Housing Preservation and Development
100 Gold Street
New York, NY 10007

Re: 572 11th Avenue
Inclusionary Housing—Lower Income Housing Plan Application
Affordable New York Housing Program

Dear Commissioner Torres-Springer:

The Lower Income Housing Plan Application (the “Application”) by the Moinian Group (the “Applicant”) for the development of 572 11th Avenue (the “Project”) was discussed at the October 19th, 2017 meeting of Manhattan Community Board 4’s (MCB4) Housing, Health and Human Services Committee. By vote of 33 in favor, 0 opposed, 0 abstaining, and 2 present but not eligible to vote¹, MCB4 voted to recommend **approval** of the Application **with conditions**.

The Project: An Overview

The Project is a proposed newly constructed residential building between West 43rd and West 44th Streets that will be 13 stories tall and contain 164 units. 46 of the units will be affordable. MCB4 would like to note that the Project is using tax exempt bonds because it was approved prior to changes in the 421-a program, which is now known as the Affordable New York Housing Program (“Affordable New York”). The Applicant proposes to include affordable housing units through both the Inclusionary Housing (“Inclusionary”) and the Affordable New York Housing Programs. The breakdown of the affordable units is as follows:

Distribution of Units by Program and AMI

¹ Joe Restuccia, a member of MCB4 who is co-chair of the Clinton/Hell's Kitchen Housing Health and Human Services Committee, is Director of the Clinton Housing Development Company, which has done business with the Moinian Companies. Mr. Restuccia recused himself from voting.

Program/s	AMI	Number of Units
Affordable New York & Inclusionary Housing	40% AMI	17
	60% AMI	20
Affordable New York	130% AMI	9
Total		46

Inclusionary Housing Program—Proposed

Apartment Distribution—by Floor

The 37 Inclusionary apartments will be located on floors 2 through 9. No more than 5 Inclusionary apartments will be on a single floor. Although there will be no inclusionary units on floors 10 through 13, there will be one Affordable New York apartment on the 10th floor. By having both types of affordable units on floors 2 through 10, the Applicant is achieving distribution on 80% of the floors. The Board therefore supports the Applicant’s proposed apartment distribution.

Apartment Distribution—by Apartment Size

The 37 Inclusionary apartments will be distributed as shown in the chart below.

Inclusionary Apartment Distribution

Apartment Size	Number of Units
Studio	12
1 Bedroom	20
2 Bedroom	5
Total	37

MCB4 would like to note that the Applicant is required by HPD to make 5% of the affordable apartments available to mobility-disabled applicants and 2% of the affordable apartments available to vision or hearing impaired applicants.

Apartment Finishes

The Applicant has represented that all the finishes will be the same throughout all the apartments. Originally, HPD required that the owner provide different stoves in the Inclusionary apartments in order to comply with Inclusionary Housing program guidelines. However, HPD subsequently changed this position. All finishes will now be the same throughout. The Board therefore supports the Applicant’s proposed apartment finishes.

Building-wide Amenities

The Project will include the following amenities:

- Amenities not requiring annual fees
 - Rooftop terrace
 - Small business center
- Amenities requiring annual fees
 - Lounge
 - Second floor terrace
 - Gym

The Applicant has informed the Board that annual amenity access fees are slated to be approximately \$750.

Permanent Affordability

Per the requirements of the Inclusionary Housing Program, the Applicant has represented that the 37 Inclusionary apartments will be permanently affordable.

Affordable New York Housing Program (formerly 421-a)

This Project is one of the first presented to MCB4 that combines the Inclusionary Housing Program with the Affordable New York Housing Program. MCB4 would like to request that projects that propose to include affordable units under the Affordable New York Housing Program also be subject to the public review process. Furthermore, the Board maintains the following positions for all developments that contain both market rate and affordable units—whether Inclusionary Housing of Affordable New York apartments:

1. *Apartment Distribution- by Floor*: the affordable apartments should be distributed across at least 80% of the floors in the Project
2. *Apartment Distribution – by Apartment Size*: the number of 2 or 3 bedroom apartments should be increased
3. *Apartment Finishes*: affordable units should have the same apartment finishes as market rate units
4. *Building-wide Amenities*: Access to building-wide amenities should be equal for market rate and affordable units. If a usage fee applies, the fee should be discounted for residents of the affordable apartments

Apartment Distribution—by Floor

The Affordable New York apartments will be distributed among floors 2, 3, 4, 7, 8, and 10. No more than three Affordable New York units will be on one floor. Additionally, the 37 Inclusionary apartments will be located on floors 2 through 9. By having both types of affordable units on floors 2 through 10, the Applicant is achieving distribution on 80% of the floors. The Board therefore supports the Applicant's proposed distribution.

Apartment Distribution—by Apartment Size

The 37 Affordable New York apartments will be distributed as shown in the chart below.

Affordable New York Apartment Distribution

Apartment Size	Number of Units
Studio	3
1 Bedroom	4
2 Bedroom	2
Total	9

MCB4 would like to note that the Applicant is required by HPD to make 5% of the affordable apartments available to mobility-disabled applicants and 2% of the affordable apartments available to vision or hearing impaired applicants.

Apartment Finishes

The Applicant has represented that all the finishes will be the same throughout all the apartments. Originally, HPD required that the owner provide different stoves in the Inclusionary apartments in order to comply with Inclusionary Housing program guidelines. However, HPD subsequently changed this position. All finishes will now be the same throughout.

Building-wide Amenities

The Project will include the following amenities:

- Amenities not requiring annual fees
 - Rooftop terrace
 - Small business center
- Amenities requiring annual fees
 - Lounge
 - Second floor terrace
 - Gym

The Applicant has informed the Board that annual amenity access fees are slated to be approximately \$750.

Permanent Affordability

Furthermore, the Affordable New York Housing Program has a 40 year affordability requirement, while the term of affordability requirement for Inclusionary Housing apartments is permanent affordability.

MCB4 Negotiations for Inclusionary Housing and Affordable New York Housing Programs

At its meeting on October 19, 2017, MCB4's Housing, Health, and Human Services Committee requested the following:

1. Extending the affordability of 5 of the Affordable New York apartments (representing 50% of the 9 apartments) from 40 years to permanent affordability, increasing the number of permanently affordable units from 37 to 42.
2. Reducing amenity access fees for residents of the affordable units

Applicant Response

Following its presentation to MCB4, the Applicant agreed to the following²:

1. The 9 Affordable New York units will be affordable for 40 years, per Affordable New York requirements
2. The amenity access fees for all Inclusionary and Affordable New York apartments will be discounted by 10% compared to the cost of the fees for the market rate tenants

Conclusion

Amenity Access Fees

MCB4 supports the integration of the building-wide amenities. The Applicant should ensure that the amenities are more accessible to residents of the affordable apartments. With the Applicant's proposed 10% discount, the annual amenity access fees would be \$675. This fee is not affordable to families who earn between 40% and 60% AMI (\$26,720 for a family of one and \$57,240 for a family of four). Therefore, the Board requests that residents who earn between 40% and 60% AMI be given a 50% discount on the amenity access fees. If half of these low income families signed up for amenities at a discounted rate of 50%, the total annual loss would be \$6,750. Additionally, residents who earn 130% AMI (between \$108,550 for a family of one and \$155,030 for a family of four) should be given a 25% discount.

- MCB4 requests that the annual amenity fees be reduced by 50% for the residents at 40% and 60% AMI and 25% for the residents who earn 130% AMI.

Inclusion of Developer Commitments in HPD Regulatory Agreements

It is imperative that the commitments made by the Applicant be embodied in both the Inclusionary Housing and Affordable New York Housing Program Regulatory Agreements, which are to be signed by the Applicant and HPD. By including these commitments in the Regulatory Agreements, HPD and the community will be ensuring compliance with the Developer's commitments.

² See Attachment A: Letter from Moinian dated October 23, 2017

- MCB4 requests that HPD’s Housing Incentives unit work with MCB4 and the Applicant to ensure that the following commitments are embodied in the Regulatory Agreements:
 - Distribution of the affordable units will be throughout 80% of the residential floors
 - The number of studio, 1 bedroom, and 2 bedroom apartments will be the following:

Inclusionary Apartment Distribution

Apartment Size	Number of Units
Studio	12
1 Bedroom	20
2 Bedroom	5
Total	37

Affordable New York Apartment Distribution

Apartment Size	Number of Units
Studio	3
1 Bedroom	4
2 Bedroom	2
Total	9

- Apartment finishes will be the same throughout

Permanent Affordability

The applicant’s response, which makes the 9 Affordable New York apartments affordable for 40 years, meets the term of affordability requirements of the Program. However, providing permanent affordability at a range of incomes ensures stability for the community while also enhancing the value of the Applicant’s investment in our community. Furthermore, the fact that the Affordable New York apartments are at 130% AMI presents an additional asset for MCB4. Our district is in need of affordable apartments for a broad range of incomes, including moderate income households. **Of the 2,571 Inclusionary Housing units developed in our district between 2006 and 2015, 2,408, or 93.7% were restricted to households earning 60% AMI or lower.** Therefore, MCB4 again requests that the Applicant consider providing permanent affordability for 50%, or 5 of the 9 Affordable New York apartments.

- MCB4 requests further discussions with the Moinian Companies on its request to make 5 of the Affordable New York apartments (representing 50% of the 9 apartments) permanently affordable

Since its inception in 1975 with New York City Charter revision, MCB4 has been an advocate of affordable housing. Since the late 1980's, MCB4 has advocated permanency of affordability for such housing to ensure both community stability and economic diversity. Public policy has changed slowly to support these efforts.

In 1973, the Clinton Special Zoning District was adopted, with the "Clinton Bonus", a zoning text provision to create affordable housing. However, with no accompanying regulations, it was seldom used. In 1987, 14 years after the Clinton Special District was adopted, the City of New York adopted Voluntary Inclusionary Housing zoning. In 2016, 43 years after the Clinton Special District was adopted, the City of New York adopted Mandatory Inclusionary Housing zoning.

As public policy moves glacially but inexorably toward permanence in affordable housing, recent provisions are still rooted in the past, such as the reform of the 421-a real estate tax exemption, now known as Affordable New York. Although conferring a substantial benefit for real estate tax exemption, the provision does not make the affordable housing permanently affordable.

The financial underwriting for mortgages, whether private or public, are both calculated and reviewed over a 30 year term, including the mandated affordable rents. After that mortgage term, any effects of removing the affordability requirements will not endanger ongoing project feasibility. Instead, removing affordability will accrue only increased profits to the owner, through market rents.

The State of New York needs to address the following housing policy question: It is more important to ensure both community stability and economic diversity or to protect the long term upside on a real estate investment at the expense of displacing New Yorkers 35 years hence?

The lessons of expiring affordability requirements were hard learned in the state's Mitchell-Lama program. That program built tens of thousands of apartments for middle income New Yorkers with both real estate tax exemptions and mortgage subsidies. After affordability restrictions expired, many were converted to market rate housing, wasting the State and City resources and efforts.

Gotham Development recently committed to making 47 of the Affordable New York units³ in its 515 West 42nd Street development permanently affordable. In light of that commitment, the policy history, and the policy issues raised by the questions the current Affordable New York Housing program, MCB4 requests that Moinian help ensure the long-term housing affordability for New Yorkers of all income ranges by committing to permanent affordability for 50%, or 5 of the 9 Affordable New York apartments in 572 11th Avenue. Providing permanent affordability at a range of incomes ensures success in the long term. To date, Moinian has yet to agree to the additional permanent affordable units. That approach not only enables both stability and economic diversity in our community, but also enhances the value of the developer's investment. such a needed benefit to both our community and the developer. MCB4 believes that

³(50% of the total at 130% of AMI

affordable housing and profitability are both possible and equal outcomes and is disappointed with Moinian's reluctance.

MCB4 would like to thank the Applicant for seeking to meet many of the Board's policy requests regarding apartment distribution and apartment finishes. The Applicant has shown a willingness to discuss the Board's requests in a thoughtful manner. MCB4 therefore believes that we can come to an agreement on the remaining items outlined above. These requests will further MCB4's goal of fostering equitable, quality affordable housing that is economically integrated into our District.

Sincerely,

A handwritten signature in cursive script, appearing to read "Delores Rubin", enclosed in a thin black rectangular border.

Delores Rubin
MCB4 Chair

[signed 12/29/17]
Barbara Davis, Co-Chair
Housing, Health &
Human Services Committee

MEZUYON LLC
3 Columbus Circle, 23rd Floor
New York, NY 10019

Mr. Joseph Restuccia
Co-Chair
Housing, Health & Human Services Committee
Community Board 4/Manhattan
330 West 42nd Street, 26th Floor
New York, NY 10036

October 23, 2017

RE: HPD Inclusionary Housing Application for 572 11th Avenue, New York, NY

Dear Mr. Restuccia,

Thank you very much for reviewing our application at the Housing, Health & Human Services Committee of Community Board 4 on October 19, 2017. The Committee asked for the 421a units to be permanent affordable and for a better understanding of the proposed Amenities fees. Below are responses to these inquiries.

- 1. Permanent Affordability.** The 37 inclusionary units are permanently affordable. The nine (9) units at 130% AMI under the 421a program will have a 40-year period.
- 2. Amenities and Fees.** As discussed at the Committee's meeting, the roof top amenity space will be free to all residents. For the gym, lounge and outdoor terrace on the second floor, we plan to charge an annual fee of approximately \$750 for market rate residents. The fees charged to affordable housing tenants will be calculated at 90% of the cost to market rate tenants.

Also, there may be other services and/or amenities for which a fee may be charged, such as bicycle parking and certain premium valet services.

We hope that you will find our responses satisfactory as a reasonable balancing of the costs and benefits for all stakeholders in this project.

With warmest regards,

Aron Kirsch

Aron Kirsch
Senior Vice President, Development

Cc: Kenneth Lowenstein, Holland & Knight LLP