



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:** 515 West 42<sup>nd</sup> Street  
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 Gotham Organization (the “Applicant”) for the development of 515 West 42<sup>nd</sup> Street (the “Project”) was discussed at the October 19<sup>th</sup>, 2017 meeting of Manhattan Community Board 4’s (MCB4) Housing, Health and Human Services Committee. By vote of 32 in favor, 2 opposed, 1 abstaining, and 0 present but not eligible to vote, MCB4 voted to recommend **approval** of the Application **with** conditions;

**The Project: An Overview**

The Project site is currently the Travel Inn Hotel between Tenth and Eleventh Avenues on West 42<sup>nd</sup> Street. The Applicant proposes to construct a new building that will be 38 stories tall and contain 350 units.

The site is located above an Amtrak rail cut. Section 22-412 of the Zoning Resolution requires that any development located above a railroad right-of-way be subject to a special permit from the City Planning Commission. However Section 22-412 also states that any enlargement or replacement of a “building or other structure” that was completed prior to September 27, 1962 is not subject to the special permit requirement. The existing platform and building were filed, approved and under construction prior to September 27, 1962 and obtained their first Temporary Certificate of Occupancy on April 9, 1963. As such, under Section 22-412 the Applicant is exempt from the special permit requirement.

The Project is the first development that proposes to build affordable units under both the Inclusionary Housing Program and the new Affordable New York Housing Program

(“Affordable New York”) (formerly the 421-a Program). While any Inclusionary Housing apartments are subject to public review and comment, there is no such requirement under Affordable New York. The Project was referred to MCB4 only for the review of the proposed Inclusionary Housing apartments. The Board however used that opportunity to work with the Applicant to arrive at a better overall, more equitable development.

The Board requests that all future developments with proposed affordable housing apartments under Affordable New York—or any other program—be required to go through public review.

The proposed breakdown of the Project’s affordable units is below.

**Distribution of Units by Income Band**

<b>Income Band</b>	<b>% of Units</b>	<b>Unit Count</b>
<b>70% AMI</b>	10%	35
<b>130% AMI</b>	20%	70
<b>Market Rate</b>	70%	245
<b>Total</b>		<b>350</b>

**Distribution of Studios, 1 Bedroom, and 2 Bedroom Units**

<b>Bedrooms</b>	<b>Market Rate Unit Count</b>	<b>Affordable Unit Count</b>
<b>Studio</b>	99	42
<b>1</b>	98	42
<b>2</b>	48	21
<b>Totals</b>	<b>245</b>	<b>105</b>

Of the 35 apartments that will be at 70% AMI, 23 will be Inclusionary Housing apartments. MCB4 is pleased that 23 of the 70% AMI apartments will be permanently affordable Inclusionary apartments. An additional 70 apartments will be available to households earning up to 130% AMI.

The current site tenant, Travel Inn Hotel currently has homeless families in temporary shelter on site. Development of the new building will require relocating that temporary shelter facility. The Department of Homeless Services is aware of the relocation need and has taken appropriate action.

**Inclusionary Housing Program—Proposed**

Affordability Bands

MCB4 is pleased that the proposed 23 Inclusionary apartments will be at 70% AMI, serving households earning up to \$46,760 for a family of one and \$66,780 for a family of four. **Of the 2,571 Inclusionary Housing apartments developed between 2006 and 2015 in MCB4, 2,408, or 93.7% were restricted to households earning 60% AMI or lower.** The Board appreciates that units will be made affordable to individuals and families at a broader range of income to better serve the economically diverse population of Manhattan Community District 4.

Apartment Distribution—by Floor

The Applicant has proposed to distribute the affordable apartments—both Inclusionary and Affordable New York—throughout only 65% of the building’s floors. MCB4 has always advocated for an equitable distribution of affordable units in Inclusionary Housing developments, requesting that Applicants distribute the affordable units throughout at least 80% of the residential floors. The Board therefore cannot support the proposed floor distribution.

Apartment Distribution—by Apartment Size

The 23 Inclusionary apartments will be distributed as shown in the chart below.

**Inclusionary Apartment Distribution**

<b>Apartment Size</b>	<b>Number of Units</b>
<b>Studio</b>	8
<b>1 Bedroom</b>	9
<b>2 Bedroom</b>	6
<b>Total</b>	<b>23</b>

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 noted in its presentation the following differences between the market rate and the affordable units in the project:

1. *Kitchen backsplash tile*: herringbone tile in market rate units; subway tile in affordable units
2. *Bathroom tile on vanity wall*: large format tile in market rate units; mosaic tile in affordable units
3. *Flooring*: engineered wood floors in market rate units; laminate floors in affordable units (same manufacturer and design)
4. *Appliances*: generally, KitchenAid in market rate units, Whirlpool in affordable units
5. *Washer/Dryers*: market rate units have individual washers & dryers in each apartment; a communal laundry room available to both market rate and affordable housing residents

Building-wide Amenities

The Project will include the following amenities:

- Amenities not requiring annual fees
  - Courtyard—ground floor

- Amenities requiring annual fees
  - Gym
  - Ground floor lounge
  - Roof deck

The Applicant has represented that the annual amenity access fees will be approximately \$1,000.

**Affordable New York Housing Program (formerly 421-a)**

This Project is the first presented to MCB4 that combines the Inclusionary Housing Program with the Affordable New York Housing Program (previously known as 421-a). MCB4 reiterates its position that Projects under Affordable New York should 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 or Affordable New York apartments:

1. *Apartment Distribution:* 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 to the affordable apartments.

**Affordability Bands**

MCB4 is pleased that 12 of the Affordable New York apartments will be at 70% AMI, serving households earning up to \$46,760 for a family of one and \$66,780 for a family of four. An additional 70 Affordable New York apartments will be at 130%AMI, serving households earning between \$108,550 for a family of one and \$155,025 for a family of four.

These commitments are an asset to MCB4. **Of the 2,571 Inclusionary Housing apartments developed between 2006 and 2015 in MCB4, 2,408, or 93.7% were restricted to households earning 60% AMI or lower.** The Board appreciates that units will be made affordable to individuals and families at a broader range of income to better serve the economically diverse population of Manhattan Community District 4.

**Apartment Distribution—by Floor**

The Applicant has proposed to distribute the affordable apartments—both Inclusionary and Affordable New York—throughout only 65% of the building’s floors. MCB4 has always advocated for an equitable distribution of affordable units in Inclusionary Housing

developments, requesting that Applicants distribute the affordable units throughout at least 80% of the residential floors.

#### Apartment Distribution—by Apartment Size

The 82 Affordable New York apartments will be distributed as shown in the chart below.

#### **Affordable New York Apartment Distribution**

<b>Apartment Size</b>	<b>Number of Units</b>
<b>Studio</b>	34
<b>1 Bedroom</b>	33
<b>2 Bedroom</b>	15
<b>Total</b>	<b>82</b>

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 noted in its presentation the following differences between the market rate and the affordable units in the project:

1. *Kitchen backsplash tile*: herringbone tile in market rate units; subway tile in affordable units
2. *Bathroom tile on vanity wall*: large format tile in market rate units; mosaic tile in affordable units
3. *Flooring*: engineered wood floors in market rate units; laminate floors in affordable units (same manufacturer and design)
4. *Appliances*: generally, KitchenAid in market rate units, Whirlpool in affordable units
5. *Washer/Dryers*: market rate units have individual washers & dryers in each apartment; a communal laundry room available to both market rate and affordable housing residents

#### Building-wide Amenities

The Project will include the following amenities:

- Amenities not requiring annual fees
  - Courtyard—ground floor
- Amenities requiring annual fees
  - Gym
  - Ground floor lounge
  - Roof deck

The Applicant has represented that the annual amenity access fees will be approximately \$1,000.

### **MCB4 Negotiations**

MCB4 would like to note that the Applicant has opted to pursue Option F of the Affordable New York Housing Program, which has a 40 year affordability requirement. The term of affordability requirement for Inclusionary Housing apartments is permanent affordability. At its meeting on October 19, 2017, MCB4's Housing, Health, and Human Services Committee requested the following:

1. Extending the affordability of all 82 Affordable New York units from 40 years to permanent affordability
2. Distributing the Inclusionary Housing and Affordable New York apartments to 80% of the floors
3. The Applicant also noted that the market rate units will all have washers and dryers, while the affordable units will be provided a communal laundry room located in the building's cellar. MCB4 requests that washers and dryers be provided in each affordable apartment.

### **Applicant Response**

Following its presentation to MCB4, the Applicant agreed to the following<sup>1</sup>:

1. Increase the affordability duration from 40 years to permanent for Affordable New York units for all 70% AMI (12 low-income), and 50% of the 130% AMI (35 middle income). Those apartments, combined with the 13 Inclusionary Housing apartments, will total 70 permanently affordable apartments.
2. Provide the same finishes to the affordable units as those in the market rate units
  1. Kitchen backsplash tile
  2. Bathroom tile on vanity wall
  3. Flooring
  4. Appliances (with the exception of washer and dryers in unit)
3. The amenity fee for the gym, ground floor lounge and roof deck, of approximately \$1,000 annually shall be discounted by 50% for low income tenants (at 70% AMI) and 25% for middle-income tenants (at 130% AMI)
4. The Applicant stated the following regarding distribution of the affordable apartments<sup>1</sup>:

“...further modifications to the unit distribution would cause similar delays to the entitlement and closing process as the introduction of

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<sup>1</sup> See Attachment A: Letter from Gotham, D. Picket dated October 23, 2017

washers and dryers to the affordable units. Though moving units would appear cosmetic, due to the HPD regulations associated with the affordable units, there would need to be significant alterations to the drawings from several consultants to achieve a unit redistribution.”

## **Conclusion**

### **Apartment Distribution**

MCB4 urges the Applicant to continue working with the Board to achieve a more equitable distribution of the affordable units—both Inclusionary Housing and Affordable New York—to 80% of the floors. Gotham had represented that the apartment layouts are the same throughout the building. Therefore, MCB4 cannot understand the Applicant’s argument that changing the designation of the units would entail additional work from consultants and additional review by HPD’s Housing Incentives. MCB4 has reviewed the building plans once again but does not understand the explanation provided by the Applicant. The Board would like to discuss the matter further with the Applicant in order to better understand it.

- MCB4 requests further discussions with Gotham on its requests to redesignate one additional affordable apartment to floors 26, 27, and 28.

### **Washer and Dryers in Affordable Apartments**

- MCB4 understands the above noted financial constraint and requests that the Applicant provide use of the laundry room at no cost to the residents of the affordable apartments.

### **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.

- 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:
- - Extension of affordability to from 40 years to permanent for the 47 Affordable New York Housing Program apartments
  - Parity in apartment finishes
  - Discounted amenity fees
  - Distribution of units shall be as follows:

### **Inclusionary Apartment Distribution**

<b>Apartment Size</b>	<b>Number of Units</b>
<b>Studio</b>	8
<b>1 Bedroom</b>	9
<b>2 Bedroom</b>	6
<b>Total</b>	<b>23</b>

### **Affordable New York Apartment Distribution**

<b>Apartment Size</b>	<b>Number of Units</b>
<b>Studio</b>	34
<b>1 Bedroom</b>	33
<b>2 Bedroom</b>	15
<b>Total</b>	<b>82</b>

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, some 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.

Given that policy history and the policy issues raised by the questions the current Affordable New York Housing program, MCB4 appreciates that Gotham has demonstrated a commitment to long-term housing affordability for New Yorkers of all income ranges.

By voluntary providing permanent affordability at a range of incomes, Gotham has taken a long term view. That approach not only ensures both stability and economic diversity in our community, but also enhances the value of their investment. For 105 years Gotham has developed and constructed real estate in the City of New York, with this commitment, it has demonstrated affordable housing and profitability are both possible and equal outcomes.

Sincerely,



Delores Rubin  
MCB4 Chair

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

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

October 23, 2017

Community Board 4  
475 W 57<sup>th</sup> Street, FL 2  
New York, NY 10019

**RE: 515 W 42<sup>nd</sup> Street, New York, NY 10036**

Dear Members of the Community Board 4 Housing Committee:

Thank you for meeting with us on Thursday, October 19<sup>th</sup> and sharing your thoughts about our as-of-right 350-unit (including 105 affordable units) rental development at 515 W 42<sup>nd</sup> Street (the "Project"), replacing the current Travel Inn hotel. We take very seriously your concerns regarding the cost of using amenity spaces, duration of affordability, design differences between market rate and affordable units, and distribution of affordable units throughout the building. As a long time developer in New York and Community Board 4 in particular, Gotham has tried to accommodate the needs of the neighborhoods in which it builds. With that commitment in mind, we have discussed your concerns regarding our Project and propose the following solutions:

1. **Amenity space access:** Amenity spaces in the building will include the expansive ground floor courtyard with active and passive programming, the fitness center, the ground floor "green room" lounge, and the top floor lounge spaces and roof deck. Access to all amenity spaces will be open to all tenants. Access to the courtyard will be free to all residents, while access to the remainder of the aforementioned spaces will require payment of an annual fee. The exact amount of the fee will be finalized as we get closer to lease up of the building, but we currently expect to charge around \$1,000 annually for access to the various non-courtyard amenity spaces. We propose to reduce the fee by 25% for the middle-income tenants and 50% for the low-income tenants.
2. **Duration of affordability:** Under the inclusionary housing rules all IH units must remain permanently affordable. Affordable New York Option F mandates that units under its program remain affordable for 40 years. In response to your concerns, we propose that all low-income units become permanently affordable and 50% of the middle-income units become permanently affordable.
3. **Apartment finishes:** As enumerated in our letter to the housing committee and at the meeting, there are a handful of differences between the finishes in the market rate and affordable units including:
  - a. Variation in kitchen backsplash tile (herringbone tile in market vs subway tile in affordable)
  - b. Variation in bathroom tile on vanity wall only (large format tile in market vs mosaic tile in affordable)
  - c. Engineered wood floors in market vs laminate floors in affordable (same manufacturer and design)
  - d. Some differences in appliances (generally, KitchenAid in market, Whirlpool in affordable)
  - e. Market rate units have washer/dryer in unit

We propose revising items a) through d) to make them uniform throughout all apartments. As discussed in the meeting on Thursday the 19<sup>th</sup>, to provide washer/dryer units in the affordable apartments would represent a significant cost to the job. Equally important, it would necessitate a material change to the design drawings including plumbing and electrical connections, addition of walls, tile, doors/fixtures, and other elements that would create delays in the entitlement and closing of the Project and require plan resubmissions to various agencies. As discussed, we originally had washers and dryers in all units, but were forced to make difficult value engineering decisions to ensure the viability of the development after our tax-exempt bonds were stripped away (after already having been induced), precipitating the loss of over \$12 million of Low-Income Housing Tax Credits. In response to the loss of these washers and dryers we provided for more communal washers and dryers than originally programmed, totaling six washing machines (two oversized) and eight dryers (two oversized).

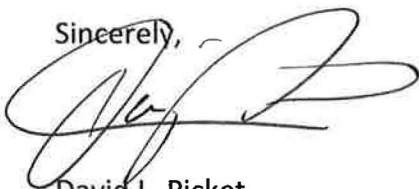
4. **Distribution of affordable units:** After collaboration and review with our design team on this issue, it has been determined that further modifications to the unit distribution would cause similar delays to the entitlement and closing process as the introduction of washers and dryers to the affordable units. Though moving units would appear cosmetic, due to the HPD regulations associated with the affordable units, there would need to be significant alterations to the drawings from several consultants to achieve a unit redistribution. Movement of plumbing/electrical chaises, risers, partition walls, and kitchen and bath relocations would be necessary, which requires weeks of work and resubmission of plans to various agencies for further review and approval. As currently designed, the building has no more than 1 inclusionary housing unit on any given floor and at least one unit on over 65% of residential floors, per HPD guidelines.

In summary, we propose the following improvements to the current Project plan:

1. Reduction in amenity fee from of 25% for middle-income tenants and 50% for low-income tenants.
2. Increase in affordability duration for the all of the low-income Affordable New York units and 50% of the middle-income Affordable New York units from 40 years to permanent.
3. Provide upgraded finishes to the affordable units commensurate with those in the market rate units.

Again, we appreciate your feedback in relation to our Project. We have endeavored to keep the values and concerns of the community front of mind when designing and programming the building, and aim to deliver a building neighborhood constituents will be proud of.

Sincerely,



David L. Pickett  
GO W 42<sup>nd</sup> Street LLC