



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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Delores Rubin
Chair

Jesse Bodine
District Manager

Martin Rebholz
Manhattan Borough Commissioner
NYC Department of Buildings
280 Broadway
New York, NY 10007

June 20, 2016

**Re: 400 West 56th Street AKA 859 Ninth Avenue (Block 1065 Lot 36)
False DOB Filings**

Dear Commissioner Rebholz:

At Manhattan Community Board 4's (MCB4) May 11, 2016 Clinton/Hell's Kitchen Land Use meeting, members discussed two buildings located on West 56th Street for which two separate owners have submitted falsified DOB forms. By a vote of 41 in favor, 0 opposed, 0 abstaining and 0 present but not eligible to vote, MCB4 voted to request that DOB conduct an audit of these buildings and revoke permit for material alterations done without the required Certificate of No Harassment.

In our district alone, this Community Board has seen nine sites encompassing 243 units for which false filings have been submitted. The rising trend is alarming and must be addressed in order to preserve the community's affordable housing stock.

Background

400 West 56th Street is a four story building containing 41 units located in the Clinton Special District. Historically, the building contained railroad apartments with kitchenettes.¹ The owner purchased the property in December 2013 and began renovating apartments in 2014. The scope of work included installing new kitchens and bathrooms, as well as converting one bedroom apartments into two bedroom apartments.

DOB Filings

Beginning in 2014, the owner filed job applications for the renovation of apartments throughout the building. The Plan/Work Approval Application Form (PW1) required under the job application includes a Section 26, which asks about rent controlled or rent stabilized units, and whether or not the owner notified the New York State Department of Homes and Community Renewal (NYSHCR) of the planned work. Under the following 11 job applications, the owner submitted PW1 forms that either stated that the building did not contain occupied units that were

¹ See Appendix A: I Card, dated September 16, 1938

subject to Rent Control or Rent Stabilization, or left this section unanswered. The same job applications either included falsified required HPD2 forms, or omitted them altogether. The owner also submitted additional PW1 forms for these applications—all of which were expressly to revise Section 26 on the initial PW1 forms. The forms are summarized in the table below, where grey indicates incorrect answers.

Job No.	Original PW1	Resubmitted PW1	HPD2 Form	Responses in Resubmitted PW1 Forms	
				Occupied Rent controlled/rent stabilized units?	Owner required to notify NYSHCR?
			Work is not exempt	<i>YES</i>	<i>YES</i>
122241644	1/12/2015	1/21/2016	None submitted	YES	NO ²
122410747	7/23/2015	1/21/2016	None submitted	YES	NO
122410738	7/31/2015	1/21/2016	States work/structure is exempt	YES	NO
122478817	8/31/2015	1/21/2016	States work/structure is exempt	YES	NO
122478826	8/31/2015	1/21/2016	States work/structure is exempt	YES	NO ²
122470174	9/11/2015	1/21/2016	States work/structure is exempt	YES	NO
122515858	9/30/2015	1/21/2016	States work/structure is exempt	YES	NO
122549705	10/23/2015	1/21/2016	States work/structure is exempt	YES	NO
140432057	11/20/2015	5/12/2016	None submitted	YES	NO
122451729	11/20/2015	1/21/2016	None submitted	YES	NO ²
122271004	3/2/2015	1/8/2016	States work/structure is exempt	YES	NO ²

According to the Comments section of the resubmitted PW1 forms, these forms were submitted for the purpose of correcting answers pertaining to the existence of occupied rent controlled or rent stabilized units, as well as the owner’s obligation to notify NYSHCR. In several of these forms, the owner himself acknowledged that NYSHCR was notified of the scope of work on February 12, 2015. However, forms submitted on the same day and after directly contradict this statement.

Furthermore, the owner filed Job Application No. 121972614 in April 2014. The description on the application stated that the work would include the “interior renovation of non-load bearing partitions, finishes, and façade work”. **Under this filing alone, the owner submitted 20 PW1 forms over the span of 24 months:**

² These PW1 Forms state that NYSHCR was notified on 2/12/15

Date	Owner's Comments/Reason for Filing	Responses in Resubmitted PW1 Forms	
		Occupied Rent controlled/ rent stabilized units?	Owner required to notify NYSHCR?
		YES	YES
4/17/2014	None provided	NO	None provided
4/17/2014	None provided	None provided	None provided
4/3/2015	Respectfully request to revise section#1, schedule B and plans.	None provided	None provided
4/6/2015	Respectfully request to revise schedule B and plans.	None provided	None provided
4/21/2015	Respectfully request to revise section#1, schedule B and plans	None provided	None provided
5/4/2015	Respectfully request to revise schedule B	None provided	None provided
5/5/2015	Respectfully request to revise schedule B	None provided	None provided
7/27/2015	Respectfully request to revise schedule B and plans.	None provided	None provided
7/29/2015	Respectfully request to revise schedule B and plans.	None provided	None provided
8/7/2015	Respectfully request to revise scope of work, schedule B and plans.	None provided	None provided
9/2/2015	Respectfully request to revise scope of work, schedule B and plans.	None provided	None provided
9/17/2015	Respectfully request to revise scope of work, section #1 and plans.	None provided	None provided
9/29/2015	Respectfully request to revise schedule B and plans.	None provided	None provided
9/30/2015	Respectfully request to revise schedule B and plans.	None provided	None provided
10/12/2015	Respectfully request to revise schedule B.	None provided	None provided
1/4/2016	Respectfully request to revise section# 26.	YES	NO ³
1/6/2016	Respectfully request to revise section# 26.	YES	NO ⁴
3/4/2016	Respectfully request to revise scope of work.	YES	YES ⁴
3/14/2016	Respectfully request to add 40 ton HVAC unit, add mechanical as a controlled inspection on tr1, add EUP cards as a required item, add tr8 with new energy inspections, revise section 10 as per highlighted changes and PW-3 with additional cost.	YES	YES ⁴
3/21/2016	Respectfully request to add 40 ton HVAC unit, add mechanical as a controlled inspection on tr1, add EUP cards as a required item, add tr8 with new energy inspections and PW-3 with additional cost	YES	YES ⁴

³ These PW1 Forms state that NYSHCR was notified on 2/12/15

In light of the last 3 PW1 forms, which included correct answers, the Board is concerned about the following job applications, for which the owner submitted falsified forms that have not been corrected:

Job No.	Date	PW1 Form	HPD2 Form
140202117	5/21/2014	Building does not contain occupied housing accommodations subject to rent control or rent stabilization	No HPD2 form submitted
140202153	5/23/2014	Building does not contain occupied housing accommodations subject to rent control or rent stabilization	No HPD2 form submitted
140286474	12/1/2014	Building does not contain occupied housing accommodations subject to rent control or rent stabilization	No HPD2 form submitted
140295062	12/23/2014	Building does not contain occupied housing accommodations subject to rent control or rent stabilization	No HPD2 form submitted
140431968	11/19/2015	Building does not contain occupied housing accommodations subject to rent control or rent stabilization	No HPD2 form submitted
122626809	12/18/2015	Building does not contain occupied housing accommodations subject to rent control or rent stabilization	States proposed work is on an exempt structure; states that work does not include a material alteration
122626845	3/22/2016	Building does not contain occupied housing accommodations subject to rent control or rent stabilization	States proposed work is on an exempt structure; states that work does not include a material alteration

MCB4 would also like to note that five of these filings did not include an HPD2 form, which is required for all buildings in the Clinton Special District. Yet, all of these filings received DOB approval.

Furthermore, the sum of all of these filings results in a material alteration, as defined in Section 96-01 of the Zoning Resolution:

(13) Material alteration⁴

“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

⁴ Emphasis added

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

The owner did not disclose the material alteration in any of the filings. Having done so would have required a CONH certification. No such document was found online on the DOB Building Information Search. However, it is clear that prior to the filings listed in this letter, 400 West 56th Street was fully occupied. About half of the tenants who lived in the building prior to the construction work remain.

Conclusion

The Board is gravely concerned about the growing trend of building owners who are submitting falsified forms to DOB, and we are particularly alarmed to learn that the job applications for which these forms are submitted have been previously approved by DOB. MCB4 has now seen this trend in all of our Special Districts—West Chelsea, Hudson Yards, Garment Center, and Clinton.

In order to preserve the affordable housing in this community, it is imperative that DOB devise a strategy to curtail this growing trend. MCB4 is ready to work with DOB to establish a system that can adequately respond to false filings that threaten the very existence of our special districts, and the affordable housing that maintains their character.

Sincerely,



Delores Rubin
Board Chair



Jean Daniel Noland
Chair, Clinton/Hell's Kitchen Land
Use Committee

cc: Senator B. Hoylman
Assembly Member R. Gottfried
Borough President G. Brewer
Councilmember C. Johnson
V. Been, HPD
D. Rand, HPD

STREET AVENUE

9 Ave

No.

559/61

Boro.

RR 1065

Card No.

X

Use District

(400/4 W 56 St)

CLASSIFICATION

Record of Business Use—Location

Reg # 101035

Date

Origin

OLD LAW TENEMENT.

ORIGIN OF CLASSIFICATION

TENEMENT HOUSE DEPT. New Building Plan

RECORD OF FIRE RETARDING AND FIREPROOFING

Location

Origin of Report

Date

B'ld'gs

Plan No.

Date filed

Date Approved

CHS PROVIDED

58335

Application No.

Certificate No.

Date issued

HEREAFTER CONVERTED DWELLINGS

Plan No.

Date filed

Date Approved

ALTERATION PLANS

B'ld'gs

Plan No.

Date Filed

Approved

Completed

Application No.

Certificate No.

Date issued

alt
SIPR.

583

2.24.38

3-18-38

4.1.38

BN

2430

11-13-45

ALT

1087

7-30-57

BUREAU OF BUILDINGS RECORD

Plan No.

Certificate of Occ. No.

Date issued

alt 583 38

23951

9/16/38

To be occupied by:

LEGAL OCCUPANCY

Date

No. Ap'ts

Height

Cellar

Basement

9/16/38

41

6
5 stories

CELLAR OR BASEMENT PERMIT

Number

Date

Number

Date

Form 500

39-1010-33-BA

ALTERATION PLANS

ACCEPTANCES

Buildings

Plan No.

Date Filed

Approved

Completed

STREET

9 Ave

No.

859-61

UNIT

DATE

S

22951

9-16-38

B 1065 h. 35-36

HERETOFORE ERECTED - O. L.

41 apt

7

BOROUGH OF

DEPARTMENT OF HOUSING AND BUILDINGS
DIVISION OF HOUSING

(OVER)

Form 1008-39-Bu



409/402 W. 56 St.

CLASSIFICATION CARD

DATE SEP 20 1938

total. Ninth Ave

No. 859/861

BOR. MANHATTAN

OLD CLASSIFICATION 2 Old Law Ten.

ERECTED Nov J.P.

NEW CLASSIFICATION 1 Old Law as combined

9-16-38

BUR. OF BLDGS. PLAN Alt 583³⁸

BUR. OF BLDGS. CERT. 23951

TEN HOUSE DEPT. PLAN Block 1065 Lots 35-36

NUMBER OF APARTMENTS

TOTAL

STORIES	NUMBER OF APARTMENTS								TOTAL	
	C	B	1	2	3	4	5	6		
APARTMENTS			1	8	8	8	8	8		41
STORES			5							5
Cell Boiler room + Storage.										

REMARKS

CENSUS FILE 1-11-39 My

HEALTH " " J.P.

PLAN RECORDED & REVIEW DIVISION

BY George R. Quinn

ENTERED ON RECORDS NOV 10 1938

BUR. OF B'LDGS & FIRE DEPT. NOTIFIED

(400/2 of 56 St)
STREET North Ave No. 859/ UNIT 61 DATE 9/15/38 S

The above buildings have been combined
under Alt Plan 583³⁸

James J. Clarke
Supt Insp

PLAN RECORD & REVIEW DIVISION
BY JJK

USE CARD

39-1028-17-B, Form 1062

Street *Ninth Ave*

No. *859*

Use Dist. **BUSINESS**

Insp. Dist.

Date *91817*

SO USED JULY 25, 1916

PART USED FOR BUSINESS	PERCENTAGE OF STORY USED	NATURE OF BUSINESS	SO USED JULY 25, 1916
Cellar		<i>none</i>	
Basement	<i>none</i>		
1st Story	<i>✓ 100%</i>	<i>Saloon Butcher Vegetables</i>	<i>✓ ✓ ✓</i>
2nd Story		<i>none</i>	
3rd Story		<i>none</i>	
Other Stories		<i>none</i>	
Yard		<i>none</i>	<i>Chris Hunsdorf</i>

25456

1011
 STREET *North* NO. *859* WARD *NY* DIST. *NY* DATE *10-21-11* 59440

SKYLIGHT 77 Over Stairwell IN ROOF; Area glazed surf.-Size of Opening-Ridg. Vent.-Louvres; Obstructed Dome light under ADEQUATE WINDOWS IN HALL; NUMBER SIZE

IN BULKHEAD; Area glazed surf.-Windows; Number Size How open Other ventilation ADEQUATE How hung Location VENT. ADEQUATE
 SCUTTLE-BULKHEAD 32 SCUTTLE; Size opening Outside; Metal cov.-Wood-Iron-Glazed Lock Needs hinging BULKHEAD; Door top of stairs-Lock Door foot of stairs-Lock

LADDER-STAIRS; Stationary-Wood-Iron-Handrail Short Accessible ADEQUATE

SHAFTS	Length	Width	Area	Material of Walls	Starts at	Covered	Vent. Skylight	Suff. access at base	By Door	By Window			Ladder needed
										Size Opening	Sill above floor of Room	How Hung	
A								105					
B													
C													
D													

FIRE ESCAPES 16 One each apt. LOCATION; Front-Rear-Shaft

Party wall balcony; Wall pierced where ADEQUATE
 Where lacking

Egress from Yard
 BALCONIES; Wood-Iron-None RAILINGS; Wood-Iron

WINDOWS J K L M N O P Q R S T

Width	J	K	L	M	N	O	P	Q	R	S	T
Height											
Dist. below cell.											
How hung											

FLOORS; Wood-Iron STAIRS; Wood-Iron-Open tread-Solid tread
 LADDERS; Vert.-Inclined-Double rung-Hand rail-Missing what floors-Drop ladder needed

FIXTURES	Number per Floor							
	Cellar	Base	1	2	3	4	5	6
SINKS IN HALLS								
Wood encased 98								
WATER CLOSETS In Halls (Pan.)								
In Apts. (Pan.)								
Word Risers 97								

CELLAR Floor is Ceiling is Hall Lighting

YARD FIXTURES 99 School sink-Latrine-Privy vault-Water closets; Number Compart. (Sewer in street)

CLOSET ACCOM. 99 No. in Yard-Cellar-Apts.-Stores-Total Used by Families; In Bldg.-Other Bldgs.-Stores-Total

REMARKS Ratio; 1 W. C. to families

Ten. House Dept. Form 1010. 27-45-11 (B) 40,000

B'LD'G *Sk* STORIES *6* FT. FRONT FT. DEEP AP'TS PER FLOJR. *4 4 4 4 4* TOTAL AP'TS. *20*
 Number-Base-Cellar *2 Bldg. combined with 861 - 9th are included 583 SE*

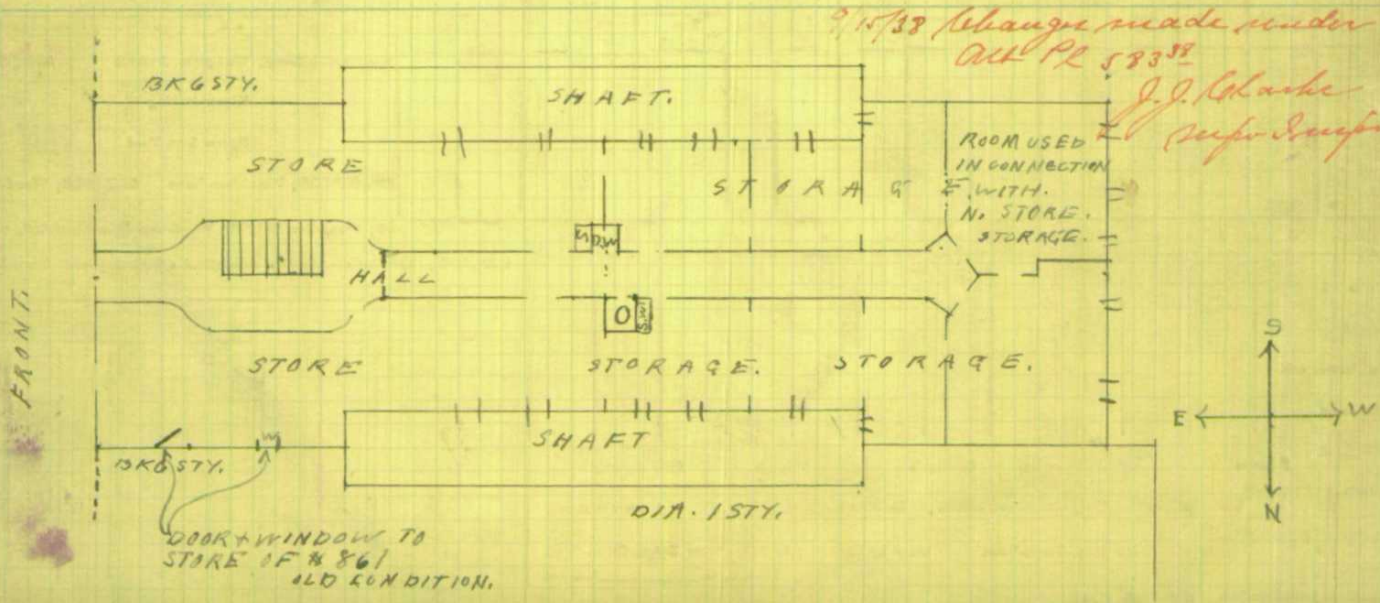
OWNER ADDRESS *C.O. #23951 7/10/38*

AGENT *J. J. Kunkel 9/19/35*

BOROUGH OF *Man* INSPECTOR *NY* DIST.

PAINT-OIL-LIQ.-DRUGS 41 No. Doors to Halls; Fireproof No. Windows to Halls-Transoms: Wire glass-closed 40 Fireproof Ceiling-Wall Openings to Bldg: Doors-Windows-Transoms-Shafts-Stairways.

INTERIOR ROOMS 73 No. per floor; Base - 1 - 2 - 3 - 4 - 5 - 6 Windows above adjoining building possible at what floors Windows into shafts and yards on lot line possible at what floors.



BY

STREET 9th Ave. No. 859 DATE 8/1/39

BAKERY — Fat Boiling — Building 59 Fireproof — Non-fireproof — Date of erection _____ Products entirely consumed within building NOT

LOCATION Occupies Entire — Part — Cellar — Base 1st store OVEN Built in — Portable — Hoodover — Separate Flue

OPENING INTO BUILDING None (Designate by letter) Number — Doors — Windows — Transoms — Stairs — Elevator Shaft DUMBWAITER SHAFT None Extends from shop on _____ to store on _____

DUMBWAITER SHAFT None DOORS 8-inch brick walls — Ceiling F. P. Fireproof—so arranged that when one door is open or partly open the other door is completely closed

CEILING Height — Fireproof — I Beams FILLING Brick Arch — Hollow Tile — Concrete

Non-Fireproof Open Joist — Sheathed — Lath and Plaster — Metal — Plaster Board Plaster on Metal Lath Asbestos Board

EXPOSED POSTS None (Designate by letter) Number Material Location EXPOSED GIRDERS None (Designate by letter) Number Material Location

FLOOR Watertight — Dry — Damp Material of floor wood

LIGHTING AND VENTILATION Adequate — Light — Dim — Dark WINDOWS 2 rear (Designate by letter) Number — Location — Open on street — yard — court — shaft

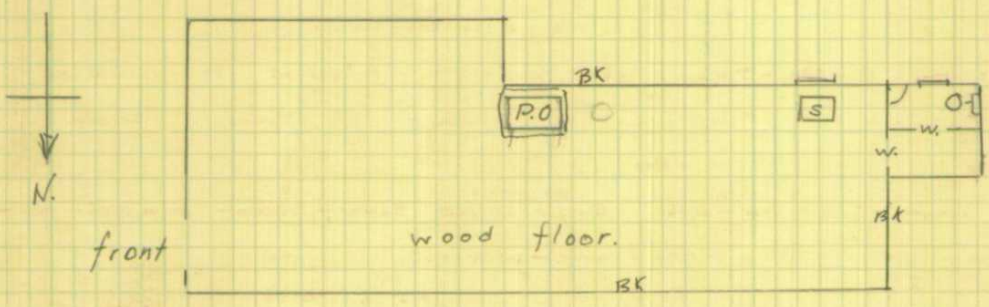
APPLIANCES FOR FAT BOILING solid oil non inflammable On premises — Consists of — brick — set stove — furnace — portable stove

Location	Diagram	WALLS AND PARTITIONS						Metal Covered	WATER CLOSETS	Number	Location	Separate Room
		Stone	Brick	Stud	Plastered	Sheathed						
Front					✓							
Rear					✓							
Side					✓							
Side					✓							

REMARKS

BUILDING Brick — Stone — Frame — Width — Depth F. P. — Non-F. P. STORIES _____ AP'TS _____ TOTAL _____

Number S. C.—C. B. S. C.—C.—B.—1—2—3—4—5—6



diag. of 1st bakery

STREET *Winth Ave* NO. *859* WARD DIST. *224* DATE *10-2-11* I 59440

SKYLIGHT 77 Over Stairwell IN ROOF. Area glazed surf.-Size of Opening-Ridg. Vent.-Louvres; Obstructed Dome light under ADEQUATE. WINDOWS IN HALL; NUMBER SIZE none

IN BULKHEAD; Area glazed surf.-Windows; Number Size How open Other ventilation ADEQUATE How hung Location VENT. ADEQUATE

SCUTTLE-BULKHEAD 32 SCUTTLE; Size opening Outside; Metal cov.-Wood-Iron-Glazed Lock Needs hinging BULKHEAD; Door top of stairs-Lock Door foot of stairs-Lock

LADDER-STAIRS; Stationary-Wood-Iron-Handrail Short Accessible ADEQUATE

SHAFTS	Length	Width	Area	Material of Walls	Starts at	Covered	Vent. Skylight	Suff. access at base 105	By Door	By Window			Ladder needed	FIRE ESCAPES	
										Size Opening	Sill above floor of Room	Shaft			How Hung
A	41'8" 5'	20'8"	134	al	open	not				19x40"	24"	34"	P.H.	not	16 One each apt. LOCATION; Front-Rear-Shaft
B														Party wall balcony; Wall pierced where	
C														Where lacking	
D														Egress from Yard	

WINDOWS J K L M N O P Q R S T

Width Height Dist. below cell. How hung

CELLAR Floor is *Cement* Ceiling is *Plaster* Hall Lighting

YARD FIXTURES 99 School sink-Latrines-Privy vault-Water closets; Number Compart. (Sewer in street)

CLOSET ACCOM. 99 No. in Yard-Cellar-Apts.-Stores-Total Used by Families; In Bldg.-Other Bldgs.-Stores-Total Ratio; 1 W. C. to families

REMARKS

Ten. House Dept. Form 1010. 37-45-11 (B) 40,000

FIRE RET. 1/2" UNIV. ERSAL PL. BAC T IV-10-05

FIXTURES Number per Floor

Cellar	Base	1	2	3	4	5	6
			1	2	2	2	2

SINKS IN HALLS 98 Wood encased

WATER CLOSETS In Halls (Pan.) In Apts. (Pan.) 97 Wood Risers

B'LD'G *10k* STORIES *6* FT. FRONT *30* FT. DEEP *91* APTS PER FLOOR. *44444*

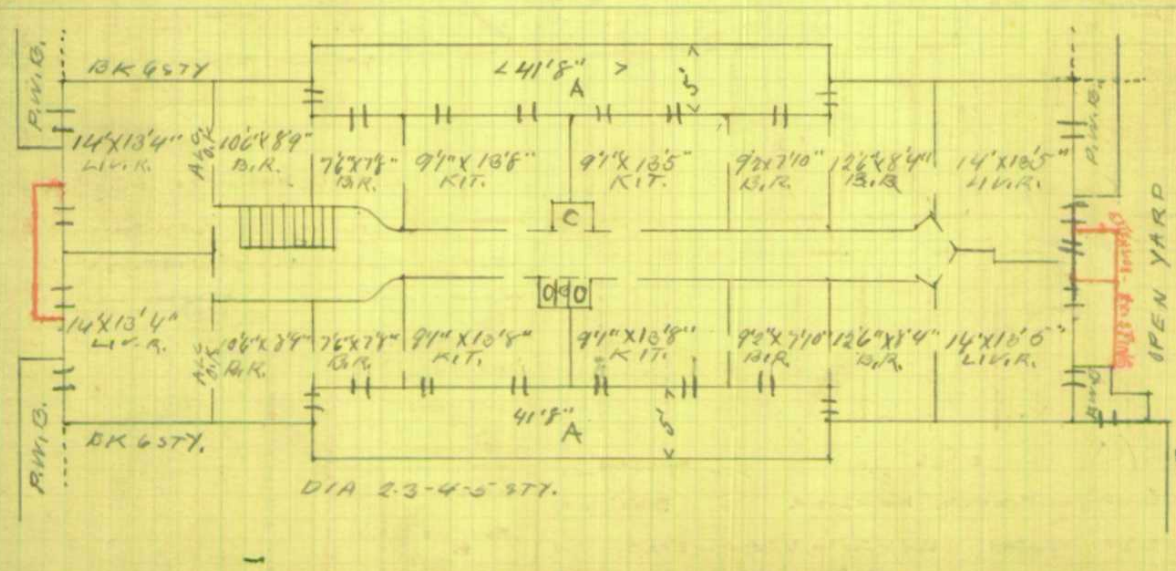
OWNER *Co. 23951 9/4/38* ADDRESS *271-2-3-4-5-6 - 41 apts*

AGENT *Wm. J. Morrison* INSPECTOR *W. J. Morrison*

BOROUGH OF *Man* DIST. *4*

PAINT-OIL-LIQ.-DRUGS 41 No. Doors to Halls; Fireproof No. Windows to Halls-Transoms; Wire glass-closed BAKERY none

INTERIOR ROOMS 73 No. per floor; Base - 1 - 2 - 3 - 4 - 5 - 6 Windows above adjoining building possible at what floors Windows into shafts and yards on lot line possible at what floors.



2-3-4-5-6 new fire. entered at front on the 2-3-4-5-6 stairs. The party at rear had been intended to go to take in the north window of the rear room of the 2-3-4-5-6 floor and exit. 773 S. 2-7-11 at 5.

W. J. Morrison 10/11/11