

CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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JEFFREY LEFRANCOIS
Chair

JESSE R. BODINE
District Manager

February 8, 2022

Brad Simmons
Midtown West 47th St LLC
c/o Bestrow Real Estate Corp.
P.O. Box 731
Bronx, NY 10451

Bradley Simmons
64-70 Maurice Ave.
Maspeth, NY 11378

**Re: 343 West 47th Street
Illegal Partial Demolition
Plan for Preservation and Redevelopment**

Dear Mr. Simmons,

At the Manhattan Community Board 4 (MCB4) Full Board meeting on February 2, 2022, members discussed the illegal partial demolition and a plan for continued preservation and redevelopment of 343 West 47th Street, a 4-unit multiple dwelling located in the Preservation Area of the Special Clinton District. By a vote of 41 in favor, 0 opposed, 0 abstaining and 0 present but not eligible to vote, MCB4 voted to meet with you and your development group to both ensure and assist you as owner in developing a plan compliant with the requirements of the Special District Zoning.

Background

343 West 47th Street is a 4-unit multiple dwelling in the Preservation Area of the Special Clinton District (SCD) and is subject to anti-harassment and anti-demolition protections.¹ 343 West 47th

¹ [NYC Zoning Resolution Article IX Chapter 6, 96-108](#)

Street was a vacant City-owned building that was sold through a Request for Proposals process to four firemen for owner occupancy as a cooperative in 1984, and restricted to that use through 1999. That restriction expired in 1999; however, the co-op continued to own and operate the building through 11/1/2012, when the co-op sold it to 343 West 47th LLC. During that period of ownership, that LLC filed under DOB application [#123363868](#) for both vertical and horizontal enlargements from 4 to 5, then to 7 stories. That LLC also filed for structural and mechanical work to support such an expansion. The structural work was approved by DOB, but not the mechanical. No renovation work ever started.

Beginning in 2017, the building began to be used as an illegal hotel. The building was subject to enforcement actions for that illegal use by Midtown Task Force resulting in 3 violations² ([#053117AEUHAZ100054](#), [111517AEUHAZ100076](#), and [111517AEUHAZ100077](#)) and Building Department Vacate for illegal hotel use on 3/10/2017. In 2018, Midtown West 47th St LLC, your corporate entity, acquired the building.

DOB filings by Midtown West 47th St LLC

Between 1/24/2019 and 7/24/2019, you filed under DOB application [#123371779](#) revised structural and mechanical work to support the prior owner's filing for vertical and horizontal enlargement noted above. Permits were granted for that work on 7/31/2019.

Then on 5/4/2020, you filed under DOB application [#140891809](#) for partial demolition for "FILING FOR PARTIAL DEMO OF EXISTING BUILDING, PER PLANS, DUE TO EXCESSIVE WATER DAMAGE. CELLAR AND FIRST FLOOR TO REMAIN. NO CHANGE IN USE, EGRESS OR OCCUPANCY."³

This action occurred 2 years after your building purchase and 16 months after you had filed to renovate the building under application [#123371779](#). That application professionally certified by your engineer, Christopher Sanders, of South Bay Engineering of Elmhurst with a permit granted by DOB, in error, on 10/21/20. We note these actions were taken at the height of the Covid-19 pandemic, when all non-essential construction was stopped in the City of New York. No construction work took place until April 2021.

Illegal Demolition and DOB Stop Work Order

On April 27th, 2021, MCB4 received a complaint from the West 47th/48th Street Block Association about illegal demolition at 343 West 47th Street and contacted DOB for an inspection. The Block Association reported the fourth-floor façade had been removed. The same day a 311 call for "DEMOLITION APPEARS TO BE UNSAFE, NO BARRIER OR PERMIT" resulted in DOB complaint [#1570031](#).

² [DOB Violations](#)

³ DOB application [#140891809](#) Section 11

On, April 28th, 2021, a DOB inspector issued a Stop Work Order for lack of site safety, non-compliance with sidewalk shed plans and no DOB approved plans or permits on site. The SWO ordered only work to secure and clean up the site. DOB inspectors returned on 4/29 and 4/30/21 and issued violations for construction work continuing despite the posted SWO and for debris falling into Ramon Aponte Playground to the west of the building. In all, between 4/27/2021 and 11/8/2021, DOB issued 18 violations for lack of site safety and continuing of work contrary to the SWO resulting in \$56,245 in fines.

On August 27th, 2021, the FDNY responded to fire in the building causing further damage to the illegal demolition from that April. Since April 2021, the building, with its fourth-floor façade and roof removed, has not been temporarily sealed and has been open to the weather. The adjacent building, and its tenants at 341 West 47th Street have been subject to water infiltration and rodents. MCB4 has met with DOB on this matter, requested and received monthly updates from the agency.

Intent and History of Demolition Protections in the Special Clinton District (SCD)

Original 1973 Rezoning

The first Special District in MCB4 was the SCD, established in 1973 as a response to rapid real estate speculation that emerged from a proposed convention center on the west side, which led to the demolition of existing residential buildings and displacement of their tenants. The SCD includes a core Preservation Area in which residential buildings cannot be demolished.

Preservation Area Demolition Prohibition (SCD 96-108)

From 1973 until the late 1980's, no buildings were demolished in the Preservation Area. In 1987, the Durst Organization, the owner of 427-429-431-433 West 43rd Street, filed a series of Building Notices (BN's) for alterations. Those alterations included removing beams in the rear of the building, removing beams in the middle portion of the building, and removing beams in the front of the building. After beams were removed, the façade was not properly supported and was also removed. The sum of the building notices constituted a full demolition. However, in the absence of any zoning language that stated a clear policy on the removal of the structural elements in a building for an alteration, even DOB stop work orders could not prevent an illegal demolition.

20% Threshold for Structural Removal Established by DOB

In response to the actions of that building owner, DOB issued an internal policy memo stating that an alteration which removed 20% or more of the structure in a residential building in the SCD would constitute a partial demolition and would therefore be subject to Special Permit requirements.

1990 Rezoning

In June 1990, as part of ULURP N 900614 ZRM, zoning text incorporating that language from the DOB internal policy memo was incorporated into 96-108, making clear that for a building being subject to alteration:

96-108 (a) 2

(2) is to be substantially preserved and requires an alteration permit *to allow the removal and replacement of 20 percent or more of the #floor area#.*

The City Planning Commission issued a report on the proposed zoning text amendments to reinforce the anti-demolition language for the SCD. As a result of this ULURP, the twenty percent threshold became codified in the Zoning Resolution, which noted that a special permit is required not only for full demolition of residential buildings in the SCD, ***but also for removal and replacement***, of more than 20% of a building.

In its report, the CPC cited testimony from community residents as well as representatives from local organizations and block associations, who believed that “to allow [residential] demolition would undermine the SCD’s goal to maintain rent levels in the area for a mixture of income groups.”

Westside Rezonings in 2005 & 2009

The demolition restriction for residential buildings was extended to the other three Special Zoning Districts in MCD4: Garment Center, Hudson Yards, and West Chelsea. That action protected 1,382 units in 122 buildings.

Compliance with SCD Zoning

Under the zoning regulations noted above, specifically ***96-108 (a) 2***, alteration for removal and replacement of more than 20% of the existing floor area, can be accomplished only with Special Permit granted through public action under that section. Filing for any restoration and enlargements must also comply with all other applicable provisions of the Preservation Area of the SCD.

Appearance by Midtown West 47th St LLC at the January 12th, 2022 CHKLU meeting

Brad Simmons and Kelvin Zou appeared at the above meeting and stated they had Certificate of No Harassment (CONH) from HPD and waited a year prior to starting any demolition of the property. Committee members noted the CONH is another zoning requirement and does not grant the owner the right to demolish a protected building.

Mr. Simmons stated ownership’s intentions was to increase the building height and bulk. He further stated he had no intention to demolish until, as assessed by the engineer, the finding of mold and structural issues. The Committee members responded that no demolition was permitted by zoning regulations in the SCD. Mr. Simmons noted he was an experienced real estate developer. With that knowledge, the Committee members noted that it is standard practice, for real estate developers to do full due diligence zoning regulations affecting property prior to purchase. Limitations on demolitions of buildings located in Special Clinton District are well known with New York real estate community.

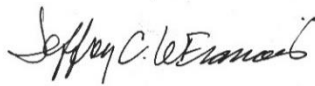
The building was intact and undisturbed during 2018, 2019 and 2020 as evidenced by street view images from Google maps. The condition of the building deteriorated only after the illegal demolition began in 2021, followed by the August fire and then being left open to elements since

that time. Bad conditions, neglect and the owners lack of action to protect the property are self-created and should not create the basis to seek demolition of a protected multiple dwelling.

Community Request

Notwithstanding the above documented actions, at the CHKLU meeting, MCB4 requested that you work with MCB4 and DOB to develop a plan for preservation and redevelopment of 343 West 47th Street in compliance with all the requirements of the SCD. MCB4 noted it will assist the owners in any way possible to achieve that outcome. MCB4 is pleased you met with us on February 4th, 2022, and we look forward to continuing these efforts to resolve this matter.

Sincerely,



Jeffrey LeFrancois
Chair of MCB4 Board



JD Noland
MCB4 Chair
Clinton / Hell's Kitchen Land Use Committee

Enclosure

cc: Constadino Sirakis, First Deputy Commissioner, NYC Department of Buildings
Dan Garodnick, Chair, City Planning Commission
Melanie La Rocca, Chief Efficiency Officer, Mayor's Office
Elke Fears, President, West 47th/48th Streets Block Association

Appendix: Building Conditions

July 2018



June 2019



January 2022

