

CITY OF NEW YORK  
**MANHATTAN COMMUNITY BOARD FOUR**

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Chair

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**JESSE R. BODINE**  
District Manager

February 9, 2022

356 HK LLC  
C/O Chestnut Holdings of New York Inc.  
5676 Riverdale Ave, Suite 307  
Bronx, NY 10471

**Re: 356 West 48th Street  
Ensuring Compliance with Section 96-108  
of the Clinton Special Zoning District**

At Manhattan Community Board 4's (MCB4) Full Board meeting on February 2, 2022, members discussed the continued preservation of 356 West 48<sup>th</sup> Street, a vacant 20-unit residential tenement building which is part of a group of 5 occupied buildings at the corner of West 48<sup>th</sup> Street and Ninth Avenue (692, 694, 696, and 698 Ninth Avenue), with a total of 53 apartments. By a vote of 41 in favor, 0 opposed, 0 abstaining and 0 present but not eligible to vote, MCB4 voted to request you meet with MCB4 to discuss your future plans for both 356 West 48<sup>th</sup> and neighboring buildings, 692, 694, 696, and 698 Ninth Avenue.

**Background**

After decades of ownership by the Mazzella family, operator of Mazzella's Wholesale Fruit Market on Ninth Avenue, you purchased these buildings as the 356 HK LLC on October 29, 2021.

The purpose of this letter is to make sure you are fully informed of zoning requirements of the Clinton Special District regarding demolition, bulk (floor area ratio) and height.

This group of buildings is located in the heart of the Preservation Area of Special Clinton District (SCD) established in 1973 to preserve the residential character of Hell's Kitchen and protect long term community residents.

## **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 43<sup>rd</sup> 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 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.

### **Bulk and Height Provisions and Requirements**

- The building is located in an R8 zone, however the standard R8 FAR<sup>1</sup>, 6.02, if modified by SCD section 96-101, to maximum of 4.2<sup>2</sup>. We bring this matter to your attention, since the real estate offering from Commercial Observer<sup>3</sup>, incorrectly listed the FAR as 6.02, and noted development rights available with the site.
- Height is limited to 66 feet in the midblock and 99 feet on Ninth Avenue. In the midblock height may be increased from 66 feet to 99 feet by a Special Permit under section 96-104. Please be advised that Special Permit 96-104 has only been applied three times since 1973 and only two granted as part of either large scale developments adjacent to West 42<sup>nd</sup> Street Perimeter Area or for fully affordable housing developments.

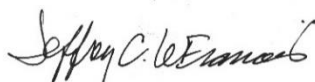
### **Rodent Issues**

MCB4's Office also received a letter from the West 47/48 Block Association reporting and requested help with ongoing rodent and sanitation issues. This same matter was also reported during our meeting by representatives of the adjacent co-op at 352-54 West 48<sup>th</sup> Street. MCB4 also requests your assistance in resolving these issues

### **Community Request**

The Board requests you meet with the Board to discuss the future plans of the buildings to ensure their preservation and proposed redevelopment would be compliant with Clinton Special District zoning.

Sincerely,



Jeffrey LeFrancois  
Chair  
Manhattan Community Board



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

### Enclosure

cc: Adolfo Carrión Jr., Commissioner, NYC Department of Housing Preservation & Development

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<sup>1</sup> [NYC Planning R8 Zoning](#)

<sup>2</sup> [NYC Zoning Resolution Article IX Chapter 6, 96-101](#)

<sup>3</sup> [Commercial Observer, November 9, 2021. Mazzella's Market Buildings Sell for \\$20.6M to Chestnut Holdings.](#)

Constadino Sirakis, First Deputy Commissioner, NYC Department of Buildings  
Dan Garodnick, Chair, City Planning Commission  
Melanie La Rocca, Chief Efficiency Officer, Mayor's Office  
AnnMarie Santiago, Deputy Commissioner for Enforcement and Neighborhood Services  
Elke Fears, President, West 47<sup>th</sup>/48<sup>th</sup> Block Association

**Appendices**

**Appendix A. Group of 5 buildings (June 2021)**



**Appendix B. Building Conditions**

May 2016



October 2017



June 2019



June 2021



January 2022

