



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

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**JEFFREY LEFRANCOIS**  
Chair

**JESSE R. BODINE**  
District Manager

May 2nd, 2023

Meera Joshi  
NYC Deputy Mayor for Operations  
City Hall  
New York, New York 10007

Kazimir Vilenchik  
Acting Commissioner  
NYC Department of Buildings  
280 Broadway  
New York, NY 10007

Dan Garodnick, Chair  
New York City Planning Commission  
120 Broadway  
31st Floor  
New York, NY 10271

**Re: 435 W. 48<sup>th</sup> Street**

Dear Deputy Mayor Joshi, Commissioner Vilenchik, and Chair Garodnick:

On April 20, 2023, the Housing, Health and Human Services Committee discussed 435 West 48<sup>th</sup> Street, a building with 4 residential units in which the entire façade was recently removed. As you know, residential buildings cannot be demolished within the Preservation Area of the Clinton Special Zoning District under 96-108 of the NYC Zoning Resolution. In the past 6 years, there have been multiple instances of illegal demolition in the Special Zoning Districts on the middle westside of Manhattan in Special Zoning Districts where similar zoning text requirements exist including the Special Garment Center, Hudson Yards and West Chelsea.

By a unanimous vote Manhattan Community Board 4's (MCB4) Executive Committee voted to immediately send this letter and request that the Department of Building (DOB)

perform an audit of the work permits issued for the site, and place the building on a watch list for future demolition permit requests.<sup>1</sup>

## **Background**

435 West 48<sup>th</sup> Street is a four-story residential building of 2,510 square feet and 4 dwelling units. The former city-owned building is a renovated Old Law Tenement located midblock between 9<sup>th</sup> and 10<sup>th</sup> Avenues. The building was purchased from the city in 1982, was renovated and received a new Certificate of Occupancy on February 19, 1985. The building was in good condition and the rental apartments were occupied until recently.

435 West 48<sup>th</sup> Street is located in the Special Clinton District (SCD), within the Preservation Area. In December 2018, the owner filed redevelopment plans for a new residential building to replace the current building, even though not permitted under zoning. The 2018 job filing was disapproved and is still shown as “Pending” on DOB’s website; however, in January 2019 (and subsequently amended in May 2020) the owner filed plans to enlarge the building vertically, with major foundation and superstructure work planned. The plans have since been amended twelve (12) additional times, most recently on April 7, 2023.

**This owner having failed to secure a demolition permit has filed a series of alteration to circumvent demolition protections afforded by the SCD, by using multiple applications and post approval amendments to demolish the building step by step.**

## **Intent and History of Demolition Protections in SCD**

### Original 1973 Rezoning

The first Special District in MCB4 was the SCD, which was 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. The SCD included a core Preservation Area in which no residential buildings could 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<sup>2</sup> (BN’s) for alterations. Those alterations included removing beams in the rear of the building, removing beams in the middle portion of the building,

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<sup>1</sup> This letter will be ratified at MCB4’s regular Full Board Meeting on May 3<sup>rd</sup>, 2023.

<sup>2</sup> Building Notices are now known as Alt 2’s

and removing beams in the front of the building. After beams were removed, the façade was not properly supported and 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 of that 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#.<sup>3</sup>

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 report 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.”<sup>4</sup>

### **Proposed Redevelopment**

435 West 48<sup>th</sup> Street lies in an R8 zoning district, which allows a maximum FAR of 4.2 within the SCD’s Preservation Area. On a midblock, the maximum height of any

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<sup>3</sup> Emphasis added

<sup>4</sup> City Planning Commission N 900614 ZRM, dated June 20, 1990.

development is capped at seven stories, or 66 feet, whichever is less. Thus, the maximum developable FAR for the lot is estimated at approximately 6,500 Square feet.

According to the DOB Job Filing, the owner's proposed scope of work would be a partial demolition and 2-story enlargement of the existing multi-family masonry building. Two means of egress are proposed for the building with a bulkhead and private roof terrace, both would be continuous from the rooftop to the cellar, discharging at the street level.

Exterior work would include lowering the existing entry to grade to comply with ADA requirements and a new stone rainscreen veneer on the first four levels of the building, with a limestone finish at the top two levels. The south facade would be altered at the first and second floors to allow for an accessible entry, while keeping the fenestration pattern and size in keeping with the character of the surrounding buildings.

The existing cellar would be reconfigured to allow for two means of egress discharging at street level and non-habitable space for the ground level apartment. A private rooftop deck with a convenience ships ladder stair would be included for the sixth floor unit.

### **DOB Response**

When contacted by Councilmember Erik Bottcher's office on April 20, 2023, DOB indicated that the approved façade removal alteration for 435 West 48<sup>th</sup> Street did not include the removal and replacement of 20 percent or more of the floor area and therefore was not subject to a Special Permit. However, the 1990 CPC report clearly states that Section 98-108 (a) 2 applies to removal and replacement of more than 20% of a building's floor area. Furthermore, pursuant to Section 98-108, 435 West 48<sup>th</sup> Street was not deemed unsafe by DOB and therefore cannot be demolished legally under those grounds.

### **MCB4 Request**

MCB4 has seen demolition applications filed and/or approved for 13 sites encompassing 174 residential units in our district. Many of these buildings have subsequently received DOB Stop Work Orders. Owners of these locations have sought to evade the zoning requirements of each of our four Special Zoning Districts that are meant to preserve affordable, rent stabilized housing. In some of these cases, owners have sought other methods to demolish this housing, such as 435 West 48<sup>th</sup> Street.

From the attached list of demolished or partially demolished residential buildings, it is clear that DOB needs to implement an electronic system to flag residential buildings that are protected from demolition. The agency must implement an electronic system through which residential buildings protected from demolition can be marked as such at every level of review—from to 311 complaints to job filings. A flagging system for buildings that are protected from demolition is both an achievable and effective tool to prevent future demolitions.

Given the owner's original filing for demolition, it is clear that the owner is planning to circumvent zoning and housing protections, and requests that DOB work with the Board to ensure that SCD regulations are enforced at this location. Toward that end, MCB4 requests:

- A DOB Stop Work Order on 435 W48th Street to be in place until DOB audit of all job filings at 435 West 48<sup>th</sup> Street since 2018 has been conducted
- DOB disclose the audit findings to the Board once complete.
- MCB4 requests that 435 West 48<sup>th</sup> Street be placed on a watch list for all future job filings.

Thank you for consideration and attention to this serious matter.

Sincerely,



Jeffrey/LeFrancois  
Chair  
Manhattan  
Community Board 4



Joe Restuccia  
Chair  
Housing, Health, Human Services  
Committee



Maria Ortiz  
Chair  
Housing, Health, Human Services  
Comittee

Enclosure:

2022:

- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2022/02/09-CHKLU-Letter-to-HPD-DOB-re-412-W.-46th-St.pdf>

2019:

- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/02/02-Joint-CLU-and-HHHS-Letter-to-Speaker-Johnson-re-500-W.-28th-St.-Related-Company-Demo-Affordable-Housing-Project.pdf>
- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/02/02-CHKLU-Letter-to-DOB-re-MCB4-Meeting-on-Special-District-Demolition-Text.pdf>
- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/02/12-CHKLU-Letter-to-HPD-and-DOB-re-317-319-W.-35th-Street-Development.pdf>
- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/02/13-CHKLU-Letter-to-HPD-and-DOB-re-319-321-W.-38th-Street-Development.pdf>
- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/02/14-CHKLU-Letter-to-DOB-re-New-Building-Applications-in-Special-Districts.pdf>
- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/02/02-CHKLU-Letter-to-DOB-re-MCB4-Meeting-on-Special-District-Demolition-Text.pdf>
- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/02/03-CHKLU-Letter-to-DOB-re-319-321-W.-38th-St.-317-319-W-35th-Street.pdf>

2018:

- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/02/29-CHKLU-Letter-to-DOB-re-355-357-W.-39th-Street-Buildings-w.-attachment.pdf>
- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/02/30-CHKLU-Letter-to-DOB-HPD-DCP-re-319-321-W.-38th-Street-Buildings.pdf>

2017:

- [https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/downloads/pdf/february\\_2017/12\\_exec\\_letter\\_to\\_dcp\\_hp\\_d\\_re\\_demolition\\_restriction\\_provision\\_zoning\\_text\\_2117.pdf](https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/downloads/pdf/february_2017/12_exec_letter_to_dcp_hp_d_re_demolition_restriction_provision_zoning_text_2117.pdf)
- [https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/downloads/pdf/june\\_2017/19\\_letter\\_to\\_dob\\_and\\_hpd\\_re\\_253\\_10th\\_ave.\\_illegal\\_demo.pdf](https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/downloads/pdf/june_2017/19_letter_to_dob_and_hpd_re_253_10th_ave._illegal_demo.pdf)

- [https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/downloads/pdf/09\\_chklu\\_letter\\_to\\_dob\\_re\\_335\\_337\\_west\\_55\\_demo.pdf](https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/downloads/pdf/09_chklu_letter_to_dob_re_335_337_west_55_demo.pdf)
- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/03/12-CLU-Letter-to-DOB-and-HPD-re-500-West-22-redesign-REVISED.pdf>
- [https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/downloads/pdf/january\\_2017/16\\_chklu\\_letter\\_to\\_dob\\_re\\_355-357\\_w39\\_st\\_illegal\\_demolition\\_of\\_residential\\_buildings.pdf](https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/downloads/pdf/january_2017/16_chklu_letter_to_dob_re_355-357_w39_st_illegal_demolition_of_residential_buildings.pdf)

2016:

- [https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/downloads/pdf/Resolutions/january\\_2016/16\\_exec\\_letter\\_to\\_dob\\_re\\_319-321\\_west\\_38\\_st\\_demolition\\_finalcompressed.pdf](https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/downloads/pdf/Resolutions/january_2016/16_exec_letter_to_dob_re_319-321_west_38_st_demolition_finalcompressed.pdf)
- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/03/22-CLU-Letter-to-DOB-re-559-West-22nd-Street-FINAL.pdf>
- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/03/28-EXEC-Letter-to-Mayor-re-Harassment-and-Demo-Protections-FINAL.pdf>
- [https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/downloads/pdf/Resolutions/june\\_2016/21\\_chklu\\_letter\\_to\\_dob\\_re\\_821\\_9\\_ave\\_final.pdf](https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/downloads/pdf/Resolutions/june_2016/21_chklu_letter_to_dob_re_821_9_ave_final.pdf)
- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/03/22-CHKLU-Letter-to-DOB-re-400-West-56th-Street-A-FINAL-WITH-ATTACHMENT.pdf>
- <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2020/03/33-New-Biz-Letter-to-DOB-re-317-319-W-35-Street-FINAL.pdf>
- [https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/downloads/pdf/november\\_2016/18\\_hhhs\\_letter\\_to\\_dob\\_re\\_500\\_w\\_28\\_streetfinalenclosures.pdf](https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/downloads/pdf/november_2016/18_hhhs_letter_to_dob_re_500_w_28_streetfinalenclosures.pdf)
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cc: Owners of 435 West 48<sup>th</sup> Street  
 Hon. Jerry Nadler, U.S. Congress  
 Hon. Brad Lander, New York City Comptroller  
 Hon. Alvin Brag, Manhattan District Attorney  
 Hon. Mark Levine, Manhattan Borough President  
 Hon. Brad Hoylman-Sigal, New York State Senate  
 Hon. Tony Simone, New York State Assembly  
 Hon. Linda Rosenthal, New York State Assembly  
 Hon. Erik Bottcher, New York City Council  
 Hon. Gale Brewer, New York City Council