



CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD FOUR

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JESSICA CHAIT
Chair

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District Manager

December 3, 2024

James Oddo
Commissioner
New York City Department of Buildings
280 Broadway
New York, NY 10007

**Re: 435 West 48th Street
History of Illegal Demolition & Replacement with New Building**

Dear Commissioner Oddo,

At Manhattan Community Board 4's (MCB4) Clinton/Hell's Kitchen Land Use (CHKLU) Committee meeting on October 10th, 2024, the Committee discussed the active demolition and building replacement at 435 West 48th Street.

At its regularly scheduled Full Board meeting on November 6, 2024, MCB4 voted 37 in favor, 0 opposed, 0 abstaining, and 0 present but not eligible, to reiterate the requests of the Board's letter of May 2, 2023¹, which are as follows:

- A DOB Stop Work Order to be placed on 435 West 48th Street until a DOB audit of all job filings at 435 West 48th Street since 2018 is conducted.
- DOB discloses the audit findings to MCB4 once completed.
- 435 West 48th Street and their contractors be placed on a watch list for all future job filings.
- DOB implements an electronic system to flag all residential buildings protected from demolition.

¹ [5.2.2023 MCB4 Letter to DOB, DCP, and Mayors Office re Demolition of West 48th Street](#)

Given the ongoing demolition occurring at 435 West 48th Street, MCB4 further requests the following:

- DOB improve interagency communication between DOB and HPD to avoid the granting of permits for alteration or demolition to owners/developers of a building that is protected from demolition under ZR 96-107 of the Special Clinton District.

Background

435 West 48th Street is a 4-story pre-old law tenement, with 4 apartments. It was masonry and wood joist construction, with single entry and public hall stairs, fire egress was provided by a fire escape on the rear façade. In the early 1980's, it had been a vacant city owned building, sold for owner occupancy in 1982 with a \$60,000 enforcement mortgage. Those joint owners gut-renovated the building and maintained ownership until August 23, 2018, when it was sold to LLS Number LLC, which on August 28, 2018, transferred to another LLC with the same principals. The building was in good condition and the rental apartments were occupied until recently. 435 West 48th Street is located within the Preservation Area in the Special Clinton District (SCD) and is therefore subject to both anti-harassment protections under NYC ZR 96-109 and anti-demolition protections under NYC ZR 96-107.

In December 2018, the owner filed redevelopment plans for a new residential building to replace the current building, even though demolition is not permitted under NYC ZR 96-107. The 2018 job filing was disapproved and is still shown as "Pending" on DOB's website. Then, after that disapproval, in January 2019² the owner filed plans to enlarge the building vertically, with major foundation and superstructure work planned. Please note however, since May 2020, those plans have been amended nineteen (19) additional times, most recently on September 20, 2024.

The sum of those amendments has resulted in a full demolition of 435 West 48th Street. This owner, having failed to secure a demolition permit, continued and has continued to file a series of alterations to circumvent demolition protections under NYC ZR 96-107 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 owner of 427-429-431-433 West 43rd Street filed a series of Building Notices³ (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 the beams were removed, the façade was not properly supported and also removed. The

² Subsequently amended in May 2020

³ Building Notices are now known as Alt 2's

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#.⁴

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.”⁵

Proposed Redevelopment

435 West 48th Street lies in an R8 zoning district, with a capped maximum FAR of 4.2 within the SCD’s Preservation Area. On a midblock, the maximum height of any development is capped at seven stories, or 66 feet, whichever is less. The lot area is 2,510 square feet; thus, the maximum size of the proposed development is approximately 10,500 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

⁴ Emphasis added

⁵ City Planning Commission N 900614 ZRM, dated June 20, 1990

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 48th 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 48th Street was not deemed unsafe by DOB and therefore cannot be demolished legally under those grounds.

MCB4 Request

When MCB4 addressed this situation in May 2023, the Board requested the following from DOB:

- A DOB Stop Work Order to be placed on 435 West 48th Street until a DOB audit of all job filings at 435 West 48th Street since 2018 is conducted.
- DOB discloses the audit findings to MCB4 once completed.
- 435 West 48th Street and their contractors be placed on a watch list for all future job filings.
- DOB implements an electronic system to flag all residential buildings protected from demolition.

The Board was alerted that illegal demolition continues at 435 West 48th Street and voted to write this letter reiterating the initial requests. Further, MCB4 now requests that a Full Stop Work Order be placed on the property, and that DOB improve interagency communication between DOB and HPD to avoid the granting of permits for alteration or demolition to owners/developers of a building that is protected from demolition under ZR 96-107 of the Special Clinton District.

Sincerely,



Jessica Chait
Chair
Manhattan Community Board 4



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



Paul Devlin
Co-Chair
Clinton/Hell's Kitchen Land Use

Enclosure

CC: Hon. Erik Bottcher, NYC Council Member
Hon. Mark Levine, Manhattan Borough President
Hon. Eric Adams, NYC Mayor

Attachment A – Photos of Site
Front of Building



Rear of Building

