



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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NYC Department of Buildings
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NYC Department of Housing Preservation and Development
100 Gold Street
New York, NY 10038

Carl Weisbrod,
Chair
City Planning Commission
22 Reade Street
New York, NY 10007

June 21, 2016

**Re: 821 Ninth Avenue (Block 1064 Lot 31)
Illegal Demolition of Protected Building**

Dear Commissioner Rebholz:

At Manhattan Community Board 4's (MCB4) May 11, 2016 Clinton/Hell's Kitchen Land Use meeting, members discussed 821 Ninth Avenue, a building located in the heart of the Clinton Special District (CSD). This building has been demolished by the owner through a series of Department of Buildings (DOB) filings masquerading as Type II alterations by the owner. In the midst of these filings, the owner also filed a DS1, a Demolition Submittal Certificate Form, which was accepted by DOB on April 25, 2013¹.

This building adds to the list of buildings in Community District 4 for which owners have undertaken illegal demolitions that are not in compliance with the City's Zoning Resolution. For the last several months, MCB4 has written to DOB amid growing concern over the lack of oversight and enforcement of demolition prohibitions in MCB4's Special Zoning Districts. This latest example has further added to our concern. It is one thing for an owner to attempt to circumvent the provisions of the Zoning Resolution; **it is another thing for DOB to accept a**

¹ See Attachment A – DS1 Form Dated April 25, 2013

Demolition Submittal for a building in an area in which demolition has been expressly prohibited since 1973. This lack of enforcement of the demolition prohibition has affected every Special District in the CD4—West Chelsea, Hudson Yards, Garment Center, and Clinton.

By a vote of 41 in favor, 0 opposed, 0 abstaining and 0 present but not eligible to vote, MCB4 voted to request that the following:

- An immediate Stop Work Order on the site
- A DOB audit of all applications submitted for this building
- DOB enforcement of Section 96-108 of the Zoning Resolution
- A meeting with DOB to discuss strategies to prevent the illegal demolition of buildings within our district as well as sanctions that DOB can take against building owners who violate the Zoning Resolution

Background

821 Ninth Avenue was a four story residential building that contained six apartments. The building is located in the Special Clinton District and is within the Preservation Area. In January 2012, the building was sold to Joe G & Sons LLC. Shortly after purchasing the building, the new owner filed a series of DOB job applications related to the addition of two stories, the extension of a commercial space on the first floor, and the addition of an elevator. During construction, the owner covered the façade of the building with netting in a manner that made it impossible to be seen from the street. In May 2016, part of the netting covering the building had become loose, revealing that over the course of over two years of construction, the building had been demolished. There was no front façade or rear wall, all wood joists had been removed, and a new steel structure had been put in its place.

Prior to this illegal demolition, this building was a fully occupied, five story brick and wood joist tenement with some rent regulated tenants.

Non-Zoning Compliant Illegal Demolition

Because the scope of work included the addition of two floors as well as the addition of five units, any professionals submitting forms to HPD should have disclosed that the proposed work would entail:

- A change in the number of dwelling units
- A change in occupancy
- A change that is inconsistent with current Certificate of Occupancy
- A change in the number of stories

Therefore, because the building is located in the Preservation Area within the Clinton Special District, this work is subject to a Certificate of No Harassment (CONH) through an HPD2 form, which is the Special Clinton District Anti-Harassment Checklist. The form should have been submitted by the owner and stated that the building is located within the Preservation Area of the Clinton Special District.

DOB Filings

Beginning in May 2012, all job applications submitted in relation to 821 Ninth Avenue have either neglected to address questions about the impact of the scope of work, or misstated the impact of the work. These filings are summarized below:

Job No.	Date	Description	False Statements/Omissions
121183600	5/23/12	Addition of two floors and extension of commercial space in first floor; addition of an elevator	<ul style="list-style-type: none">• <u>PW1</u>: Stated work was a Type 3 alteration; did not state impact on dwelling units, occupancy, Certificate of Occupancy, or number of stories• <u>HPD2</u>: Not submitted
121388765	9/27/12	Probes and test pit to determine structural conditions for elevator and floor additions	<ul style="list-style-type: none">• <u>PW1</u>: Stated work was a Type 2 alteration; did not state impact on dwelling units, occupancy, Certificate of Occupancy, or number of stories• <u>HPD2</u>: Filed HPD1 form; stated that material alteration was not part of scope
140126799	10/22/13	Installation of pipe scaffold	<ul style="list-style-type: none">• <u>PW1</u>: Stated work was a Type 3 alteration; did not state impact on dwelling units, occupancy, Certificate of Occupancy, or number of stories• <u>HPD2</u>: Not submitted
140126806	10/23/13	Installation of sidewalk shed	<ul style="list-style-type: none">• <u>PW1</u>: Stated work was a Type 3 alteration; did not state impact on dwelling units, occupancy, Certificate of Occupancy, or number of stories• <u>HPD2</u>: Not submitted

Illegal Demolition Submittal

In May 2016, local residents noticed that a new steel structure was entirely replacing the original structure². Previously, the extent of change in the building was not visible from the street. For years, the site had been covered by scaffolding and netting. A Google Streetview image demonstrates that the building was once a 4 story structure³. Today, the entire façade of the building has been removed, along with the back wall. The owner has placed a new steel structure in the building and all that remains of the original building are the side walls.

Section 96-108 of the Zoning Resolution states the following⁴:

96-108

Demolition of buildings

No demolition permit or alteration permit for partial demolition involving a decrease of more than 20 percent in the amount of #residential floor area# in a #building# shall be issued by the Department of Buildings for any #building# containing #dwelling units# within the Preservation Area, unless it is an unsafe

² See Appendix B - Photograph of 821 9th Avenue, dated May 6, 2016

³ See Appendix C: Google Streetview Image, dated September 2011

⁴ Emphasis added

#building# and demolition is required pursuant to the provisions of Title 28, Chapter 2, Article 216 of the New York City Administrative Code.

However, the City Planning Commission, by a special permit, may allow demolition of #buildings# containing #dwelling units# or #rooming units# other than unsafe #buildings# within the Preservation Area, provided that the Commission makes the following findings:

MCB4 research later found that on April 25, 2013, the owner submitted a Demolition Submittal Certificate form⁵. The issuing of this certificate, in conjunction with a series of PW1 forms that proclaim no change in units, occupancy, or the number of stories, exposes the lack of oversight that allowed this building to be demolished.

Lack of DOB Response

On May 9, 2016, under Complaint # 1423343, submitted by MCB4, DOB issued a partial stop work order, which applied only to the 6th floor of the building. DOB noted that the work on the 6th floor did not conform to the plans submitted by the owner. On June 9, 2016, the stop work order had been fully rescinded, with the inspector noting that the “work performed substantially conform[ed] to [the] approved plan[s]” and that “no unsafe condition[s] [were] observed at the time of inspection.”

This building should have received an immediate stop work order, affecting all of its open applications. Instead of rectifying a situation in which a building has been illegally demolished, DOB seems to be focused only on whether or not work performed on site conforms to plans submitted by the owner. **There are bigger issues at hand. A building cannot be in compliance when it has been demolished in spite of being protected under the Special Clinton District Zoning, specifically Section 96-108 which states that “No demolition permit or alteration permit for partial demolition... shall be issued by the Department of Buildings for any #building# containing #dwelling units# within the Preservation Area, unless it is an unsafe building.”**

Conclusion

Since December 2015, MCB4 has identified nine buildings encompassing 90 apartments—all of which were protected from demolition—that received DOB approval for either demolition or a series of alterations, the sum of which resulted in demolition. This Board remains gravely concerned that there are many more buildings that are following the same trend. MCB4 continues to call for improved DOB oversight in order to ensure that jobs under false filings are not approved.

This Board requests that DOB enforce the demolition protections stated in the Special Clinton Zoning text, as it has diligently done since 1973.

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
D. Rand, HPD
E. Hsu-Chen, DCP
K. Grebowiec-Hall, DCP



DS1: Demolition Submittal Certification Form

Orient and affix BIS job number label here

121183600

Demolition drawings must be submitted along with this form.

BIS Document No., required: 01

1 Location Information *Required for all certifications.*

House No(s) 821 Street Name 9TH AVE
 Borough MANHATTAN Floor(s) 01, 02, 03, 04, CELL, ROF

2 Preparer Information *Required for all certifications.*

Check all that apply: PW1 Applicant P.E./R.A. Other Than PW1 Applicant

Last Name SHAH First Name ABBAS Middle Initial A
 Business Name EMPIRETECH CONSULTING ASSOCIATES Business Telephone (212)695-5050
 Business Address 505 8TH AVENUE, SUITE 2202 Business Fax (206)350-4541
 City NEW YORK State NY Zip 10018 Mobile Telephone (917)682-2355
 License Type P.E. R.A. Other: License Number 063437

3 Demolition Description and Certification *Required prior to permit. Subsequent revisions must be submitted to the Department.*

Indicate Submittal Type: Initial submittal Supersede existing submittal(s) - indicate scan code(s) of DS1 being superseded below
 Scan Code(s):

3A Demolition Type: Full Demolition (DM) Partial Demolition (Alteration)

3B Demolition work will involve, per BC 3306.5 (authorized preparers indicated in parenthesis): *Check all that apply*

- Non-mechanical demolition means and methods **only** (P.E. or R.A. only) - **stop and proceed to section 3C**
- Use of hand-held mechanical equipment (P.E. or R.A. only) Work on interior of building
- Use of other than hand-held mechanical equipment (P.E. only) Work on exterior of building

General description of the type(s) of mechanical demolition equipment used:

3C If superseding a previous plan submittal, indicate scan code(s) of the A11: (Note: any revisions/additions/deletions to the original plan submission must be accompanied by an A11 form detailing all plan changes)

3D Statement by demolition document preparer:

I have prepared the attached demolition submittal documents in accordance with BC 3306 and certify that they are in compliance

I hereby state that all of the above information is correct and complete to the best of my knowledge. Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both. It is unlawful to give to a city employee, or for a city employee to accept, any benefit, monetary or otherwise, either as a gratuity for properly performing the job or in exchange for special consideration. Violation is punishable by imprisonment or fine, or both.

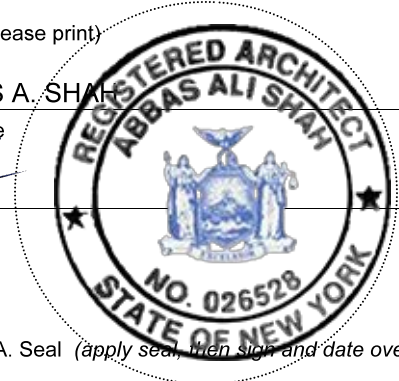
Name (please print)

ABBAS A. SHAH

Signature

Date

04/25/13



P.E. / R.A. Seal (apply seal, then sign and date over seal)

APPENDIX A – Pictures of 821 9th Avenue, dated May 6, 2016



APPENDIX A – Pictures of 821 9th Avenue, dated May 6, 2016



APPENDIX A – Pictures of 821 9th Avenue, dated May 6, 2016



APPENDIX C – Google Streetview Image of 821 9th Avenue, dated September 2011

