



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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COREY JOHNSON
Chair

ROBERT J. BENFATTO, JR., ESQ.
District Manager

October 18, 2011

Robert LiMandri
Manhattan Borough Commissioner
Department of Buildings
280 Broadway, 7th Floor
New York, NY 10007

**Re: 354 West 45th Street
Continued Use of the Not-for-Profit 45th Street Theater**

Dear Commissioner LiMandri:

At the last Full Board meeting of Manhattan Community Board 4 (CB4), on October 5, 2011, the Board discussed the continued use of the ground floor of 354 West 45th Street as a not-for-profit theater space and the proposal by the Emerging Artists Theatre Company (EATC) to enter into a long-term lease for the space. The negotiations for the long-term lease raised issues regarding the Certificate of Occupancy (CO) for the building. CB4 requests that the Department of Buildings (DOB) allow continued use of the ground floor of 354 West 45th Street as a live theatrical performance venue of up to 99 seats.

45th Street Theater and the Emerging Artists Theatre Company

The 45th Street Theatre has a 30 year history of providing valuable performance space to generations of actors, writers, directors and designers in Manhattan Community District 4. EATC, tenant of the 45th Street Theater, is now entering its 20th Season of regularly scheduled productions. EATC's mission is to provide a dynamic home for emerging writers and artists, providing the unique opportunity for playwrights to collaborate with directors, actors, and designers throughout the development process.

Certificate of Occupancy Issues

For several months, EATC has been working towards finalizing a long-term lease on the 45th Street Theatre. During EATC's lease negotiations, it was discovered that the current CO does not allow for theater and performance usage. In fact, the current CO, issued in 1959, only provides for the use of a recording studio for up to 20 people and an advertising office. A previous CO, issued in 1955, allowed for occupancy of 100 people in meeting rooms on the first floor.

EATC's Board of Directors have decided to enter into a long-term lease once the CO issue has been resolved and live theatrical performances with a 99 seat capacity are legally allowed at the space. EATC

and the building's owner are ready to commit the financial resources necessary to renovate and restore the first floor of this recently neglected performance space.

Partial Certificate of Occupancy

The problem currently confronting EATC and the owner is whether the New York City Department of Buildings (DOB) will allow the current CO to be amended to include theater usage on the **first floor only**. If DOB requires the **entire** building's CO to be updated in order to allow for theatrical use on the first floor, the owner has stated his unwillingness to commit the necessary resources to incorporate the changes needed to permit performance throughout all six floors of the building.

An expediter has been hired by EATC to prepare plans for DOB in order to receive a determination in the next few weeks as to how the first floor can move forward in obtaining CO. It is the belief of EATC and the 45th Street Theater that the plans submitted will successfully allow for the amendment of the current CO to include performance space on the first floor, under §28-118.16.1 of the NYC Administrative Code, as follows:

“§28-118.16.1 Partial certificate of occupancy. A partial certificate of occupancy may be issued to a specific floor or floors of an existing building erected prior to January 1, 1938 subject to the following conditions:

1. The building does not have and is not otherwise required to have a certificate of occupancy or certificate of completion, if applicable.
2. The floor or floors for which a certificate of occupancy is issued shall not constitute more than 50 percent of the gross floor area of the building.
3. The building is of noncombustible construction and protected with an automatic sprinkler system.
4. Adequate means of egress are provided from all floors.
5. Upon inspection, the building is deemed safe for occupancy.”

According to the DOB website, alterations at 354 West 45th Street date back to 1923.

CB4 is concerned that due to the deteriorating financial conditions confronting many independent theater companies in New York City, few performing arts organizations have the financial ability and experience to maintain a theater space of this size. CB4 believes EATC has the necessary experience, history and qualifications to maintain a long-term lease on this performance venue.

Sincerely,



Corey Johnson
Chair
Manhattan Community Board No. 4

cc: All Local Electeds
Owner - 45th Street Theater
Virginia Louloudes - ART/NY