



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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District Manager

November 13, 2007

Ms. Laura Lazarus
Deputy Commissioner for Development
Department of Housing Preservation and Development
100 Gold Street
New York, NY 10038

Re: Lower Income Housing Plan Application by River Place II LLC – 600 West 42nd Street

Dear Ms. Lazarus:

At the recommendation of its Clinton/Hell's Kitchen Land Use Committee, Manhattan Community Board No. 4 recommends disapproval of the Lower Income Housing Plan Applications by River Place II LLC for its project at 600 W. 42nd Street unless it is resubmitted with changes. The vote was unanimous.

THE PROJECT

The applicant is now constructing an 1169 unit 80/20 building with two residential towers, each containing approximately 58 floors on top of a common base.

235 of the rental units will be permanently reserved for families earning no more than 50% and 40% of Area Median Income in order to qualify for an offsite inclusionary bonus in another (and as yet unidentified) development project in Community District 4. The project is receiving tax exempt financing from the New York State Housing Financing Agency.

OUR COMMENTS

1. The low-income units must be more widely distributed throughout the rental floors.

The inclusionary housing text of the Zoning Resolution requires that “[d]welling units# designated as #lower income housing# shall be distributed throughout the #development# [emphasis added]. No #story shall contain more than two such units unless at least 80 percent of all #stories# contains two such units.” (ZR 23-951(b))

In this project, the applicant seeks to distribute the low-income units in the bottom 60% of each of the tower, in accordance with HFA's less stringent interpretation of the comparable

distribution requirement applicable 80/20 projects. In order to be truly inclusive, the low-income units must be more widely distributed throughout the residential towers.

The applicant argues that ZR 23-951(b) does not apply to off-site inclusionary projects such as River Place II. We believe that the clear intent of the inclusionary housing rules in the Zoning Resolution is to require low income units to be distributed throughout a development regardless of whether the resulting inclusionary bonus will be used on- or off-site. We urge you to pursue a zoning text amendment to make this clear.

2. Some of the low-income units should be combined to create larger units.

A healthy neighborhood needs families and families need bigger apartments. Yet, 81% of the low-income units in this project are planned to be studios and 1 bedroom units, attracting a more transient population than this community desires. We urge you to explore with the developer and with the New York State Housing Finance Agency ways in which some of the smaller units could be combined to create larger units.

3. The Administering Agent must be an independent not-for-profit organization, and this requirement must be included in the restrictive declaration.

The applicant proposes that the applicant itself, the for-profit developer of the building, will be the Administering Agent responsible for ensuring compliance with the lower income housing plan. The applicable definition of “Administering Agent” in Section 23-93 of the Zoning Resolution allows this to happen only in “Inclusionary Housing designated areas,” which are identified in Section 23-922. The project site is in the Special Clinton District, which not in an “Inclusionary Housing designated area.”

Section 23-93 of the Zoning Resolution provides:

“The #administering agent# shall be a not-for-profit organization . . . However, in #Inclusionary Housing designated areas#, the Commissioner may approve an entity that is responsible for compliance monitoring pursuant to City, State or federal funding sources, to serve as the “administering agent# during such compliance period.”

Thus, the applicant is not eligible to act as its own Administering Agent. This Board believes that only an independent not-for-profit organization unmotivated by the owner's interest in maximizing profitability can adequately ensure compliance with the lower income housing plan.

4. The value of the future off-site inclusionary housing bonus should be considered a funding source for HFA underwriting purposes.

The inclusionary housing bonus generated by this project will amount to approximately 774,000 square feet of development rights¹, which will be sold by the applicant in the future for use in a

¹ According to the plans submitted with the application, the towers will include 967,841 sq. ft. of residential floor area. If 20% of the residential floor area, or 193,568 sq. ft., will be inclusionary housing, the amount of the bonus, calculated at the bonus rate of 4:1 for off-site new construction, is 774,272 sq. ft.

separate project. With such development rights now being sold at approximately \$220 per square foot, this represents a value to the developer of approximately \$170 million. This should have been considered a source of funding for purposes of determining the amount of the HFA bond financing.

This application demonstrates once again the aggressive use developers will seek to make of the Inclusionary Housing Program in this still over-heated development environment. While we are pleased that they will produce so many additional units of permanent affordable housing, HPD must be similarly aggressive in insisting that the policies underlying the Inclusionary Housing Program are not compromised, and that quality affordable housing is produced of which we can all be proud.

Many thanks for your attention.

Sincerely,



Jean-Daniel Noland
Chair



Anna Hayes Levin, Chair
Clinton/Hell's Kitchen Land Use Committee

Cc: Larry Silverstein, River Place II LLC
Kenneth K. Lowenstein, Bryan Cave LLP
electeds