



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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District Manager

Housing, Health and Human Services

Item #: 26

December 11, 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 Glenwood Management Corp. –
310-328 West 38th Street**

Dear Ms. Lazarus:

At the recommendation of its Housing, Health and Human Services Committee, Manhattan Community Board No. 4 recommends disapproval of the Lower Income Housing Plan Application by Glenwood Management Corp. for its project at 310-328 West 38th Street unless it is resubmitted with changes.¹ The vote was . . .

THE PROJECT

The applicant, Glenwood Management Corp., is planning two 24-story residential towers, with 569 units of which 120 are affordable units on West 38th Street between Eight and Ninth Avenues, on a site that is in Area P-2 of the Special Garment Center District. The basic maximum FAR for the site is 6.5, which the applicant seeks to increase to a maximum of 12 pursuant to the Hudson Yards Inclusionary Housing Program and a payment to the District Improvement Fund.

According to the application, 20% of the units will be permanently reserved for families earning equal to less than 80% of Area Median Income. The mix of the affordable units

¹ There are two alternative plans for two 24-story residential towers– one “with zoning change” and one “without zoning change”. The “with zoning change” building has submitted its plans in separate applications to the Department of City Planning. Thus, the Board’s comments do not take into account the zoning application to amend the Zoning Resolution to modify the street wall regulations of section 121-32 to allow recesses in the building wall or the separate application requesting a special permit for a public parking garage of 400 spaces. These applications will be reviewed by the Clinton/Hell’s Kitchen Land Use Committee of Manhattan Community Board Four at a later date.

in either plan consists of 21 studios, 67 one-bedrooms and 33 two-bedrooms. The project is receiving tax exempt financing from the New York State Housing Finance Agency.

OUR COMMENTS

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

A healthy neighborhood needs families and families need bigger apartments. Yet, 73% of the low-income units in this project are planned to be studios and one-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 proposed studios could be combined to create larger units.

2. Building amenities must be generally available to all tenants.

In the presentation to the Housing, Health and Human Services Committee, the applicant's representatives indicated that the project would include a health club, children's playroom, screening room, and swimming room terrace, which would be available to all tenants for an annual charge. These amenities must be available to low-income tenants at an affordable rate. Creating a rate structure not affordable to all building tenants is exclusive and discriminatory.

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.

Section 93-231 of the Zoning Resolution provides:

“The #administering agent# shall be a not-for-profit organization . . . However, 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.”

There is no information in the application about the applicant's ability to serve as Administering Agent or the compliance monitoring that it may be responsible for. The applicant must not be approved as the Administering Agent unless this case is made. This Board believes – as it has written in prior letters - 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, but accepts that the Hudson Yards Inclusionary Program currently reflects a different conclusion.

If the applicant is approved as the Administering Agent, that approval must only last as long as the compliance period. To ensure that this provision is enforced, we suggest including it in the restrictive declaration required by Section 23-95(e) of the Zoning Resolution.

4. Apartment finishes must be equal for lower income and market rate units.²

In the presentation to the Housing, Health and Human Services Committee, the applicant's representatives indicated that the project would include difference apartment finishes between low income units and market units, for example:

Item	Low Income Finish	Market Finish
Flooring	Carpet	Wood
Kitchen Countertops	Plastic Laminate	Stone
Bathroom Floors & Walls	Ceramic Tile	Stone

The public policy followed by the developer and the government agency should be "equality of treatment". Meaning all persons are treated the same by the organization of interest. No two people are treated differently. Impartiality and fairness are both accepted by all parties, because preference is neither given to nor taken from. Such a policy is often a feature of a democratic government.

These apartments will be permanently affordable, through the Inclusionary Housing Program, and they should be inclusive not only fully distributed throughout the buildings, but also in quality and apartment finish. The future tenants of the affordable units are not second class citizens.

The only reason a great number of additional market units can be built on this site, is directly related to the Inclusionary Housing Bonus. The Inclusionary Apartments must be built to the same construction standard as the entire building. This approach of a second tier of quality is redolent of lack of fully integrated distribution of affordable units throughout a building.

Multiple development teams have justified this approach with the following response: "That is the normal practice in 80/20 financing". Please note the response is practice not requirement or financing guideline. In the Hudson Yards & West Chelsea Rezoning, Manhattan Community Board #4 agreed to with the Department of City Planning and the

² At a December 21, 2007 meeting with NYC HPD, Glenwood Development, and Manhattan Community Board Four, representatives from Glenwood agreed to the premise that all finishes and furnishings would be the same. We keep the following position in this letter as a statement of principal that the Board will apply to all past, present, and future applicants.

Department of Housing Preservation and Development that the majority of affordable housing production would be through expansion of the Inclusionary Housing Program.

The purpose was to ensure as development proceeded, these neighborhoods would remain diverse and integrated, both socially and economically. We did know that the soft, unwritten practices of the 80/20 financing program administered by New York State Housing Finance Agency would now constitute programs guidelines for HPD's vastly expanded Inclusionary Housing Program.

The Board cannot approve of such blatant differences in quality and seriously questions the reasoning behind them. The effect such differences can have, especially on children within the apartment complex, who will go from one unit to another based on relationships formed, would seem to far out way any minimal cost to furnishing all units the same – as many other successful developers do.

In addition, as already mention this project is financed by the New York State Housing Finance Agency and their rules say: "the average quality standard must be the same for Low Income Units as for the Market Rate Units unless the Agency approves additional or modified amenities which cause the Market Rate Units to be above the average quality standard of the Low Income Units" (emphasis added); Title 21, Section 2188.5(p)(2). There are no modifications or additions here so the quality must be the same.

CONCLUSION

These applications demonstrate 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
Manhattan Community
Board No. 4

[signed 12/11/07]

Sarah Desmond
Co-Chair
Housing, Health & Human
Services Committee



Joe Restuccia
Co-Chair
Housing, Health & Human
Services Committee

Cc: Glenwood Management Corp.
Kenneth K. Lowenstein, Bryan Cave
Electeds