



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036
tel: 212-736-4536 fax: 212-947-9512
www.ManhattanCB4.org

JEAN-DANIEL NOLAND
Chair

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

March 6, 2009

Deborah Glikin, Assistant General Counsel
New York City Department of Buildings
General Counsel's Office
280 Broadway, 7th Floor
New York, New York 10007

Re: Comments on Public Review and Implementation: Proposal to add Sections 105-03 and 105-04 to Chapter 100 of Title 1 of the Rules of the City of New York

Dear Ms. Glikin:

Manhattan Community Board 4 at its March 4, 2009 full board meeting approved the following comments on the above referenced proposal.

CB4 recognizes the importance of the Department of Buildings in assuring that zoning regulations are implemented correctly in the final buildings based on those regulations. We applaud DOB for the proposed rule changes, but we note that the best way to reduce uncertainty for both the developer and the community is to improve the quality of the technical review itself. CB4 has long advocated for additional resources for DOB and believes that improved review and inspection is the surest path to safe buildings that conform to the Zoning Resolution.

CB4 spends the great majority of its land use time reviewing proposed zoning changes and variance applications, and frequently does not have access to plans for as-of-right projects. The proposed availability of the ZD1 zoning diagrams will greatly increase the transparency of the development process, and the proposed challenge process will give the community the opportunity to express its concerns appropriately. We hope that the Challenge Project succeeds and that it will be expanded to include the posting of the complete building plans for community review.

Public Review and Implementation

The public review process is welcome and important, but we believe strongly that planning to implement the rules at 9:00 a.m. on Monday, only 66 hours after the start of the public hearing, is inconsistent with a meaningful consideration of issues raised during

the review process. The rules should not be implemented until DOB has had the opportunity to review public comments and consider modifications based on them.

We also believe there should be a test implementation with a scheduled review, e.g., after six months. We are concerned that the new rules may cause unanticipated problems that will require adjustments, and believe that a formal review should be scheduled in advance.

Specific Comments

- Because the community boards have the required expertise, it is likely that they will be central to the community's challenge process. Therefore, the initial challenge period should be 45 days to coincide with community board schedules; subsequent challenge periods of 30 days are acceptable.
- The public challenge period should start when approvals and the ZD1 zoning diagram have been posted online and notice of that posting has been sent by e-mail to the local community board (and anyone else who asks to be on a listserve). It is unreasonable to require community boards to check the DOB website daily in order not to lose time to consider a challenge.
- The rules must be comprehensive and explicit, and forms must be based on the rules:
 - For example, the proposed form ZRD1 requires a citation of the appropriate ZR, but the rules do not explicitly require this;
 - A change to the process should not be implementable through the revision of a form – it should require a formal rule change.
- What constitutes a “Final Determination” for the purposes of the starting of the BSA challenge period must be unified and clarified?
- The handling of the post-approval amendment process must be clarified, e.g., specifying when the challenge clock resets.
- The ZD1 Zoning Diagram must provide a more thorough zoning analysis, including legal uses, effects of provisions in areas with special zoning districts and the acknowledgement of historic districts.

Thank you again for this opportunity to review and respond to the proposed rule change. We look forward to working with you to make this proposal a success.

Sincerely,



Jean-Daniel Noland

Chair

Manhattan Community Board 4

Cc: Commissioner Robert LaMandi, DOB
Leah Donaldson, Donald Ranshte, DOB
NYC Council Speaker Christine Quinn
NYC Comptroller William Thompson
Manhattan Borough President Scott Stringer
City Council Member Gale Brewer