



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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Delores Rubin
Chair

Jesse Bodine
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February 6, 2017

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

Maria Torres-Springer
Commissioner
NYC Dept. of Housing Preservation & Development
100 Gold Street
New York, NY 10038

**Re: Demolition Restriction Provisions
New York City Zoning Resolution
Special Hudson Yards District, Special West Chelsea District, & Special
Garment Center District**

Dear Chairman Weisbrod:

The above referenced demolition restriction provisions were developed as part of the community's negotiations during the Hudson Yards¹ and West Chelsea rezonings in 2005. These rezonings were modeled after the Special Clinton District (SCD).

The zoning text of the SCD, adopted in 1973, focused on two goals: to create new affordable housing through a bonus mechanism (from 1986 referred to as Inclusionary Housing) and to preserve the existing housing—thereby preserving our district's longtime residents. The main preservation mechanism included demolition restrictions in the SCD's Preservation Area. A key part of that model was prohibiting the demolition of residential buildings unless the buildings were structurally unsound, City Owned, or subject to a City affordable housing program. In 2005, that Preservation Area zoning text had been effective for 32 years in preserving the homes of thousands of residents in the Preservation Area of the SCD.

¹ The rezoning of Hudson Yards created the Special Hudson Yards District (SHYD) and allowed residential use in the Special Garment Center District (SGCD). The text of demolition restrictions adopted in 2009 was included in both the SHYD and the SGCD.

The extension of those demolition restriction provisions to the Hudson Yards and West Chelsea rezonings were a means to accomplish that same goal. Since 1973, the enforcement of these demolition restriction provisions has protected over 15,000 apartments and their residents in the SCD. Through this provision, the Clinton/Hell's Kitchen community has maintained its neighborhood fabric and its economic and ethnic diversity in the midst of major development on the Westside of Manhattan. Without these same demolition restriction provisions being enforced in lower Hell's Kitchen, Hudson Yards, the Garment Center and West Chelsea, these parts of our neighborhoods will become enclaves for only the highest income New Yorkers.

Background

The Special Clinton District (SCD) was established in 1973 as a response to the City of New York's proposed location of a new convention center between West 44th and West 46th Streets. After the proposed Convention Center was announced, real estate speculation in the West 40s and 50s between 8th and 12th Avenues led to the demolition of existing residential buildings. As part of land use approvals for the convention center, the Department of City Planning sponsored a study and enacted a temporary Special Clinton District in 1973 and a permanent Special District in 1974². The central concept of the special district was the establishment of two areas. The first was a perimeter along West 57th Street, 8th Avenue, and West 42nd Street, in which demolition and development could proceed—however, only after certifying no tenant harassment had occurred. This Perimeter Area also included the City's first zoning bonus for affordable housing. The second area was a Preservation Area from West 43rd to West 56th Streets, 150 feet west of 8th Avenue to an irregular boundary between 10th and 11th Avenues. **In that Preservation Area, no residential building could be demolished unless it was either found not to be eligible for rehabilitation under any active publicly-aided program or deemed unsafe.**

In 1973, there were concerns that these demolition restrictions could constitute a constitutional taking because of the practice of redlining, whereby banks refused to write mortgages for certain neighborhoods. In the 1970s, Clinton was one of those neighborhoods. The zoning would prohibit demolition, but building owners could not renovate their buildings without a mortgage and private mortgages were not available in Clinton at that time.

This concern was remedied by including in the zoning text a section that stated as long a building was eligible for publicly aided funding, demolition would not be approved by HPD.

MCB4 would like to note there are no barriers to publicly or government aided assistance such as Tax Exempt Bonds through the city or state's 80/20 program. Further, there are no issues obtaining bank loans or investments for properties on Manhattan's West Side. Related's Hudson Yards project is the largest private development in the nation with both equity investment and mortgages in the totaling over \$25 billion³.

² The Convention Center site was within the boundaries of the SCD, on the West side piers between West 44th and West 46th Streets. It remained on the district map until 1990, long after it had been moved to the mid-West 30s during the mid-1980s.

³ ["Hudson Yards's 285 Luxury Apartments Are Just the Beginning." October 12, 2016. Mansion Global.](#)

Hudson Yards, West Chelsea & Garment Center Rezonings (2005)

In 2005, MCB4, along with the City, worked on the largest rezoning in the City of New York, including mapping the densest zoning⁴ of any location in New York. As part of this process, 3 new Special Zoning Districts were established— Special Hudson Yards District (SHYD), Special West Chelsea District (SWCD). The Special Garment Center District (SGCD) was modified. Along with public approvals, the community negotiated a package of mitigation and community benefits, known as the Points of Agreement (POA)⁵. Coupled with those public approvals, the POA’s detailed creating new affordable housing and mechanisms to preserve the existing housing—thereby preserving our district’s longtime residents. The agreement had the same form and intent, the public approval of large public action—the Convention Center, 1973 and Hudson Yards & West Chelsea Rezonings, 2005 and the restrictions on demolition to protect long term community residents.

The HPD Commissioner at the time agreed to implement demolition restrictions in all three Special Districts, but due to timing considerations deferred certification.

Western Railyards Rezoning (2009)

In 2009, as part of the Western Rail Yard Uniform Land Use Review Procedure (ULURP) certification, the City Council Speaker required the demolition restriction zoning text to be included in the ULURP. These Demolition restrictions were adopted in 2010 during the Western Rail Yards Rezoning and thus protected 108 buildings with 1,431 apartments in all three Special Zoning Districts. The zoning text was drafted **based on the protections in the Special Clinton District, Preservation Area** in order to protect multifamily buildings in Subareas D4 and D5 in the SHYD, P-2 of the SGCD, and all of the SWCD.

As noted, from the outset, the intent was to protect these districts multifamily buildings, which house long-term tenants and provide a significant portion of affordable housing.

Demolition Permits issued by DOB in 2016 contrary to zoning requirements

In October 2015, notwithstanding these zoning requirements, DOB issued demolition permits for 319 and 321 West 38th Street, two residential buildings in the Special Garment Center District. Demolition permits were subsequently found for a series of buildings in the SHYD, SWCD, **and the SCD**. Demolition plans or permits were reviewed, approved, or issued by DOB for the following set of buildings⁶:

⁴ The four corners from West 33rd to West 35th Streets and 10th to 11th Avenues, with an FAR of 33, known as the Four Corners

⁵ The POAs were documents executed between the Mayor’s Office and the City Council regarding all changes, mitigation, and community benefits to be provided by the City of New York in connection with the proposed rezonings. These POAs were executed by a Deputy Mayor and the City Council Speaker.

⁶ See Appendix A: MCB4 Letters Regarding Illegal Demolitions, January 2016 – January 2017

	Address	Letter Sent	# Bldgs	# Units
1	319-321 West 38th Street	1/13/2016	2	23
2	559 West 22nd Street	2/11/2016	1	21
3	500 West 22nd Street	3/17/2016	3	12
4	821 9th Avenue	6/21/2016	1	6
5	317-319 West 35th Street	6/21/2016	2	28
6	500 West 28 th Street	12/9/2016	1	6
7	355-357 West 39th Street	1/4/2017	3	8

13 104

In almost all cases, by the time these demolition matters came to the MCB4’s attention, **these fully occupied buildings were fully vacated of tenants or owners**. MCB4 and local elected officials halted demolition in most cases, except 319-321 West 38th Street (partial demo completed), 821 9th Avenue, and 500 West 28th Street, where the demolition had already been completed by the time the Board wrote to DOB. At a meeting with DOB in May 2016, DOB stated it would not issue any more demolition permits in MCB4’s Special Districts. However, DOB accepted and processed demolition applications on 4 more sites between May 2016 and December 31, 2016.

Section 93-91—HPD letter for Comment

On December 16, 2016, MCB4 received a letter from Kimberly Darga, then Assistant Commissioner of HPD Preservation Housing, regarding 500 West 22nd Street, a residential building whose owner had previously filed for demolition. The letter requested for comment on Section 93-91 of the Zoning Resolution but did not detail or explain the issue to be commented on. This letter was sent by HPD with no advance phone call or warning, although the MCB4 District Manager had requested a joint meeting with HPD and Department of City Planning on this matter since June 2016. Further, information sent by the owners of this complex of buildings to MCB4 included communications and email dating back to August 2016.

Given its long productive and cooperative working relationship with HPD, MCB4 is at a loss, why this serious matter, with a zoning demolition restriction provision never before invoked, would be managed in such a routine manner. The subject of the demolition restriction provision has been the subject of 7 separate letters over course of 2016; it merits a policy meeting, not an opaque letter. The Board again requests a policy meeting regarding the enforcement of the demolition restriction provisions with MCB4, HPD, the Department of City Planning and Department of Buildings and Councilmember Corey Johnson.

Reviewing the Zoning Text

In reviewing the Zoning Text for demolition restriction provisions for the Special Hudson Yards District (SHYD), (Section 93-91 of the NYC Zoning Resolution), Board members noted an inconsistency between the text in SHYD Section 93-91 and the same text in Section 96-108 of the SCD, upon which the other district’s protections are based. Section 96-108 states that a building containing dwelling units or rooming units can be demolished if the City Planning Commission grants the owner a special permit after determining, in part, that the building **“is not eligible for rehabilitation under any active publicly-aided program”**. Section 93-91 states

that a multiple dwelling may be demolished if the Commissioner of the Department of Housing Preservation and Development (HPD) determines, in part, that the building **“is not feasible under any active governmentally-funded program”**.

There are other wording inconsistencies, which of course create confusion at DOB in enforcing the zoning text. The demolition restriction provisions in the SCD, HYSD, SGCD and WCSD should be reviewed and conformed to provide clarity and predictability for City agencies, owners and tenants. MCB4 requests to meet with HPD, the Department of City Planning, the Department of Buildings, and Councilmember Corey Johnson to conduct a full review of this text to make text changes as needed.

Conclusion

In the SCD, multifamily buildings have been and continue to be a vital resource for affordable housing in our neighborhood. The same types of buildings and residents are protected by the demolition restrictions in lower Hell’s Kitchen, Hudson Yards, the Garment Center and West Chelsea. Irrespective of wording, **the intent is to protect the multifamily buildings that are located in the preservation areas of our district, thereby protecting the residents who live in them.** These demolition restriction provisions must be enforced to protect our neighborhoods and its residents.

Sincerely,



Delores Rubin
Board Chair



Jean Daniel Noland
Chair, Clinton/Hell’s Kitchen Land
Use Committee



John Lee Compton, Co-Chair
Chelsea Land Use Committee



Betty Mackintosh, Co-Chair
Chelsea Land Use Committee

[Signed 2/6/17]

Barbara Davis, Co-Chair
Housing, Health &
Human Services Committee



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

cc: Molly Park, Deputy Commissioner, NYC HPD
Rick Chandler, Commissioner, NYC DOB
Martian Rebholz, Manhattan Borough Commissioner, NYC DOB
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Corey Johnson, City Council
Hon. Hellen Rosenthal, City Council
Hon. Brad Hoylman, State Senate
Hon. Richard Gottfried, State Assembly
Hon. Linda B. Rosenthal, State Assembly

**Appendix A: MCB4 Letters Regarding Illegal Demolitions
January 2016 – January 2017**

[MCB4 Letter Regarding 319-321 West 38th Street, Dated January 13, 2016](#)

[MCB4 Letter Regarding 559 West 22nd Street, Dated February 11, 2016](#)

[MCB4 Letter Regarding 500 West 22nd Street, Dated March 17, 2016](#)

[MCB4 Letter Regarding 821 9th Avenue, Dated June 21, 2016](#)

[MCB4 Letter Regarding 317-319 West 35th Street, Dated June 21, 2016](#)

[MCB4 Letter Regarding 500 West 28th Street, Dated December 9, 2016](#)

[MCB4 Letter Regarding 355-357 West 39th Street, Dated January 4, 2017](#)