



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD No. 4

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

J. LEE COMPTON
Chair

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

February 12, 2007

Ms. Arden Sokolow
Director, Inclusionary Housing/421-a Affordable Housing Program
Division of Housing Incentives
Department of Housing Preservation and Development
100 Gold Street, Room 9-P17
New York, NY 10038

Re: Lower Income Housing Plan Application by Douglaston Development @ 316 11th Avenue

Dear Ms. Sokolow:

Community Board No. 4's Chelsea Preservation and Planning Committee on January 24, 2007 considered the above application in the West Chelsea Special District. While we are pleased that this new residential building to be constructed in the rezoned area will include permanently affordable units under the Inclusionary Housing program, we cannot support the application given how the low-income units will presently be distributed throughout the building, that the amenities provided in the building may not be accessible to all residents, and that no administering agent is named.

For these reasons, Manhattan Community Board No. 4, recommends disapproval of this Lower Income Housing Plan Application unless it is resubmitted with changes. The vote was -- in favor, - - opposed, -- abstentions, and -- present but not eligible to vote.

The applicant is constructing a new residential building on the east side of Eleventh Avenue, on the north west side on 30th Street, on a site that is in subarea A of the Special West Chelsea District, which is zoned C6-4. The base (as-of-right) FAR for the site is 6.5, which the applicant seeks to increase with the High Line Transfer Corridor Bonus (2.65 FAR), per section 98-35 of the Special West Chelsea District text of the Zoning Resolution, and the Inclusionary Housing Bonus (2.85 FAR), per Section 98-262 of the Special West Chelsea District text of the Zoning Resolution, for a total of 12 FAR.

The building will consist of a 21 story base with a tower rising to a total of 34 stories. It will contain 369 units of which 74 (7 studios, 53 one bedroom units, and 14 two bedroom units) are lower income housing units and 295 (27 studios, 208 one bedroom units, 59 two bedroom units, and 1 three bedroom unit) are market rate. The project is financed under the NYS Housing Finance Agency's (HFA) Tax Exempt 80/20 program. Thus, 74 units, or 20%, will be set aside for families whose incomes are at or below 50% of adjusted median income for the metropolitan area. Of these

74 units, approximately 11 units (15%) will be set aside for families at or below 40% of adjusted median income.

According to the plans submitted with the application, all of the lower income units will be on floors 2 through 21, while only 34% of the market rate units will be on those floors. There will be no low-income units in the tower (floors 22 through 34).

The following changes must be made before the application is approved:

The low-income units must be distributed throughout the building.

The distribution requirement for the West Chelsea Inclusionary Housing Program, in Section 23-951(b) of the Zoning Resolution, provides 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.”

The applicant seeks to distribute the lower income units throughout the first 21 residential floors only, and to concentrate those units on floors 8 through 21. The cover letter requests a waiver of the size and distribution requirements of ZR Section 23-951(b), pursuant to ZR Section 98-263(e): “. . . the size and distribution requirements of section 23-951(b) may be waived by the Commissioner of HPD to facilitate the #development# of #lower income housing# . . . “.

The applicant asserts that since the development is being financed in part by the New York State Housing Finance Agency (“HFA”), applicable HFA policy (which applicant acknowledges has not been formally adopted as an agency regulation) requires different standards. HFA’s Proportionality and Distribution Policy is indeed different; it requires that “the affordable rental units must be distributed evenly throughout at least the lower 60% of the project.” [emphasis added.] This policy clearly does not prevent a broader distribution and therefore does not prevent the applicant from meeting the Inclusionary Housing standards. Indeed, a more inclusive building will serve HFA’s policy even better than a building that only meets the requirements. Plus, HFA’s financing for this project will not be in jeopardy if the units are distributed as required by the Zoning Resolution, and thus no waiver is needed to facilitate – make possible – the construction. The truth is that the building will be more profitable for the developer if the top half of the building can be offered at market rates. But maximizing profit is not a basis for the requested waiver.

No waiver should be granted, and HPD should examine the plans in detail to confirm that the requirements of the West Chelsea Inclusionary Housing Program are satisfied.

We add here a plea that the building contain more larger units, both lower-income and market rate. Only 74 of the building’s 389 units (20%) will be bigger than 1 bedroom. A healthy neighborhood needs families and families need bigger apartments.

II. The amenities provided in the building must be accessible to all residents.

At the committee meeting the applicant stated that there will be a gym facing 11th Avenue, a lounge, party room, kitchenette and roof deck. However, when asked if these amenities would be available to all tenants in the building, including the tenants of the lower income units, he

responded that that decision had not yet been made. In fact, he suggested that they may not be made available to all tenants. This exclusion, if followed through, defeats the purpose of inclusionary housing by segregating those in the lower income units from those in the market rate units for no discernable reason but monetary worth. We oppose such a policy and strongly request that all building amenities be available to all building residents.

III. The Administering Agent should be named and must be a not-for-profit organization.

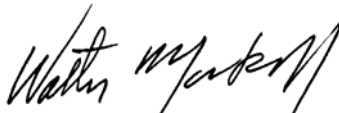
The applicant's response to the name of the administering agent is "TBD". We feel that the administering agent should be named in the application, otherwise why ask for one in the application. Plus, this Board believes that only an independent not-for-profit organization unmotivated by the owner's interest in maximizing profitability can adequately ensure compliance with the lower income housing plan. While we acknowledge the definition of #administering agent# from the West Chelsea Inclusionary Housing Program (ZR Section 98-261) says the administering agent doesn't have to be a not-for-profit if less than half the residential floor area is lower income, we feel that good public policy strongly dictates having a not-for-profit, as required in the Hudson Yards Inclusionary Housing Program (ZR Section 93-231).

In short, this application is symptomatic of the difficulties we all will encounter in the transition of the West Chelsea Inclusionary Housing program from negotiated zoning text to practical application in actual developments. Developers will seek to bend the rules to their own advantage. This community will seek to enforce what we negotiated during the West Chelsea rezoning. We hope HPD will help us.

Sincerely,



J. Lee Compton
Chair
Community Board 4



Walter Mankoff
Co-Chair
Chelsea Preservation and Planning

Lynn Kotler
Co-Chair
Chelsea Preservation and Planning

cc: Applicant/Representative
Assistant Commissioner Colon, HPD
Electeds