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CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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November 29, 2017

Marisa Lago, Chair  
New York City Planning Commission  
120 Broadway, 31st Floor  
New York, NY 10271

**Re: Proposed Rule for the Price of Floor Area Sales Benefiting the West Chelsea Affordable Housing Fund**

Dear Chair Lago:

On the recommendation of its Chelsea Land Use Committee, the Executive Committee of Manhattan Community Board Number 4 (CB4), voted unanimously to recommend that the City Planning Commission (CPC) not accept the proposal by the Department of City Planning (DCP) to set a purchase price of \$500/sq. ft. for floor area to be used to complete the build out of the Special West Chelsea District (SWCD) receiving sites. The Board believes that this price neither reflects the recent market for similar sales nor adequately benefits the West Chelsea Affordable Housing Fund (WCAHF).

Based on our analysis we recommend that the price be set at \$800/sq. ft. Since approximately 67,000 sq.ft. of floor area would be needed to complete the build out of the receiving sites, raising the price would increase the ultimate contribution to the WCAHF from approximately \$30 million to \$55 million.

This position is subject to ratification by CB4 at its regularly scheduled December 6, 2017 Full Board meeting.

**Background**

One of the primary accomplishments of the 2006 West Chelsea rezoning was the creation of a mechanism whereby owners of property under the High Line elevated rail line in the High Line Transfer Corridor (HLTC) could realize the value of their property by selling unused floor area to receiving sites created within the SWCD by the rezoning. This led to those property owners withdrawing their opposition to the preservation of the High Line and its eventual conversion to the High Line Park.

Each of the SWCD subareas was assigned a Basic Floor Area Ratio (FAR), typically 5.0 but ranging from 5.0 to 7.5, and a Permitted FAR, typically 7.5 but ranging from 6.0 to 12.0. (Subarea F had Basic and Permitted FARs of 5.0.) The mechanisms for increasing FAR from Basic to Permitted included transfers from the HLTC, contributing to a High Line improvement (High Line Improvement Bonus) and participation in the Inclusionary Housing Program IHP). The availability of the different mechanisms varied among the subareas.

A typical property with a Basic FAR of 5.0 and a Permitted FAR of 7.5 could reach 7.5 FAR by purchasing 2.5 FAR from the HLTC, or by purchasing at least 1.25 FAR from the HLTC and receiving the remainder by participating in the IHP. Note that even in the case of participation in the IHP the developer still had to buy floor area from the HLTC, yet another means of insuring that the floor area in the HLTC would be transferred and the High Line preserved.

At the time the SWCD was created, no one knew whether the High Line would succeed or would be an expensive white elephant. In order to improve its chances of success, DCP proposed that the total floor area of the receiving sites be 50% greater than the total floor area of the granting sites in the HLTC, reasoning that this would increase demand and ensure the participation of the HLTC property owners. As an added inducement, the property owners would be able to sell all of their floor area for the market price and then buy from the city, for \$50/sq.ft. plus an annual adjustment, enough floor area to build a one story building. Now that floor area is selling for \$1,000/sq.ft., this surely ranks as one of the greatest bargains on record.

The Chelsea community was divided over the proposed rezoning, with concerns ranging from fears of overcrowding, gentrification, overbuilding and loss of community character. DCP presented the proposed rezoning as being restrained, arguing that the full potential buildout of West Chelsea could never happen because of the excess floor area in the receiving sites. However, late in the process the City Council required that a mechanism be provided that would enable the complete build out of the receiving sites. As a result, ZR 98-262(c) was added to the text, confirming at least one of the community's fears.

ZR 98-262(c) specifies that when the Chairperson of the CPC determines that 90% of the available floor area in the HLTC has been transferred to receiving sites as specified in ZR 98-33, the Chairperson shall allow, by certification, and in exchange for payment into the WCAHF, an increase in floor area on any receiving site, up to the maximum FAR permitted in ZR 98-30. The WCAHF is to be administered by the Department of Housing Preservation and Development for the development, acquisition or rehabilitation of low, moderate or middle income housing located in Community District 4.

On September 17, 2017, the Chairperson determined that 90% of the HLTC floor area had been transferred. DCP has proposed a purchase price for the new floor area of \$500/sq. ft. CB4 believes that the methodology DCP employed to arrive at that figure is flawed and that the price is significantly lower than it should be. We believe that \$800/sq. ft. more accurately reflects the recent market for floor area in West Chelsea and would better satisfy the competing requirements of maximizing funds for affordable housing and setting a price at which developers will purchase the available floor area.

## Analysis

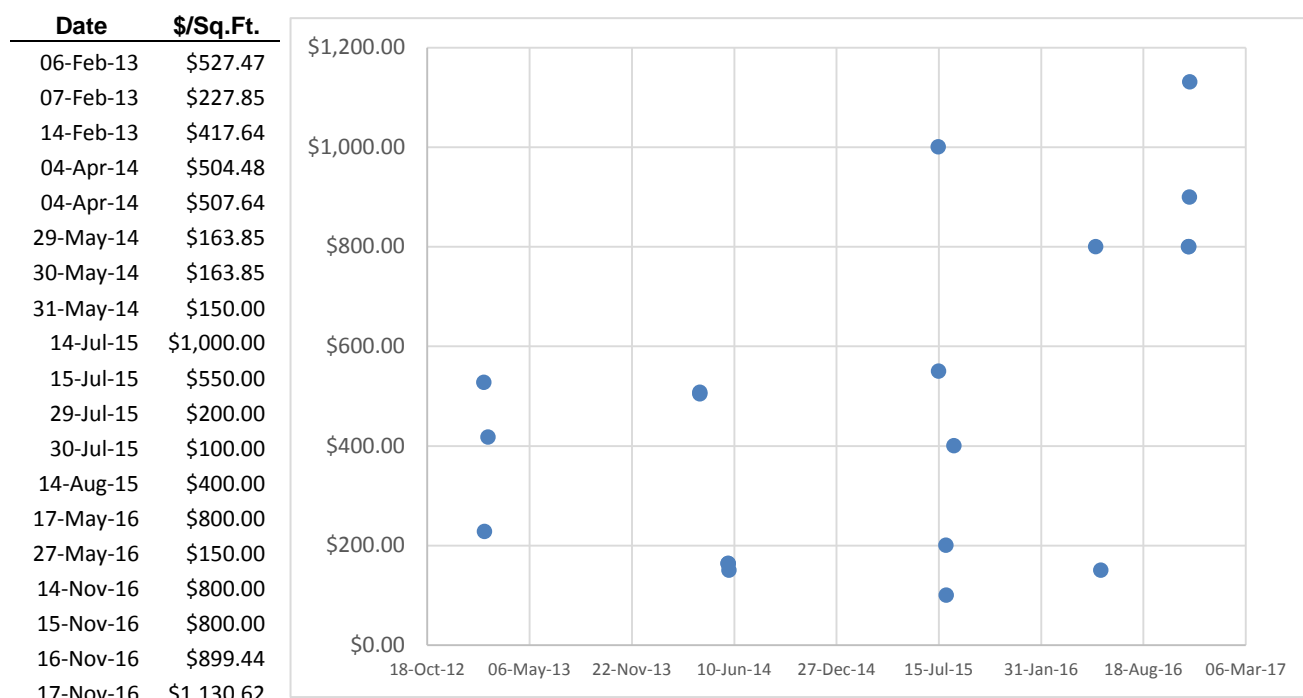
The High Line and the SWCD have been extraordinary successes, far exceeding the most optimistic projections at the time of the rezoning. The High Line Park has become a sought-after amenity driving development throughout the district. But at the same time, gentrification and rising housing costs have created problems by displacing people and businesses and greatly increasing the need for affordable housing.

The table in Appendix I is based on data provided by DCP. It shows 35 floor area sale transactions, excluding transactions where the price was zero and thus presumably related party transactions. The first sale, in July 2006, was for \$212.50/sq. ft., while the latest, in November 2016, was for \$1,130.62/sq. ft. This is an increase of 432% and a cumulative annual increase of 15.1%.

DCP has proposed using the median price of a subset of these, the transactions during the past five years, as the basis for determining the purchase price. The median price for the 19 qualifying transactions between February 2013 and November 2016 was \$504.48/sq. ft. DCP therefore has recommended setting the purchase price at \$500/sq.ft. We believe that this misinterprets the available data and shortchanges the WCAHF.

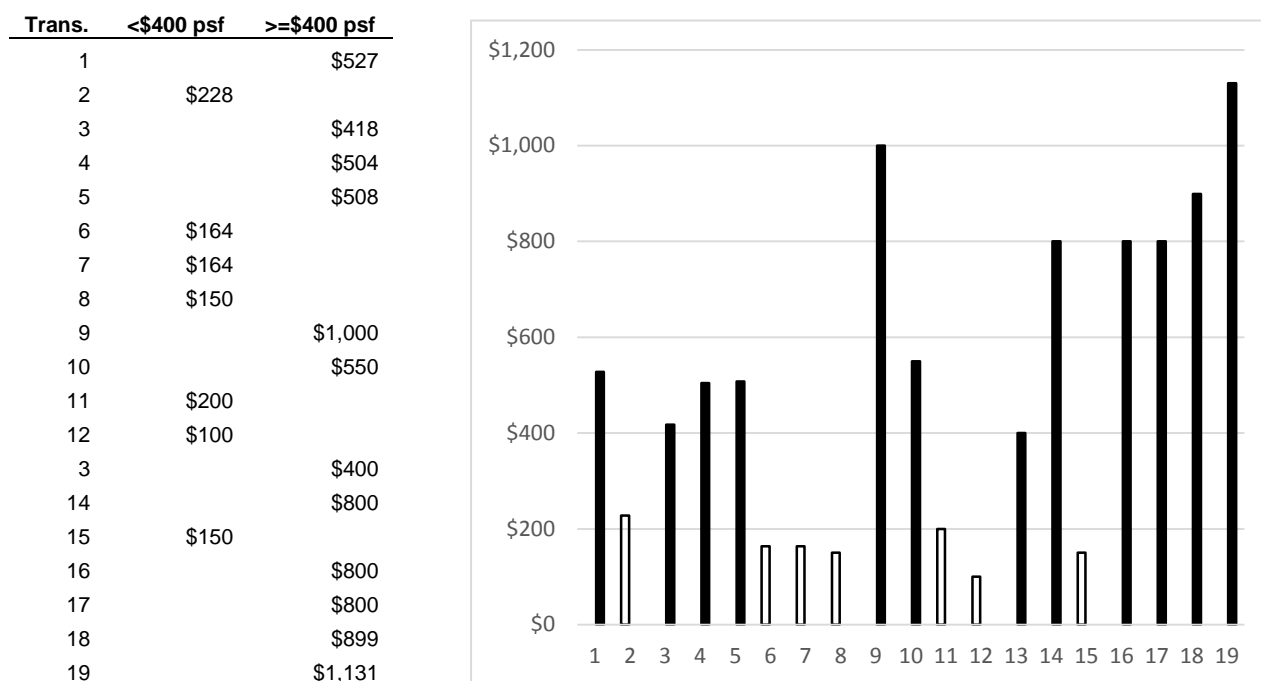
Figure I is a table and graph of the 19 qualifying transactions. The per square foot price increased from an average of about \$400 for three transactions in February 2013 to \$1,130.62 for a single transaction in November 2016. This is an increase of 185% and a cumulative annual increase of 17.8%. We would expect that in a freely functioning market with a clear upward price trend, the transactions with a price below the median would be clustered at the beginning of the time period, while those with a price above the median would be the more recent transactions. However, as shown in Figure I, even as the sale price trended upwards to more than \$1,000/sq. ft., there continued to be transactions at prices of \$200/sq. ft. or less, suggesting that non-market forces were playing a role in setting prices.

**Figure I – HLTC Sale Transactions 2013 – 2016  
Price vs. Transaction Date**



This is seen more clearly in Figure II, a table and graph of the same transactions separated into two series, those with a price below \$400/sq.ft. and those at or above \$400/sq.ft.

**Figure II – HLTC Sales 2013-2016 – By Transaction**



The transactions priced at or above \$400/sq.ft. fluctuate around a clear upward trend. In contrast, the transactions priced below \$400/sq.ft. fluctuate around a consistent average price of \$165/sq.ft.

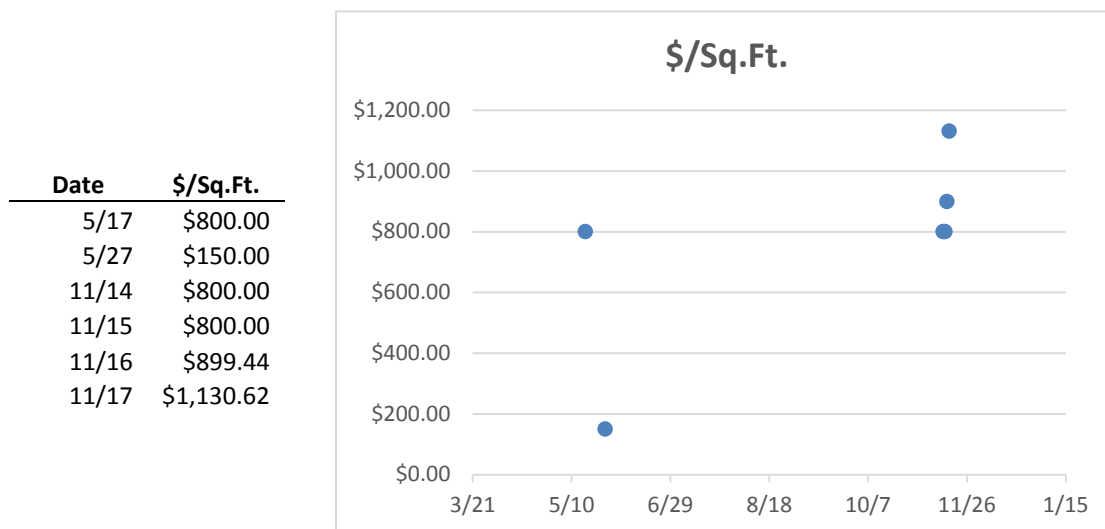
We believe that the sale data provided by DCP fall into three different, independent types of transactions for HLTC floor area:

- i. Transactions where the sale price was \$0. DCP excluded these from their consideration because they are likely to be related party transactions such as transfers between lots under common ownership. We agree with this assessment.
- ii. Transactions where the sale price trended upward with time and the success of the SWCD. We agree with DCP that these are likely to be arms-length market transactions.
- iii. Transactions where the sale price remained constant over time and low, even as the arms-length market transactions rose in price.

DCP excluded transactions in the first category when establishing their recommended price, but included transactions in the third category, believing that they had no sound basis for excluding them. We disagree. The future floor area price should be based only on those transactions that exhibit free market behavior, i.e, those in the second category.

Figure III is a dramatic demonstration of why transactions in the third category should be excluded from the analysis. It shows the six most recent sale transactions, all concluded over a period of six months in 2016. We believe it is clear that the May 27, 2016 transaction for \$150/sq.ft. is an outlier, distinct from the other five transactions. Neither DCP nor the Board has an explanation why there should be one transaction at \$150/sq.ft. among five others with an average price of \$886/sq. ft., but we believe that including it in the determination of the price for future floor area is inappropriate.

**Figure III – 2016 Sales**



## Conclusion and Recommendation

The zoning text creating the SWCD provides multiple incentives to land owners and developers seeking to insure that floor area from the HLTC would be purchased by developers and that the High Line would be preserved and successful. Ten years later, notable architecture, HLTC floor area prices above \$1,000 and a \$50 million asking price for a penthouse are all obvious indicators of that success. The floor area price to be determined by CPC at the conclusion of the current process must balance the interests of developers and the City in seeking the full buildout of West Chelsea, and the interests of the community and the City in maximizing affordable housing.

We recognize that the recent market for HLTC floor area has been “hot” and may differ from a longer term, stable market. We also recognize that some development rights elsewhere in Manhattan are less expensive. The Board believes, however, that the underlying factors that convinced developers that they could earn a good return in West Chelsea even with the high price of development rights - including proximity to the High Line, the Hudson River Park and the Meat Packing District – will persist and will become even more important with the build out of the Hudson Yards. We therefore believe that at this point in the development of West Chelsea the future floor area price should be weighted towards benefiting the production of affordable housing.

The Points of Agreement reached during the consideration of the proposed West Chelsea rezoning by the City Council are explicit in how the floor area is to be priced:

“The price of the floor area will be to (*sic*) comparable to the price of air rights at such time as 90% of the High Line Transfer Corridor floor area has been exhausted.” (Emphasis added.)

Considering only the twelve arms-length market transactions over the last five years, the median price was \$675/sq.ft. and the average price was \$720/sq.ft. Similarly, considering only the most recent five arms-length market transactions in 2016 before reaching the 90% threshold, the median price was \$800/sq.ft. and the average price was \$886/sq.ft. We believe that the \$800/sq.ft. median price and the \$866/sq.ft. average price of the most recent transactions are the appropriate metrics for determining the future sale price.

The \$500/sq.ft. price proposed by DCP represents a 42% discount to the \$866/sq.ft. While the artificially low \$500/sq.ft. price likely would speed up the build out of the remaining receiving sites, it would do so by depriving the WCAHF of approximately \$25 million. We believe there is no credible reason to discount the price of future floor area so steeply when there has been such robust demand.

CB4 has long been a strong advocate for affordable housing in Community District 4. As the Points of Agreement make clear, the contributions to the WCAHF from future floor area sales are intended to compensate for shortfalls in the desired production of affordable housing accomplished by the West Chelsea rezoning. The extraordinary success of the SWCD has created vast wealth for many owners and developers, but it also has made the district ever more unaffordable for people with low, moderate and middle incomes.

As described above in the Background section, the SWCD zoning text requires that before participating in the IHP a developer must purchase a minimum amount of floor area from the HLTC. Now that the HLTC floor area is nearly depleted and the success of the High Line assured, we wish that these incentives could be reversed and developers be required to obtain a minimum amount of floor area from participating in the IHP before purchasing the newly-available floor area from the City. The advantage to the community is that at least some of the affordable housing generated by the build out would be located in West Chelsea.

We strongly recommend that future floor area sales to complete the build out of the SWCD receiving sites be priced at \$800/sq.ft. We look forward to having the extra \$25 million this would generate to fund additional affordable housing in Community District 4.

Sincerely,



Delores Rubin  
Chair  
Manhattan Community Board 4



John Lee Compton, Co-Chair  
Chelsea Land Use Committee



Betty Mackintosh, Co-Chair  
Chelsea Land Use Committee

cc: Maria Torres-Springer, Commissioner, NYC HPD  
Hon. Gale A. Brewer, Manhattan Borough President  
Hon. Corey Johnson, City Council  
Friends of the Highline

## Appendix I – Floor Area Sale Transactions from the High Line Transfer Corridor

Number	Granting Site	Square Feet	Receiving Site	Square Feet	Date	\$/Sq. Ft.
HL 070 002 TDR SAE	509 W. 20th St	13,720.00	516-522 W. 19th St	13,720.00	20-Jul-06	\$212.50
HL 070 004 TDR PAE	509 W. 24th St	15,765.00	245 10th Ave	15,765.00	23-Feb-07	\$184.23
HL 070 004 TDR PAE	509 W. 24th St	15,765.00	245 10th Ave	15,765.00	24-Feb-07	\$190.29
HL 070 006 TDR	512 W. 23rd St	59,990.60	316 11th Ave	59,990.60	19-Jun-07	\$238.40
HL 070 007 TDR SAE	507 W. 26th St	11,972.80	316 11th Ave	11,972.80	20-Jun-07	\$238.40
HL 070 008 TDR	508 W. 25th St	642.90	524 W. 19th St	4,600.00	3-Jul-07	\$180.00
HL 070 005 TDR	511 W. 24th St	8,515.00	303-309 10th Ave	12,500.00	7-Nov-07	\$240.00
	510 - 512 W. 25th St	3,957.10	290 11th Ave	37,110.00	20-Dec-08	\$180.00
	510-512 W. 25th St	11,750.00			21-Dec-08	\$249.51
HL 070 010 TDR	509 W. 20th St	23,080.00	290 11th Ave	23,080.00	22-Dec-08	\$250.00
HL 080 015 TDR	507 W. 25th St	19,750.00	290 11th Ave	19,750.00	23-Dec-08	\$227.85
					24-Dec-08	\$400.00
HL 080 014 TDR	508 W. 25th St	4,857.10	509 W. 28th St	4,857.10	6-Nov-09	\$400.00
HL 080 017 TDR	507 W. 25th St	9,875.00	290 11th Ave	9,875.00	24-Aug-10	\$227.85
HL 080 012 TDR	508 W. 29th St	5,478.50	537-545 W. 27th St	5,478.50	4-May-12	\$310.00
HL 080 013 TDR	512 W. 20th St	2,565.64	537-545 W. 27th St	2,565.64	5-May-12	\$310.00
HL 120 023 TDR	508 West 20th St	11,250.00	154 11 Avenue	11,250.00	6-Feb-13	\$527.47
HL 120 024 TDR	507 West 25th St	19,750.00	551 West 21st St, 154 11 Ave	19,750.00	7-Feb-13	\$227.85
HL 120 022 TDR	508 West 20th St	7,901.55	524-526 West 29th St	7,901.55	14-Feb-13	\$417.64
HL 130 026 TDR	511 West 27th St	3,093.00	515 West 29th St	3,093.00	4-Apr-14	\$504.48
HL 130 027 TDR	509 West 27th St	3,092.00	515 West 29th St	3,092.00	4-Apr-14	\$507.64
HL 140029 TDR	507 West 28th St	3,085.94	548 West 29th St	3,085.94	29-May-14	\$163.85
HL 140 030 TDR	507 West 28th St	3,085.93	550 West 29th St	3,085.93	30-May-14	\$163.85
	504-506 West 28th St	4,618.25	542 West 21st St		31-May-14	\$150.00
HL 140 xxx TDR	511-517 W. 23rd St	4,039.00	532 West 20th St	4,039.00	14-Jul-15	\$1,000.00
					15-Jul-15	\$550.00
HL 140 032 TDR	507 West 27th Street	3,086.00	546 West 29th St	3,086.00	29-Jul-15	\$200.00
				6,542.19	30-Jul-15	\$100.00
HL 150 xxx TDR	507 West 27th Street	1,886.00	542 West 21st St	1,886.00	14-Aug-15	\$400.00
HL 150 xxx TDR	511 West 27th St	900.00	542 West 21st St	900.00	17-May-16	\$800.00
HL 150 xxx TDR	507 West 27th Street	6,214.34	get address	6,214.34	27-May-16	\$150.00
HL 150 xxx TDR	511 West 27th St	2,450.00	517-523 West 29th St	2,450.00	14-Nov-16	\$800.00
HL 150 xxx TDR	509 West 27th St	2,450.00	517-523 West 29th St	2,450.00	15-Nov-16	\$800.00
	511 West 27th St	2,001.25	get address	2,001.25	16-Nov-16	\$899.44
	511 West 27th St	1,825.94	542 West 21st St	1,825.94	17-Nov-16	\$1,130.62

- Source, New York City Department of City Planning