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Rick Chandler
Commissioner
NYC Department of Buildings
280 Broadway
New York, NY 10007

December 12, 2016

**Re: 500 West 28th Street (Block 699 Lot 37)
Illegal Demolition of Residential Multiple Dwelling**

Dear Commissioner Chandler:

At Manhattan Community Board 4's (MCB4) November 2, 2016 meeting, Board members discussed 500 West 28th Street, the former site of a four story multiple dwelling building located in the Special West Chelsea District. By a vote of 38 in favor, 0 opposed, 0 abstaining and 0 present but not eligible to vote, MCB4 voted to request that DOB immediately rescind plan approval for 500 West 28th Street and impose penalties on the owner.

In June 2016, the Board wrote to you requesting that the Department of Buildings (DOB) conduct a district-wide audit, noting that to our knowledge, the illegal demolition of residential buildings had occurred on at least 9 buildings, affecting a total of 90 units throughout the Garment Center, West Chelsea, Hudson Yards, and Clinton Special Zoning Districts. 500 West 28th is the 10th site that this Board has identified. **With this most recent demolition—in this case a complete demolition—of an existing multiple dwelling, an audit of any proposed demolition in these Special Zoning Districts has now reached a crisis point.**

Background

500 West 28th Street was the site of a four story tenement in the Special West Chelsea District (SWCD)¹. The building on that site contained 6 units. In December 2014, the owner submitted an application for Job No. 121187562 to DOB for the partial demolition of the building. The application received approval from DOB on March 29, 2016.

On October 20, 2016, a Board member was in the area when he noticed that the site no longer contained a building. Plywood fencing and scaffolding had been erected on the 10th Avenue and

¹ See Appendix A: Google Streetview photo of building

West 28th Street frontages of the site². On October 24, 2016, DOB received a complaint regarding the demolition of the building. A DOB inspector visited the site and issued a full stop work order (SWO) on October 25, 2016.

Protections against Demolition of Residential Buildings

Section 98-70 of the SWCD Zoning Resolution makes reference to Section 93-91 of the Special Clinton District Zoning Resolution, which states that any partial demolition that decreases the residential floor area of a building by more than 20% shall not be approved by DOB.

That section of the zoning includes the categories of buildings that are exempt from this requirement:

- Buildings under an active government-funded program or
- a hotel or
- a school dormitory or
- a clubhouse

500 West 28th Street is in none of those categories and is therefore not exempt from this provision.

Buildings **can only be demolished** if:

- have been deemed unsafe by DOB or HPD or an emergency exists pursuant to NYC Administrative Code **or**

The HPD Commissioner has certified, after providing 60 days notice and opportunity to comment to local community Board, that the building:

- is to be substantially preserved and requires the removal and replacement of 20 % or more of the floor area
- cannot feasibly be rehabilitated through any government funding program
- has been issued a Certificate of No Harassment by HPD

A Certificate of No Harassment could not be found for the property. Furthermore, the buildings were not deemed structurally unsound, nor was there an emergency that would have allowed for their demolition.

Pattern of Actions by Owners to Not Comply with Demolition Restrictions

Over the last ten months, this Board has witnessed a pattern. Building owners and architects have filed forms with DOB that contain false statements. These forms have been filed under job applications that do not meet the anti-demolition requirements of the Zoning Resolution in our

² See Appendix B: Photo of site taken October 20, 2016

Special Districts. However, the owners have been allowed to proceed with the demolition of these residential buildings.

To date, we have seen this pattern at the following sites:

Building Address	Block	Lot	# of buildings	# of Units	Special District	Letter Sent	CONH	DOB Action	Status
319-321 West 38 th	762	23	2	23	Garment Center	1/13/2016	No	DOB issued full Stop Work Order	Roof was removed from 319 and rear section of building was demolished
559 West 22 nd	694	1	1	21	West Chelsea	2/11/2016	Yes	DOB issued all work stopped on 4/15/16	No construction work at present
500 West 22 nd 197 10 th Avenue	693	37	3	12	West Chelsea	3/17/2016	No	DOB put job on hold and new building application is disapproved	Work is still ongoing
821 9 th Avenue	1064	31	1	6	Clinton	June 2016	Yes	DOB inspected and issued a Partial STOP WORK ORDER on 5/17/16	Demolished; new building erected on site
317-319 West 35 th	759	30	2	28	Garment Center	June 2016	No	None	No construction work at present
500 West 28 th Street	699	37	1	6	West Chelsea	October 2016	No	None	Demolished; SWO issued
Total			10	96					

False DOB Filings for 500 West 28th Street

In December 2014, the owner's professional submitted a PW1 form under Job. No. 121187562³. Although the form stated that the proposed work was a partial demolition of the building, the owner's professional did not state that there would be a change in the number of stories, dwelling units, or the occupancy of the building.

A subsequent PW1 filed under the same job in May 2015 stated that the work would in fact change the number of stories and dwelling units, the occupancy of the building, and that these changes would be inconsistent with the current Certificate of Occupancy for the building⁴. To the Board's knowledge, the DOB did not take action in spite of this information being presented by the owner's professional.

From December 24, 2014 through August 3, 2016, the owner's professional submitted twelve PW1 forms under Job No. 121187562. In all of these forms, the owner's professional represented that the building contained no rent controlled or rent stabilized units.

In May 2015 and March 2016, the owner's professional submitted two separate HPD1 Forms⁵. The HPD1 form is an Anti-Harassment Checklist required as part of the anti-demolition provisions of the SWCD. In both forms, the owner's professional falsely stated that the building

³ See Appendix C: PW1 dated December 2014

⁴ See Appendix D: PW1 dated May 2015

⁵ See Appendix E: HPD 1 Form dated May 2015

was exempt from anti-demolition restrictions because it was not a multiple dwelling. **This information is false and should have raised concerns from DOB.** However, the demolition of this residential building was allowed to proceed.

Property's Status as a Multiple Dwelling

The Department of Housing Preservation and Development (HPD) has records for 500 West 28th Street which state that the building contained 6 dwelling units and that the owner had filed records with the New York State Department of Homes and Community Renewal (DHCR), which indicates that the building had at least one rent controlled or rent stabilized unit⁶.

HPD's records also list housing code violations in units 1, 2F, 2R, 3R, 4F, and 4R⁷. The majority of these violations stem from failure on behalf of the owner to complete repairs. The most recent violation was filed in October 2015.

In addition to these violations, the building has received charges from HPD's Emergency Repairs Unit⁸. When an owner does not complete urgent repairs in a timely manner, HPD completes these repairs and charges the owner for the work. The charges to the building total \$1,016.87. From 2005 until 2009, the owner was also involved in tenant litigation relating to maintenance repair as well as the provision of heat and hot water⁹.

The prior owner met with representatives of MCB4 in XX. He was seeking to obtain approval for the demolition of the building. However, MCB4 informed him that such action would not be allowed under the Zoning Resolution.

In October 2013, Related Companies purchased the site.

Related Companies—Building Owner

Two blocks north of 500 West 28th Street, Related Companies is undertaking the largest real estate development in the country, Hudson Yards. The 23 acre site will contain 12.7 million square feet of office, residential, and retail space. Related is a highly experienced real estate firm with knowledge of the intricacies of the City's Zoning Resolution. The company hires the most qualified professionals with deep knowledge in these matters.

Related built 500 West 30th Street, a site located on a block that is almost exclusively owned by Related. The building is a 33 story tower next to a protected residential building, 501 West 29th Street. During the course of Related's development of that block, MCB4 worked to ensure that the tenement would be protected as a multiple dwelling within the SWCD.

The site configuration of 500 West 28th Street mirrors the site configuration of 500 West 30th Street, located just two blocks to the north.

⁶ See Appendix F: HPD Online page for 500 West 28th Street

⁷ See Appendix G: HPD Violations from HPD Online

⁸ See Appendix H: Charges Summary from HPD Online

⁹ See Appendix I: Litigation Summary From HPD Online

Not having complied with zoning, Related Companies must replace these illegally demolished affordable apartments. MCB4 is pursuing discussions with Related regarding this matter.

Conclusion

The Board requests that DOB issue an immediate stop work order for 500 West 28th Street, rescind plan approval, and revoke any permits. MCB4 also requests that DOB impose financial penalties to Related Companies for demolishing a multiple dwelling protected from demolition under 98-70 in the SWCD.

The Special District Zoning text prohibits demolition of residential buildings, as a means of preserving affordable housing for the long-term community residents of those buildings. **The lack of enforcement from the Department of Buildings (DOB) allowed for the loss of at least 96 affordable apartments in 10 buildings since December 2015.**

Sincerely,



Delores Rubin
MCB4 Chair



[Signed 12/6/2016]
Barbara Davis, Co-Chair
Housing, Health &
Human Services Committee

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

Enclosure

cc: Vicky Been, Commissioner, NYC HPD
Martin Rebholz, Manhattan Borough Commissioner, NYC DOB
Debra Rand, NYC HPD
John Waldman, NYC DOB
Hon. Brad Hoylman, State Senate
Hon. Richard Gottfried, State Assembly
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Corey Johnson, City Council
Related Company