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DATE

New York City Council
Task Force on Operations and Improvement
of the Department of Buildings
via e-mail: dobtaskforce@council.nyc.ny.us

To the Task Force:

I thank you for holding a public forum regarding the Department of Buildings. This forum is so necessary because all-too-frequently the Department of Buildings seems to abet inappropriate development, fail to provide necessary enforcement, and undermine neighborhood zoning protections. Given its oversight powers over all city agencies, I hope that the City Council can improve this situation.

There are some very serious particular problems with the Department of Buildings I would like to call to your attention:

Allowance of Condo-Hotels in Manufacturing Zones in Direct Contradiction of Zoning Regulations (*Trump Development, 246 Spring Street*): The Department of Buildings has recently made it clear that they believe that condo-hotels fit the definition of “transient hotels” and therefore will be allowed in manufacturing zones, in spite of explicit prohibitions against residential and residential hotel development in these zoning districts. As a result, it appears a 45-story condo-hotel, the very first such development ever in a manufacturing zone, will be built by Donald Trump and partners at Spring and Varick Streets. This is an outrage, and a total subversion of the public approval process by which something like this should be considered. As a result, condo-hotels will be allowed for the first time ever in all light manufacturing zones in New York City, pushing out existing businesses, changing neighborhood character, encouraging similar out-of-scale and out-of-context development, and eroding zoning protections.

Apparently the Department of Buildings says they will enter into a voluntary restrictive declaration with Trump and partners to limit some uses in the condo-hotel. This is not an adequate solution; the ability to monitor and enforce a restrictive declaration are unclear, and more importantly DOB is contemplating allowing condo owners to live in their units 100-150 days per year. That is not a transient hotel; it is a second home. DOB should enforce the zoning code to prohibit long-term stays in hotels and to prohibit owner occupancy of units in hotels as contrary to the definition of “transient hotels.” Frankly, this would also prevent many of these developments from being built at all in neighborhoods where they do not belong, since it is the ability to have units with long-term occupancy and owner-occupancy which is most appealing about these projects to developers.

If DOB cannot be convinced or compelled to enforce the current zoning code to prohibit this type of inappropriate development, I would strongly urge the City Council to change the zoning text to make the distinctions between this type of development and a “transient hotel” undeniably clear, so DOB has no wiggle room to allow them.

Failure to Prevent Illegal Work to “Beat the Clock” While Zoning Changes Are Under Consideration (*Julian Schnabel Development, 360 West 11th Street*): The Department of Buildings has indicated that, due to lack of staff, it generally does not respond to complaints of illegal after-hours or weekend work in a timely fashion. As a result, developers are able to use these illegal means to “beat the clock” when rezonings are being considered and get foundations in the ground which allow developments to be ruled “vested,” and therefore able to be completed, even though they violate the new zoning for an area. In the case of artist/developer Julian Schnabel, just three weeks before a rezoning took effect he rushed to complete foundations on a 110-ft. tall luxury condo above his 3-story turn-of-the-century stable. Literally dozens of neighbors said they phoned 311 with complaints about illegal after-hours and weekend work; according to DOB records, none of the complaints were inspected the same day or even the next day. In fact, all but one were either never inspected or inspected between 19 and 33 days later, with many of the inspections not occurring until after the rezoning was passed. Even though more than a dozen neighbors submitted separate sworn affidavits to the Department of Buildings attesting to the illegal weekend and after-hours work, the Department ruled the developer legally vested, saying that because its inspectors never found the illegal work, they had to allow completion of the project in spite of it violating the new zoning regulations.

This system encourages and rewards illegal work and undermines the efficacy of publicly-approved zoning changes. DOB must make such inspections in a timely fashion, especially when the site is under consideration for a zoning change.

Approval of Transfer of Air Rights from Properties Exempted from Local Zoning Regulations (*Cooper Station Post Office, 93 Fourth Avenue*): DOB has recently approved several air rights transfers from US Post Office properties to adjacent, privately-owned sites for development. However, Post Offices, as federal properties, are exempted from local zoning regulations, and therefore DOB has no ability to enforce these air rights “transfers.” Therefore should the Post Office then decide to build on their sites using development rights they supposedly “transferred away,” there is absolutely nothing DOB could do about it because they cannot regulate or restrict development on federal properties.

While DOB says that the neighboring property owner who bought the air rights will retain an easement that would allow them to stop any development on the Post Office site using the “transferred” air rights, there are no guarantees that this or any other property owner will enforce that easement. As a result, we will be getting one “super-sized” development on the adjacent parcel (in this case a 26-story, 700 bed dorm for NYU, to be the tallest building in the East Village), and could still get a second super-sized development next door on the Post Office site in the future using the supposedly “transferred” air rights, and it’s unclear if the public or DOB would be able to do anything about it..

Because DOB does not have the power to enforce the terms, air rights transfers from federal properties exempted from local zoning regulations like the Post office should not be authorized by DOB.

In general, it is critical that DOB be reformed, and do a better job of enforcing the zoning protections for our neighborhood. It seems that DOB needs a fundamental shift in the way it does business and

approaches its mandate, making thorough and appropriate enforcement of the zoning code a much higher priority than it currently appears to be.

Sincerely,

NAME

<<<Be sure to include this information>>>

ADDRESS