



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036
tel: 212-736-4536 fax: 212-947-9512
www.nyc.gov/mcb4

CHRISTINE BERTHET
Chair

Jesse R. Bodine
District Manager

December 21, 2015

Vicki Been
Commissioner
Department of Housing Development and Preservation
100 Gold Street
New York, NY 10038

**Re: Cure for Harassment
517 – 525 West 45th Street, New York
Block 1074, Lot 18**

Dear Commissioner Been:

Manhattan Community Board 4 (MCB4) is aware of current plans filed with New York City’s Department of Buildings (DOB) which propose a substantial renovation to the existing buildings as well as a sixth floor addition, new mechanical systems and a new elevator in each building. The renovation of the buildings on this lot would include new studio, 1-bedroom, and 2-bedroom apartments. Under the proposed work, there would be a Cure Requirement of 13,203 square feet¹, or 28% of the existing floor area. The renovation would occur alongside ten existing units, with the exception of new systems which would be connected and installed in all apartments. At its November 5, 2015 meeting, by a vote of 40 for, 0 against, 0 abstaining and 0 present but not eligible to vote, the Board voted to request that the existing tenants, who are grandfathered in, be incorporated into the Cure for Harassment.

Background

517-525 West 45th Street consists of five adjacent industrial loft buildings of differing heights erected on a single zoning lot (Block 1074, Lot 18) between Tenth and Eleventh Avenues. The 517 building located on West 45th Street is four stories tall. Immediately to the west, the 525 building is five stories tall. Behind these two buildings, off an interior courtyard, is a two-story

¹ Section 96-110 of the Zoning Resolution states that the Cure Requirement is either 28% of the existing residential floor area, or 20% of the floor area after alteration, whichever is greater. Below is the analysis based on the Alt 1 filing.

Zoning Area

Proposed	57,914	* 20% = 11,583
Existing	47,154	* 28% = 13,203

wing of the 525 building, called 525 rear, as well as the 523 building, which is also a five-story building.

The buildings were first residentially occupied in 1963 under the Artist in Residence (AIR) Law, and became an IMD in 1986 (IMD #10516). Together, the buildings contain a total of 18 apartments, of which ten are Interim Multiple Dwelling (IMD) units. The IMD tenants of this building have long faced a series of tenant harassment tactics, including withdrawal of services and threatened use of force, aimed at forcing IMD tenants out of their units.

Zoning Text Definitions

The Special Clinton District Zoning refers to Low-Income Housing both directly in its text and by reference to Inclusionary Housing 23-90. It is defined as follows:

SCD §§ 96-110²

(9) *Low income housing*

“Low income housing” shall mean #dwelling units# or #rooming units# occupied or to be occupied by persons or families having an annual household income at the time of initial occupancy equal to or less than eighty percent of the median income³ for the primary metropolitan statistical area, as determined by the United States Department of Housing and Urban Development or its successors from time to time for a family of four, as adjusted for family size

(10) *Referral date*

“Referral date” shall mean September 5, 1973.

(11) *Restrictive declaration*

“Restrictive declaration” shall mean a legal instrument which:

- (i) *provides that #low income housing# in an amount not less than the #cure requirement# shall be provided in a new or altered #multiple dwelling# on the #cure compliance lot#;*
- (ii) *provides that the #low income housing# must comply with the requirements of Section 23-90 for rental #affordable housing#⁴ provided without #public funding#, as amended by this Chapter, unless any such requirement is waived by the Department of Housing Preservation and Development. However, in the Preservation Area, paragraph (c) of Section 23-96 (Requirements for Generating Sites), shall be inapplicable and in its place and stead, paragraph (a) of Section 96-105 (Dwelling unit regulations) shall be applicable;*

² Special Clinton District Zoning Resolution §§ 96-110, page 13

³ Emphasis added

⁴ Emphasis added

The Special Clinton District Zoning Text defines a low-income household as one that is at or below 80% of the area median income (AMI). However, the Special Clinton District Zoning Text also references Section 23-90 of the Zoning Resolution, of which subsection 23-911 reads as follows:

Zoning Resolution §§ 23-911⁵

Low income household

A “low income household” is a #household# having an income less than or equal to the #low income limit# at #initial occupancy#, except that, with regard to #low income floor area# within #preservation affordable housing# or #substantial rehabilitation affordable housing#, a #grandfathered tenant# shall also be a #low income household#.⁶

Therefore, the IMD units in 517-525 West 45th Street should, in full context, by both definition and reference, be considered low-income housing. ***But more importantly, by underlying intent, in order to prevent the displacement of long-term residents in our community—especially those who have endured documented harassment—these units should be included in the square footage under the Cure Requirement.***

Furthermore, there have been several Cure for Harassment as well as Inclusionary Developments that incorporated current tenants, allowing them to benefit from the new development. This practice has applied to all Cure buildings where tenants remained in place after having survived the harassment. The Board would like to cite several recent examples of these developments within our District:

Cure for Harassment/Cure Exemption Developments in CD 4

Cure Developments	
300 West 46th Street - CHDC (1996)⁷	
	<ul style="list-style-type: none"> • The 4-story 81 unit walkup SRO complex was converted into a 70 unit 5-story elevator building SRO multiple dwelling • 16 units provided the Cure for Harassment as permanent affordable housing. • All Cure units were newly rented.
500 West 42nd Street - CHDC (2001)	
	<ul style="list-style-type: none"> • 37 story market rate residential tower developed by 41st St Realty LLC on the southern portion of the site and renovation of buildings on the northern portion for affordable housing • 18,000 square feet containing 25 dwelling units was developed in the Phase 1 construction to meet the Cure for Harassment. • <i>20 of the 25 Cure units were occupied by grandfathered existing site tenants.</i>

⁵ City of New York Zoning Resolution §§ 23-911, page 132

⁶ Emphasis added

⁷ For this development, the first Harassment Cure, there exists no recorded Cure Agreement

307 West 43rd Street - CHDC (2008)



- The Intercontinental Hotel was developed on West 44th Street and 8th Avenue. The Cure requirement was increased from 2,344 to 10,500 square feet.
- Joint venture between CHDC and West 44th Hotel LLC for a 7- story, 9-unit permanently affordable housing building.
- **2 Cure Exemption units occupied by tenants displaced by City-initiated condemnation** in the Special Hudson Yards District, **1 tenant relocated from City-owned building slated to be renovated** for affordable housing.

301 West 46th Street - Tribeach Holdings (2012)



- 29 story hotel developed on West 46th Street and 8th Avenue
- 15,995 square feet of permanently affordable housing were required. 25 units were developed.
- All Cure units are being newly rented.⁸

400 West 57th Street - Windermere Properties LLC (2012)



- Cure agreement made as of 19th December 2012 between HPD, Windermere Properties LLC and Windermere Housing Development Fund Corporation
- The Cure for Harassment will comprise a Floor Area in the amount of 18,742 square feet
- All Cure units are being newly rented.⁸

Inclusionary Developments

501 West 52nd Street – CHDC (2003)



- Renovation of a 5 story brick residential building containing 27 affordable apartments
- **10 of the 27 Inclusionary units were occupied by grandfathered existing tenants, 10 were relocated from City owned buildings slated to be renovated** for affordable housing

501 West 51st Street – CHDC (2004)



- Gut renovation of 6 story building, with 1story vertical and 6 story horizontal addition; total of 22 units
- **2 of the Inclusionary units were occupied by grandfathered existing tenant, 5 were relocated from City owned buildings slated to be renovated** for affordable housing, and **2 occupied by tenants displaced by City-initiated condemnation.**

⁸ Development had no tenants on site.

The SCD Zoning Text itself and its incorporation by reference of 23-90, Inclusionary Housing, further clarifies the grandfathering of existing tenants as low income households. Coupled with Zoning Text is the HPD practice, in the Clinton/Hell's Kitchen neighborhood, in both Inclusionary and Cure developments, where existing tenants were in place, to grandfather them in to those units as low income households. ***Therefore, MCB4 strongly believes that the IMD tenants in 517-525 West 45th Street should be incorporated into the Cure.***

The Board requests that the HPD follow its established practice in the neighborhood of grandfathering tenants in Cure and Inclusionary developments that are undergoing significant rehabilitation.

Sincerely,



Christine Berthet
Board Chair



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

cc: D. Rand, HPD
L. Carroll, HPD
D. Hernandez, HPD