



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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CHRISTINE BERTHET
Chair

Jesse R. Bodine
District Manager

December 9, 2015

James Drumm
NYS Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-0001

Site Name: Hudson Mews Property
DEC Site #: C231065
Address: 403 West 37th Street and 501-505 9th Avenue
New York NY 10018
Block 735, Lots 30 and 31

Dear Mr. Drumm:

At the Manhattan Committee Board 4 (MCB4) Clinton/Hell's Kitchen Land Use Committee meeting on November 12, 2015, members discussed comments on the application noted above. By a vote of 41 for, 0 against, 0 abstaining and 00 present but not eligible to vote, MCB4 voted to submit the comments below.

Background

The proposed brownfield cleanup site (situated on Block 735, Lot 30) is immediately to the north and west of 485-497 Ninth Avenue (Block 735, Lot 31), a block-front of seven tenements on the west side of 9th Avenue, between West 37th and West 38th Streets. These buildings, under the prior ownership of Martin Fine and the current ownership of David Israeli since 1996, have been the subject of long-term tenant harassment, lack of services, HPD enforcement actions, and numerous legal actions since the early 1980s. Between 1968 and 1996, the long-term owner, Martin Fine, who was regularly named by the Village Voice as one of the City's top 10 worst landlords, tried to vacate all of the buildings, but was unable to do so.

After years of neglect and decay, an Article 7A Proceeding was brought to appoint a 7A Administrator. Martin Fine stymied that proceeding for years by putting the buildings into bankruptcy and eventually splitting the lot into two parcels and selling the seven tenements at 485-497 9th Avenue to David Israeli in 1996. In 2006, Mr. Fine sold the other parcel to Dermot Companies, which proposed to combine the parcel with Port Authority land to the west to build a development known as Hudson Mews, after public review, to secure the needed special permits.

Subsequent to renewal of those special permits, the developer never proceeded. That development was a joint venture of the Dermot Companies and Equity Residential. Under the financial terms of that deal, Equity Residential has now taken control of the former Martin Fine Parcel and is seeking to complete an environmental cleanup in preparation for that development.

Eventually, David Israeli agreed to settle the pending 7A proceeding with respect to the seven tenement buildings. As part of that settlement, 493 and 495 Ninth Avenue were gut renovated and the remaining tenants were consolidated into those two buildings. Vacant units were rented, and the two buildings became fully occupied. The remaining five tenements at 485-491 and 497 9th Avenue then remained vacant for the next 15 years.

Despite the advocacy of MCB4 and the numerous violations issued by city agencies, the vacant buildings were allowed to steadily deteriorate over the years. In early April 2015 the tarp covering the rear building façade became unsecured, exposing the true condition of the structure. At that time it became apparent that the buildings had undergone partial demolition work without the required DOB permits, exposing wooden structural members.

At the request of MCB4, DOB inspected the property on April 14, 2015 and issued a Stop Work Order (DOB Violation #041415BS04JM01). A later inspection by FDNY found the structural condition of the building to be alarming and referred the case to DOB. On August 4, 2015, DOB found the buildings structurally unsound and proposed demolition of the 485, 487, 489, 491, and 497 9th Avenue buildings. The two occupied buildings, 493 and 495 9th Avenue, were both excluded.

The owner, David Israeli, and DOB are currently negotiating with respect to which of the five vacant buildings will be demolished, by whom, and what precautions need to be in place to protect the occupied buildings during any demolition work.

Brownfield Cleanup Program Application

MCB4 is in receipt of both the Brownfield Cleanup Application with supporting documentation filed by 402 West 38th Street Corp. on July 2, 2009 and the Brownfield Cleanup Program Fact Sheet (DEC Fact Sheet) issued in October 2015 by NYS Department of Environmental Conservation (DEC). The Brownfield Cleanup Program Fact Sheet that details the remedy proposed for the above listed brownfield site provides for a 45 day public comment period that originally tolled on November 23, 2015 and was later verbally extended for an additional 30 days by NYSDEC to allow MCB4 time to review and submit formal comments.

Representatives from MCB4 also participated in a conference call with NYSDEC representatives Sally Dewes, James Drumm and Rodney Rivera on October 21, 2015 to request an extension to submit comments on the proposed clean-up plan, learn more about the proposed scope of work, projected clean up dates and more information about the soil contaminants. The matter was discussed at the meeting of the Clinton/Hell's Kitchen Land Use Committee meeting on November 12, 2015. MCB4's comments below reflect the concerns raised earlier in those discussions.

Site Description and Proposed Remedy

The Brownfield site is located on Block 735, Lot 30 which includes approximately 11,300 square feet along the Lincoln Tunnel retaining wall, located in 501-505 9th Avenue and 403 West 37 Street, along West 38th Street and part of West 37th Street. During the October 21st call, DEC representatives confirmed that the brownfield is limited to Lot 30 and that the adjacent Lot 31 (on which seven residential buildings are currently located) is not included.

Historically the site was used as an ironworks, carpenter's shop, print shop and for residential uses. The Phase II Environmental investigation that was performed on the site has identified various contaminants consistent with those uses, including metals such as lead and semi-volatile compounds like benzo(a)pyrene. According to the DEC Fact Sheet, the contaminants were located in the fill layer with no contamination below that layer. DEC has also stated that the findings are fairly standard given the types of uses that have existed on the site and do not pose a significant threat.

The proposed clean-up includes the removal of 5,050 cubic yards of soil, at a depth of 13 feet across the site. Clean fill will be used to replace the soil removed and to establish grade at the site. The proposed excavation, once approved, is anticipated to take approximately three months to complete.

Concerns about the adjacent residential site

While the occupied buildings – 493 and 495 9th Avenue- were declared structurally sound, it is expected that at least four of the five vacant buildings (485, 487, 489 and 491 9th Avenue) will be demolished as a result of the emergency declaration; the timing and other details of the demolition have not been determined. Notably, it has not yet been determined whether the most northerly building on the site, 497 9th Avenue, which shares a common wall and façade with the two occupied buildings, will be preserved or demolished.

The precarious condition of the buildings that abut the Brownfield site makes it essential that the brownfield cleanup and subsequent soil excavation be planned in close coordination with DOB and HPD that are intricately involved and oversee the structural determinations at the adjacent site so that all necessary steps are taken to protect the two occupied buildings at 493 and 495 Ninth Avenue, as well as any other structures on Lot 30. In addition, MCB4 must be included in the planning and coordination of the scope of work.

MCB4 respectfully submits that the proposed brownfield cleanup cannot proceed until:

- 1) The structural issues in the vacant buildings at 485, 487, 489 and 497 9th Avenue on the adjacent Lot 31 are definitively resolved and any demolition required by DOB, is complete;
- 2) Protective measures, such as structural shoring and monitoring are done in advance of the excavation to protect the occupied buildings. DEC must solicit the coordination, input and recommendations of NYC DOB and HPD to ensure the continued structural stability of the two occupied residential buildings at 493 and 495 9th Avenue during the period of

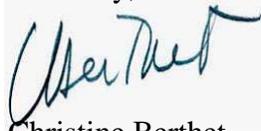
excavation.

- 3) The proposed plans and timetables are coordinated with HPD and DOB in order to address the structural violations at 485-497 9th Avenue; and
- 4) Tenants living in the adjacent buildings are notified as to the extent of the contamination, any precautions that are recommended and the anticipated timeframe and work that will be done.

MCB4 also strongly recommends that a Task Force be created to coordinate the various actions of all agencies involved at both sites to ensure the close coordination. The task force would include representatives from MCB4, NYSDEC, DOB and HPD.

Manhattan Community Board 4 (MCB4) thanks the NYS Department of Environmental Conservation (DEC) for the opportunity to submit comments on the Remedy Proposed for Brownfield Site Contamination at the above-listed site in our district.

Sincerely,



Christine Berthet
Chair



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

cc: Vicki Been, Commissioner, NYC Dept. of Housing Preservation and Development
Vito Mustacioulo, Commissioner, NYC Dept. of Housing Preservation and Development
Martin Rebholz, Manhattan Borough Commissioner, NYC Dept. of Buildings
Hon. Corey Johnson, City Council