



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD No. 4

330 West 42nd Street, 26th floor New York, NY 10036
tel: 212-736-4536 fax: 212-947-9512
www.ManhattanCB4.org

J. LEE COMPTON
Chair

July 31, 2006

Commissioner Patricia Lancaster
Department of Buildings
280 Broadway
New York, NY 10007

**Re: Special Clinton District Requirements at 607-609 Ninth Avenue/401-405 W. 43rd Street
Block 1053 Lot 29, Borough of Manhattan**

Dear Commissioner Lancaster,

The building that comprises 607-609 Ninth Avenue/401-405 W. 43rd Street is located in the Preservation Area of the Special Clinton District. We write to insist that any applications for permits at this location be given a full review by a Department of Buildings plan examiner. We are concerned that the owner is contemplating alterations that cannot be undertaken without violating the Building Code, the Multiple Dwelling Law and/or the requirements of the Special Clinton District provisions of the Zoning Resolution.

The owner of this building has terminated the lease for one of the building's commercial tenants, the restaurant Le Madeleine, which occupies the portion of the building known as 403-405 W. 43rd Street. The lease is being terminated under its demolition clause. The balance of the building is an "Old Law Tenement" occupied by 12 residential tenants and 3 other commercial tenants.

Toney Edwards, the owner of the restaurant is fighting the lease termination in court. The landlord has filed documents in that case claiming that he plans to demolish the portion of the building occupied by the restaurant, build residential units in its place, and substantially remodel the balance of the building. Those documents include a variety of plans that show diminution of light and air in violation of Section 213 of the Multiple Dwelling Law and inadequate fire egress in violation of the Building Code.

The landlord has also asserted in his papers that "no application to the Department of Housing Preservation and Development ('HPD') needs to be made for a certificate of 'No Harassment' under these circumstances." However, the plans show substantial alterations, including:

- Installation of an elevator
- Changes to fire egress, including elimination of a second means of egress for some apartments
- Changes in apartment layouts
- Installation of bathrooms

A certification of no harassment will be certainly required for this work pursuant to ZR Section 96-109(b). That section, as it was amended effective December 21, 2005 (codifying prior DoB and HPD practice), states:

“Prior to the issuance of an alteration permit by the Department Of Buildings for #material alteration# of a #multiple dwelling# within the Preservation Area, the Department of Housing Preservation and Development shall certify to the Department of Buildings that . . . (b) the Department of Housing Preservation and Development has issued a #certification of no harassment# or that the owner has complied with Section 96-110(d) (Certification of Cure for Harassment).”

In addition, the proposed plans do not indicate an enclosed fire stair in this non-fireproof building. We want to stress also that is this building is fully occupied.

Mr. Edwards is a long-time Clinton resident, who has long been active in the community and vigilant about the maintenance and preservation of affordable housing. He opened Le Madeleine 29 years ago, at a time when few were willing to invest in the area. The restaurant is now a neighborhood institution, popular with local residents as well as theater-goers and other visitors. It has 50 employees. It will be most unfortunate if its lease is terminated based on an intended building renovation that cannot legally take place.

We will be grateful for your careful attention to this matter.

Sincerely,



J. Lee Compton
Chair
Manhattan Community Board No. 4



Anna Hayes Levin
Co-Chair
Clinton/Hell's Kitchen Land Use Committee



Simone Sindin
Co-Chair
Clinton/Hell's Kitchen Land Use Committee

cc: Local Electeds
Matthew Shafit, Esq., HPD