



CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

330 West 42<sup>nd</sup> Street, 26<sup>th</sup> floor New York, NY 10036  
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**CHRISTINE BERTHET**  
Chair

**ROBERT J. BENFATTO, JR., ESQ.**  
District Manager

February 10, 2014

Ben Gilbert  
President  
Big Apple Management  
347 Fifth Avenue, Suite 1201  
New York, NY 10016

**Re: 323 West 47<sup>th</sup> Street**  
**Illegal Transient Occupancy**  
**Department of Buildings Violations**  
**Violation Date: 10/11/11**  
**ECB Hearing Date: 9/6/12**

Dear Mr. Gilbert:

The Housing Health & Human Services Committee (HHHS) of Manhattan Community Board 4 (MCB4) has been made aware of recent Department of Buildings violations issued against the above address related to the use of units at the property as transient occupancy units (TOU).

**Special Clinton Zoning District**

The above address is located within the Preservation Area of the Special Clinton District (SCD) which, among others goals, was created to “preserve and strengthen the residential character of the community.”<sup>1</sup> Further, the underlying zoning is an R8 Residential Zoning District. R8 Zoning Districts do not allow for commercial use such as TOUs. If TOUs were permissible in the district, the conversion of a residential unit to a non-residential use within the SCD would require the issuance of a Certificate of No Harassment by the Department of Housing Preservation and Development pursuant to §96-110 of the New York City Zoning Resolution. However, as zoned, TOUs are not permitted by the New York City Zoning Resolution in this district unless existing prior to the adoption of the SCD zoning in 1973.

**NYC Building Code Violations--Fire Safety, Fire Egress, Minimum Ceiling Heights**

The above referenced building was built as a residential building and does not meet the Building Code requirements for TOUs. On September 6, 2012, the City of New York Environmental Control Board found the above referenced building to be in violation of:

- NYC Building Code 1001.4- Failure to provide two means of egress
- NYC Building Code 1011.1- Failure to provide exit signs where required

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<sup>1</sup> New York City Zoning Resolution §96-00

- NYC Building Code 903.2.7- Failure to provide an automatic sprinkler system
- NYC Building Code 907.2.8- Failure to provide a fire alarm system
- NYC Building Code 28-301.1- Failure to provide illumination for egress corridors
- NYC Building Code 1008.1.2.2- Failure to comply with direction of swing for primary exit door
- NYC Building Code 1208.2- Failure to comply with minimal ceiling heights

These violations stem from the use of units in the building as TOUs without altering the building to comply with TOU requirements. However, as stated above, at this location, it is not possible to convert a residential building to a non-residential use under the SCD and underlying zoning district.

**Life and Safety Protection**

The operation of a TOU without code compliant safety measures creates a life and safety hazard for both the illegal transient occupants and the legal permanent residents of the building. In an event such as a fire, gas leak or other such emergency, transient occupants would not know the location of life safety measures for egress such as fire escapes. TOUs require multiple means of egress, signage, sprinklers, fire alarms, and illuminated corridors to address that lack of knowledge. Further, transient occupants, by their very nature, do not consider the long term livability of a building and are less likely to be respectful to the building and neighbors.

HHHS would like to invite you and your representatives to attend the next committee meeting on February 20, 2014 at 6:30pm at Cameo Studios, 307 West 43<sup>rd</sup> Street, to further discuss the above mentioned property to ensure that the property remains in permitted residential use and ensure the continued safety of the tenants, neighbors, and community.

Sincerely,




[signed 2/7/2014]

Barbara Davis, Co-Chair  
Housing, Health &  
Human Services Committee

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

Christine Berthet, Chair  
Community Board 4

Cc: Brad Hoylman, NY State Senator  
Richard Gottfried, NY State Assemblymember  
Jerrold Nadler, Congressmember  
Gale Brewer, Manhattan Borough President  
Corey Johnson, NYC Councilmember  
Byron Munoz, NYC Department of Buildings  
Julia Glabouch, FDNY Bureau of Fire Prevention