



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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CHRISTINE BERTHET
Chair

JESSE BODINE
Acting District Manager

December 10, 2014

Hon. Margery Perlmutter, Chair
Board of Standards and Appeals
250 Broadway, 29th Floor
New York, NY 10007

Re: BSA Cal. # 231-14-BZ
Special Permit at 124 West 23rd Street

Dear Ms. Perlmutter:

On the recommendation of its Chelsea Land Use Committee, following a site visit by committee members and after a duly noticed public hearing at the regular Board meeting on December 3, 2014, Manhattan Community Board No. 4 (CB4), by a vote of 38 in favor, 0 opposed, 0 abstaining and 0 present but not eligible, voted to recommend the granting of a special permit pursuant to ZR 73-36 to Orangetheory Fitness for a Physical Culture Establishment (PCE) at 124 West 23rd Street, subject to the three conditions addressing potential transmitted sound and other potential complaints listed at the end of this letter.

Orangetheory Fitness ("Orangetheory") is a franchise operation offering group-based personal training led by an instructor. The PCE will be located in approximately 3,646 square feet of the ground floor of a 16 story residential building with 29 dwelling units located in a C6-3X zone. The facility will operate from 5:00 AM to 10:00 PM, seven days a week. Equipment includes treadmills, rowing machines and dumbbells. The heaviest weight is 50 pounds and is not intended to be dropped. All activities will be conducted within Orangetheory's space. There will be no use of sidewalks or other outdoor space.

The application to the Board of Standards and Appeals (BSA) for the special permit pursuant to ZR 73-36 follows the necessary denial by the Department of Buildings under ZR 32-31.

The siting of a PCE in a residential building raises compatibility issues. Following a recent unfortunate experience with another PCE that operated in a manner that disturbed and enraged the residential tenants in the building, CB4 seeks to prevent a recurrence by addressing noise and other issues carefully.

In order eventually to be able to operate without disturbing neighbors, the applicant and his team have conducted a comprehensive program of outreach, pre-construction analysis and acoustical engineering. The applicant has met with the building's condominium board and has kept it

informed of plans and progress. He arranged for access to second floor units - those directly above the Orangetheory facility - where noise transmission to those units from the raw space below was tested. Based on the results of this testing, acoustical engineers for both the applicant and for the building's condominium board agreed to and approved a site-specific "box-within-a-box" for the studio, isolating it physically and acoustically from the rest of the building. Construction is now underway.

The applicant has committed to extensive acoustical testing once construction is complete and before Orangetheory begins operations, including testing in the second floor units with music in the studio at full volume; he will share the results with the Board. The applicant believes that the acoustical engineering will prevent noise from the studio from disturbing residents in the building. He stated that the sound system will be equipped with a governor able to reduce the volume of any frequencies that create problems, and committed to any other necessary preventive steps if there are any sound issues.

The Board appreciates the thoroughness of the applicant's efforts to prevent acoustical disturbances, and especially his efforts to include the building residents in the process. The Board believes that if the efforts at acoustical isolation of the facility are successful, the facility will meet the required findings under ZR 73-36 and will be an appropriate and attractive addition to the community.

We thus recommend the granting of the requested special permit subject to confirmation of acceptable performance of the acoustical isolation of the studio and these additional conditions:

- Programming will either not include potentially disruptive activities or will demonstrate conclusively with an acoustical engineering report that equipment use and classes will not disturb other building tenants; and
- If operation of the facility leads to complaints from residents above or from the community, the operators of Orangetheory will attend meetings set up by the Board and quickly take any steps necessary to correct the problems leading to the complaints.

Sincerely,



Christine Berthet
Chair



J. Lee Compton
Co-Chair
Chelsea Land Use Committee



Betty Mackintosh
Co-Chair
Chelsea Land Use Committee