

**299-01-A**

APPLICANT - Pillsbury Winthrop, LLP, for 42nd Street Development Project, Inc., owner; Dream Team Hotel Associates, LLC, lessee.

SUBJECT - Application October 26, 2001 - Proposed atrium located between the 9th floor to 16th Floor, is contrary to §27-521.05(c) of the Admin. Code, in that one of the required exits shall be only through an enclosed passageway or corridor conforming to the requirements of exits as per Subchapter 6 of the Admin. Building Code.

PREMISES AFFECTED - 270 West 43rd Street, bounded by 43rd Street, Eighth Avenue and 42nd Street, Block 1014, Lot 58, Borough of Manhattan.

**COMMUNITY BOARD #5M**

**APPEARANCES -**

For Applicant: A. Bernard

For Administration: John Scrofani, Fire Department

**ACTION OF BOARD:** - Appeal granted on condition.

**THE VOTE TO GRANT -**

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey and Commissioner Caliendo.....4

Negative:.....0

**THE RESOLUTION-**

WHEREAS, the decision of the Manhattan Borough Commissioner dated October 25, 2001, acting on New Building Application # 102677550 reads:

“Objection for amendment dated December 18, 2000. The proposed atrium located between the 9<sup>th</sup> floor to 16<sup>th</sup> Floor is contrary to Section 27-521.05(c) of the Administrative Code in that one of the required Exits shall be only through an enclosed passageway or corridor conforming to the requirements of Exits as per Subchapter 6 of the Administrative Building Code.”; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice Chair Satish Babbar R.A., Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, the subject zoning lot is located within a C6-7 (special Mid-town zoning district, having a total lot area of approximately 17,573 square feet, to be improved with a 46-story building which will be utilized as a hotel (Use Group 5); and

WHEREAS, this application seeks an appeal from a decision of the Department of Buildings (“D.O.B.”) denying a request for permission to allow hotel guestrooms to open directly onto the subject atrium with the atrium providing the only means of egress for these rooms; and

WHEREAS, §27-521.05 (c) of the Building Code requires access to one of the required vertical exits only through an enclosed passageway or corridor; and

WHEREAS, the Board agrees with the applicant that the intent of the above code provision is to ensure that a safe egress path is available in the event that a fire occurs in the atrium; and

WHEREAS, the applicant represents that the atrium is required to provide a smoke control system providing 6 air changes per hour and that the allowable travel distance to an exit d) make- up air shall be provided consisting of outside air at approximately 75% of the exhaust rate, ensuring that the atrium shall be negative with respect to adjoining spaces and further

is 200 feet; and

WHEREAS, the applicant notes that the instant proposal will provide a smoke control system with exhaust fans capable of 36 air changes per hour over the entire volume of the bustle atrium; and

WHEREAS, evidence in the record indicates that the applicant will provide the following fire protection and life safety measures for the proposed use: a) the atrium will be fully protected by quick response sprinklers, providing greater safety than standard sprinklers; b) the atrium will be separated from the remainder of the building by 2-hour fire resistance related construction, including a 2-hour fire resistance rated separation from the guestrooms; c) a smoke control system with an exhaust rate of 180,000 cfm ensuring a tenable environment is maintained for egress through the atrium; d) make-up air will be provided consisting of outside air at approximately 75% of the exhaust rate, ensuring that the atrium will be negative with respect to adjoining spaces and further limit the potential for smoke migration from the atrium; e) smoke control system components with an emergency standby power provided by an emergency generator; and

WHEREAS, the smoke control system will be activated by: a) projected beam smoke detectors; b) ceiling mounted smoke detectors in the low ceiling spaces in the atrium, including at the ceiling of each of the walkways; c) atrium corridors are provided with sprinklers not to exceed fifteen (15') feet on center and smoke detectors not to exceed thirty (30') feet on center; d) sprinkler waterflow in the atrium sprinkler zone and Fire Department manual controls; and

WHEREAS, by a submission dated May 6, 2002 the Department of Buildings. has indicated that it takes no position with regard to the relief sought by the appellant in the form of a variance from the relevant Administrative Building Code requirements; and

WHEREAS, there is sufficient evidence in the record to warrant this approval under certain conditions.

Therefore, it is resolved that the decision of the Manhattan Borough Commissioner dated October 25, 2001, acting on New Building Application # 102677550, is modified and the appeal is granted *on condition*; that the building substantially conform to drawings filed with the application marked “Received May 28, 2002”-(9) sheets and that all other applicable laws, rules, and regulations be complied with and *on further condition*; that the fire prevention and detection systems that shall be provided within the subject building have received either Board of Standards and Appeals approval or MEA approval and that the applicant provide the following such prevention and detection systems:

- a) the atrium shall be fully protected by quick response sprinklers, providing greater safety than standard sprinklers;
- b) the atrium shall be separated from the remainder of the building by 2-hour fire resistance related construction, including a 2-hour fire resistance rated separation from the guestrooms;
- c) a smoke control system with an exhaust rate of 180,000 cfm ensuring a tenable environment shall be maintained for egress through the atrium;
- d) limit the potential for smoke migration from the atrium;
- e) smoke control system components with an emergency standby power shall be provided by an emergency generator, and

on further condition;

THAT the smoke control system shall be activated by: a) projected beam smoke detectors; b) ceiling mounted smoke detectors in the low ceiling spaces in the atrium, including at the ceiling of each of the walkways; c) atrium corridors are provided with sprinklers not to exceed fifteen (15') feet on center and smoke detectors not to exceed thirty (30') feet on center; d) sprinkler waterflow in the atrium sprinkler zone and Fire Department manual controls;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted;

THAT the above conditions shall appear on the Certificate of Occupancy.

Adopted by the Board of Standards and Appeals, June 11, 2002.