

72-02-A

APPLICANT - Mitchell H. Hossoff, Kossoff Alper & Unger, for PR 30 LLC, owner.

SUBJECT - Application March 5, 2002 - An appeal from a decision of the Department of Buildings dated February 4, 2002, which denied the creation of new non-conforming single room units on the basement floor of subject premises.

PREMISES AFFECTED - 325 West 30th Street, north side, 321' west of Eighth Avenue, Block 754, Lot 25, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Opposition: John Reisinger, Department of Buildings.

ACTION OF THE BOARD - Appeal Denied THE VOTE TO GRANT -

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

Negative:

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THE RESOLUTION -

WHEREAS, the decision of the Department of Buildings, dated February 4, 2002 acting on Application No. 102343322, denying an alteration of the existing Certificate of Occupancy to permit the as built conditions; and

WHEREAS, this is an appeal challenging a decision of the Department of Buildings (DOB), disapproving the appellant's application to amend the Certificate of Occupancy to legalize the conversion of the basement level of a multiple dwelling from one class A apartment to three rooming units; and

WHEREAS, the Department of Buildings disapproval was based on Section D26-33.07 of the Housing Maintenance Code ("HMC") which prohibits the creation of rooming units in a dwelling where the rooming units were neither classified or recorded as such prior to May 15, 1954, nor converted to such use prior to April 30, 1956; and

WHEREAS, the record indicates that the Certificate of Occupancy issued in 1938 identifies the subject premises as a residential building and allows only one apartment at the cellar level; and

WHEREAS, the appellant's representation and plans indicate that the basement is currently comprised of three rooming units with each unit containing cooking facilities, but sharing a single bathroom; and

WHEREAS, the appellant neither claims or offers evidence that the premises were classified and recorded as such prior to 1954 nor that the premises were converted from a

single apartment to three rooming units prior to 1956; and

WHEREAS, the appellant contends that the construction costs associated with complying with the Housing Maintenance Code create a practical difficulty; and

WHEREAS, the appellant has not presented evidence of a practical difficulty or unnecessary hardship in the carrying out of the strict letter of the law, to warrant granting this appeal varying Housing Maintenance Code §27-2077 and New York City Charter §666(7); or that granting this appeal would be consistent with the spirit and intent of the Housing Maintenance Code to establish minimum housing standards; and

WHEREAS, the Board finds that the Department of Buildings acted reasonably and correctly in denying the appellant's request.

Resolved, that the decision of the Manhattan Borough Commissioner, dated February 4, 2002 acting on Application No. 102343322, is upheld and this appeal is denied.

Adopted by the Board of Standards and Appeals June 18, 2002.