

**Full Board Meeting Minutes  
Helen Rosenthal, Chairperson  
Jewish Home and Hospital Lifecare  
July 1, 2008**

Ms. Rosenthal called the meeting to order at 7: 15 pm.  
Minutes from previous full board meeting were approved: 27-0-2.

***Chairperson's Report, Helen Rosenthal***

- Some people may have seen a negative story on CBS about the Lantern Group project at St. Louis Hall, 319 West 94<sup>th</sup> Street. Barbara Van Buren said that HPD and the Lantern Group will report to the CB as to how they have and will respond to the allegations and address the conditions described.
- Announced “Cranewatch” and noted that CB7 was engaged in an effort to photograph and to document inspection information about the cranes in the CD. Information will be placed on the website; we will work with the DOB and DOT to inform area residents about crane activity in the district. The website will also include when and where cranes currently are in the district.
- There were many responses to last month’s “question of the month about parks”: there were concerns about the number and velocity of the bikes in the parks, and the number of water fountains and restrooms in the community. Log onto the CB7 website to see a summary of the responses.
- The “question of the month” for July and August asks residents to comment on which budget cuts concern them the most.
- The City’s most recent budget for the upcoming fiscal year (beginning today) cuts a number of social service programs including senior centers in NYCHA facilities, the Beacon Schools, day care as well as schools. Working with a consortium of social service agencies to track the impact of the cuts to programs and people.
- Urged the Committees to submit minutes and agenda in a timely fashion.
- Following a question from a Board member about the activities of various Community Advisory Boards and Task Forces that the CB sends representatives to or helps coordinate (JHH, PWVCC, etc.), Ms. Rosenthal said that she would ask those groups to report back to the full Board on a regular basis.

***District Manager's Report, Penny Ryan***

- CB board budgets were restored.
- DOT is milling and repaving Broadway from West 72<sup>nd</sup> Street to 110<sup>th</sup> Streets and West 102<sup>nd</sup>-106<sup>th</sup> Streets, Park to River. Work is done from 9PM until 5AM and will continue until mid-August. Updates will be posted on [www.nyc.gov/mcb7](http://www.nyc.gov/mcb7).
- John Herrold, Riverside Park Administrator, and Rick Seidler, Deputy Chief of Operations, Manhattan Parks, reported that 300 trees were destroyed (200 of which were in Riverside) in a set of recent storms. Mr. Herrold reported that Dutch Elm disease has increased and efforts were underway to protect the trees in Riverside and Central Parks, including removal and vaccination.

***Announcement of Election of Board Officers for 2008-2009***

Dan Zweig, Chairperson, Elections Committee, announced that nominations will be taken for Chair, 3 Vice- Chair positions and 2 Co-Secretary positions in September. Elections will be in October.

***Public Session***

250 West 87<sup>th</sup> Street, New York, NY 10024  
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**Aaron Biller**, Neighborhood in the 90s and 100s - CBS reported the Lantern Group has been a slumlord and has been mistreating tenants, didn't know a person had passed away, and has been maintaining their buildings in wretched and unsanitary conditions; urged Board members to think for themselves and review the press reports.

**Paula Bassoft** – Urged Board members to look at the Lantern Group report on [www.cbstv.com](http://www.cbstv.com) and address those concerns and ameliorate the treatment of mentally handicapped people in such horrible conditions.

**Hans Witsenhausen** – The Board should not fall for the tricks of the BSA and the zoning rules.

**Ronald Edelstein**, representing 316 Realty LLC and 24 residents in that building - Concerned about the Lantern Group project and urged people to treat all groups equally and address the conditions, or CB7 might be risking liability.

**Ulma Jones** – Announced the passing of Dorthea Haskins; a memorial service will be held on Monday July 7, 1PM, at 103 Morningside Avenue.

**Cris Angelini** – Lantern Group had its tax exempt status revoked, and that should be a concern; urged everyone to look at the CBS story.

A discussion then ensued about what the CB could do to address the concerns about Lantern Group. Some Board members noted that the Board could urge the City agencies to pull the plug on the funding for the Lantern Group's program at St. Louis Hall.

## ***Manhattan Borough President's Report, Sari Bernstein.***

- Thanked members for attending the CB info session.
- Working to increase incentives to discourage people to warehouse vacant property.

## ***Reports by Legislators***

**State Assemblyman Richard Gottfried** – Thanked the Board for its strong stand on Shearith Israel.

Mentioned the “summer streets” program whereby the City will be closing the some streets to vehicular traffic on Saturdays.

Announced new legislation that will be signed to change the way in which the bad doctors are disciplined.

Invited people to look him up on Facebook.com and become his friend.

## **Council Member Gale Brewer**

In the FY09 Adopted Budget: The 59<sup>th</sup> Street Rec Center, will be funded and construction is set to start. AMNH, Lincoln Center and Jewish Museum security money was cut. Ballet Hispanico will be getting more money for renovations. Dante and Tucker Squares will get some money for repair and renovation. Goddard Riverside will be getting a new roof. LaGuardia High School will be getting 10 grand pianos. MS 44 will be getting more funds. Museum of Art and Design will get some funds. 76<sup>th</sup> and Riverside Park Elephant Playground will be getting \$100K. \$500K for PS 75 auditorium. \$25K for PS 84 Peacegames. \$100K for PS9 schoolyard. \$400K St. Agnes Branch Library. \$175 million in school funds restored. Really tough year on social services and legal services.. Provided funds to NYCHA tenants' associations. On Social Services, NYCHA has a \$175 million deficit; \$18 million in restoration will not make up deficit. Summer Chess program will be held in August at Bennerson Playground

**State Senator Eric Schneiderman** – Senate session will probably go down as one of the most bizarre in history. Urged the community to bring ideas about priorities for the new Democratic legislature; there is a need to reform the legislature to address the unfair regressive tax system, vacancy decontrol, the housing system, healthcare system, green programs and energy efficiency. Invited people to attend an exhibition at the Jewish Museum.

## *Reports by Representatives of Elected Officials*

**Jared Chaseau, State Senator Thomas Duane** – Senator submitted testimony in support of Israel; will host financial literacy forums during the summer.

**David Weinberg, Assembly Member Linda Rosenthal** – Passed five bills, one prohibiting animal testing when there is a viable alternative, another dealing with fair notification for seniors living in assisted living and adult homes. Pier 99 at 59<sup>th</sup> Street authorized for use as a marine transfer station.

**Micah Lasher, Congressman Jerrold Nadler** – Opposed the rent guidelines board; Reprogrammed \$6 million for Riverside Park South.

**Shane Seeger, Assembly Member Daniel O'Donnell** – Sponsoring free legal tenants clinics and health care screening.

**Calvin Solomon, DA Morganthau's Office** – Gave an update on the Wise Towers shooting investigation. Intern program has 9 people from CD7.

**Simeon Banister, Public Advocate Betsy Gotbaum** - Urged CB members to call about problems with city services. Working on summer youth employment program.

## *Business Session*

### **Housing Committee**

**Victor Gonzalez and Charles Simon, Co-Chairpersons**

1. The resolution on preserving human services for public housing residents was adopted: 30-0-0-0.

### **Transportation Committee, Andrew Albert and Dan Zweig, Co-Chairpersons**

#### **Joint with Parks & Preservation and Youth, Education & Libraries Committees**

2. **IS44 GreenMarket** . The resolution to **approve** the application by the Council on the Environment to the Street Activity Permit Office to relocate temporarily the greenmarket to the sidewalk on the east side of Columbus Avenue between West 77<sup>th</sup> and 81<sup>st</sup> Streets on Sundays during reconstruction of the IS44 playground (approximately 3 months beginning in July) was adopted: 30-1-0-0.
3. **IS44 GreenFlea Market**. The resolution to **approve** applications by the IS44 GreenFlea Market to the Department of Parks & Recreation and to the Street Activity Permit Office to relocate temporarily the IS44 flea market to the PS87 playground on West 77<sup>th</sup> Street and to the sidewalk on the west side of Columbus Avenue between 76<sup>th</sup> and 77<sup>th</sup> Streets on Sundays during reconstruction of the IS44 playground (approximately 3 months beginning in July) was adopted: 31-0-0-1.
4. The resolution to **approve** the application #1286576 to the Department of Consumer Affairs by Jasmin Parvin to construct and operate a newsstand at the northwest corner of Broadway and West 68<sup>th</sup> Street was adopted: 16-12-2-0.

**Richard Juliano, Lincoln Square BID**, - Asked the CB to disapprove the newsstand application.

**Lester Schwab, Ogden Cap Properties** - Urged disapproval of the newsstand.

5. **477 Amsterdam Avenue** (West 83<sup>rd</sup> Street.) The resolution to **approve** the renewal application DCA# 0890575 to the Department of Consumer Affairs by 83<sup>rd</sup> Amsterdam Restaurant, Corp., d/b/a Hi-Life Bar & Grill, for a two-year consent to operate an unenclosed sidewalk café with 9 tables and 16 seats was adopted: 27-2-1-0.
6. **2728 Broadway** (West 104<sup>th</sup> – 105<sup>th</sup> Streets.) The resolution to approve the renewal application DCA# 1221141 to the Department of Consumer Affairs by Tokyo Pop, LLC, d/b/a Tokyo Pop, for a two-year consent to operate an unenclosed sidewalk café with 17 tables and 34 seats was **referred back to committee**: 20-10-0-0.



7. The resolution to urge the City Council to pass a law requiring delivery bike registration and licensing was adopted: 28-1-0-0
8. The resolution on calling for enforcement bike riding regulations was adopted 27-3-0-0:

## **Parks & Preservation Committee**

**Klari Neuwelt and Lenore Norman, Co-Chairpersons**

### **Joint with Transportation Committee**

9. **170 Central Park West, New-York Historical Society** (West 76<sup>th</sup> – 77<sup>th</sup> Street.) The resolution to **disapprove** application to the Department of Transportation for a new revocable consent to construct, maintain and use modified stoops and ramps, proposed kiosks and lightning was adopted: 27-2-2-0.
10. **140 West 74<sup>th</sup> Street** (Columbus - Amsterdam Avenue.) The resolution to **approve** application #08-8115 to the Landmarks Preservation Commission for restoration of the front façade and installation of awning over the main entrance was adopted: 30-0-0-0.
11. **334 West 89<sup>th</sup> Street** (West End Avenue – Riverside Drive.) The resolution to **approve** application #084655 to the Landmarks Preservation Commission for installation of garbage bins at front yard was adopted: 30-0-0-0.
12. **601 West End Avenue** (West 89<sup>th</sup> Street) The resolution to **approve** the application to the Landmarks Preservation Commission for window replacement was adopted: 30-0-0-0.

**Present:** Helen Rosenthal, Barbara Adler, Andrew Albert, Richard Asche, Lindsey Boylan, Page Cowley, Alberto Cruz, Mark Diller, Miki Fiegel, Sheldon J. Fine, Paul Fischer, Rosa Gonzalez, Molly Gordy, Phyllis E. Gunther, Ulma Jones, Bobbie Katzander, Barbara Keleman, Blanche E. Lawton, Daniel Meltzer, Klari Neuwelt, Lenore Norman, Gabrielle Palitz, Michele Parker, Melanie Radley, Anne Raphael, Luis O. Reyes, Oscar Ríos, Jeffrey Siegel, Elizabeth Starkey, Barbara Van Buren, Thomas Vitullo-Martin, Melanie Wymore, George Zeppenfeldt-Cestero and Dan Zweig. **On-Leave:** Chaumtoli Huq. **Absent:** Linda Alexander, Hope Cohen, Sonia Garcia, Marc Glazer, Victor Gonzalez, David Harris, Robert Herrmann, Lawrence Horowitz, Lillian Moore, Johnetta Murray, Sharon Parker-Frazier, Madge Rosenberg, Liz Samurovich, Ethel Sheffer and Charles Simon.

**Business & Consumer Issues Committee Meeting Minutes**  
**Michelle Parker and George Zeppenfeldt-Cestero, Co-Chairpersons**  
**July 9, 2008**

The meeting was called to order at 7:02pm and was chaired by George Zeppenfeldt-Cestero.

We met to review the effect on the community to the applications to the NY State Liquor Authority for on-premises two-year liquor licenses of eleven (11) new restaurants.

In general, we were interested in the method of operation of each applicant.

1. It is very important that each applicant be present at the meeting. Several applicants were not present, namely 1900 Broadway d/b/a **Sushi A Go-Go** (#16 on the September Full Board agenda), 127 West 72<sup>nd</sup> Street d/b/a **Kaya NY** (#17 on the agenda) and 380 Columbus Avenue d/b/a **Roma 380 Equities** (#20 on the agenda) and the Committee voted to DENY their applications as follows: 6 in favor; 0 opposed; 0 abstentions and 0 for cause. No explanation was given as to why these applicants did not appear.
2. 170 West 75<sup>th</sup> Street, a.k.a. 311 Amsterdam Avenue, **Fusha Japanese Rest. Inc.**, (#18 on agenda) was present by James Wang. He explained that Fusha wants a full license that the owner has 10 restaurants and that Fusha's hours would be 11am till midnight. Fusha has received approval for its unenclosed café. It is undergoing renovations, keeping its 9 seat bar and will add a sushi bar. There are 68 seats inside the restaurant. The committee voted as follows to APPROVE the application: 4 in favor; 0 opposed; 1 abstention; 0 for cause. No public member voted.
3. 226 West 79<sup>th</sup> Street, **Bagicha NY Inc.** (#19 on agenda). This is the first license for this organization. This restaurant will have a 1<sup>st</sup> and 2<sup>nd</sup> floor and an indoor garden. 25 seats are on the 1<sup>st</sup> floor with 8 at the bar and 50 seats are upstairs. The committee voted as follows to APPROVE the application: 5 in favor; 0 opposed; 1 abstention; and 0 for cause.
4. 505 Columbus Avenue d/b/a **Kefi LLC** (#21 on agenda). This restaurant is replacing Loft and will serve Greek food. The chef, Michael Psilkas, was present. A tenant in the building since 2004, Enzo G. Delucchi, voiced his concern that an HVAC air duct that was already present before Kefi cut off a window view and that nothing was on file with the Department of Buildings that acknowledged the existence of this air duct. According to Delucchi, 10 windows were obstructed by this kitchen air duct. A motion was made to APPROVE the application contingent upon an assessment by CB7 that this HVAC duct was in compliance. The committee voted to APPROVE the application as follows: 5 in favor; 1 opposed; 0 abstentions and 0 for cause. On July 11<sup>th</sup>, Marc Glazer went to the site and reported that the duct in question is not blocking any windows, and appears to be more than 4 feet from the resident's window. (4 feet is the legal minimum he reported). It is properly mounted to the brick wall of the building. He furthermore said the duct is the exhaust for the restaurant's Ancil system for open flame cooking and that installation of such systems is heavily regulated because of the risk of fire. As such they are only installed by licensed professionals and are regularly inspected.
5. 507 Columbus Avenue **AKAI Japanese Restaurant** (#22 on agenda) was represented by James Du who also has a restaurant in New Jersey said he will serve lunch from 12-5pm and is asking the SLA for a full liquor license. The Committee voted to APPROVE the application as follows: 6 in favor; 0 opposed; 0 abstentions; 0 for cause.



6. 924 Columbus Avenue **Sasa's Lounge** (#23 on agenda) can count on the Columbus Avenue BID for its interest in this Italian tapas style restaurant that will hold between 45-50 people; 5 at the bar and the rest on stools and couches. It will be open from 4pm to 4am. It is on the former site of a Botanica. It will have IPOD music and insulation on the back wall. George Zeppenfeldt-Cestero reminded the owner to keep folks from congregating on the sidewalk outside the restaurant so its neighbors are not disturbed. The owner says there is still a problem with drug dealers in the area and she asks them to move from the area. The Committee voted to APPROVE the application as follows: 5 approve; 1 oppose; 0 abstentions; 0 for cause.

7. 999 Columbus Avenue d/b/a **Soundslot Inc.** (#24 on agenda) Keisha Davis was present. She said La Negrita was the former name and that this bar/lounge is keeping everything the same as the former owner. There are 10 seats at the bar and the tables can seat another 50-65 folks. They serve coffee, sandwiches and soup to people in the neighborhood before 4pm and serve the same at the bar after 4pm. They are soundproofing the location because they play music off the tvs and live music is played unamplified on Tuesday nights. The Committee made a motion to approve the application pending an amendment to the application to include the type of music and if live music was offered, then the windows and doors had to be shut after 11pm and voted to APPROVE the application as follows: 6 approve; 0 oppose; 0 abstentions; 0 for cause.

8. 2425 Broadway **Haku Sushi** (#25 on agenda). This application is to update the license from a wine and beer license to a full liquor license. It has been in business since 2005. There are 37-38 seats. The Committee voted to APPROVE the application as follows: 6 approve; 0 oppose; 0 abstentions; 0 for cause.

9. 392 Columbus Avenue, JDM Partners, Inc., **Ducale Restaurant** (#26 on agenda) will be a second floor dining room with 28 seats in the dining room and 5 at the bar. They are under renovation and in the process of making an application for an unenclosed café space. It was noted that the umbrella bases from the former restaurant were rotted and Ducale, by its owner, said they will be removed. The Committee voted to APPROVE the application as follows: 6 approve; 0 opposed; 0 abstentions; 0 for cause.

A motion was made and approved to adjourn the meeting.

**Present:** Michelle Parker, George Zeppenfeldt-Cestero, Lindsey Boylan, Marc Glazer, Ulma Jones and Anne Raphael. **Absent:** Rosa Gonzalez.



**PARKS & PRESERVATION COMMITTEE MEETING MINUTES  
KLARI NEUWELT & LENORE NORMAN, CO-CHAIRPERSONS  
July 10, 2008**

The Parks and Preservation Committee of Community Board 7 met on July 10, 2008 in the offices of Community Board 7, 250 West 87th Street, New York, NY 10024. The meeting was called to order at 8:00 pm, and was chaired by Klari Neuwelt, a co-chairperson of the Committee.

The following topics were discussed during the meeting.

**1. Tennis Bubble Planned for Riverside Park.**

- (a) The chair advised the committee members that CB7 received notice that the Parks Department would issue a request for proposal ("RFP") to erect an inflatable bubble within Riverside Park to accommodate tennis play during inclement weather.
- (b) The chair noted that while the notice to CB7 was dated May 2008, it was initially misdirected, and did not arrive at the CB7 offices until the week of July 7th. No details as to the proposed location of the bubble, whether it would include some or all of the existing tennis courts west of the highway at about 95th Street, and/or how and when the bubble would be used, were provided with the notice.
- (c) Based on the limited information, the Committee decided to take no action with respect to the proposal other than to request that additional information be provided, and that the RFP not be issued until after the Committee's September 2008 meeting, so that the Committee might get public input at that meeting and submit comments to DPR about the draft RFP.
- (d) John Herrold, the Riverside Park Manager, later joined the meeting, and offered his understanding, subject to confirmation, that the bubble was intended to cover the existing tennis courts, but only in the winter months.

**2. Update on New-York Historical Society.**

- (a) The chair advised the Committee members that CB7 had been told that it could expect written confirmation from the New-York Historical Society ("NYHS") that it would not apply any additional No Standing or No Parking zones. Such letter, together with anticipated confirmation that the NYCT had approved the proposed bus stop move on CPW, would satisfy the conditions in the resolutions voted upon at the Committee's and Board's meetings on July 1, 2008.
- (b) The Committee briefly noted published reports that the NYHS had announced it was renouncing its intent to build a tower on, over or adjacent to its parcel(s) on Central Park West and West 76th and 77th Streets.

**3. 190 Riverside Drive.** The chair noted that the application relating to this building was being adjourned to the Committee's September meeting.

**4. Riverside Park South – Pier I Café.** The Committee discussed the following matters with John Herrold, Riverside Park Administrator:



- (a) The Café has been the subject of complaints that it has been making more tables and chairs available that can be accommodated in the permitted footprint of the café's temporary structure, with the result that the excess tables and chairs are blocking pedestrian ways. The Parks Department has advised the concessionaire that it must limit the number of tables and chairs, and reinforce the space limitations initially agreed-upon.
- (b) The Committee noted concerns that despite assurances that the concessionaire would offer menu items at both the low and high end of the price gamut, in keeping with its situation within a public park, recent offerings skewed to the high end of pricing. Mr. Herrold advised that the concessionaire has been asked to submit its menus to DPR for review, and that his office would follow up on this issue.
- (c) Mr. Herrold advised that the Arts Commission voiced certain concerns with respect to the proposed permanent structures for the Café, including a reference to potentially expanding seating beyond the initially designated areas. The Committee expressed concern that such intentions were not presented to it when the concessionaire presented its plans at a meeting in May 2008.
- (d) Mr. Herrold advised that the concessionaire was expected to be back before the Committee with revised proposed plans, possibly as soon as the September 2008 meeting.

**5. 116 West 71st Street.** Application for a Certificate of Appropriateness to the Landmarks Preservation Commission ("LPC") for a rear-yard addition and front façade renovation. The presentation was made by architects Garth Hayden and Carly Greto of Garth Hayden Architect, 250 West 57th Street, New York, NY 10107, 212-957-9570.

- (a) **Notice of Meeting.** The chair received the applicant's evidence of having posted notices relating to the application being heard at the meeting, and noted that the notice was placed in only 5 locations, with very few local business establishments notified. The Committee agreed to hear the application, but noted that better notice would be required in the future.
- (b) **Background.** The existing structure is approximately 20' x 65' with an "L" shaped rear yard extension. The building most recently was an SRO, is vacant, and is being renovated to serve as a single-family residence. The architect advised that the owners had received a certificate of non-harassment with respect to the vacancy of the building.
- (c) **Front Façade:** The plans call for the removal of existing paint from the front façade to reveal original "brown stone" surface, for the restoration of the existing front doors or fabricating replicas of the original doors, and for the replacement of the current windows with 1 over 1 double-hung wood windows.

**Committee Concerns:**

- (i) The drawings do not match the presentation, as they reflect a staggered brick surface rather than the expected brown stone;
- (ii) The plans for the front doors were not final, as it was undecided whether the existing doors matched the originals, and whether they would be restored or replaced;
- (iii) The color of the wood windows had not been chosen, and was proposed as "probably" brown or black; and no plans, specifications, scale drawings or samples of the proposed replacement windows were made available (the plans presented reflected double-hung windows with a transom, which is contrary to the 1 over 1 windows LPC advised would be required).

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**(d) Rear Extension:**

- (i)** The plans call for the "filling in" of the current "L" shaped extension into the rear yard, which currently extends to within 24' of the rear yard line.
- (ii)** The plan also includes a ground floor 1-story greenhouse extending from the 30' line to build out to the 24' line of the current structure; a Juliet balcony above the greenhouse, and the structure to be extended to the 30' line for floors 2 and above.
- (iii)** The existing 1 over 1 double hung windows will be replaced with wide casement windows with modern patterns and transoms on the new portion of the extension and on the existing structure.
- (iv)** The top floor of the extended structure would angle back to the roof, with glass skylight-like windows covering the bevel.
- (v)** The new portion of the extension would be made out of red brick to match the existing rear structure.
- (vi)** No portion of the rear extension would be visible from any public way.

**Committee Concerns:**

- (A)** Two Committee members voiced the concern that the existing pattern of the subject and adjacent buildings, with 3 columns of double-hung windows, would be broken by the proposed wider casement windows, with no functional or aesthetic rationale for the change other than the desire for greater light in the north-facing rear of the structure; one Committee member was not troubled by the change given similar additions approved or existing in the neighborhood in the past;
- (B)** No sample material for the replacement brick was available nor were specifications disclosed.

**(vii) Community Comments:**

The neighbor to the West noted that extending the rear of the structure to the 30' line would cast a shadow over the set-back balcony space currently shared by the neighboring building;

The Committee noted and the neighbor accepted that so long as the extension of the existing structure did not exceed into the required 30' rear-yard setback, the owner was entitled to make the addition as a matter of zoning.

- (e) Roof Additions:** The plans call for the construction of a stair bulkhead on the rear portion of the roof. The architect presented a demonstration that appeared to confirm that the added structures would not be visible from any public way.

**(f) Committee Decision:** The Committee proposed a resolution to

- (i) Disapprove** the proposed work to the front façade based on the concerns noted, and to
- (ii) Approve** the proposed work on the rear extension and roof based on it not being visible from a public way, while expressing palpable reservations as to whether the proposed plans were appropriate and in keeping with the original character of the structure and similar structures in the neighborhood.

The Vote on the proposed resolution was:

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Committee Members: 3-1-0-0

Non-Committee Board Members: 0-2-0-0

- 6. 163 West 78th Street – Rodeph Sholom School.** Proposed renovation of a townhouse to merge with and form a part of the existing townhouses located on West 78th Street and West 79th Street, to be used for the School.
- (a) Evidence of adequate notice to the community was presented.
  - (b) Kenneth Lowenstein of Bryan Cave LLP noted that the School had previously received a variance from the Board of Standards and Appeals when it purchased the adjacent buildings on West 78th (nos. 165 and 167). The applicant will go back to BSA for a Special Order Calendar to amend the existing variance to include this lot.
  - (c) Paul Druzinsky, the Head of School of the Rodeph Sholom School, highlighted the lack of adequate space for the existing student population, including recreational and classroom space, as well as administrative and group meeting space. Mr. Druzinsky also stated that the School did not intend to use the added space to increase enrollment, but rather to better serve the existing student population.
  - (d) Jeffrey Murphy and Sara Grant, architects with the firm of Murphy Burnham & Buttrick, 48 West 37th Street, New York, NY 10018, 212 768-7676 x20 and x24, [jmurphy@mbbarch.com](mailto:jmurphy@mbbarch.com); [sgrant@mbbarch.com](mailto:sgrant@mbbarch.com), presented the plans for the renovation and merger of the 163 building with the existing school.
    - (i) The structure had recently been used as a short-term residence facility/hotel, for which it was not approved or zoned.
    - (ii) The rear yard construction on 163 would extend only to the 30' line except on the ground floor, with a portion of the existing structure to be trimmed and the balance to be extended to that line.
    - (iii) While the School as a community facility qualified for a rear yard ground level encroachment to a height of 23', the plans called for a rear yard gym structure to the rear lot line that would be less than 23 feet in height.
    - (iv) The front façade work would include the replacement of non-LPC approved vinyl windows with 1 over 1 wood windows, with detailed specifications on dimensions provided; in addition, the front window bars that currently provide an a/c bubble would be replaced with flat window bars on the lower floor.
    - (v) The front doors would be replaced with doors to match the front doors on buildings 165 and 167.
    - (vi) The rear yard above the gym would include floor-to-ceiling glass windows, to be shielded by a permanent green planting strip for specified plants that would include cut-outs in patterns that would echo the current window configuration. The windows would be operable only to a specified height to ensure that children could not accidentally fall out.
    - (vii) The rear yard space above the gym would be planted to provide some buffer between the existing play space in the rear of buildings 165 and 167.
    - (viii) The plans include the construction of a 6th floor on the rear portion of the roof of building 163, a sliver portion of which would be visible only from one angle at a distance of about 100' to the east on West 78th Street; otherwise the roof addition was not visible from any public way.

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- (ix) The plans involve attempts to minimize energy consumption to create a sustainable (LEED-certified) structure.
- (e) **Board and Committee Comment and Questions:**
  - (i) George Zeppenfeldt-Cestero and Victor Gonzalez expressed serious concern over the conversion of residential housing to other uses when housing (affordable and otherwise) is in short supply in our District and City.
  - (ii) Gabrielle Palitz noted the reservation, but distinguished the elimination of housing for commercial purposes from a conversion to a community service use such as a school.
  - (iii) Micki Fiegel noted that the conversion of housing to other uses was common throughout the Upper West Side.
  - (iv) Gabrielle Palitz noted that the rear elevation was an aesthetically pleasing departure from the original rear wall, rather than a half-a-loaf effort to depart and conform.
  - (v) Several Committee members applauded the willingness of the architects to research and implement alternatives to the front doors based on community input (below).
  - (vi) Mark Diller noted that the plans as presented stated a case for approval, and that the architects had done all that could be required to meet current standards, concerns raised by the community required a meaningful response.
- (f) **Community Comment and Questions:**
  - (i) Edward Rothstein (155 West 78th) and Michael Lyall (157 West 78th) noted that 5 of the 7-8 structures in a row on the block built at the same time as a series shared the same front doors, but that the School's 165 and 167 buildings used non-conforming doors, and the plans call for 163 to match the non-conforming doors rather than the original doors.  
**Response:** Jeffrey Murphy agreed that if the configuration of the neighboring doors as original could be confirmed, he would restore the existing doors rather than replace with doors matching 165 and 167, and that he would propose (subject to budget and other concerns) that the doors on 165 and 167 be replaced to match the original configuration as well.
  - (ii) Rebecca Seltzer (173 West 78th) raised concerns about the noise of children in the existing rear play yard, and the congestion on West 78th Street at drop-off and dismissal, and also of a rat problem attributed to the existing school buildings.  
**Response:** The Committee noted that while the concerns over noise and congestion were valid and problematic, the issue of whether a conversion to the school's use was not before it because the land was the subject of a variance and such use had already been permitted. The Committee encouraged Ms Seltzer to be in contact with the Community District office, and with the Head of School, to address noise and operational issues on an on-going basis.
  - (iii) Robert Pierpont (164 West 79th) expressed similar concerns regarding play area noise and inquired whether the windows on the gym space could be made non-operable to reduce additional noise. Mr. Pierpont also asked where the HVAC mechanicals would be located based on noise concerns.  
**Responses:** The chair noted that windows of the type proposed were required to

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be operable.

Jeffrey Murphy indicated that the HVAC mechanicals would be located in the front of the roof, in front of the planned roof addition, to keep their noise out of the back yard.

- (iv) Michael Lyall (157 West 78th) commended the architects on the integrity of the plans, and noted that his primary concern was with the annexation of residential space on a residential block, which he understood was not within the Committee's purview. Mr. Lyall also expressed the view that the rat problem had been caused by the vacant building next door to the school.
- (v) Claudia Pierpont (164 West 79th) expressed concern over the reverberating noise from the current play space in the rear yard, which materially affects the ability to work at home during school hours.

**Response:** The Committee noted the concerns, and advised that the limited purview of the Committee did not admit of a way to address those concerns in this forum.

- (vi) Marilyn Stasio (164 West 79th) requested that the play areas in the back yard be enclosed due to the noise problem currently experienced, and the anticipation that it would increase with the new facility. Ms Stasio provided written testimony and written anecdotal experiences concerning the noise experienced by the School's neighbors, which is appended to these minutes.

**Response:** the Committee noted that such concerns were valid but beyond its current purview.

- (vii) Mark LaMura (157 West 78th) provided a written submission echoing previous comments about noise concerns.

- (g) **Committee Decision:** The Committee Proposed a resolution to **approve** the plans as presented, subject to the restoration of the front doors on 163 if research reveals that the door configuration of 163 West and other neighboring buildings was the original design (with the encouragement but not the requirement that similar doors be installed on 165 and 167).

The vote on the proposed resolution was:

Committee Members: 3-0-1-0

Non-Committee Board Members: 0-2-0-0

- 7. **117 West 81st Street.** Application concerning the expansion of the roof penthouse and terrace, exterior renovation in the rear yard, and new windows on the front façade. Presentation by Colin McDermid, Mark Brungo and Rem Garavito Bruhn of Ronnette Riley, 350 Fifth Avenue, #7401, New York, NY 10118, 212-594-4015, [cm@ronnetteriley.com](mailto:cm@ronnetteriley.com); [mb@ronnetteriley.com](mailto:mb@ronnetteriley.com); [rb@ronnetteriley.com](mailto:rb@ronnetteriley.com).

- (a) The Committee was briefed on a separate, already approved plan to renovate the front façade, including the recreation of the steps and stoop to the parlor floor, which the Committee endorsed whole-heartedly.
- (b) The rear yard renovation is visible from West 82nd Street by virtue of the break in the building line opposite the yard occasioned by the police parking lot next to the 20th Precinct House.

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- (c) The rear yard plans, following LPC staff review and comment, call for building a full-width rear extension to the 30' line, which would involve extending one portion of the existing "L" and reducing the balance.
- (d) The rear extension would rise to the third floor, then set back over a terrace to the fourth floor. The rear façade would be of red brick in a standard staggered configuration, with stacked dark grey bricks recessed 4 inches for the spandrels in between floors 1 – 2 and 2 – 3 (contrasting dark brick suggested by LPC). The fourth floor roof line would continue to use a limestone cap, and would continue the existing 3 window pattern with limestone lintels (even if replacement of the existing wall is required), except that one of the existing windows will be converted to a door to the new set-back terrace.
- (e) The roof addition will not be visible from 81st Street; only from 82nd per the police parking lot. The existing penthouse will be extended to within 5' of the rear of the structure (LPC proposed a minimum of 3'). Per LPC input, the surface of the roof addition will be a charcoal colored cement board.

**Community Comment and Questions:**

- (f) A neighbor from 133 West 81st inquired about the front yard tree.  
**Response:** the tree will be removed to make way for access to the basement once the stairs and stoop are recreated. The architects showed a slide containing a photo of the subject building and the neighboring Endicott Hotel (with the 9th Avenue Elevated railroad station visible) which revealed that there was no tree in the original front yard configuration. Once renovations are completed, the architects proposed planting smaller trees in moveable planters.
- Committee Questions and Comment:**
- (g) The Committee members expressed satisfaction with the plans as proposed, and were not troubled by the rear extension being visible due to a quirk in the building line on West 82nd Street.
- (h) The Committee members also expressed appreciation to the architects for providing samples of the bricks, railing materials, window colors and other materials to be used under the plans, and for a well-organized presentation.
- (i) **Committee Decision:** The Committee Proposed a resolution to **approve** the plans as presented.  
The vote on the proposed resolution was:  
Committee Members: 4-0-0-0.

8. **Recap.** The Committee members updated each other on the joint meeting with the CB7 Transportation Committee on July 8th, at which
  - (a) plans to raise the subway grates at 79th, 86th and 91st Streets on the Broadway Local line to prevent flooding were generally approved, but the designs for curved benches and bike racks were disapproved;
  - (b) planters on West 76th Street were approved as not materially interfering with sidewalk usage, although concerns were raised about other aspects of the renovation of the building which were not then before either the Parks or Transportation Committee.
9. The Committee discussed means of improving the communications and cooperation between its function and the LPC to enable the Commission staff to benefit from work already done by CB7 and avoid duplication of effort while improving efficiency.

# COMMUNITY BOARD 7 Manhattan

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**Adjournment.** The meeting concluded at 10:45 pm.

**Present:** Klari Neuwelt, Miki Fiegel and Gabrielle Palitz. **Board Members:** Mark Diller, Victor Gonzalez and George Zeppenfeldt-Cestero. **Absent:** Lenore Norman, Lindsey Boylan, Molly Gordy, Phyllis E. Gunther, Blanche E. Lawton and Jeffrey Siegel.



**Transportation Committee Meeting Minutes  
Andrew Albert and Dan Zweig, Co-Chairpersons  
July 8, 2008**

**Application by the Lincoln Square BID to the Street Activity Permit Office to use various locations in and around Lincoln Square for the 2008 Winter's Eve Celebration on Monday, December 1<sup>st</sup>.**

Monica Blum and Richard Juliano, Lincoln Square BID, presented the application.

The Committee adopted the following resolution:

The Annual Winter's Eve celebrations are a well-attended, well-liked tradition;

THEREFORE, BE IT RESOLVED THAT Community Board 7/Manhattan **approves** the application by the Lincoln Square BID to the Street Activity Permit Office to use various locations in and around Lincoln Square for the 2008 Winter's Eve Celebration on Monday, December 1<sup>st</sup>.

*Committee: 9-0-1-0. Board Members: 6-0-0-0. Public Member: 1-0-0-0.*

**Application by Lincoln Center to the Street Activity Permit Office to close lanes on Columbus Avenue between West 62<sup>nd</sup> and 63<sup>rd</sup> Streets on Monday, December 1<sup>st</sup> for the annual tree lighting ceremony.**

The Committee adopted the following resolution:

The construction at Lincoln Center has made the annual tree-lighting ceremony unsafe & impractical, and this year Lincoln Center will be utilizing a "virtual" tree for their celebrations, projected onto a wall of the NY State Theater.

The traffic division of the N.Y.P.D. will control traffic, re-routing it down Broadway.

THEREFORE, BE IT RESOLVED THAT Community Board 7/Manhattan **approves**, for this one-time only, the application by Lincoln Center to the Street Activity Permit Office to close lanes on Columbus Avenue between West 62<sup>nd</sup> and 63<sup>rd</sup> Streets on Monday, December 1<sup>st</sup> for the annual tree lighting ceremony so that revelers may observe the "lighting" of Lincoln Center's tree.

*Committee: 9-0-1-0. Board Members: 6-0-0-0. Public Member: 1-0-0-0.*

**Joint with Parks & Preservation Committee**

**79<sup>th</sup>, 86<sup>th</sup> and 91<sup>st</sup> Street Broadway Malls.** Presentation by the MTA on plans to reduce subway flooding by modifying and enhancing the Malls.

Adrienne Taub, of NYC Transit, appeared with other transit officials, to promote their plan for raising the grates on three of the Broadway Malls susceptible to flooding. These are the 79<sup>th</sup>, 86<sup>th</sup> & 91<sup>st</sup> Street malls. Their presentation showed raised grates with bicycle racks on top of these grates, as well as curved benches

accommodating approximately four persons, with room for a wheelchair. There was great resistance to the idea of bike racks in the malls, as well as great opposition to the design. Many people spoke against this proposal, fearing the only users would be commercial establishments. Additionally, the curved bench, it was felt, was not in keeping with the traditional straight-bench look of all the other malls.

Discussion also ensued on the treatments of the barriers at the ends of the malls, as well as the flooring. The Broadway Mall Association was represented at the meeting by Margaret Doyle, who spoke out against the MTA's plans for the bike racks, as well as the curved benches. The Committees passed the following resolution:

NYC Transit has proposed raising the grates in the Broadway Malls in three locations – West 79<sup>th</sup> Street, West 86<sup>th</sup> Street, & West 91<sup>st</sup> Street - to prevent flooding of the Broadway IRT West Side Line during heavy rainstorms.

This design also includes the placement of bicycle racks on the Broadway Malls over the existing gratings, and includes the placement of curved benches to accommodate wheelchair users.

The Broadway Mall Association has and continues to be opposed to the placement of bike racks and the curved benches, believing that the design does not complement the Malls, but rather, stands out as not in keeping with the traditional design.

Many community residents have expressed similar opinions.

The enlarged grate areas will result in less room at the intersections for the traditional benches.

The MTA is mandated to make ADA accessible any improvements or changes it makes to existing facilities.

THEREFORE, BE IT RESOLVED THAT Community Board 7/Manhattan has no opposition to the raising of the grates at West 79<sup>th</sup> Street, West 86<sup>th</sup> Street, and West 91<sup>st</sup> Street in the Broadway Malls; and

BE IT FURTHER RESOLVED THAT Community Board 7 **disapproves** the design and placement of the bicycle racks and the curved benches for these locations; and

BE IT FURTHER RESOLVED THAT Community Board 7/ Manhattan urges the MTA & the Department of Parks to work out a formula for straight benches at these three locations, incorporating the area encroached upon by the enlarged grates and curved benches into a formula whereby this area's square footage can be re-distributed at the end of the malls to allow for straight benches, allowing room for a wheelchair, if necessary.

*Joint Committees: 13-0-2-0. Board Member: 0-1-0-0.*

**The Gateway School's request for the flow of traffic on West 61<sup>st</sup> Street to be changed to westbound.**

Bob Cunningham, Director of the Gateway School, appeared before the Committee. The Gateway School has requested a change in the direction of West 61<sup>st</sup> Street to westbound, from eastbound. Philip Habib, transportation consultant, gave a historical overview as to why some odd-numbered street had been routed eastbound, instead of the traditional westbound. Most of the "populated" areas were to the east of West End Avenue, thus most streets led to the more-important "populated" areas, to the east. As there is much new development along West End Avenue now, this change of directions makes a good deal of sense, and would help the Gateway School in unloading children in front of the school, as most are coming from east of the school. The Committee passed the following resolution:

Whereas the historical reasons for having most streets run eastbound has long since been made moot, and

Whereas most odd-numbered streets in Manhattan run in a westbound direction, and whereas the Gateway School has asserted that it would be much safer for child drop-off & pick-up of children if West 61st Street between Amsterdam Avenue & West End Avenue ran in a westbound direction, therefore

Be it resolved that CB#7 approves the change in direction of West 61<sup>st</sup> Street between Amsterdam Avenue & West End Avenue from eastbound to westbound.

*Vote: Comm: 10-0-0-0. NCB: 1-0-0-0.*

## **Joint with Parks & Preservation Committee**

**39 West 76<sup>th</sup> Street (Central Park West-Columbus Avenue.) Petition to the Department of Transportation for a fenced-in planter area.**

Request was made by a representative of the owner of 39 West 76th Street to change the railing along the front of their building to bring it in line with the railings of the other buildings. This change was due to the planting of a large Japanese Maple tree in the front area.

Joe Bolanos, of the West 76<sup>th</sup> Street Park Block Association spoke against the proposal, and mentioned the zoning change the owner had received, over the objections of the Block Association.

As that change had nothing to do with the application at hand, the Committees passed the following resolution:

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Be it resolved that CB#7 approves the change in the front area and railing of 39 West 76<sup>th</sup> Street so that it lines up with adjacent buildings on the block.

*Joint Committees: 10-2-2-0. NCB: 1-0-0-0.*

**Application #1286718 to the Department of Consumer Affairs by Hyan Kim to construct and operate a newsstand at the southeast corner of Broadway and West 62<sup>nd</sup> Street.**

Hyan Kim has applied for a newsstand at the southeast corner of Broadway & 62nd Street, in front of the 15 Central Park West Condominium. The applicant was not present. Michael Sillerman, of the law firm of Kramer, Levin, appeared to speak against the proposal, alleging it violated several aspects of D.O.T.'s newsstand rules, specifically about not allowing newsstands when so many floors of commercial retail are present. Additionally, Mr. Sillerman said that 15 Central Park West has already been approved by D.O.T. for enlarged tree pits, which will allow for healthier street trees. He stressed that the application for the tree pits pre-dated the newsstand application, thus demonstrating even more reasons the newsstand should not be approved. In addition, the Lincoln Square B.I.D. opposes this newsstand. A hearty discussion ensued about this proposal. After a vote was taken, there were not enough votes to move this application forward to the full board.

**Application #1287183 to the Department of Consumer Affairs by Shamsun Nahar to construct and operate a newsstand at the northeast corner of Broadway and West 70<sup>th</sup> Street.**

An application for a newsstand at the NE corner of Broadway & 70th Street was made by Shamsun Nahar. After a brief discussion, the committee passed the following resolution:

Be it resolved that CB#7 approves the application for a newsstand at the NE corner of Broadway & 70th Street

*Vote: Comm: 8-0-1-0.*

**Application #1289711 to the Department of Consumer Affairs by Anuraq Maheshwari to construct and operate a newsstand at the southwest corner of Broadway and West 98<sup>th</sup> Street.**

An application was made by Anuraq Maheshwari to operate a newsstand at the SW corner of Broadway & 98th Street. The committee passed the following resolution:

Be it resolved that CB#7 approves the application to operate a newsstand at the SW corner of Broadway & 98th Street.

*Vote: Comm: 10-0-0-0.*

**311 Amsterdam Avenue** (West 74<sup>th</sup> – 75<sup>th</sup> Streets.) New application DCA# 1289619 to the Department of Consumer Affairs by Fusha Japanese Restaurant, Inc., d/b/a Fusha Japanese Restaurant, for a two-year consent to operate an unenclosed sidewalk café with 20 tables and 61 seats.

A new application by Fusha Japanese Restaurant to operate an unenclosed sidewalk cafe with 20 tables & 61 seats. After a discussion, the Committee passed the following resolution:

Be it resolved that CB#7 approves Fusha Japanese Restaurant's application to operate an unenclosed sidewalk cafe at 311 Amsterdam Avenue.

*Vote: Comm: 8-1-1-0.*

**461 Columbus Avenue** (West 82<sup>nd</sup> Street.) New application DCA# 1290704 to the Department of Consumer Affairs by Mabu, LLC, Inc., d/b/a Madeleine Mae, for a two-year consent to operate an unenclosed sidewalk café with 8 tables and 16 seats.

An application was made by Mabu, LLC d/b/a Madeleine Mae, to operate an unenclosed sidewalk cafe at 461 Columbus Avenue (82 St), with 8 tables and 16 seats. Lawrence Jones appeared for Madeleine Mae. The committee passed the following resolution:

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# COMMUNITY BOARD 7 Manhattan

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Be it resolved that CB#7 approves Mabu LLC d/b/a Madeleine Mae's application to operate an unenclosed sidewalk cafe at 461 Columbus Avenue.

*Vote: Comm: 8-1-0-0.*

**366 Columbus Avenue** (West 77<sup>th</sup> - 78<sup>th</sup> Streets.) New/Change of Ownership application DCA# 1282506 to the Department of Consumer Affairs by Shake Shack 366 Columbus, LLC, d/b/a Shake Shack, for a two-year consent to operate an enclosed sidewalk café with 12 tables and 34 seats.

Randy Garutti of Shake Shack, appeared before the committee. A request to operate an enclosed sidewalk cafe at 366 Columbus Avenue (77<sup>th</sup> Street) with 12 tables and 34 seats was made. Discussion ensued about egress, lines outside, and use of the existing enclosed cafe. The committee passed the following resolution:

Be it resolved that CB#7 approves Shake Shack's application to operate an enclosed sidewalk cafe, with 12 tables and 34 seats, at 366 Columbus Avenue.

*Vote: Comm: 9-1-0-0.*

**2728 Broadway** (West 104<sup>th</sup> – 105<sup>th</sup> Street.) Renewal application DCA# 1221141 to the Department of Consumer Affairs by Tokyo Pop, LLC, d/b/a Tokyo Pop, for a two-year consent to operate an unenclosed sidewalk café with 17 tables and 34 seats.

At Co-Chair Dan Zweig's urging, Tokyo Pop was asked to come back to the committee to discuss some disturbing aspects of their sidewalk cafe operation, specifically, sandwich boards out on the sidewalk, and an ever-expanding cafe border. Allen Chevreux, owner, appeared before the committee. After a spirited debate, the committee decided to **CONDITIONALLY** approve the cafe, pending spot inspections over the summer, and immediate removal of the sandwich boards.

*Vote: 9-1-0-0.*

**230 West 79th Street** **230 West 79<sup>th</sup> Street, aka 2210 Broadway.** Application by Telebeam to the Department of Information Technology and Telecommunications to relocate a double public pay telephone as a result of the 96<sup>th</sup> Street IRT Station Renovation to 230 West 79<sup>th</sup> Street.

The Committee looked at maps and decided that the proposed relocation of the public phones did not match the written description of the location. Further research will be done on this matter.

**Present:** Andrew Albert, Dan Zweig, Marc Glazer, Ulma Jones, Bobbie Katzander, Barbara Keleman, Blanche E. Lawton, Anne Raphael and Oscar Rios. **Board Chairperson** Helen Rosenthal. **Board Members:** Page Cowley, Mark Diller, Miki Fiegel, Paul Fischer, Gabby Palitz, and Tom Vitullo-Martin. **Absent:** Linda Alexander.

**Housing Committee Meeting Minutes**  
**Victor Gonzalez and Charles Simon, Co-Chairpersons**  
**July 21, 2008**

The meeting was called to order at 7:16 P.M.

The guest speaker was Brian Cook from the Manhattan Borough President's Office.

Mr. Cook's presentation largely tracked the 421-A fact sheet, which is available at [nyc.gov/mcb7](http://nyc.gov/mcb7).

After the presentation, the floor was opened for questions and suggestions.

The meeting adjourned at 8:05 P.M.

**Present:** Victor Gonzalez, Charles Simon and Melanie Radley. **Board Chairperson** Helen Rosenthal. **Absent:** Sonia Garcia, Rosa Gonzalez, Chaumtoli Huq, Johnetta Murray, Sharon Parker-Frazier, Liz Samurovich and Barbara Van Buren.

421A Fact Sheet Follows

### **421-a Legislation Overview and FAQ**

This document contains general information about recently enacted local and state legislation and is not intended to provide legal advice or to be relied upon in any way by any person or entity. The provisions of the applicable state law, local law, and rules regarding the 421-a tax exemption program are extremely complex. It is therefore important to rely only upon the actual text of the applicable statutes and rules and to consult with an attorney as to their meaning.

HPD is currently beginning the rulemaking process pursuant to the City Administrative Procedure Act, which will include an opportunity to comment on the proposed rules at a public hearing. To the extent that any of the issues discussed herein are also addressed in HPD's proposed rules, they will not be finalized until the rulemaking process is completed. Please check HPD's web site regularly to ensure that you have the most current information. If you have further questions please contact Arden Sokolow at (212) 863-6196.

On December 28, 2006, the Mayor signed Local Law No. 58 of 2006. This legislation, which contains major reforms to the 421-a tax exemption program, became effective on December 28, 2007. On August 24, 2007, the Governor signed Chapters 618, 619, and 620 of the Laws of 2007. On February 21, 2008, the Governor signed Chapter 15 of the Laws of 2008. This state legislation contains further reforms to the 421-a tax exemption program. The combined state and local legislation includes the following major programmatic changes to the 421-a tax exemption program:

- **Expands the 421-a geographic exclusion area (GEA).** Developments in the GEA are required to provide affordable housing in exchange for receiving 421-a tax benefits. The current GEA includes Manhattan from roughly 14<sup>th</sup> to 96<sup>th</sup> Streets as well as the Greenpoint/Williamsburg areas of Brooklyn. The GEA has been expanded to include:
  - In Manhattan: all of Manhattan is now covered.
  - In the Bronx: Portions of Claremont and Crotona Park.
  - In Brooklyn: Downtown Brooklyn as well as portions of Red Hook, Sunset Park, East Williamsburg, Bushwick, East New York, Crown Heights, Weeksville, Highland Park, Ocean Hill, Prospect Heights, Carroll Gardens, Cobble Hill, Boerum Hall, and Park Slope.
  - In Queens: Portions of Long Island City, Astoria, Woodside, Jackson Heights, and the East River Waterfront.
  - In Staten Island: Portions of St. George, Stapleton, New Brighton, and Port Richmond.

*The Greenpoint-Williamsburg Waterfront area forms a separate GEA in effect since 2005, with different affordability requirements (see FAQ).*

- **Eliminates as-of-right 25-year benefits in NPP/REMIC areas.** Only developments that meet on-site affordability requirements or receive substantial governmental



assistance pursuant to an affordable housing program will be eligible to receive 25-year benefits. Projects located in both the GEA and an NPP/REMIC area must meet GEA requirements before receiving extended benefits.

- **Sets a limit on the total amount of 421-a tax benefits that any market-rate unit may receive (AV cap).** Only the first \$65,000 of an apartment's billable exempt assessed value (AV) will now be eligible for the 421-a tax exemption. The value of a unit above this threshold is ineligible to receive benefits. For units with an exempt AV above this \$65,000 cap, owners will pay taxes on the portion of AV above the cap, but still receive tax benefits on the portion of AV below the cap. The \$65,000 cap will be increased by 3%, compounded annually, on each taxable status date following the first anniversary of the effective date of the State law. Projects that qualify for extended benefits will not be subject to the AV cap (see example chart in FAQ section below).
- **Eliminates the negotiable certificate program.** Any property within the GEA must provide affordable housing onsite in order to receive any 421-a tax benefits. Since December 28, 2007, no new written agreements for negotiable certificates projects have been issued. Existing certificates will not expire, and can still be used, with some limitations (see FAQ below).
- **Authorizes HPD to create a dedicated fund for affordable housing.** The Fund will be used to create affordable housing outside of the GEA, focusing on the 15 highest poverty districts in the City.
- **Reserves 421-a tax benefits for buildings with a minimum of four units.** Three-unit buildings are no longer eligible for 421-a benefits unless they are constructed with substantial governmental assistance pursuant to an affordable housing program.
- **Community preference for affordable units in GEA.** Within the GEA, residents of the community board in which the building receiving benefits is located will have priority for purchase or rental of 50% of the affordable units upon initial occupancy.
- **Specified unit and bedroom mix.** Unless preempted by federal requirements, affordable units in the GEA must have either a comparable number of bedrooms as market rate units and a unit mix proportional to the market rate units, or at least 50% of the affordable units must have two or more bedrooms and no more than 50% of the remaining units can be smaller than one bedroom, or the floor area of affordable units must be no less than 20% of the total floor area of all dwelling units.
- **35-year affordability and rent stabilization requirements.** Affordable rental units in the GEA must be kept affordable at initial and subsequent rentals after vacancy and remain rent-stabilized for 35 years after the completion of construction. After the 35 year period, tenants with leases will remain as rent stabilized tenants for the duration of their occupancy. Homeownership projects within the GEA must be affordable upon initial sale. Furthermore, rent registration forms must now be filed with HPD as well as DHCR.

- **Prevailing Wage Requirement.** This requirement applies to all persons employed in care or maintenance work at a building receiving benefits who are regularly scheduled to work at least eight hours a week in the building. Exemptions apply to buildings with fewer than 50 dwelling units as well as buildings where at least 50% of the units are affordable to those at or below 125% of AMI and, where rental units, will remain affordable throughout the benefit period.
- **Creates a Boundary Review Commission.** A Boundary Review Commission with members appointed by the Mayor and City Council will reassess the GEA every two years to determine whether the boundaries should be revised. The Commission will issue a biennial report to the Council and the Mayor with recommendations for changes to the GEA or an explanation why no recommendations are being made. The first such report must be made by December 1, 2008.

### Frequently-Asked Questions

*How does the effective date of the new law affect my project?*

The State legislation takes effect immediately. However, by its terms, it delays the effectiveness of many of its provisions as well as those of Local Law 58 until after June 30, 2008. However, several provisions went into effect after December 27, 2007.

After December 27, 2007, the following provisions went into effect:

- Elimination of NPP/REMIC as-of-right extended benefits
- Minimum number of units eligible for benefits increases from 3 to 4
- Prevailing wage requirements for service workers

After June 30, 2008, the following provisions go into effect:

- Expanded GEA
- Required community preference for 50% of affordable units in GEA
- Specified unit and bedroom mix in GEA
- Affordability requirements extended to 35 years in GEA
- AV Cap citywide

Any project that commences construction prior to December 28, 2007 or July 1, 2008, respectively, will not be subject to these new provisions and will still be eligible to receive 421-a tax benefits pursuant to the prior law. Any project that commences construction after the relevant date will be subject to the new provisions (except as otherwise noted).

*If my project is in the GEA and construction commences after 6/30/08, how can I receive 421-a tax benefits?*

Only buildings receiving substantial governmental assistance pursuant to an affordable housing program, those that set aside at least 20% of their units as affordable (see below), and projects that purchase negotiable certificates from agreements executed prior to 12/28/07 are eligible for 421-a benefits in the GEA.

*What are the affordability requirements for a building to receive 421-a benefits in the GEA after 6/30/08?*

- If construction is carried out with substantial governmental assistance provided pursuant to a program for the development of affordable housing, at least 20% of the units in the multiple dwelling must meet one of the following requirements:
  - initial and subsequent rentals in multiple dwellings with 25 units or less must be affordable at or below 120% of AMI or;
  - initial and subsequent rentals in multiple dwellings with more than 25 units must be affordable at or below 120% of AMI and cannot exceed an average of 90% of AMI or;
  - homeownership units at initial sale must be affordable at or below 125% of AMI.
- If no substantial governmental assistance is utilized, at least 20% of the units in the multiple dwelling must at initial rental or sale and at all subsequent rentals upon vacancy be affordable at or below 60% of AMI.

*If my multiple dwelling is in the GEA and I am not purchasing negotiable certificates, where must my affordable units be located?*

The legislation states that all affordable units must be situated onsite and defines "onsite" as within the building or buildings for which benefits pursuant to RPTL § 421-a are being granted. Refer to HPD's proposed rules for further information.

*What if my project is in the GEA and I have purchased negotiable certificates from an affordable housing project that entered into a 421-a written agreement prior to December 28, 2006?*

Any project newly constructed within the GEA that has purchased the requisite number of certificates is eligible to receive 421-a tax benefits as long as construction commences on or before June 30, 2009. Projects using certificates and commencing construction after June 30, 2009 will be subject to the AV cap.

*What if my project is in the GEA and I have purchased certificates from an affordable housing project that entered into a 421-a written agreement between December 28, 2006 and December 27, 2007?*

Any project newly constructed within the GEA that has purchased the requisite number of certificates is eligible to receive 421-a tax benefits as long as construction commences on or before June 30, 2008. Projects using certificates and commencing construction after June 30, 2008 will be subject to the AV cap.

*If my project is outside the GEA, what are the affordability requirements in order to qualify a project for the 25 year extended tax benefits?*

- If the project is located outside the GEA and within a former NPP/REMIC area and begins construction after 12/27/07:
  - If not utilizing substantial governmental assistance, then at least 20% of the onsite units must be affordable to persons at or below 80% of AMI.
  - If utilizing substantial governmental assistance, then such substantial governmental assistance must be provided pursuant to an affordable housing program.
- If the project is located outside the GEA and not within any former NPP/REMIC area:
  - If not utilizing substantial governmental assistance, then at least 20% of the units must be affordable to households not exceeding 100% of AMI as long as the average household income in the affordable units is at or below 80% of AMI.
  - If utilizing substantial governmental assistance, then such assistance must be provided pursuant to an affordable housing program.

*What exactly is the AV cap and how is it calculated?*

421-a is an exemption on the increased value of a property due to construction. An AV cap is a limitation on the maximum benefit available to a residential unit. The cap limits the maximum AV upon which the exemption is calculated to \$65,000. Units will only receive 421-a benefits on the first \$65,000 of billable exempt assessed value. Any AV above this threshold will be ineligible to receive benefits. The AV cap applies to any multiple dwelling that is not entitled to extended benefits. In other words, if a project is entitled to extended benefits either because it is at least 20% affordable or is governmentally-assisted, it will not be subject to the AV cap.

Within the GEA, the AV cap is only applicable for projects using negotiable certificates after the commencement of construction deadlines specified above (after June 30, 2008 for certificates generated from written agreements executed between 12/28/06 and 12/27/07 and after June 30, 2009 for certificates generated from written agreements executed before 12/27/06).

The example below illustrates how an AV cap affects tax payments:

	per building <i>Without an</i>	per unit (10 units) <i>Without      With an</i>
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	<i><b>AV cap</b></i>	<i><b>an AV cap</b></i>	<i><b>AV cap</b></i>
<b><i>Calculation of Exempt AV before AV cap</i></b>			
Post-Construction Billable AV (AV of newly constructed building)	\$1,000,000	\$100,000	\$100,000
Pre-Construction AV (Mini-Tax AV) (AV of property in year prior to construction)	<u>\$150,000</u>	<u>\$15,000</u>	<u>\$15,000</u>
Exempt AV (Post-Const minus Pre-Const)	\$850,000	\$85,000	\$85,000
<b><i>Calculation of AV subject to AV cap</i></b>			
Exempt AV without AV cap	\$850,000	\$85,000	\$85,000
AV Cap (\$65,000 per unit)	<u>n/a</u>	<u>n/a</u>	<u>\$65,000</u>
Exempt AV above the cap	\$0	\$0	\$20,000
<b><i>Calculation of AV subject to Taxes</i></b>			
Pre-Construction AV (Mini-Tax AV)	\$150,000	\$15,000	\$15,000
AV above the cap	<u>\$0</u>	<u>\$0</u>	<u>\$20,000</u>
<b>Total Taxable AV</b>	<b>\$150,000</b>	<b>\$15,000</b>	<b>\$35,000</b>
<b>First Year of Tax Liability</b> <b>tax rate of 12.737%</b>	<b>\$19,106</b>	<b>\$1,911</b>	<b>\$4,458</b>

During the phase-out periods of the exemption (years 3-10 for the 10-year exemption, years 12-15 for the 15-year exemption, years 13-20 for the 20-year exemption, and years 22-25 for the 25-year exemption), the owner begins to pay increasing portions of the real property tax on the exempt AV.

*How does the AV cap affect non-residential space in my building?*

- Any commercial, community facility, or accessory use space that would otherwise be eligible for 421-a and is contained in its own tax lot without any residential units would be subject to the \$65,000 AV cap.
- Within a tax lot containing residential and either commercial units, community facility, or accessory use space, the non-residential space would collectively be considered as equivalent to a single unit. The AV cap on such a tax lot would be calculated by multiplying (a) the number of residential dwelling units plus one, by (b) \$65,000. In other words, all of the non-residential space would collectively be considered as equivalent to a single residential dwelling unit.

*What happens if I construct a 3-unit building?*

Unless it is constructed with substantial governmental assistance pursuant to an affordable housing program, any such project that commences construction after December 27, 2007 will not be eligible for any 421-a tax benefits.

*What are the exceptions to the new regulations?*

- Grandfathering
  - Construction commenced before a certain date (see above).
  - Litigation relating to a contract for the purchase of real property.
  - Building seeking benefits is located on a site requiring environmental remediation construction and seeking an Environmental Completion certificate.
- The Greenpoint-Williamsburg waterfront is subject to different affordability restrictions and is not subject to most of the recent restrictions imposed by state and local laws.

*What construction requirements must my project fulfill by the specified date (in most instances, on or before June 30, 2008) in order to qualify for benefits under the prior law?*

Local Law 58's definition of commencement of construction remains valid for purposes of the commencement deadlines imposed by both state and local law. Local Law 58 provides that construction shall be deemed to have commenced on the date immediately following the issuance by the Department of Buildings ("DOB") of a building or alteration permit for a multiple dwelling (based on architectural, plumbing, and structural plans approved by DOB) on which the excavation and the construction of initial footings and foundations commences in good faith, as certified by an architect or professional engineer licensed in New York State, provided that the construction of such multiple dwelling has been completed without undue delay, as certified by such architect or professional engineer. For projects that combine new construction and the concurrent conversion, alteration or improvement to a pre-existing building or structure, Local Law 58 provides that construction shall be deemed to have commenced on the date immediately following DOB's issuance of an alteration permit for the multiple dwelling (based upon architectural, plumbing, and structural plans approved by DOB) on which the actual construction of such conversion, alteration, or improvement of the pre-existing building or structure commences in good faith, as certified by an architect or professional engineer licensed in New York State, provided that the construction of such multiple dwelling has been completed without undue delay, as certified by such architect or professional engineer.

In the context of the Local Law 58 definition, practitioners have asked the following questions and HPD has provided the indicated answers, some of which are included in the proposed rules:

*What qualifies as commencement of construction?*



Construction must commence on or before the effective date of the specific provision. It will be considered the later date of a building or alteration permit and the installation of a metal or concrete load bearing structure, footing or caisson (or if a combination building, then the later date of the alteration permit and the beginning of work). The architect or professional engineer will provide an affidavit that the excavation and construction of initial footings and foundations (or for combination projects, the actual construction of the conversion, alteration or improvement) commenced in good faith.

*Is a foundation permit sufficient to satisfy the permit requirement?*

No. Local Law 58 requires both the start of construction and a building or alteration permit for a multiple dwelling. Though a foundation permit can be issued without any architectural or mechanical plans, a building permit is contingent upon these plans. Therefore, work based solely on a foundation permit could not be deemed the commencement of construction within the meaning of the statute.

*If a full building permit is required, can a building commence foundation work under a foundation permit, but still vest if it obtains a building permit prior to the relevant commencement of construction deadline?*

Yes. The project would comply with both requirements of the "commencement of construction" definition in that (a) DOB will have issued a building or alteration permit based upon architectural, plumbing, and structural plans approved by DOB, and (b) the developer will have commenced in good faith the excavation and construction of initial footings and foundations.

*If the foundation allows piles or caissons, can the driving of the first pile or sinking of the first caisson be considered the start of foundation work?*

Yes, but construction must be completed without undue delay. The architect or professional engineer must provide an affidavit both at the front end (that the excavation and construction of initial footings and foundations commenced in good faith) and at the back end (that the multiple dwelling was completed without undue delay) of construction. We would deem completion within 36 months from commencement as a guideline for construction being "completed without undue delay."

*Provided you have satisfied the building permit requirement, can you vest by pouring a foundation, driving a pile or sinking a caisson while excavation of the remainder of the site or a contiguous site is still underway?*

Yes, but construction must be completed without undue delay (see the answer to the previous question for details).

In addition, if all buildings in multibuilding projects are contiguous and owned by the same entity, the commencement of the first building before the applicable deadline qualifies the entire project under the old law, provided that all of the buildings in the

project have their permits before the applicable deadline and are completed within 36 months from the commencement of the first building. The periods of construction and permanent real property tax exemption benefits granted pursuant to the Act will commence simultaneously for all of the multiple dwellings in such multibuilding project from the time the first building in such multibuilding project commences receiving such benefits.

*What is the definition of “a contiguous site” for purposes of commencement?*

Tax lots that are adjacent for at least 10 (ten) linear feet with the only permitted separations due to streets or street intersection. If separated by a street or intersection, the sites must overlap their frontage by 10 linear feet.

*What is the definition of “common ownership” for purposes of qualifying contiguous sites?*

Entities that are controlled by a common owner would qualify.

*Can a project that commences construction by the relevant deadline (in most instances, on or before June 30, 2008) later amend the building permit after that deadline to add square footage, incorporate an additional lot in the footprint, enlarge the building, and/or redesign the base of the building?*

We would allow projects to amend the plans that were the basis for the initial DOB building or alteration permit provided that the amendments do not increase the project's floor area by more than 35%. Amendments to the grandfathered project could increase projects through the addition of new lots, an increase in the floor area or the purchase of development rights. This would include as-of-right residential projects that received their initial DOB building permits before the commencement deadline, but thereafter received a ULURP approval authorizing the addition of square footage not exceeding 35% of the original floor area.

*What is the definition of “completion without undue delay”?*

All projects will be deemed to be completed without undue delay if construction is completed within 36 months. This applies to both single and multiple building projects. Any project that is not completed within 36 months would not automatically be disqualified, but would have to provide HPD with satisfactory documentation of completion without undue delay. HPD would consider factors specified by rule to determine whether or not the project could reasonably have been completed in a shorter period of time. Such factors may include fires or other casualties that cause damage to completed construction work and severe, prolonged, and unavoidable labor stoppages or industry-wide material shortages.

The 36 month limit would be counted from the later of December 28<sup>th</sup>, 2007, the permit, or the start of work. The architect or professional engineer will be required to provide an affidavit both at the front end (that the excavation and construction of

initial footings and foundations commenced in good faith) and at the back end (that the multiple dwelling was completed without undue delay) of construction.



**Green Committee Meeting Minutes**  
**Elizabeth Starkey and Melanie Wymore, Co-Chairpersons**  
**July 30, 2008**

**1. Solar Energy -- Liz Weiss, B'nai Jeshurun Synagogue**

Liz Weiss presented an overview of the I Heart PV campaign sponsored by an advocacy group called Solar One. New York City is especially well suited for solar energy:

- a) Sunlight -- NYC receives more sunlight than other cities where solar systems have been implemented successfully (Germany)
- b) Roof Space -- NYC has abundant roof space available to install photovoltaic panels.
- c) Carbon Neutral -- NYC reports a high incidence of asthma. Since Solar adds no carbon to the atmosphere, it would reduce harmful emissions that impact air quality.
- d) Grid Reliability -- NYC experiences brown/black because centralized transmission and distribution (through power stations) can handle significant spikes in energy demand. Since solar panels are decentralized, energy can be delivered directly to where it's needed without going through a central plant.
- e) Economy -- Solar panels are easy to install. Although the cost is currently high, new companies are forming to meet increasing demand. This means more jobs as well as more competition, which will drive prices down.

**2. Green Buildings -- Mark Wyman, NYSEERDA**

Mark Wyman provided information about how residents can initiate efforts to make their buildings energy efficient. NYSEERDA offers incentives to anyone willing to reduce energy and water consumption by 20%.

Incentives include cost reimbursement of 30-40%, plus tax credits, amounting to up to 60% of total cost. The process for receiving incentives is as follows:

- a) Hire a NYSEERDA partner -- an energy consultant who will manage the energy reduction program through NYSEERDA
- b) Complete the NYSEERDA application (with the help of the partner)
- c) Benchmark the project -- partner conducts an assessment of the building
- d) Develop an energy reduction plan
- e) Implement the plan -- partner either acts as contractor or general contractor to complete work necessary to achieve 20% reduction goal
- f) Confirm achievements -- measure energy reduction during year after implementation of plan.

**3. Green Restaurants -- Mike O'Neil, Restaurateur**

Mike O'Neil presented an overview of the Green Restaurant Association. The goal of the GRA is to reduce the carbon footprint of restaurants in New York City. Recommended measures include recycling paper, oil, and plastics; using biodegradable plastics and low-flow faucets. Members are required to implement 4 specific energy-reducing measures each year.

**4. Budget Consultation**

The group discussed questions to be asked of the NYC Department of Environmental Protection during budget consultations in October 2008. Questions included:

- a) How are laws related to noise enforced?



- b) Can required noise systems (sirens, car horns, construction truck sounds) be replaced with less obtrusive sounds?
- c) How will catch basins and permeable surfaces be encouraged?
- d) How can we change the building code to include stronger pavement and insulation requirements?

## 5. Carbon Footprint Reduction

Paul Reale suggested that Community Board 7 initiate a competition with other community boards to reduce carbon footprint. One idea was to compete in recruiting people to sign a green pledge that outlines green measures that individuals can achieve on their own. Such measures include changing to low-energy light bulbs, installing low-flow faucets, reducing use of plastic bags, etc.

**Present:** Melanie Wymore, Elizabeth Starkey and Hope Cohen. **Absent:** Phyllis Gunther, Bobbi Katzander and Charles Simon.