



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036
tel: 212-736-4536 fax: 212-947-9512
www.nyc.gov/mcb4

Delores Rubin
Chair

Jesse R. Bodine
District Manager

January 13, 2016

Martin Rebholz
Manhattan Borough Commissioner
NYC Dept. of Buildings
280 Broadway
New York, New York 10007

**Re: Non-Zoning Compliant Demolition
319-321 West 38th Street (Block 762, Lot 23)
DOB Applications No. 122412629, 122412264 and 121192271**

Dear Borough Commissioner Rebholz:

At Manhattan Community Board 4 (MCB4) Executive Committee meeting on December 28, 2015, members discussed the demolition of buildings located in 319-321 West 38th Street. The buildings are located in the Garment Center Special District (SGCD), Subarea P-2 (between West 40th and West 35th, 8th to 9th Avenues) and as such they are subject to Section 121-50 of the Zoning Resolution¹.

DOB applications No. 122412629, 122412264 were approved contrary to the requirements of Section 121-50 (and by reference 93-91) of the Zoning Resolution. At its January 6, 2016 meeting, by a vote of 42 for, 0 against, 0 abstaining, and 0 present but not eligible to vote, MCB4 voted to request that the plan approval be rescinded and that an audit of DOB applications No. 122412629, 122412264 and 121192271 be immediately initiated. MCB4 further requests to meet with DOB to clarify the system it uses to track protected residential buildings subject to Section 121-50 in the Special Garment Center District, Section 93-90 in the Special Hudson Yards District, and Section 98-70 in the Special West Chelsea District.

Background

319-321 West 38th Street consists of two four-story and one three-story residential building of 9,575 square feet with 16 dwelling units. The buildings are all renovated Old Law Tenements² located midblock between Eighth and Ninth Avenues. They were renovated by students of the Berk Trade School in 1982, with a new Certificate of Occupancy on September 28, 1983, and have been a condominium since 1983. All three buildings are in good condition and have been continuously occupied since that time until the last few months. 319 West 38th Street LLC

¹ See Appendix B – Section 121-50

² See Appendix C- I Cards of 319-321 West 38th Street

purchased all the condominium units from the long-term owners between January and February of 2015. These buildings are located in the Special Garment Center District (SGCD), within the P-2 Preservation Area.

Under provisions of that Special Zoning District, the buildings are subject to demolition restrictions, per Section 121-50 of the City's Zoning Resolution³. These restrictions were agreed to as part of the Hudson Yards Rezoning in 2005, were resolved as part of the Western Rail Yards negotiations in 2009, certified for ULURP in 2010, and adopted on October 27, 2010.

As per those regulations, buildings exempt from this requirement must be:

- under an active government-funded program **or**
- a hotel **or**
- a school dormitory **or**
- a clubhouse

319-321 West 38th Street, being in none of the above categories, would not be considered exempt buildings.

Buildings can also be demolished if they:

- have received a Certificate of No Harassment, **and**
- have been deemed unsafe **or**
- cannot feasibly be rehabilitated through any government funding program

The owners did not obtain a Certificate of No Harassment. Nor were the buildings deemed structurally unsound. Additionally, there are multiple HPD Programs available in the event that rehabilitation is needed, such as the Multifamily Preservation Loan Program, the Participation Loan Program, and 8A.

Demolition and Planned Work

On the afternoon of December 18, 2015, an MCB4 Board member observed construction workers erecting scaffolding around both buildings, in preparation for a demolition.

Upon consulting the DOB BIS (Building Information System) it was found that:

- Under Application No. 122412264, the demolition of 321 West 38th Street was approved on May 22, 2015.
- Under Application No. 122412629, the demolition of 319 West 38th Street was approved on May 26, 2015.

Both approvals were contrary to the Zoning Resolution requirements of SGCD P-2 Section 121-50.

³ See Appendix D – Section 93-91; Emphasis added.

Further research on BIS indicated that an HPD3 form had been submitted to DOB on May 20, 2015 as part of the filing for the demolition of 319 West 38th Street. The form stated that the units in the building were single room occupancy (SRO) units and that the **proposed demolition** would⁴:

- Neither increase nor decrease the number of dwelling units
- Neither increase nor decrease the number of kitchens or bathrooms
- Not alter the layout, configuration, or location of any portion of a dwelling unit
- Not alter the layout, configuration, or location of any portion of a kitchen or bathroom
- Neither demolish any dwelling unit nor demolish any portion of the building serving dwelling units
- Neither change the use or occupancy of any dwelling units nor change the use or occupancy of any portion of the building serving dwelling units

The buildings in 319-321 West 38th Street have never been SRO buildings, and as such the HPD3 Form is not applicable. Moreover, HPD1, an Anti- Harassment HPD form that does apply to the buildings, was not submitted by the applicant⁵.

An additional application, No. 121192271, which was filed on December 12, 2014, called for the construction of a 22 story hotel on the site. Peter Poon, principal of Peter F. Poon Architects, the prolific budget hotel developer, was the applicant on file.

MCB4 Intervention and Results

Immediately upon learning of the planned work at 319-321 West 38th Street, MCB4 notified local elected officials, including State Senator Brad Hoylman, State Assembly member Richard Gottfried, Manhattan Borough President Gale Brewer, and Councilmember Corey Johnson. The message was sent on the evening of Friday, December 18th. By the following Monday morning, Senator Hoylman's office, working with Assembly member Gottfried's office, had successfully collaborated to bring the matter to DOB's attention. DOB subsequently took action and placed a Stop Work Order on the Building. A notice for the revocation Application No. 122412629, pertaining to 319 West 38th Street, had also been issued on December 21, 2015. However, Application No. 122412264, pertaining to 321 West 38th Street, still remains approved. The NB for the 22 story hotel, Application No. 121192271, also remains approved.

Conclusion

In the West side rezonings of Hudson Yards, West Chelsea and the Western Railyards MCB4 has worked to preserve the affordable housing and community character in neighborhoods of Chelsea and Clinton/Hells communities, creating a balance between development and preservation. The City's Zoning Resolution has been a main tool to achieve that goal.

However, the approval by DOB of demolition of 319-321 West 38th Street, a building protected from such demolition by the Zoning Resolution, has demonstrated that without proper systems to ensure that job applications adhere to the Zoning Resolution, these efforts are negated. The

⁴ See Appendix E – HPD3 Form

⁵ See Appendix F – HPD1 Form

Board has serious questions about how a demolition application claiming to have no effect on the number of units in a building, can receive approval from DOB.

MCB4 requests immediate action with regard to the proposed work at 319-321 West 38th Street. We request that Application No. 122412264 approval for demolition be revoked and that no approvals be granted for Application No. 121192271 for a 22 story hotel.

MCB4 also requests to meet with DOB regarding its process for approving job applications be clarified pertaining to residential buildings in the West Chelsea, Hudson Yards, and Garment Center Special Districts protected from demolition under Sections 121-50, 93-90, and 98-70 of the Zoning Resolution.

Sincerely,



Delores Rubin
MCB4 Chair



Jean Daniel Noland, Chair
Clinton Hell's Kitchen Land Use
and Zoning Committee

[Signed 1/13/16]

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



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

Cc: Hon. Brad Hoylman, State Senate
Hon. Richard Gottfried, State Assembly
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Corey Johnson, City Council

APPENDIX A – Photos of 319-321 West 38th Street

Condition of Buildings



Buildings with Scaffolding



APPENDIX B – Section 121-50

121-50

SUPPLEMENTAL REGULATIONS IN PRESERVATION AREA P-2

In Preservation Area P-2, the provisions of Section 93-90 (HARASSMENT) and Section 93-91 (Demolition), inclusive, shall apply.

STREET

St. 38th #4/bard.

NO. *319* WARD

DIST. *205* DATE *3/30/17*

I

7358

SKYLIGHT 77 *X* Over Stairwell IN ROOF; Area glazed surf.-Size of Opening-Ridg. Vent.-Louvres; Obstructed Dome light under ADEQUATE

WINDOWS IN HALL; NUMBER SIZE

IN BULKHEAD; Area glazed surf.-Windows; Number Size How open Other ventilation ADEQUATE

How hung Location VENT. ADEQUATE

SCUTTLE-BULKHEAD 32 *X* SCUTTLE; Size opening Outside; Metal cov.-Wood-Iron-Glazed Lock Needs hinging BULKHEAD; Door top of stairs-Lock Door foot of stairs-Lock

LADDER-STAIRS; Stationary-Wood-Iron-Handrail Short Accessible ADEQUATE

FIRE ESCAPES 16 One each apt. LOCATION; Front-Rear-Shaft

SHAFTS	Length	Width	Area	Material of Walls	Starts at	Covered	Vent. Skylight	Suff. access at base 105	By Door	By Window				
										Size Opening	Sill above floor of Room	Shaft	How Hung	Ladder needed
A														
B														
C														
D														

Party wall balcony; Wall pierced where ADEQUATE

Where lacking

Egress from Yard

BALCONIES; Wood-Iron-None RAILINGS; Wood-Iron

WINDOWS J K L M N O P Q R S T

FLOORS; Wood-Iron STAIRS; Wood-Iron-Open tread-Solid tread

Width

LADDERS; Vert.-Inclined-Double rung-Hand rail-Missing what floors-Drop ladder needed

Height

FIXTURES

Dist. below cell.

Cellar Base 1 2 3 4 5 6

How hung

SINKS IN HALLS

CELLAR Floor is Ceiling is Hall Lighting

Wood encased 98

YARD FIXTURES 99 School sink-Latrine-Privy vault-Water closets; Number Compart. (Sewer in street)

WATER CLOSETS In Halls (Pan.) In Apts. (Pan.)

CLOSET ACCOM. 99 No. in Yard-Cellar-Apts.-Stores-Total Used by Families; In Bldg.-Other Bldgs.-Stores-Total

Wood Risers 97

REMARKS Ratio; 1 W. C. to families

Ten. House Dept. Form 1010. 1391, '13, 20,000 (P)

B'LD'G STORIES FT. FRONT FT. DEEP AP'TS PER FLOOR. TOTAL AP'TS. C-B-1-2-3-4-5-6 Stories

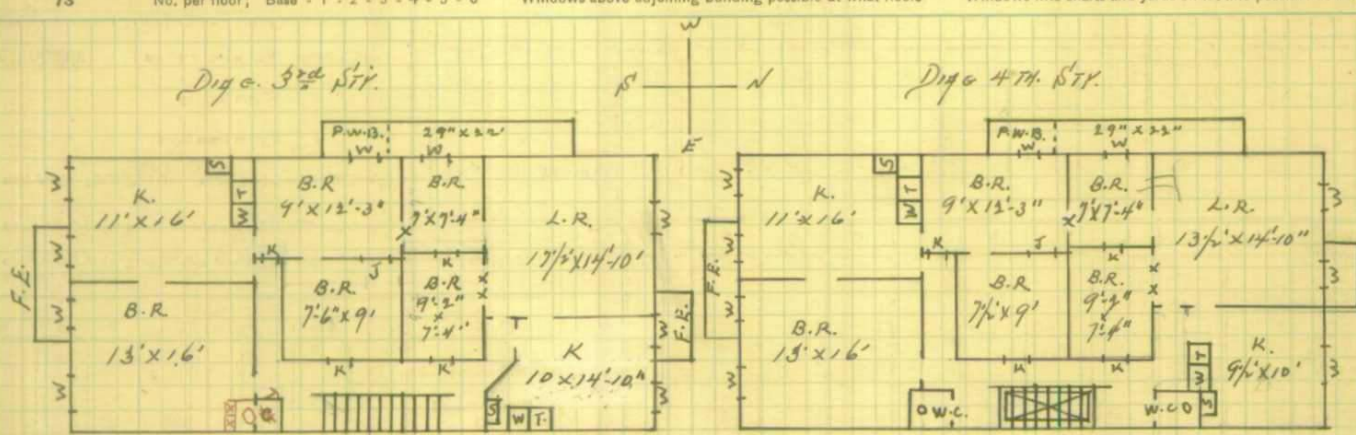
OWNER ADDRESS

AGENT All statements on this card are correct. *St. L. Long*

BOROUGH OF *Man.* INSPECTOR *205* DIST.

PAINT-OIL-LIQ.-DRUGS 41 No. Doors to Halls; Fireproof No. Windows to Halls-Transoms; Wire glass-closed BAKERY 40 Fireproof Ceiling-Walls Openings to Bldg.; Doors-Windows-Transoms-Shafts-Stairways.

INTERIOR ROOMS 73 No. per floor; Base - 1 - 2 - 3 - 4 - 5 - 6 Windows above adjoining building possible at what floors Windows into shafts and yards on lot line possible at what floors.



X doors closed
XX firecoves over 32 1/4
all 74 sq comp for addit
also on 2 + 3 steps
Bldg 4/17/17

St. L. Long

STREET West 38 NO. 319 WARD DIST DATE 9/20/29 I

SKYLIGHT 77 Over Stairwell IN ROOF; Area glazed surf.-Size of Opening-Ridg. Vent.-Louvres; Obstructed Dome light under ADEQUATE
 IN BULKHEAD; Area glazed surf.-Windows; Number Size How open Other ventilation ADEQUATE
 SCUTTLE-BULKHEAD 32 SCUTTLE; Size opening Outside; Metal cov.-Wood-Iron-Glazed Lock Needs hinging BULKHEAD; Door top of stairs-Lock Door foot of stairs-Lock

SHAFTS	Length	Width	Area	Material of Walls	Starts at	Covered	Vent. Skylight	Suff. access at base 105	By Door	By Window				How Hung	Ladder Needed
										Size Opening	Sill above floor of Room	Shaft			
A															
B															
C															
D															

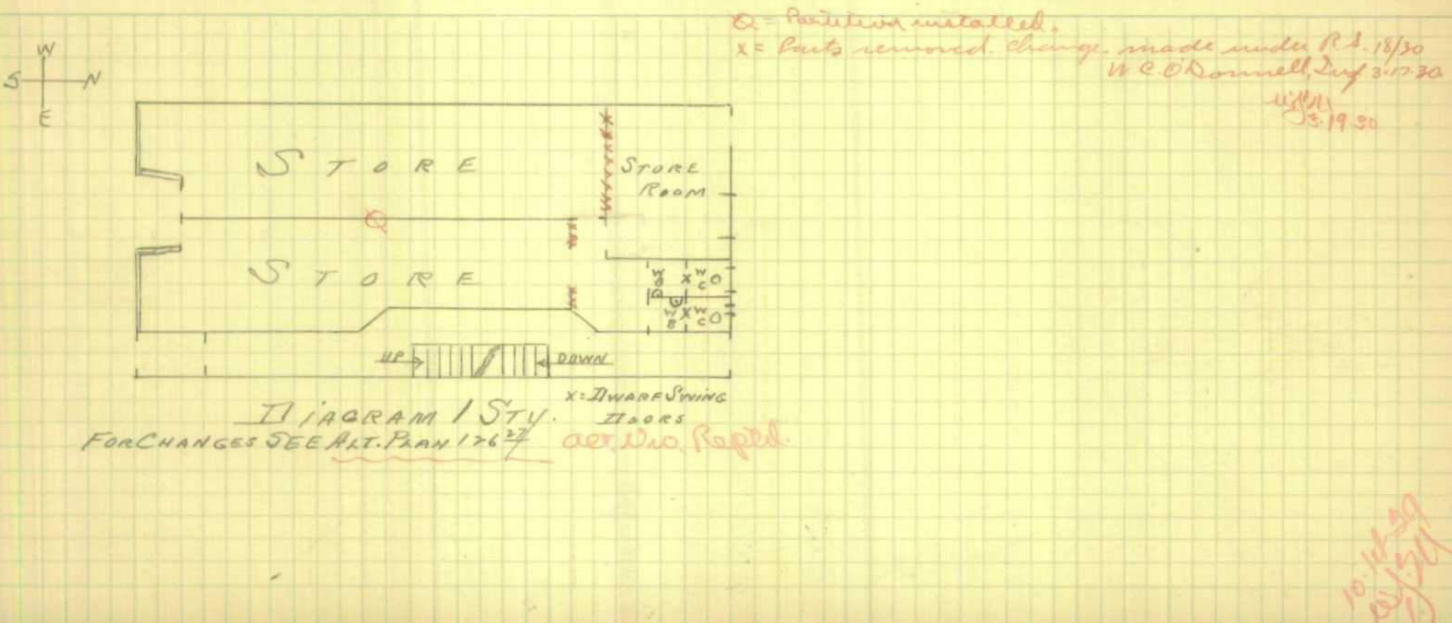
CELLAR: Floor is _____ Ceiling is _____ Hall Lighting _____
 YARD FIXTURES 99 School sink-Latrine-Privy vault-Water closets; Number Compart. _____ (Sewer in street) _____
 CLOSET ACCOM. 99 No. in Yard Cellar Apts.-Stores Total _____ Used by Families; In Bldg.-Other Bldgs.-Stores-Total _____
 REMARKS Ten. House Dept. Form 1010 30-1049-26-B

FIRE ESCAPES 16 One each apt. LOCATION; Front-Rear-Shaft
 Party wall balcony; Wall pierced where ADEQUATE
 Where lacking
 Egress from yard
 BALCONIES; Wood-Iron-None RAILINGS; Wood-Iron
 FLOORS; Wood-Iron STAIRS; Wood-Iron-Open tread-Solid tread
 LADDERS; Vert.-Inclined-Double rung-Hand rail-Missing what floors-Drop ladder needed

FIXTURES	Number per floor							
	Cellar	Base	1	2	3	4	5	6
SINKS IN HALLS								
Wood encased 98								
WATER CLOSETS In Halls (Pan.) In Apts. (Pan.)								
Wood Risers 97								

B'LD'G STORIES FT. FRONT FT. DEEP AP'TS PER FLOOR TOTAL AP'TS
 Number-Base-Cellar C-B-1-2-3-4-5-6 Stories
 OWNER ADDRESS
 AGENT J. J. Farrell All statements on this card are correct
 BOROUGH OF Man. INSPECTOR DIST.

PAINT-OIL-LIQ.-DRUGS 41 No. Doors to Halls; Fireproof No. Windows to Halls-Transoms; Wire glass-closed 40 Fireproof Ceiling-Walls Openings to Bldg; Doors-Windows-Transoms-Shafts-Stairways.
 INTERIOR ROOMS 73 No. per floor; Base-1-2-3-4-5-6 Windows above adjoining building possible at what floors Windows into shafts and yards on lot line possible at what floors.



STREET W. 38 NO. 319 WARD 20 DIST. 205 DATE 8/6/02 15484

SKYLIGHT 7 ADEQUATE 12/14/14 none HOOD VENT. IN END 49" 0" FIRE ESCAPES 20-30 One each Apt. not LOCATION; Front-Rear-Shaft ✓
 IN BULKHEAD; Glazed surface-Windows-Number none Size How open ADEQUATE not Where lacking none
 SCUTTLE 32 ADEQUATE 7/10/14 Size opening none Outside metal covered-Wood-Iron VENT O.K. BALCONIES; Wood-Iron none Party wall balcony none FLOORS; Wood-Iron ✓ ✓ 7 or
 STATIONARY LADDER-STAIRS; Wood-Iron-Handrail 32 LADDERS; Vertical-Inclined ✓ R STAIRS; Solid tread-Open tread ✓ Drop ladders ✓

SHAFTS 106 Sufficient access at base By Door By Window Size Sill above Floor of Room Shaft

1 in north bldg. bldg. 37 sq. ft. open at top

water closets are in base of rear house

PAINT, ON LIQ. BRICKS 42 No. WINDOWS to Halls-TRANSOMS; Wire glass-Closed NO No. DOORS to Halls; Fireproof 1 door to hall at 8 & 12 doors to hall at 11
 BAKERY 41 Openings Fireproof ceilings-Walls
 CELLAR; FLOOR 101 Watertight-Earth-Wood-Brick-Cobble-Flagging-Cement-Asphalt not ✓ 101
 CEILING Plastered-Joist-Sheathed-Fireproof-Metal Lath-Plaster board

YARD-FIXTURES 100 School sink-Latrines-Privy vault-Water closets; Number (Sewer in street) 2 for tenants 1 for caloon

W.C.s used by 6 families + 1 for front house + 1 family

WATER CLOSETS	Number per Floor					
	Cellar	Base	1	2	3	4
In Halls	3/30/17	new 2"	board made			
In Apts.						
WOOD RIS'RS <u>98</u>						
SINKS IN HALLS <u>99</u>						
Wood encased						

Ratio, W. C. to families 3 1/2

HALL LIGHTING 80 Base 1 2 3 4 5 6

INSUFFICIENT

Windows at end to outer air

" to shaft

" to rooms

" (5 sq. ft.) to outside rooms

Glass (4 sq. ft.) in door panels.

27030

GL. PANELS - F.V.R.

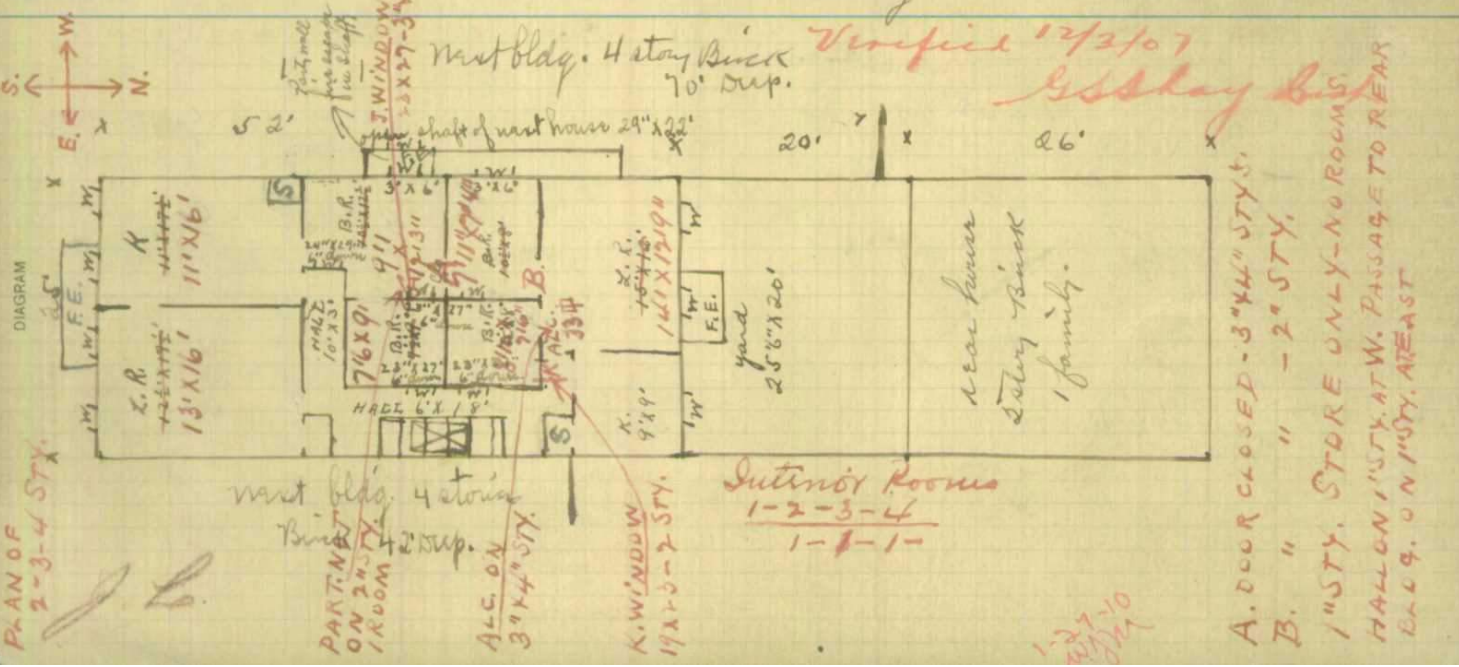
BLD'G Brick STORIES 4 FT. FRONT 25 1/2 FT. DEEP 52 APT'S PER FLOOR 2 TOTAL APT'S 8

OWNER John S. Haasinger ADDRESS 321 West 38 St.

AGENT Maximilian F. Schmittberger

All statements on this card are correct. 1/24/10 T. rigid - No. 12 family Insp.

BOROUGH OF MANHATTAN Inspector Charles B. McCready DIST. 205



STREET
AVENUE

W. 38

No.

319

Boro.

MANHATTAN

Card No.

17

USE District

Record of Business Use—Location

Date

Origin

Reg # 112260

space kitchen installed PR 5 & 528 completed 4-12-68

RECORD OF FIRE RETARDING AND FIREPROOFING

Location

Origin of Report

Date

Public Hallway (Amen 10)

FR end

3/21/38 of

ALTERATION PLANS

B'ld'gs	Plan No.	Date Filed	Approved	Completed
RS	57	1-17-10		
1	99	1-21-10	2-7-10	4-19-10
RS	127	3-12-17	3-15-17	3-19-17
1	226	3-23-17	4-13-17	6-30-17
act	126	2-17-27	3-7-27	9-25-29
RS	18	1-17-30	2-1-30	3-17-30
act	44		1-27-38	

LEGAL OCCUPANCY

Date	No. Ap'ts	Height	Cellar	Basement

CELLAR OR BASEMENT PERMIT

Number	Date	Number	Date

CLASSIFICATION

HERETOFORE ERECTED - O. L.

ORIGIN OF CLASSIFICATION

TENEMENT HOUSE DEPT. New Building Plan

B'ld'gs	Plan No.	Date filed	Date Approved

Application No.	Certificate No.	Date issued

HEREAFTER CONVERTED DWELLINGS

Plan No.	Date filed	Date approved

Application No.	Certificate No.	Date issued

BUREAU OF BUILDINGS RECORD

Plan No.	Certificate of Occ. No.	Date issued

To be occupied by:

Form 500

39-1010-31-B

ALTERATION PLANS

Buildings	Plan No.	Date Filed	Approved	Completed

ACCEPTANCES

O.L.T. FIRE RETARDING CARD

AVENUE STREET

W 38 St.

NO.

319

ENTERED

UNIT 3

DATE

3/21/38

BORO Man

PUBLIC HALLS MATERIAL OF		VESTIBULE	ENTRANCE HALL	PUBLIC HALLS	WINDOWS-SASHES OPENING TO APTS.
WAINSCOTING		Removed	Removed	Removed	none
WALLS		Brick filled but studs		metal lath cem mortar	
CEILING		metal lath	cement mortar		
STAIR HALLS MATERIAL OF					
WAINSCOTING		Removed	WELL FACIA 3/16" asbestos	HANDRAILS hard wood	
WALLS		metal lath	1" gauge fire proofed STRINGERS SIZE 12"	BALUSTRADES iron	
CEILING		cement mortar	SOFFITS metal lath cement mortar	NEWEL POSTS iron	
DOORS	SELF CLOSING ✓	GLASS PANELS ✓	WIRE GLASS ✓	TRANSOMS ✓	WIRE GLASS ✓
FLOORS	MATERIAL wood		COVERING none		
PARTITIONS	FIRE STOPPED ✓		METHOD 3" gyp - blocks		
PUBLIC EXTENSION HALLS none		DOORS AND ASSEMBLIES -			
OFFSET (PUBLIC HALLS AND STAIRS) none			WALLS	CEILING	
BULKHEAD ✓	WALLS mt cm	CEILING mt cm	DOOR F. P. not	DOOR FIRE RET. not	SELF CLOSING wood ✓
WORK DONE UNDER DEPT. OF BUILDINGS PERMIT NO. NO.			COMPLETED		

NO DEFECTS 3/21/38

Form No. 1020—TENEMENT HOUSE DEPT.

Inspector

Frank DeChayas

(OVER)

DATE	PUBLIC HALLS AND STAIRS FIRE RETARDING—PROGRESS	INSPECTOR
3/1/38	Imp - found - plaster removed all surfaces - space has been over lath partitions fire stopped 3" gyp blocks.	DeChayas
3/3/38	1 st coat of mortar being applied	DeChayas
3/21/38	2 nd coat of mortar applied - Work completed all work done conforms to Sec 238 NYC Law & rule - reg of this dept	Frank DeChayas Imp

REMARKS

1. MATERIAL	B'k. ✓	Fa.	H'ght. 49c	Apts. 6	SC 0	1 2 3 4 5 6	TOTAL 6	Stores 2
2. CELLAR USED FOR LIVING?	hot	Viol. of Sec. 216?		STANDPIPE SYSTEM EXISTING?	hot			
3. MATERIAL CELLAR CEILING?	Plaster B'ds	Viol. of Sec. 240, Sub. 2?	hot	In need of repair?	✓			
4. INSIDE CELLAR STAIRS?	✓	Enclosed F. Ret. partitions?	✓	F.P. Door?	✓	Self-closing?	✓	
5. PAVEMENT DEFECTIVE?	hot	Cellar hot	Yard hot	Courts hot	CENT. HEAT. PLANT PRESENT?	hot	Any unsafe condition?	hot
6. RUBBISH OR INFLAMMABLE MATERIAL?	✓	Cellar ✓	Yard hot	Courts hot				
7. DUMBWAITER SHAFT IN CELLAR?	hot	Enclosed F. Ret. partitions?	none	F.P. Door?	none	Self-closing?	none	
8. ANY DANGEROUS OR UNPROTECTED OPENINGS between cellar and floor above?	hot							
9. SECOND MEANS OF EGRESS provided for each apt.?	✓					1 c. shafts hot hot hot	ADEQUATE?	✓
10. F.E.s Bal. stairs? D.L. stairs? R.W. E.o.'s? V.L. Gable? P.W. Bal. Def. Rusty? Obs. S.D.L.-OK?	✓	✓	✓	✓	✓	✓	✓	✓
11. PUBLIC HALLS obstructed?	hot	Rubbish?	hot	Means of night lighting provided?	✓			
12. EGRESS TO ROOF	✓	Bulkhead stairs?	✓	Scuttle-Iron ladder stat.?	—		ADEQUATE?	✓
13. RAIN LEADERS	✓	GUTTERS	✓	DRAINS	✓	Defective? hot	RADIO ANTENNAE properly installed?	✓
14. ANY DANGEROUS BUSINESS MAINTAINED?	hot			ANY SUB-DIVIDED APTS.?	hot			
15. ANY YARD WATER CLOSETS?	hot			ANY CELLAR WATER CLOSETS?	hot			
AGENT'S NAME	Manheimer	Viol. Rept.-give sec. nos.	238-213-250-78-80					
ADDRESS	365-7 Ave	INSP.	W.W. O'Brien	DATE	10/6/37			

Form No. 1014-39-1075-35-Bu-60 NOTE: Details of Viol. Reported on reverse side. Tenement House Dept.

REPORT MUST BE LEGIBLE AND WRITTEN IN INK

V.R. Pub. hall & stairs not f.e. - Walls Ceil & soffits
 (note) stairs wood - walls, Ceil & soffits plaster
 V.R. Interior room unlawful (no 3x5 window)
 2 sty rear apt - 2nd room from rear at west
 3 sty rear apt - " " " " " "
 4 sty rear apt - " " " " " "
 2-3x4 sty front apt - 2nd room from front at east & west
 V.R. Insufficient w.c. dec. 2-3x4 sty front & rear apt
 V.R. Plaster w'ds Ceil. broken - Cellar
 V.R. Acc. of Rubbish - Cellar

(note) Ratio 1 to 2 for 2 & 3 sty - 4 sty 1 to 1
 Floor & Base slate
 Electric fix present

V.R. 10-10-37
 10-10-37
 MRS

APPENDIX D – Section 93-91

93-91

Demolition¹

The Department of Buildings shall not issue a permit for the demolition of a #multiple dwelling#, as defined in Section 93-90 (HARASSMENT), paragraph (a)(14), located within Subareas D4 or D5 in the Hell’s Kitchen Subdistrict D or **within Preservation Area P-2 of the #Special Garment Center District#, or an alteration permit for the partial demolition of a #multiple dwelling# located within Subareas D4 and D5 or within Preservation Area P-2 of the #Special Garment Center District#, where such partial demolition would decrease the amount of #residential floor area# in such #multiple dwelling# by 20 percent or more, unless:**

(a) such #multiple dwelling# is an unsafe #building# or an emergency exists such that demolition is required pursuant to the provisions of Title 28, Chapter 2, Articles 215 or 216 of the New York City Administrative Code; or

(b) the Commissioner of the Department of Housing Preservation and Development, after providing sixty days notice and opportunity to comment to the local Community Board, has certified:

(1) if such #multiple dwelling# is to be substantially preserved, that an alteration permit is required to allow the removal and replacement of 20 percent or more of the #floor area#;

(2) if such #multiple dwelling# is not to be substantially preserved, that the Department of Housing Preservation and Development has determined that the rehabilitation of such #multiple dwelling# is not feasible under any active governmentally-funded program; and

(3) that the Department of Housing Preservation and Development has issued a #certification of no harassment# pursuant to Section 93-90, paragraph (c), or has certified compliance with the cure provisions of Section 93-90, paragraph (d).

(c) the following structures shall be exempt from the provisions of this Section:

(1) any city-owned #multiple dwellings#;

(2) any #multiple dwelling# which is the subject of a program approved by the Department of Housing Preservation and Development for the provision of housing for persons of low- or moderate-income and has been exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development;

(3) any #multiple dwelling# initially occupied for #residential# purposes after January 1, 1974, except for #buildings# which are or have been interim #multiple dwellings#, pursuant to Article 7C of the Multiple Dwelling Law;

(4) any #exempt hotel#, as defined in Section 93-90;

¹ Emphasis Added

APPENDIX D – Section 93-91

(5) any #multiple dwelling# in which occupancy is restricted to clubhouse or school dormitory #use# and occupancy was restricted to clubhouse or school dormitory #use# on June 21, 2004; or

(6) any #exempt institutional residence#, as defined in Section 93-90.



HPD3: Single Room Occupancy
Multiple Dwelling (SRO MD)
Anti-Harassment Checklist

Must be typewritten.

DEPT BLDGS. 122412629 Job Number
SC140905036 Scan Code

1 Location Information Required for all applications.

House No(s) 319	Street Name West 38 Street	Work Proposed on Floor No(s) 001-002
Borough Manhattan	Block 762 Lot 7501	BIN 1013659 CB No 104

2 Applicant of Record Required for all applications.

Last Name HELMAN	First Name SANTIAGO	Middle Initial
Business Name H&O ASSOCIATES LLC	Business Telephone (347)282-4663	
Business Address 35 - 33 80TH STREET, SUITE 2	Business Fax	
City Jackson Heights state NY	Zip 11372	Mobile Telephone
E-Mail santiago@hando-eng.com	License Number 087797	<input checked="" type="checkbox"/> PE <input type="checkbox"/> RA

3 Exemption/Certification Declaration Required for all applications. For every yes/no question required, you must answer "yes" or "no".

In accordance with 28 RCNY § 10-02, Rules of the Department of Housing Preservation and Development, I certify that the scope of work for the job number identified above:

Yes No

- increases or decreases the number of dwelling units
- increases or decreases the number of kitchens or bathrooms (include kitchens or bathrooms either 1) located within a dwelling unit, or 2) serving occupants of a dwelling unit even though the kitchen or bathroom may not be located within a dwelling unit)
- alters the layout, configuration or location of any portion of a dwelling unit
- alters the layout, configuration or location of any portion of a kitchen or bathroom (include kitchens or bathrooms either 1) located within a dwelling unit, or 2) serving occupants of a dwelling unit even though the kitchen or bathroom may not be located within a dwelling unit)
- demolishes any dwelling unit and/or demolishes any portion of the building serving dwelling units (such as lobbies, lounges, recreation spaces, tenant storage, laundry rooms, etc.)
- Changes the use or occupancy of any dwelling unit and/or changes the use or occupancy of any portion of the building serving dwelling units (such as lobbies, lounges, recreation spaces, tenant storage, laundry rooms, etc.)

Check this box if all six boxes above are checked "no". Therefore, per 28-107.3 and 28 RCNY § 10-02, a Certificate of No Harassment IS NOT required. Submit this completed form with your application for construction document approval (please proceed to Section 4).

If any of the above boxes are checked "yes". In such case, I further certify that the scope of work for the job number identified above:

Yes No

- is comprised solely of work for the purpose of making the public areas of a multiple dwelling accessible to persons with disabilities without altering the configuration of any dwelling unit
- is comprised solely of work for the purpose of making the interior or the entrance to a dwelling unit accessible to persons with disabilities
- is comprised solely of work performed by a city agency or by a contractor pursuant to a contract with a city agency

Check only one of the following

- Any of the three boxes above are checked "yes". Therefore, per 28-107.3, a Certificate of No Harassment IS NOT required. Submit this completed form with your application for construction document approval
- All of the three above boxes are checked "no". Therefore, per 28-107.3, a Certificate of No Harassment IS required. Submit this completed form with your application for construction document approval, and attach the Certificate of No Harassment from the Department of Housing Preservation and Development. Initial work permit must be obtained prior to the expiration date stated on the Certificate of No Harassment; otherwise an updated HP3 and a new Certificate of No Harassment must be submitted prior to permit issuance.

4 Applicant's Statements and Signatures Required for all applications.

Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both. It is unlawful to give to a city employee, or for a city employee to accept, any benefit, monetary or otherwise, either as a gratuity for properly performing the job or in exchange for special consideration. Violation is punishable by imprisonment or fine or both. I understand that if I am found after hearing to have knowingly or negligently made a false statement or to have knowingly or negligently falsified or allowed to be falsified any certificate, form, signed statement, application, report or certification of the correction of a violation required under the provisions of this code or of a rule of any agency, I may be barred from filing further applications or documents with the Department.

Name (please print) SANTIAGO HELMAN

Signature

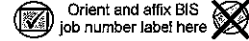
Date 10/5/2015

P.E. / R.A. Seal (apply seal, then sign and date over seal)



HPD1: Anti-Harassment Area Checklist

Must be typewritten.



1 Location Information Required for all applications.

House No(s)	Street Name	Work Proposed on Floor No(s)		
Borough	Block	Lot	BIN	CB No.
District	<input type="checkbox"/> Special Hudson Yards District (ZR § 93-90) <input type="checkbox"/> Special West Chelsea District (ZR § 98-70)		<input type="checkbox"/> Greenpoint-Williamsburg Anti-harassment Area (ZR § 23-013) <input type="checkbox"/> Special Garment Center P-2 Preservation Area (ZR § 121-50)	

2 Applicant of Record Required for all applications.

Last Name	First Name	Middle Initial
Business Name	Business Telephone	
Business Address	Business Fax	
City	State	Zip
E-Mail	License Number	<input type="checkbox"/> RA <input type="checkbox"/> PE

3 Exemption/Certification Declaration Required for all applications.

- HPD Certificate of No Harassment attached (ZR § 93-90(b)(1) and (c))
 - Structure is located on a *cure requirement lot* or a *cure compliance lot* (as defined in ZR § 93-90(a) or 93-90(e) for demolitions in subareas 4 and 5 of Hell's Kitchen) or *cure compliance lot* (as defined in ZR § 93-90(a))
- Must comply with and check i. - v. below:**
- i. HPD Certification of Cure Compliance attached (ZR § 93-90 (b)(1) and (d))
 - ii. Proof of recordation of the appropriate *restrictive declaration* (as defined in ZR § 93-90 (a)(16)) for both the *cure requirement lot* and *cure compliance lot*.
 - iii. On the Schedule A*, the CRFN numbers for all *restrictive declarations* filed on all tax lots required by section ZR § 93-90 (d)(2)(i) have been listed
 - iv. On the Schedule A*, the occupancy restrictions of the *restrictive declaration* for the *cure compliance lot* have been listed (ZR § 93-90(d)(2)(iii)).
- For v., check box that applies (one box only)**
- v. On the Schedule A*, the occupancy restrictions of the *restrictive declaration* for the *cure requirement lot* have been listed (ZR § 93-90(d)(iv)).
 - or
 - The *cure requirement lot* is not the *cure compliance lot* AND associated *cure compliance lot* controlled by not-for-profit (ZR § 93-90(d)(iv)(b))
- *Required information already on CO# _____
- The proposed work is an exempt alteration/demolition or is on an exempt structure (indicated type of exemption in Section 4)

4 Exemption Description If the proposed work or structure is exempt from certification, indicate below.

- Exempt Alterations**
 - Material Alteration** Work to be performed pursuant to the alteration permit does not include a *material alteration* (as defined in ZR § 93-90(a)(13)) of a multiple dwelling (ZR § 93-90(b)(1))
 - Alterations to Provide Accessibility** (HPD Determination attached) (ZR § 93-90(b)(2)).
- Exempt Demolitions**
 - Work to be performed pursuant to the demolition permit does not include the full or partial demolition of a multiple dwelling (ZR § 93-90(b)(1)).
- Exempt Structures** (ZR § 93-90(b)(3))
 - Not a multiple dwelling (as defined in ZR § 93-90 (a)(14)), as per attached Certificate of Occupancy or other documentation approved by DOB.
 - A multiple dwelling initially occupied for residential purposes after January 1, 1974 that was not an Interim Multiple Dwelling.
 - A city-owned multiple dwelling.
 - An *exempt hotel* as defined in ZR § 93-90(a)(8).
 - A multiple dwelling which occupancy is, and was on the applicable referral date (June 21, 2004 for Hudson Yards, October 4, 2004 for Greenpoint-Williamsburg, and December 20, 2004 for West-Chelsea), restricted to clubhouse or school dormitory use.
 - An *exempt institutional residence* (as defined in ZR § 93-90(a)(9)).
 - A multiple dwelling that is the subject of an HPD program (HPD determination attached).

Name (please print)	
Signature	Date
P.E. / R.A. Seal (apply seal, then sign and date over seal)	

5 Applicant's Statements and Signatures Required for all applications.

I hereby state that all of the above information is correct and complete to the best of my knowledge. Falsification of any statement is a misdemeanor under §§ 28-203.1.1, Item 1, and 28-211.1 of the Administrative Code and is punishable by a fine or imprisonment, or both. It is unlawful to give to a city employee, or for a city employee to accept, any benefit, monetary or otherwise, either as a gratuity for properly performing the job or in exchange for special consideration. Violation is punishable by imprisonment or fine, or both.