



Greenwich
Village
Society for
Historic
Preservation

252 East 11th Street
New York, New York 10003

(212) 475-9585
fax: (212) 475-9582
www.gvslp.org

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February 19, 2014

Hon. Deborah J. Glick, Assemblymember
Hon. Richard N. Gottfried, Assemblymember
Hon. Brad Hoylman, State Senator
Hon. Daniel Squadron, State Senator
Hon. Corey Johnson, City Councilmember
Hon. Margaret Chin, City Councilmember
Hon. Gale Brewer, Manhattan Borough President
Hon. Madelyn Wils, President, Hudson River Park Trust

delivered via e-mail and postal mail

Re: Hudson River Park Air Rights

Dear Assemblymembers Glick and Gottfried, State Senators Hoylman and Squadron, City Councilmember Johnson and Chin, Borough President Brewer and Trust President Wils:

It has now become clear that the 2013 Hudson River Park Act amendment creates transferable air rights not just from the commercial piers within the Hudson River Park, as originally discussed, but from non-commercial piers and other areas within the park as well. This substantially increases – by hundreds of thousands of square feet and possibly millions of square feet – the amount of potential air rights created by the legislation which could be transferred inland for increased development in the western section of our neighborhoods. As we have consistently expressed, the possibility of this air rights provision leading to overdevelopment of our neighborhood is a paramount concern of ours, and one which we believe must be addressed given the great danger and potential this legislation creates.

As we move ahead with the consideration of ways in which air rights could be transferred to generate income for the park, we believe that it is essential that the following actions be taken as part of any process or any mechanism created:

- 1. Removing the possibility of air rights ever being transferred from public park piers or any part of the park other than commercial piers where development is currently allowed.** Whether intentional or not, now that it seems clear that the legislation does in fact create the legal possibility of a vastly larger pool of air rights being transferred from the park beyond the limited number of commercial piers, this possibility must be extinguished to ensure that it is never utilized. This can only truly be done with an act of the State Legislature amending the legislation to prohibit the transfer of any air rights from the park from any site other than the named commercial piers. As an additional safeguard, any ULURP or rezoning action taken regarding the park

should include a rezoning of the non-commercial piers of the park to extinguish all development rights. A statement from the Trust, or the current Mayoral administration, that they have no “intention” of ever transferring air rights from the non-commercial piers in the Park would not be sufficient to in any way guarantee that they could not be used in the future. **It is critical that these actions to extinguish the possibility of the transfer of air rights from non-commercial piers within the park be taken before -- or at least in tandem with -- any other actions to allow the transfer of air rights from the park.**

2. **Exploring and exhausting all reasonable means for generating needed revenue for the Park before upzoning inland areas.** As stated previously, there are multiple ways in which revenue can be generated for the park without having to upzone sensitive waterfront sites, including ways in which air rights from the Park could be transferred. We feel strongly that these should be fully explored and exhausted before any upzoning is considered:
 - a. **Assessing a fee on all new development in the zone adjacent to the park which goes towards funding the park.** The City has instituted such measures many times before, including in the recent Hudson Square Rezoning and in Hudson Yards. Unlike the air rights sale, which would only generate revenue for the park when allowable development is increased in size (thus tying park funding to potential overdevelopment), this system would generate funding for the park anytime a new development goes up in the designated zone. This is not the same as the NID (Neighborhood Improvement District) proposal, which would have assessed a fee on all properties in the designated areas, including existing properties. It is, however, as we understand, consistent with original proposals for generating revenue for the park which were never implemented.
 - b. **Combining any sale of air rights with a downzoning, so that the allowable size of development along our waterfront is not increased as a result of air rights sales.** The City has in recent years downzoned parts of the Greenwich Village waterfront, Hudson Square, Washington and Greenwich Streets, and the East Village, among other areas, and could do so again in the air rights transfer zone. Ideally this could be done for any site to which an air rights transfer is being considered. For example, if a 12-story building is currently allowable on a site under existing zoning, it could be downzoned to allow an 8-story building as of right, with the ability to purchase air rights that could bring the

allowable size of development up to 12 stories. This way no site would be upzoned even as air rights transfers which generate funds for the park are allowed. If this cannot be done on each specific site, any zoning change to allow increased development along the waterfront for air rights transferred could be combined with a commensurate downzoning of other parts of the waterfront. This would ensure that the overall allowable size of development along the waterfront is not increased, and that overdevelopment is not enabled by air rights transfers.

- c. **Allowing air rights transfers that enable a change in the allowable uses that could be developed on a site, without necessarily allowing an increase in the size of allowable development on a site.** For example, many waterfront sites currently only allow office or hotel development, though many developers would prefer to build residential. Air rights could be used to allow residential development – not allowed by the current zoning – on select sites, but at no greater of a size than is currently allowed for hotel or office development. So with the sale of air rights, a site where a 10-story hotel or office building could be constructed could instead have a 10-story residential building constructed, with the funds from the sale of air rights going back to the park. Unlike the other two above mechanisms, this has not previously been done by the City, though the City has taken similar actions.

It should also be noted that it appears to be legally possible for the air rights sales to require ongoing payments from the purchaser, rather than just a one-shot purchase price. This would seem important to explore and utilize, in order to lessen the need for the Trust to continually seek additional air rights sales for ongoing revenue needs.

3. **Creating limits and parameters for any future air right transfers.** It is absolutely essential that any next steps regarding air rights transfers include putting in place greater limits on the use and transfer of air rights now and in the future, beyond eliminating the possibility of air rights from non-commercial piers being used (Point #1 above). The full utilization of the development potential created by the State legislation would have an overwhelming and inappropriate impact upon our neighborhoods. As long as that potential exists, there will be

forces seeking ways to use it, and no guarantees that it will not be used in this manner at some point in the future. Therefore a next step should not simply involve an allowance for a limited use of the air rights, but should also put in place appropriate limits for the future use of air rights as well, to eliminate the current dangerous potential that the existing air rights provision creates. This should involve identifying and defining what the financial needs are for the park that it is deemed appropriate for air rights transfer sales to fund. Should this be limited to completion of construction of the park? Should it include ongoing maintenance, and how would that be defined? Should the Trust be required to meet or generate certain revenue expectations before it can request the last-resort measure of seeking to sell air rights? These are all questions which should be answered before any mechanism to allow any transfer of air rights should be approved.

We appreciate your attention to these matters and look forward to your response.

Sincerely,



Andrew Berman, Executive Director
Greenwich Village Society
for Historic Preservation



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Save Chelsea



Zack Winestine, Co-Chair
Greenwich Village Community Task Force



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Lower Chelsea Alliance



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Luke Henry, President
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Jim Owles Liberal Democratic Club



Jeanne Wilcke, President
Downtown Independent
Democrats *(for identification purposes only)*



Lynn Ellsworth
On behalf of the Tribeca Trust



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Charlton Street Block Association



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Co-Chairs
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Geoffrey Knox
Perry Street Crusaders

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City Planning Commission Chair Carl Weisbrod
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