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April 4, 2005

Felicia Miller, Deputy General Counsel  
New York City Department of Buildings  
280 Broadway, 7<sup>th</sup> floor  
New York, NY 10007

**Re: PROPOSED RULE 51-01, RELATING TO CLASSIFICATION OF STUDENT DOMITORIES**

Dear Deputy Counsel Miller,

The Greenwich Village Society for Historic Preservation is the largest membership organization in Greenwich Village and the East Village, dedicating to preserving and protecting the special built character of these neighborhoods. We are deeply concerned about the attempt by developers to build structures under regulations for Use Group 3 when they are in fact Use Group 2, namely dormitories which are actually residences. This problem is especially pernicious because in much of our neighborhood, the additional allowable bulk for dormitories is quite substantial, sometimes as much as 98%.

Recent cases such as 81 East 3<sup>rd</sup> Street illustrate this problem. Here a developer has built a 13-story building utilizing the Use Group 3 classification when in fact there is no actual dormitory use attached to the building, and none appears to be in sight. Such a building should never have risen to more than six or seven stories, and now, lacking an appropriate use for the building as required by zoning, the City must either force the developer to dismantle the additional floors, or allow the structure to remain in severe non-compliance. We strongly urge that they do the former, and force the removal of the additional floors.

Allowed to continue, this practice of building structures utilizing community facility bulk regulations without actual community facilities to house could easily quite quickly and dramatically overwhelm the scale of our neighborhoods, where several proposals for "dorms for rent" have already been floated and discussed. It is essential that the Department of Buildings addresses and corrects this problem, lest the intent of the zoning text be entirely undermined and the character of our neighborhoods destroyed.

The recent phenomenon of entities other than schools and universities being allowed to build dormitories that qualify for community facility classification seems to be at the root of this problem. It is unclear to us why any entity other than the actual accredited institution should be allowed to build and own dorms and receive the community facility classification. Several experts in the field we have spoken to do not see the clear necessity for it in regulations as currently written.

2005 - Our 25<sup>th</sup> Anniversary Year

Therefore we would urge that simply not allowing dormitories to receive Use Group 3 classification unless they are owned and built by the accredited institution would be the ideal solution to this problem. However, lacking the will or the ability to do that, we do see making requirements for proof of actual attachment of an appropriate educational institution to a Use Group 3 application as a step in the right direction. However, we do question if a 10-year lease requirement is adequate or appropriate, and would suggest consideration of an even longer-term lease requirement. As the additional bulk which the builder is being allowed is in fact attached to the permanent use of the space as a Use Group 3 community facility or dormitory, it would seem appropriate to require that the commitment for use by an educational institution be as close to permanent as possible. That said, if the current practice is to issue permits for construction without any such lease or a lease of a lesser time period, then certainly a 10-year lease is preferable, but we would urge the Department to consider making the requirement as substantial and permanent as possible.

I thank you for the opportunity to submit these comments to you today.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Berman", with a long horizontal flourish extending to the right.

Andrew Berman  
Executive Director