



**Greenwich
Village
Society for
Historic
Preservation**

252 East 11th Street
New York, New York 10003

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April 9, 2007

Manhattan Borough Commissioner Christopher Santulli
280 Broadway
New York, NY 10007
via e-mail to ChristopherS@buildings.nyc.gov
via fax to 212/566-5575

Re: 159 Bleecker Street, Manhattan

Dear Commissioner Santulli:

I write to bring to your immediate attention several issues regarding what appear to be several zoning and building code violations at the above-referenced location, and to ask the Department of Buildings to immediately rescind the temporary Certificate of Occupancy and to take swift action regarding these apparent violations. It appears that the building extends illegally into public space, that false information has been filed regarding the inclusion of legally required community facility space, and that even the purported community facility space is not sufficient to satisfy the zoning requirements for the site.

As you may know, the Greenwich Village Society for Historic Preservation has long been concerned about this development, which included the demolition of most of the historic Circle in the Square Theater and construction of an 8-story building which is out of scale with its surroundings. GVSHP has long raised issues regarding the inappropriateness of issuing building permits for this development, because the developer was given the added community facility bulk allowance even though there was no community facility to occupy the space in question. The building has sat empty for nearly two years since its completion due to the lack of a community facility to occupy the space. While we would have preferred that no building permit had been issued at all, in light of the fact that such a permit was issued and the building built, we have regularly been in communication with the Manhattan Borough office to ensure that no certificate of occupancy was granted for the building as long it could not satisfy the zoning requirements and provide the community facility for which it was granted the additional bulk.

We were therefore shocked and disturbed to discover that a temporary Certificate of Occupancy (TCO) had been recently granted for the building and thus units have begun to be occupied in the building. While it seems that a "Student Dormitory Restrictive Declaration" has been filed for the building as required, the restrictive declaration was not executed by the Dalton School, "who holds an enforceable recorded interest," as required by DOB Rule 51, and no proof of a 10 year lease by an accredited educational institution has been provided, as is also required by DOB Rule 51 in such cases.

Even more disturbingly, the Dalton School, whom the developer Emmut Properties claims will operate the dormitory, is a private day school on the Upper East Side which does not provide housing for its students, much less

house them five miles away from the school in Greenwich Village. Additionally, when I called the Dalton School to inquire about their “dormitory” on Bleeker Street, I was told by the school’s Chief Financial Officer that the four units the school was leasing there would be used solely for faculty housing, and that three of the four units were already occupied by faculty. As you know, faculty housing does not qualify as a community facility under New York City zoning.

I therefore ask that the TCO be immediately revoked and DOB require strict compliance with DOB Rule 51, require a copy of a lease of at least 10 years for student dormitory space, and that the limitations on use be written into any certificate of occupancy that is issued. It is of great concern that it does not appear that Rule 51 is being appropriately enforced here, especially given this regulation’s recent vintage and the great damage which has previously been done to our neighborhood by developments which preceded the rule’s implementation, such as 81 East 3rd Street.

There are, however, additional issues. The name of the Dalton School is not “prominently displayed on the exterior of the building” as required by the restrictive declaration. Also, the TCO lists “student study center” as a use on the second floor of the building, as part of the satisfaction of the requirement for community facility space in the building. However, there is no “student study center” category of community facility in the zoning text, and regardless, since there does not appear to be an actual student dormitory, it would not appear that there could be a “student study center,” or at least not as a legitimate auxiliary use to a dormitory.

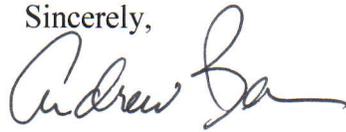
Beyond this, however, it would appear that even the purported community facility does not satisfy the legal requirements for inclusion of community facility space on the site. The 6.5 floor area ratio (FAR) of the development only conforms with the zoning if at least 3.06, or approximately 47%, of the building’s FAR is a community facility. However, the TCO only shows one full floor and part of a second floor of the building’s eight floors to be occupied by the purported ‘community facility.’ It is hard to imagine how this would satisfy the requirement that nearly half of the building function as a community facility.

Additionally, the balconies on the Bleeker Street façade of the building appear to extend well over two feet beyond the property line and over the public sidewalk; however, the Building Code requires that such balconies extend no more than 22 inches over the public sidewalk. All six balconies on the Bleeker Street façade of the building appear to extend in this manner over the public space. This is yet another reason why no Certificate of Occupancy should be issued for this building, and in this case the balconies should be removed or at least shortened to conform to the building code requirements.

The Department must act immediately regarding these very serious violations. I urge that the TCO be rescinded right away, and no further C of O’s issued until or unless these issues can be resolved. I also ask that the Department supply us with a set of the most recent plans submitted, with a copy of any long-term lease

that is provided for dormitory use on the site, and with a copy of the final survey performed by DOB before there is any additional sign off. It is unfortunate that units in the building have already been occupied based upon these apparent mistakes or false information, though if this is so such occupancy may be illegal. I look forward to hearing back from you about this very serious matter as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Berman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Andrew Berman
Executive Director

Cc: Department of Buildings Commissioner Patricia Lancaster
Department of Buildings Assistant General Counsel Felicia Miller
Landmarks Preservation Commission Chair Robert Tierney
City Council Speaker Christine Quinn
Manhattan Borough President Scott Stringer
State Senator Tom Duane
City Councilmember Alan Gerson
City Councilmember Rosie Mendez
Assemblymember Deborah Glick
Community Board #2, Manhattan
Community Board #3, Manhattan
Committee for Zoning Inaction



NYC Department of Buildings
280 Broadway, New York, NY 10007

Patricia J. Lancaster, FAIA, Commissioner

Christopher M. Santulli, P.E.
Borough Commissioner
Manhattan Borough Office
Phone: (212) 566-0011
Fax: (212) 566-5575
E-mail: ChristopherS@buildings.nyc.gov

April 30, 2007

Mr. Andrew Berman, Executive Director
Greenwich Village Society for Historic Preservation
252 East 11th Street
New York, NY 10003

Re: 159 Bleecker Street

Dear Mr. Berman:

I write in response to your letter dated April 9, 2007 regarding the above referenced premises.

The Department became aware of the building's intended use upon a request for certificate of occupancy inspection made in January of 2006. Upon inspection and further review of the application, an Intent to Revoke the permit was issued on February 10, 2006, based upon several Zoning Resolution and Building Code related objections, including a lack of information required in accordance with Rule 51 for the operation of a Dormitory.

A lease and Restrictive Declaration were submitted to the Department and our General Counsel reviewed and approved the Declaration as to form on October 20, 2006. Subsequently, the applicant resolved all remaining objections and the Department rescinded its Intent to Revoke on December 22, 2006.

The Department issued an initial Temporary Certificate of Occupancy on February 9, 2007 which was renewed on March 21, 2007 and expires June 19, 2007.

An inspection will be performed in response to your assertions that the space is being utilized for "faculty housing" and that the name of the Dalton School is not prominently displayed on the building's exterior in accordance with Rule 51.

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Mr. Andrew Berman, Executive Director
Greenwich Village Society for Historic Preservation
Re: 159 Bleecker Street

Thank you bringing this matter to our attention. Please feel free to contact this office with any further concerns or questions you may have.

Sincerely,



Christopher M. Santulli, P.E.
Borough Commissioner

CMS:bc

CC: Patricia Lancaster FAIA, Commissioner of Buildings
Honorable Scott Stringer, Manhattan Borough President
Honorable Christine Quinn, Council Speaker
Honorable Thomas Duane, NYS Senator
Honorable Alan J. Gerson, Council Member
Community Board 2, Manhattan



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Elinor Ratner
Henry Hope Reed
Alice B. Sandler
Anne-Marie Sumner
Calvin Trillin
Jean-Claude van Itallie
Vicki Weiner
Anthony C. Wood

May 3, 2007

Manhattan Borough President Christopher Santulli
280 Broadway
New York, NY 10007
Via e-mail to ChristopherS@buildings.nyc.gov
Via fax to 212/566-5575

Re: 159 Bleecker Street, Manhattan

Dear Commissioner Santulli:

Thank you for your letter dated April 30 in response to my letter of April 9 regarding the above-referenced premises.

I appreciate the information you have provided, and your commitment that an inspection will be performed at this location in response to our assertions about the space being used as faculty housing and the lack of prominent display of the Dalton name on the building's exterior, as required by DOB Rule 51. Given that the results may jeopardize the building's C of O, I urge that these inspections take place right away.

However, your letter did not in any way address the bulk of the most serious issues that were raised in the original April 9th letter, which are still outstanding. As stated, the original temporary Certificate of Occupancy (TCO) should never have been issued in the first place, because the restrictive declaration was not executed by the Dalton School, and no proof of a 10-year lease by an accredited educational institution has been provided, both as required by DOB Rule 51. On these bases, the TCO should be revoked immediately. Additionally, there was no response to our assertion that the building's balconies extend farther than legally allowed into the public sidewalk, and that the size of the building violates zoning requirements, even if one accepts the owner's assertions regarding the inclusion on-site of a legally required community facility.

Additionally, I reiterate the request that DOB provide us with a set of the most recent plans submitted for this site, a copy of any long-term lease provided for dormitory use on this site, and a copy of the final survey performed by DOB before there is any additional sign off. I would also like a copy of the DOB General Counsel's October 20, 2006 approval for the building, as well as a copy of the lease.

I look forward to hearing back from you about this. I would also appreciate the opportunity to meet with you and/or an appropriate DOB staff member(s) familiar with the decision-making process in this case to discuss this matter further.

Sincerely,



Andrew Berman
Executive Director

Cc: Department of Buildings Commissioner Patricia Lancaster
Department of Buildings Assistant General Counsel Felicia Miller
City Council Speaker Christine Quinn
Manhattan Borough President Scott Stringer
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