



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

Patricia J. Lancaster, FAIA, Commissioner

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August 14, 2007

Stuart Klein, Esq.
498 7th Avenue, 8th Floor
New York, NY 10018

Re: 246 Spring Street, Manhattan
NB Job Application No. 10440334

Dear Mr. Klein:

This responds to your July 24, 2007 letter regarding the NYC Department of Buildings (“Buildings”) permit issued under Application No. 10440334 for a transient hotel at 246 Spring Street, Manhattan. The proposed hotel is located in an M1-6 zoning district in which Use Group 5 transient hotels are allowed as-of-right and residential uses are prohibited. You raise the following issues each of which are addressed below: (1) that the restrictive declaration dated April 26, 2007 does not comply with LPPN #1/05 because it does not contain language that failure to comply with the terms of the restrictive declaration may result in the revocation of the building permit or certificate of occupancy; (2) that the monetary penalty provision in the restrictive declaration provides an improper financial benefit to Buildings; (3) that the proposed sale of the hotel units violates zoning; and (4) that Buildings allowed construction of the proposed development without “taking note” of the purported SEC restrictions regarding securities.

With respect to the first issue, LPPN #1/05 is inapplicable to this restrictive declaration. As stated in LPPN #1/05, it applies to regulatory restrictive declarations and easements agreements that provide for alternate means of compliance with building code requirements or are necessary for compliance with certain provisions of zoning. Here, the restrictive declaration, which the developer voluntarily signed, is not a regulatory one that was required for compliance with either the building code or zoning. You are also mistaken with respect to the second issue. Any monetary penalty as set forth in section 2.08 of the declaration is expressly made payable to the City of New York, not Buildings.

The third issue - that the sale of hotel units in itself violates zoning - is without merit. The proposed condominium form of ownership that is contemplated for the Use Group 5 hotel does not alter the prohibition against long-term residential occupancy. The proposed hotel remains fully subject to transient use limitations in accordance with zoning. Your reliance on the matter of 848 Washington Street, Manhattan, is misplaced; nothing in Buildings' determination with respect to 848 Washington prohibited individual ownership of hotel units that are

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accordance with the transient use requirements. Finally, your claim that Buildings issued a permit without “taking note” of the SEC requirements is irrelevant to the determination that the permit comports with building code and zoning requirements.

I trust this addresses the issues you raise in your letter.

Very truly yours,



Mona Seligal
General Counsel

Cc: Phyllis Arnold
Felicia Miller
Christopher Santulli
Gabriel Taussig
David Karnovsky