



**Greenwich
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Society for
Historic
Preservation**

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December 11, 2006

Hon. Michael Bloomberg
Mayor, City of New York
City Hall
New York, NY 10007

Hon. Amanda Burden
Chair, New York City Planning Commission
22 Reade Street
New York, NY 10007

Hon. Patricia Lancaster
Commissioner, New York City Department of Buildings
270 Broadway
New York, NY 10007

Dear Mayor Bloomberg, Chair Burden, and Commissioner Lancaster,

I write to call to your attention the ever-growing incontrovertible evidence that the planned Trump “condo-hotel” at 246 Spring Street in Manhattan will in fact be used as a residence, in violation of zoning restrictions, and I urge you not to allow this project to move ahead. Unfortunately, the latest evidence to surface is the City’s own Convention and Visitor’s Bureau boasting that Trump’s project will be used as residences, blatantly contradicting the City’s assurances that such violations of the law would not be allowed.

A November 14 press release from NYC and Company announces “Hotel Development ...Continues in New York City’s Red Hot Market” and then goes on to specifically cite the Trump SoHo development to say “every unit will be sold individually to buyers who might live there year-round, from time to time or seasonally” (see attached). NYC and Company (formerly known as the New York Convention & Visitors Bureau) is, according to its website. “New York City’s official tourism marketing organization...with 40% of its budget coming from the City of New York.” Apparently the City’s own official tourism marketing organization agrees with what we and other opponents of this project have claimed from the beginning – condo owners will, in fact, use their units as residences, in clear violation of the law and in clear contradiction to the claims the City has thus far made regarding how this project will function.

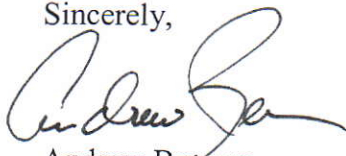
However, it is not just NYC and Company which anticipates Trump’s SoHo condo-hotel functioning as a residence. Several advertisements from realtors working on the Trump project soliciting letters of interest from prospective buyers seek to entice purchasers by describing the “residences amenities” the project contains (see attached). Additionally, a promotional brochure produced by the developers and sent to prospective buyers shows units with full kitchenettes including sinks, refrigerators, and dishwashers, in spite of promises by the City that no kitchens would be allowed in these units (see attached).

This, along with revelations last week that the developers' website was soliciting buyers who were interested in using the property as their "primary" or "secondary residence" would seem to provide ample proof that this project (or any similar condo-hotel project) cannot be allowed in this or any other area where manufacturing zoning prohibits residential development and residential hotels. Beyond this, however, there is evidence to indicate that any attempt to try to prevent condo owners from using their units as a residence would not be legally sound, and is inherently incompatible with the condominium ownership structure.

According to articles published in Urban Land, the Journal of the Urban Land Institute, if the developer of a condo-hotel voluntarily enters into an agreement with a municipality whereby they restrict the ability of a condo owner to reside in their unit (such as has been discussed with the proposed "restrictive declaration" for the Trump case), they "run the risk of converting the offering of their condo hotel units into an offering of 'securities' under federal securities law." This means the sale should never have been offered as real property, or a condo, in the first place, but as stock (see attached). In general, while case law may not be entirely clear around this issue, it would seem that any restrictions on residential usage of a condo by an owner may be legally incompatible with sale of the unit as a condominium. This is further evidence that the City should not, under any circumstance, allow the development of condo-hotels in manufacturing zones where residential uses are prohibited, because there may be no legal way to restrict the use of the condo-unit by the owner in the manner the City is claiming it intends to do.

I thus again strongly urge the City to recognize what its own official tourism agency, the developers, condo-hotel legal experts, and scores of community and business groups from across the city have said – condo-hotels are used as residences, and Mr. Trump's will be no exception. Thus the Trump project should not be granted permits by the City, and should not be allowed to be built.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Berman". The signature is fluid and cursive, with a large initial "A" and "B".

Andrew Berman
Executive Director

Cc: Office of the NY State Attorney General
Council Speaker Quinn
Borough President Scott Stringer
Congressman Jerrold Nadler
State Senator Tom Duane
Assemblymember Deborah Glick