



**Greenwich  
Village  
Society for  
Historic  
Preservation**

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December 12, 2006

Oliver Rosengart, Attorney  
Office of the New York State Attorney General  
120 Broadway  
New York, NY 10271

**Re: CD-06-0167 Condominium Plan for 246 Spring Street, Manhattan**

Dear Mr. Rosengart:

The Greenwich Village Society for Historic Preservation (GVSHP) is the largest membership organization in Greenwich Village, the East Village, and NoHo. Our members are largely residents and property and business owners who are concerned about ensuring the preservation of the character of their neighborhoods, and about appropriate application and enforcement of governmental regulations to accomplish these goals. I write regarding our very serious concerns about the plan for a 'condo-hotel' at 246 Spring Street, Manhattan, and to urge you to take these concerns into account when considering approval of this plan.

The applicants in this case have filed for permits with the New York City Department of Buildings (DOB) for a 45-story development which would include 380 condo-hotel units. Extreme concern has been expressed by neighbors of the site about a variety of aspects of this project, including its disproportionate size and the impact it would have on traffic leading to and from the nearby Holland Tunnel. Community and business groups and elected officials from across New York City have urged the DOB to reject permits for the project because it would violate zoning for the area, which prohibits the development of residences and residential hotels (see [www.gvshp.org/documents/Trumplet.pdf](http://www.gvshp.org/documents/Trumplet.pdf)). We believe that the 'condo-hotel' plan for the development does not qualify as a 'transient hotel,' the allowable use under the current zoning which the developer claims applies to this project, but would in fact function more like a residence or a residential hotel. In spite of this, both the developer and realtors soliciting letters of interest from the public for the project have been referring to the development as a residence in their advertisements (see [www.gvshp.org/documents/Trumpbplet.pdf](http://www.gvshp.org/documents/Trumpbplet.pdf) and [www.gvshp.org/documents/trumpadvert.doc](http://www.gvshp.org/documents/trumpadvert.doc)). DOB has not yet issued permits for the development, but has, over our objections, indicated they will issue such permits upon reaching agreement on a "restrictive declaration" for the project that would set limits regarding the allowable duration of stay by owners and guests, as well as dealing with other issues.

This raises an issue I urge the Attorney General's office to consider. It has come to my attention that some experts in this field argue that under federal rules an owner cannot be restricted in residential use of a condominium, especially if those restrictions result from municipal regulations which the seller of the condominium entered into voluntarily or in some way conferred upon. In those cases, it has been suggested, the sale would have to be considered a security, not a condominium, which is of course regulated in an entirely different way. This

therefore raises the question of whether or not this condominium plan should be approved at all given that municipal zoning regulations clearly prohibit residential uses at this location, and especially given the "restrictive declaration" the developer is supposed to be required to sign, limiting terms of stay for owners in these units. For further information on this question, see also [www.hotel-online.com/News/PR2006\\_2nd/Jun06\\_RegulatingCondoHotels.html](http://www.hotel-online.com/News/PR2006_2nd/Jun06_RegulatingCondoHotels.html).

Additional information regarding this project and the strong objections to the fact that it includes condominiums which will likely be used as residences can be found on our website at [www.gvshp.org/trump.htm](http://www.gvshp.org/trump.htm).

I look forward to hearing back from you about this matter. Please do not hesitate to contact me if you wish to discuss this further or if you desire any additional information.

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: Congressman Jerrold Nadler  
Manhattan Borough President Scott Stringer  
City Council Speaker Christine Quinn  
State Senator Tom Duane  
Assemblymember Deborah Glick  
Zoning for Jobs Campaign  
community groups