

1 **Clinton and Hell’s Kitchen Land Use Committee**

Item #: 14

2
3 June XX, 2015

4
5 Vicki Been
6 Commissioner
7 NYC Dept. of Housing Preservation and Development
8 100 Gold Street
9 New York, NY 10038

10
11 Martin Rebholz
12 Manhattan Borough Commissioner
13 NYC Dept. of Buildings
14 280 Broadway
15 New York, NY 10007

16
17 **Re: 485-497 Ninth Avenue Stop Work Order and Orders to Correct**

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19 Dear Commissioners Been and Borough Commissioner Rebholz:

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21 At the Chelsea-Hell’s Kitchen Land Use Committee meeting on April 8, 2015 a
22 discussion took place regarding the continued decay 485-497 Ninth Avenue. It was
23 brought to the attention of the Committee that since the Committee’s request for
24 assistance for preservation of the remaining buildings and avoidance of any further
25 demolition no action has been taken by the Department of Housing Preservation and
26 Development (HPD) or the Department of Buildings (DOB).

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28 **Background**

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30 485-497 Ninth Avenue is a block-front of 6 tenements on the west side of 9th Avenue,
31 between West 37th and West 38th Streets, in Subarea D5 of the Special Hudson Yards
32 District (SHYD). These buildings, under the prior ownership of Martin Fine and the
33 current ownership of David Israeli, have been the subject of long-term tenant harassment,
34 lack of services, HPD enforcement actions, and over 300 legal actions since the early
35 1980s. For years, the long-term owner, Martin Fine, who was regularly named by the
36 Village Voice as one of the City’s top 10 worst landlords, tried to vacate all of the
37 buildings, but was unable to do so.

38
39 485-497 Ninth Avenue is located within the SHYD, and as such the tenements are subject
40 to both anti-Harassment and Demolition Restriction zoning provisions. ZR § 93-90 states
41 that before there can be any material alteration to the building, the owner must obtain a
42 Certificate of No Harassment (CONH) or, if they are not able to obtain one, must comply
43 with the Cure Requirements. No application for a CONH has been submitted for these
44 buildings. Additionally, according to ZR § 93-91, no multiple dwellings in Subarea D5
45 the Special Hudson Yards District can be either partially or fully demolished.

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1 In 1995, demolition work was being done at 404 West 38th Street. During the demolition
2 preparation, the building partially collapsed and a construction worker fell off of the
3 scaffolding and onto adjacent roadway. As a result, the City found that the building as
4 well as the two adjacent buildings at 501-505 Ninth Avenue were structurally unsound,
5 issued an emergency vacate order, and demolished the buildings. What the owner had
6 attempted to do, remove the long term tenants of these buildings (some with 50 year
7 tenancies), DOB accomplished with the vacate order. The owner's very actions led to the
8 City's demolition order. Today the site of those buildings remains a vacant lot.

9
10 As part of the HPD enforcement actions, an Article 7A Proceeding was brought to
11 appoint a 7A Administrator. Martin Fine stymied that proceeding for years by putting the
12 buildings into bankruptcy. In 1996, he sold the buildings to David Israeli, the son of well-
13 known diamond merchants. Martin Fine then sold the adjacent parking lot and all of the
14 development rights from the buildings to Dermot Companies. After multiple legal actions
15 against the long term tenants, David Israeli offered to settle the 7A Proceeding. As part of
16 that settlement, 493-495 Ninth Avenue was gut renovated and all nine of the remaining
17 tenants were consolidated into those buildings. David Israeli has repeatedly committed to
18 renovate the existing vacant buildings and has never done so.

21 **January – February 2013**

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23 On January 17, 2013, DOB issued an immediate emergency violation for failure to
24 maintain the building in a code compliant manner, namely the presence of partial collapse
25 and water damage throughout the structure.

26
27 On February 19, 2013, Manhattan Community Board 4 sent a letter to Commissioner of
28 HPD and the Manhattan Borough Commissioner of DOB. This letter made several
29 requests for action to preserve the buildings and avoid demolition required for an unsafe
30 structure. These requests outlined a plan-of-action to preserve the structures. Despite
31 their explicit nature, no requests were satisfied, save for first which has not been
32 applicable. These requests were:

- 33 • *No action be taken by DOB that encourages or permits any interior or*
34 *exterior demolition at these buildings. These buildings have both a long*
35 *history of tenant harassment and are subject to the zoning required*
36 *Demolition Restriction.*
- 37 • *Since these buildings were intentionally neglected, the owner should be issued*
38 *Orders to Correct the structural and façade issues.*
- 39 • *If issues are found with the structural stability of any or all of the buildings*
40 *and the owner does not correct these issues, HPD should move to safely*
41 *correct the issues and seal the buildings.*
- 42 • *Liens should then be placed on the property for the City to recoup full cost of*
43 *the repairs.*

1 Though the first request has been untested since the date of this letter, 2 commercial
2 spaces have been renovated and occupied despite a lack of filings and permits from the
3 Department of Buildings.

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5 On February 27, 2013, the Environmental Control Board accepted a Certificate of Cure
6 for the January 17 violation despite minimal action being taken to restore the decaying
7 buildings. At this time the rear of the structured was covered with a tarp, providing the
8 building interior some protection from the elements.

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10 **April 2015**

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12 In early April 2015 the coverings of the rear building façade became unsecured exposing
13 the true condition of the structure. At this time it became blatantly apparent that the
14 building has undergone unpermitted demolition work leading to partial collapse and
15 exposed wooden structural members as seen in the enclosed photos. This situation
16 analogous to the partial collapse that occurred in 1995, which ultimately lead to the death
17 of a construction worker as well as the demolition of what would now be a 100+ year old
18 structure.

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20 At the request of CB4, DOB inspected the property on April 14, 2015 and issued a Stop
21 Work Order under DOB Violation #041415BS04JM01.

22
23 On April 22, 2015, Jesse Bodine, District Manager of Manhattan Community Board 4
24 sent an email to John Waldman, Government and Community Affairs Liaison at DOB,
25 and Vito Mustaciolo, Deputy Commissioner for the Office of Enforcement and
26 Neighborhood Services at HPD requesting Orders to Correct the structural issues, or in
27 absence of action by the property owner, HPD to make the corrections.

28
29 **Concerns**

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31 CB4 is concerned that the building at 485-497 9th Avenue will quickly decay to the point
32 of required demolition. CB4 reiterates it's 2013 requests to preserve the structure from
33 imminent deterioration and prevent the building from becoming structurally unsound. It
34 is the prerogative of CB4 to:

- 35 1. Maintain buildings that fit the historic context of the neighborhood
- 36 2. Ensure that the intentions of the Demolition regulations set forth with the creation
37 of SHYD are upheld
- 38 3. Ensure the safety of the public

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40 Given the above, CB4 requests a meeting with you at your earliest convenience.

41
42 Sincerely,

43
44 Christine
45 JD



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