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June 26, 2003

Via fax 212-669-7960 and e-mail at rtierney@lpc.nyc.gov

Robert B. Tierney -
Chair
Landmarks Preservation Commission Chair
1 Centre Street
9th Floor
New York, NY 10007

RE: Certificate of Appropriateness
03-2628- Block 36, 37, lot 1122-
8 West 70th Street - Congregation Shearith Israel Synagogue - Individual
Landmark,
Upper West Side/Central Park West Historic District

Dear Commissioner Tierney:

I am writing concerning a number of matters relating to the hearing I have heard was scheduled for July 1, 2003 relating to Congregation Shearith Israel Synagogue - proposed W. 70th Street luxury condominium. Yet, of this moment, there is no notice for the hearing posted on the Commission's web site. I also question why a hearing is being held during the July 4th Week.

And, as discussed below, the Commission has made no opportunity for the public to review the latest application.

Moreover, from my understanding, the Commission intends to allocate as much as 75% of the time of the hearing to presentations by the Congregation including the members of the Congregation and the attorneys, architects, and officers of the Congregation. Each member of the Congregation has a substantial financial interest in the outcome of this hearing -- they are not members of the general public or community at large and the time allocated to comments from the general public should not be diverted to the applicants.

I also raise below other significant issues as to the standards being applied to the determination, the status of the record, and the real possibility of extensive ex parte contacts with the Synagogue.

As you are a lawyer, I am sure you share my concern as to the importance of fair and impartial procedures as it relates to the operation of the Commission, especially with respect to a matter as significant as this. I do not believe that the practices of the Commission promote a fair and balanced review and determination of the issues.

I. Availability of Information To The Public Prior to Hearings:

It is difficult if not impossible for a member of the general public to obtain copies of submissions to the Commission in support of applications. On February 27, 2003, I filed a request for information with the Commission asking for, among other things, copies of the applications filed on behalf of the synagogue in this matter. This information has not been made available to me. I have never seen an administrative agency or court that is so unwilling to share written information with members of the public. Your web site as of today at 2:43 PM states:

Presentation materials for each item on the Public Hearing agenda are available for review on the Friday before the Public Hearing from 10 a.m. to 5:00 p.m. in the Commission's Hearing Room on the ninth floor of the Municipal Building, 1 Centre Street. This month, the viewing day will be Friday, July 18th.

Thus, the Commission is making available the materials for the July 1 meeting 17 days AFTER the meeting. Moreover, the Commission staff seems to be unwilling to make the entire file open for review. This is truly extraordinary. The public is entirely cut-off from information, and, as is discussed later, has to glean information at a public hearing and then must respond in a limited presentation.¹

I would very much appreciate receiving a copy as soon as possible of ALL previous and current filings made by the Synagogue to the Landmarks Commission on this matter.

This would to me seem to be the very minimum obligation of the Commission, and, I should not have to beg, scream, or shout to obtain this information.

II. Ex Parte Contacts

In my request of February 27, 2003, I also asked for a list of contacts between Commission members and staff on one hand and the Synagogue and its lawyers, architects, and members on the other hand. The Commission has not responded to this request. I made this request because it seemed that the Commissioners might have made up their minds prior to the February meeting, which, to me indicated substantial prior discussions with the Congregation and its advisors. I think it is important for a fair process that the nature of these contacts be revealed. I must say that whereas Commission members and staff have had tours and meetings at the Synagogue, on the

¹ Perhaps as well, the Commission should consider requiring that all applications be submitted in a digital format such as Acrobat together with digital photos of all large exhibits. Thus, information could be made easily available to the public. This is a simple matter - and this would facilitate making information available to the public.

other side, I am not aware of similar quality time with neighbors and those opposed to the Synagogue's request.

I respectfully request that each Commissioner disclose in writing all contacts had with the Synagogue and its representatives.

III. Transcripts

In my February 27, 2003 request, I also asked for transcripts of hearings because there was a court stenographer at the last hearing. I have received no response to this request.

If a transcript was prepared and made available to the Commission or any member or staff of the Commission, then I would like to have a copy of that transcript. At the same time, I would also advise you that I would wish to bring a stenographer to the next hearing.

IV. Standards Before the Board

As a lawyer, it is confusing to me as to what standards and procedures are being applied by the Commission. Although there may be Commission rules, these rules and procedures, oddly enough, are not posted on the Commission's web site.

I am most troubled by the Commission's willingness to consider testimony considering the "economic engine" that this project is supposed to represent, without regard to any facts relating to the costs of the project, the surplus income generated, building assets to be made available at no cost to the congregation, and the ability of the congregation to make necessary repairs to the landmark. Unless the Congregation comes clean with the economic facts, the Commission should not entertain any argument by the Congregation as to the so-called economic engine.

I would ask you under what authority can the Landmark Commission even consider the economic engine argument as to the funding of interior repairs, new educational and social feasibilities, and private condominiums.

While at the same time that the Commission is considering factors that are outside of its purview, it is ignoring and not requiring information as to factors that are relevant on what we will know will be the ultimate determination by the City Planning Commission. These factors included:

- (b) In order to grant a special permit, the City Planning Commission shall find that:**
 - (1) such *bulk* modifications shall have minimal adverse effects on the structures or *open space* in the vicinity in terms of scale, location and access to light and air; and**

It would be highly improper for the Landmarks Commission, by approving the Synagogue's luxury condominium, to suggest thereby to the City Planning Commission that the Landmarks Commission has reviewed these factors as to the Synagogue condominium project. Quite clearly, the Landmarks Commission has relied primarily on distorted presentations by the applicant and has not required a study of the effect of sunlight that the building will have on the surrounding area including Central Park. Moreover, the Landmarks Commission has relied on elevation drawings with a perspective of hundreds of feet in the air, drawings that have no relevance to light and air impact at the street level on W. 70th Street. Indeed, at the last hearing, one Commissioner was not even aware that 70th Street was a narrow street - this is troubling and suggests among other things that the Commission members have entertained ex parte contacts with the Synagogue including tours, but have not shown similarly openness to the opponents.. Thus, unless the Landmarks Commission creates an identifiable record that it has reviewed light and air, then the City Planning Commission may not rely upon the Landmarks Commission in making the determination required above.

Thus, I ask that the Landmarks Commission require the applicant to prepare a complete and fair presentation on the light and air issues and perspective drawings showing the present situation and the proposal from the viewpoint of someone standing on the street, not hanging from a helicopter..

V. FAIRNESS TO ALL VIEWS AT THE HEARINGS

At the prior Landmarks (and Community Board hearings), a pattern was established whereby the Congregation's President, Lawyers, and Architects would expound at length over matters we believe were already discussed with individual Commission members, and would repeat claims and provide comments unrelated to the legal issues before the boards. Then, having effectively utilized most of the time available, the hearing would be thrown open to the public who were told to limit their comments to 2 minutes. Even persons of great experience in these issues were basically shut down and confined to short statements and no one was able to rebut in any effective manner the carefully and lengthy presentations of the Congregation. Thus, no opponent or opponent group is able to mount a cogent opposition.

Then, the Congregation members -- whose elected and paid spokespeople had already spoken and dominated the hearing -- were considered part of the "public" and "community", further limiting the opportunity of opponents to completely express their views. This is also important, because each and every member of the Congregation stands to benefit personally from the income from the sale of the condominiums. Assuming a Congregation with 500 members, then each member would benefit to the amount of \$2000 for each million of income derived from the condominium sales, and, the profit after the cost of the condominium segment of the building is considered, will be in the tens of millions of dollars. The Congregation members will stand to benefit in the free construction of a multi-story private club building. Although designated a "Community Building", the Community being served are the members of the

"Congregation Community," who may or may not be a member of the community who live and work in the area.

Thus, at the next hearing, I request that the Congregation members who wish to speak have their time included in the time allocated to the applicant , and that opponents of the project have time allocated to their presentations and objections that equal the combined time made available to the Congregation through its officers, lawyers, architect, and members.

I hope that as a new chairman of the Commission that you will endeavor to make the Commission proceedings more transparent, to make Commission documents truly available to the public, to assure that the Commission keeps an appropriate record of all information considered by the Commission, that Commission contacts with applicants be made public, that the Commission not consider issues which are beyond its authority, and that the hearings be conducted in a manner to promote fair and equitable airing of the issues.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alan D. Sugarman".

Alan D. Sugarman

Michael Bloomberg – Mayor
City Hall, NYC 10007
<http://nyc.gov/html/mail/html/mayor.html> (link to an e-mail form)
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Jerrold Nadler - Congressman
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Thank You For Filling Out This Form

Shown below is your submission to [NYC.gov](#) on Thursday, February 27, 2003 at 22:12:40

This form resides at <http://www.nyc.gov/html/mail/html/maillpc.html>

Name of Fields	Data
Message Type:	Request for Information
Topic:	Other
Contact Info:	Yes
M/M:	Mr.
First Name:	Alan
Middle Name:	D
Last Name:	Sugarman
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City:	New York
State:	NY
Postal Code:	10023
Country:	United States
Work Phone #:	212-873-1371
Email Address:	sugarman@sugarlaw.com
	RE: 8 West 70th Street - Congregation Shearith Israel Synagogue - Applications for MODIFICATION OF USE AND BULK and CERTIFICATE OF APPROPRIATENESS Please provide to me, or make available to me for my inspection and or copying, as soon as possible the following: 1. All written submissions of any type by the

Message:

Congregation and its lawyers, architects, and members to the Commission or to any Members of the Commission concerning the application. 2. The written transcripts of the November 26, 2002, and the February 11, 2003 meetings relating thereto. 3. A listing with dates and nature of contact of all contacts between any of the Commissioners and the Synagogue and/or its lawyers, architects, and members or agents of the Synagogue concerning the application of the Synagogue above. This may be considered to be a request for ordinary review of public files as well as a Freedom of Information Request.

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