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January 26, 2006

BY HAND

The Honorable Robert B. Tierney, Chairman
Landmarks Preservation Commission
9th Floor
1 Centre Street
New York, NY 10007

Re: **8 West 70th Street**

Dear Mr. Chairman:

This response letter is being written with the permission of the Commission following the public meeting held January 17, 2006 in the above matter. We are the attorneys for the coalition of all adjoining buildings and residents of West 70th Street.

Based upon the comments by the Commission at the public meeting upon the conclusion of all testimony, we respectfully request that the Commission reject the developer's plan for 8 West 70th Street unless the height is reduced to eliminate the two penthouse floors entirely and to lower the height of the proposed building to conform to the six-story height limitation generally in existence in midblock areas in the Upper West Side/Central Park West Historic District.

I.

Approval Will Do Irreparable Harm to the Historic District

The Landmarks Preservation Commission has before it an item of vital importance for the entire city of New York. The enclosed letters and copies of emails show that residents of landmark-protected historic neighborhoods throughout the city are monitoring the Commission's consideration of this proposal to construct a 124-foot-tall building (a 95-foot-tall streetwall plus two large penthouses) on the mostly 50- to 60-foot-tall rowhouse block of West 70th Street, adjacent to the Landmark Spanish & Portuguese Synagogue and within the Upper West Side/Central Park West Historic District.

For example, the Brooklyn Heights Association cites both this application and the General Theological Seminary's proposal to expand in Chelsea, writing, "[W]e in Brooklyn Heights are greatly concerned about the potential for out-of-scale new construction that would prove destructive of the cherished character of our predominantly "brownstone" historic district...[W]e believe that in this period of burgeoning development pressure the Commission should pause to consider, as a matter of broad preservation policy, its essential role in defending the character of lower scale areas in the districts it supervises."

II.

Approval Will Establish A Dangerous Precedent

Approving a "transitional building" at 8 West 70th Street will set a dangerous precedent for this and other historic districts throughout the city. The attorney for Congregation Shearith Israel refers to the proposed development as a "transitional building" between two contexts: the generally high-rise avenue and the predominantly low-rise midblock. This disturbing concept would justify shifting bulk from Central Park West, "the eastern frame of the district" (see page 23 the Commission's own 1990 historic district designation report) into the side streets, where "the surviving rowhouses present a strong coherency and are a major element in creating a special sense of place particular to this district on Manhattan's Upper West Side" (LPC designation report, page 46). There is nothing in the zoning code and nothing in the rules or precedents of this Commission to empower a "transitional building."

Allowing this shift would also create a *de facto* "transitional" zone all the way along Central Park West, blurring the historically crisp distinction between the avenues and the midblocks. Nothing would prevent any developer, but especially a nonprofit or religious institution (the New-York Historical Society, the Second (now First) Church of Christ Scientist, the Universalist Society) from applying to the Commission to construct a building that is significantly taller than its midblock neighbors simply because it is adjacent to an avenue site. Having permitted such a "transitional building" on West 70th Street, on what reasonable basis could the Commission deny more of them throughout the district? The coherent pattern of tall avenues and low midblocks would be destroyed.

Moreover, the Commission must avoid setting a precedent for penthouses. The proposed penthouse here is more than minimally visible from Central Park, and it is surely visible from all of West 70th Street.

III.

The Height of the Proposed Building Should Not Be Measured by the Anomalies to the West of It

The proposed building attempts to relate to the existing 9-story buildings at Numbers 18 and 30 West 70th Street, anomalies built in the 1920s, rather than to the landmark synagogue or the rowhouses that characterize the remainder of the block. Nine-story buildings do not define this or other side-street midblocks of the Upper West

Side/Central Park West Historic District; rowhouses do. The applicant observes that there are 107 9-story buildings in the district. However, the vast majority of these buildings are located on avenues or major cross streets and therefore cannot justify the height of this proposed building.

IV.

The Building Clashes with the Existing Fabric Protected By Both the Historic District Designation and Contextual Zoning

The need for numerous zoning variances flags this proposal as inappropriate. In 1984, the City Planning Commission worked with the community to create contextual zoning that closely mirrors the scale of the neighborhood's historic fabric. (An earlier proposal to construct a building at 8 West 70th Street was one of the primary motivations for addressing the zoning. The boundary between the R10A avenue and the R8B midblock districts was drawn 125 feet in from Central Park West with this site, which is 83% in the midblock zoning, in mind.) The zoning report describes the area's character in very much the same terms as the 1990 historic district designation report: 14- to 15-story buildings on the avenues and wide streets and 3- to 6-story brownstones on the midblocks. The report states, "The consistency with which these building types north of 68th Street repeat themselves is the key to the strength and clarity of the image of the West Side." The zoning and the historic district were created for the very purpose of preventing anomalous new buildings like this one from being constructed.

V.

No Developer Should be Allowed to Build in Excess of Zoning Limitations at the Expense of the Historic District

Exempting certain developers from standards intended to protect the neighborhood's overall special character undermines the rationality and predictability of the planning process. Groups such as the Park Slope Civic Council have expressed concern that allowing developers to deviate from the established rules for appropriate development on a case-by-case basis undermines hard-won zoning and historic district protections. According to Columbia professor and urban planner Elliott D. Sclar, "The precedent that the granting of these waivers, variances and special permits will create may effectively render the carefully crafted land use development plan for the Upper West Side moot. The contextual zoning and landmark designations that guide this neighborhood's growth and change (and the neighborhood has grown and changed) were thoughtfully designed and democratically adopted policies intended to fairly balance the maintenance of this neighborhood's charms with the real needs for added development. **Approval of this project will destroy this careful balance.**"

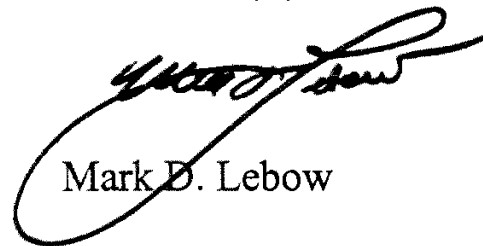
Conclusion

The community would not be opposed to an appropriate six-story building on this site, which could perhaps meet the Congregation's needs in full if the site were excavated to accommodate functional floors below grade. Meeting rooms, classrooms and other uses often thrive under such conditions. Excavation is not prohibitively expensive. According to engineers with whom we consulted, the cost is approximately \$100 per cubic yard. Plans show that the proposed building's footprint is approximately 6,400 square feet, meaning that placing three stories below grade would require the displacement of approximately 8,000 cubic yards – a cost of \$800,000.

The West 70th Street neighborhood respectfully requests that the proposed building at 8 West 70th Street be disapproved for the reasons and under the conditions set forth above.

We further request that this letter and copies of the enclosed documents be distributed to all members of the Commission.

Respectfully yours,



Mark D. Lebow

Encls.