

FREEMAN

FRAZIER

REAL ESTATE SERVICES

& ASSOCIATES, INC.

132 NASSAU STREET  
NEW YORK, NY 10038  
TEL: 212.732.4056  
FAX: 212.732.1442

**MEMORANDUM**

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**Date** : July 8, 2008

**To** : Mr. Shelly Friedman, Esq.  
Friedman & Gotbaum, LLP

**From** : Jack Freeman

**Re** : 10 West 70<sup>th</sup> Street  
Response to MVS Report

Attached is a letter in response to the Metropolitan Valuation Services Report of June 23, 2008, the Alan D. Sugarman letter of June 20, 2008, and a response to questions raised at the BSA Hearing of June 24, 2008.

F R E E M A N

F R A Z I E R

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July 8, 2008

Hon. Meenakshi Srinivasan, Chairperson  
New York City Board of Standards and Appeals  
40 Rector Street  
New York, New York 10007

Re : 6-10 West 70<sup>th</sup> Street  
New York, NY  
Calendar No. 74-07-BZ

Dear Chairperson Srinivasan:

The following has been prepared in response to questions raised by the Board at the hearing of June 24, 2008.

In addition, responses have been provided to a report by Metropolitan Valuation Services (the "MVS Report"), dated June 23, 2008; and a letter by Alan D. Sugarman ("Sugarman Letter"), dated June 20, 2008 in opposition to the above referenced application submitted. Both of the opposition documents questions specific items in our letter to you of June 17, 2008.

### **Response to the BSA**

In response to questions raised at the BSA, we provide the following:

#### **Rear Terraces**

The rear terrace on the fifth floor on top of the community facility, where the building setbacks, and the small area on the sixth floor, created by the courtyard, were not originally designed as accessible open space on the plans provided by Platt Byard Dovell and White (PBDW). Therefore, these areas were not included in the sales price as sellable terrace areas of the respective units.

In order to respond to the question raised at the hearing by the BSA regarding the fifth and sixth floors open areas, we have provided an alternative analysis

which considers this area to be sellable outdoor terrace area. The fifth floor terrace area is approximately 555 sq.ft. This terrace exists for both the Proposed Development with Courtyard and the As-of Right Development. The sixth floor terrace area is approximately 140 sq.ft. and exists only in the Proposed Development with Courtyard. The estimated sales prices for the affected units, including the terraces has been updated, consistent with our previous valuations of other such terrace areas, and is included in the attached Schedule C.

The Economic Analysis is as follows -

A) Proposed Development with Courtyard

The Feasibility Analysis estimated the net project value to be \$34,210,000. This amount is the sum of residential condominium unit sales, less sales commissions. The total investment, including estimated Property Value, base construction costs, soft costs and carrying costs during the sales period for the Revised Proposed Development is estimated to be \$26,731,000.

As shown in Schedule A, the development of the Revised Proposed Development would provide an Annualized Return on Total Investment of 10.93%.

When compared with the previous analysis, contained in our submission of May 13, 2008, the additional value as a result of the terrace area increases the Proposed Development with Courtyard annualized return on investment from 10.66% to 10.93%, a less than 0.3% increase.

B) As of Right Development

As shown in the attached Schedule A, the Feasibility Analysis estimated the net project value to be \$11,940,000. This amount is the sum of the residential condominium unit sales, less sales commissions. The total investment, including estimated Property Value, based construction costs, soft costs and carrying costs during the sales period for the Revised As of Right Development is estimated to be \$20,465,000.

As shown in Schedule A, the development of the Revised As of Right Development would result in an annualized capital loss of \$4,569,000.

### Efficiency Ratio of Sellable to Gross Square Footage

As requested by the Board, the attached Exhibit A provides a chart in order to clarify the efficiency ratios between the Revised Proposed Development with Courtyard, Revised Proposed with Courtyard without Penthouse, Revised Proposed with Courtyard without Eighth Floor and As of Right Development scenarios.

The gross and sellable residential areas are supplied to us by the architects at PBDW, and are determined by measuring the overall depth and width of the building. The sellable area is calculated by removing the exterior walls; removing the lobby; removing the elevator core and stairs, including those portions of the core and stairs that run through the community facility; removing hallways; and removing the elevator overrun on the fifth floor. The terraces, although considered sellable, have not been included in the sellable area.

The variations in efficiency occur as the sellable areas may decrease and/or otherwise change; whereas, many of the common areas such as lobbies, stairs, and building core components remain the same size.

### Response to the MVS Report

#### *Freeman/Frazier Qualifications*

The MVS Report notes that Mr. Freeman does not hold any special appraisal licenses, which would hold him accountable to a professional organization.

Mr. Levine should be familiar with the BSA guidelines, since a substantial portion of his past two submissions consisted of quoting directly from them. We remind MVS that one does not need to possess a professional appraisal license to present a financial analysis before the BSA.

#### *Acquisition Cost*

The MVS Report questions the methods used to determine the acquisition cost.

The MVS Report erroneously suggests that the site value estimated is for the entire building lot and that such entire building lot estimated value is improperly allocated only to the residential development portion.

In fact, only the residential portion of the building lot has been valued, as requested by the BSA. As discussed in previous responses to the MVS Reports, the methods used to determine the acquisition cost are consistent with BSA procedure, and no requests have been made by the Board to modify the methods used.

#### ***Construction Costs***

Per requests from MVS and Mr. Alan Sugarman, we provided the full details of the McQuilkin & Associates construction cost estimates with the June 17, 2008 submission. The MVS letter refers to the last page of the McQuilkin & Associates estimate – the “Proposed Apartment Matrix” – as the evidence of impropriety in estimating and allocating construction costs.

It appears that neither MVS or Mr. Sugarman has the knowledge or experience regarding cost estimates to understand the details contained in the construction cost estimates provided. The “Proposed Apartment Matrix” is merely a table which identifies the characteristics and distribution of apartment types. This table is used as part of the estimating methodology but in no way serves to allocate costs related to construction of these apartment types.

With a more careful read of the estimate beyond the “Proposed Apartment Matrix”, both MVS and Mr. Sugarman might have discovered that the costs for only five apartments were included in the residential portion of the cost estimate, while the costs for the caretaker’s apartment, which is accessory to the community facility was included in the school portion of the cost estimate.

#### ***Return on Equity and Relevance of Original Cost***

The MVS Report disagrees with the methodology utilized for measuring economic feasibility, and again refers to the BSA instructions as support for this logic. As has been noted in our response to previous opposition submissions, the methodology utilized in our submissions is typical for BSA condominium project applications, and has been a long standing accepted practice at the BSA.

We have also previously noted that this is a typical methodology utilized in professional real estate analyses for condominium projects in general. This methodology appropriately considers the profit or loss from the net sales proceeds less the total project development cost.

The MVS Report does not discuss the relevance of the original cost in this section outside of the section's title.

***Income from School***

Regarding consideration of the existing or potential rent from the *Beit Rabban School*, as was previously explained in response to the MVS opposition report dated April 15, 2008, - "At the request of the BSA in the Notice of Objections dated June 15, 2007, we previously identified the market rent for the community facility in our September 6, 2007 submission. In addition, we provided an analysis in our December 21, 2007 submission which identified that the rent needed to overcome the cost of development significantly exceeded market rent."

This prior response adequately addresses the MVS concern.

***Common Sense***

This section of MVS Response is inappropriate.

**Response to the Sugarman Letter**

***Construction Costs***

Mr. Sugarman states that Freeman/Frazier only supplied the details to three construction cost estimates.

We note that the supplied McQuilkin & Associates construction cost estimates were for the most recently analyzed scenarios, which were the subject of the then submitted opposition documents. The opposition did not specifically request the entire construction cost estimates for each previous scenario.

Mr. Sugarman, as did the previously discussed MVS Report, suggests that there have been improprieties in estimating and allocating construction costs – that the costs for the “two bedroom care takers apartment on the fourth floor” have been erroneously included in the residential cost estimate.

By this we can only assume that the only portion of the estimate Mr. Sugarman has read is the last page of the McQuilkin & Associates estimate – the “Proposed Apartment Matrix”.

It appears from these comments that Mr. Sugarman has neither the knowledge or experience necessary to understand the details contained in the construction cost estimates provided or is trying to mislead the BSA. As described in response to the the MVS Report, above, the cost of the caretaker’s apartment, which is accessory to the community facility space, is appropriately allocated to the community facility construction costs.

***Scheme A Acquisition Cost***

Mr. Sugarman states that, “Scheme A analysis continues to ascribe land cost for the entire building to just the two floor condominium.”

As noted in the above response to the MVS Report, and mentioned in previous submissions, the acquisition cost is based on the allowable residential floor area and not the entire building.

***Return on Equity***

Mr. Sugarman’s concern that no explanation has been provided as to why a return on equity is not the appropriate measure has been addressed in prior submissions.

As stated above, in our response to a similar concern expressed in the MVS Report, the methodology utilized in our submissions is typical for BSA condominium project applications, and has been a long standing accepted practice at the BSA.

We have also previously noted that this is a typical methodology utilized in professional real estate analyses for condominium projects in general. This methodology appropriately considers the profit or loss from the net sales proceeds less the total project development cost.

Response to Opposition  
10 West 70th Street  
New York, NY  
July 8, 2008  
Page 7

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*Revised Scheme C*

Mr. Sugarman is concerned that a revised Scheme C was not provided.

We note that the BSA did not request a submission of an analysis of a revised Scheme C.

*Case Law*

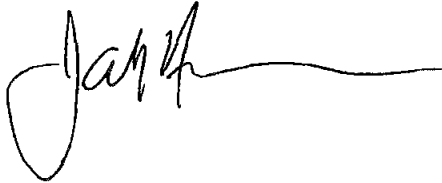
Freeman/Frazier made no reference to case law and limits consideration to financial analysis in submissions to the BSA.

*Income from School*

As noted above, and as noted in prior submissions, market rate rents for community facilities were provided at the request of the Board.

Please feel free to call me if you have any further questions.

Sincerely

A handwritten signature in black ink, appearing to read "Jack Freeman", with a long horizontal flourish extending to the right.

Jack Freeman



**SCHEDULE A: ANALYSIS SUMMARY**

|                                       | REVISED<br>AS OF RIGHT<br>CF/RESIDENTIAL<br>DEVELOPMENT | REVISED<br>PROPOSED<br>DEVELOPMENT |
|---------------------------------------|---|------------------------------------|
| <b>BUILDING AREA (SQ.FT.)</b>         |   |                                    |
| BUILT RESIDENTIAL AREA                | 7,594   | 22,352                             |
| SELLABLE AREA                         | 5,316   | 15,243                             |
| <b>CAPITAL INVESTMENT SUMMARY</b>     |   |                                    |
| ACQUISITION COST                      | \$12,347,000  | \$12,347,000                       |
| HOLDING & PREP. COSTS                 | \$0   | \$0                                |
| BASE CONSTRUCTION COSTS               | \$3,722,000   | \$7,398,000                        |
| SOFT CONSTRUCTION COSTS               | \$3,977,000   | \$6,322,000                        |
|                                       | <u>\$20,046,000</u>                                     | <u>\$26,067,000</u>                |
| <b>PROJECT VALUE</b>                  |   |                                    |
| SALE OF UNITS                         | \$12,702,000  | \$36,394,000                       |
| (less) SALES COMMISSIONS              | 6% (\$762,000)  | (\$2,184,000)                      |
| EST. NET PROJECT VALUE                | <u>\$11,940,000</u>                                     | <u>\$34,210,000</u>                |
| <b>PROJECT INVESTMENT</b>             |   |                                    |
| ACQUISITION COST                      | \$12,347,000  | \$12,347,000                       |
| HOLDING & PREP. COSTS                 | \$0   | \$0                                |
| BASE CONSTRUCTION COSTS               | \$3,722,000   | \$7,398,000                        |
| SOFT CONSTRUCTION COSTS               | \$3,977,000   | \$6,322,000                        |
| CARRYING COSTS DURING SALES PERIOD    | \$419,000   | \$664,000                          |
| EST. TOTAL INVESTMENT                 | <u>\$20,465,000</u>                                     | <u>\$26,731,000</u>                |
| <b>RETURN ON INVESTMENT</b>           |   |                                    |
| ESTIMATED PROJECT VALUE               | \$11,940,000  | \$34,210,000                       |
| (less) EST. TOTAL INVESTMENT          | (\$20,465,000)  | (\$26,731,000)                     |
| (less) EST. TRANSACTION TAXES         | (\$232,000)   | (\$664,000)                        |
| EST. PROFIT (loss)                    | <u>(\$8,757,000)</u>                                    | <u>\$6,815,000</u>                 |
| DEVELOPMENT/SALES PERIOD (MONTHS)     | 23  | 28                                 |
| ANNUALIZED PROFIT (loss)              | (\$4,569,000)   | \$2,921,000                        |
| RETURN ON TOTAL INVESTMENT            | 0.00%   | 25.49%                             |
| ANNUALIZED RETURN ON TOTAL INVESTMENT | 0.00%   | 10.93%                             |

NOTE : ALL \$ FIGURES ROUNDED TO NEAREST THOUSAND

**SCHEDULE B : DEVELOPMENT COSTS**

|                                   |        | REVISED<br>AS OF RIGHT<br>CF/RESIDENTIAL<br>DEVELOPMENT | REVISED<br>PROPOSED<br>DEVELOPMENT |
|-----------------------------------|--------|---|------------------------------------|
| <b>DEVELOPMENT COST SUMMARY</b>   |        |   |                                    |
| ACQUISITION COSTS                 |        | \$12,347,000  | \$12,347,000                       |
| HOLDING & PREP. COSTS:            |        | \$0   | \$0                                |
| BASE CONSTRUCTION COSTS           |        | \$3,722,000   | \$7,398,000                        |
| TENANT FIT-OUT COSTS              |        | \$0   | \$0                                |
| EST.SOFT COSTS                    |        | \$3,977,000   | \$6,322,000                        |
| <b>EST. TOTAL DEV.COSTS</b>       |        | <b>\$20,046,000</b>                                     | <b>\$26,067,000</b>                |
| <b>ACQUISITION COSTS :</b>        |        |   |                                    |
| Land Purchase Price               |        | \$12,347,000  | \$12,347,000                       |
| <b>TOTAL LAND VALUE</b>           |        | <b>\$12,347,000</b>                                     | <b>\$12,347,000</b>                |
| <b>HOLDING &amp; PREP. COSTS:</b> |        | <b>\$0</b>  | <b>\$0</b>                         |
| <b>BASE CONSTRUCTION COSTS :</b>  |        | <b>\$3,722,000</b>                                      | <b>\$7,398,000</b>                 |
| TENANT FIT-OUT COSTS              |        | \$0   | \$0                                |
| EST.CONST.LOAN AMOUNT :           |        | \$15,035,000  | \$24,770,000                       |
| EST.CONST.PERIOD(MOS) :           |        | 20  | 24                                 |
| <b>EST. SOFT COSTS :</b>          |        |   |                                    |
| Builder's Fee/Developer's Profit  | 3.00%  | \$601,000   | \$782,000                          |
| Archit. & Engin. Fees             | 8.00%  | \$298,000   | \$592,000                          |
| Bank Inspect.Engin.               |        | \$30,000  | \$34,000                           |
| Construction Management           | 5.00%  | \$186,000   | \$296,000                          |
| Inspections, Borings & Surveys    |        |   |                                    |
| Laboratory Fees                   | LS     | \$5,000   | \$5,000                            |
| Soil Investigation                | LS     | \$10,000  | \$10,000                           |
| Preliminary Surveys               | LS     | \$5,000   | \$5,000                            |
| Ongoing Surveys                   | LS     | \$10,000  | \$10,000                           |
| Environmental Surveys/Reports     | LS     | \$2,000   | \$2,000                            |
| Controlled Inspection Fees        | LS     | \$45,000  | \$45,000                           |
| Legal Fees                        |        |   |                                    |
| Dev. Legal Fees                   |        | \$150,000   | \$150,000                          |
| Con.Lender Legal                  |        | \$45,000  | \$62,000                           |
| End Loan Legal                    |        | \$0   | \$0                                |
| Permits & Approvals               |        |   |                                    |
| D.O.B. Fees                       | 25.53% | \$95,000  | \$119,000                          |
| Cond/Co-op Offering Plan          |        | \$30,000  | \$30,000                           |
| Other                             |        | \$40,000  | \$40,000                           |
| Accounting Fees                   |        | \$5,000   | \$5,000                            |
| Consultant Fees                   |        | \$0   | \$0                                |
| Appraisal Fees                    |        | \$8,000   | \$8,000                            |
| Marketing/Pre-Opening Expenses    |        |   |                                    |
| Sales Expenses & Advertising      |        | \$198,000   | \$198,000                          |
| Financing and Other Charges       |        |   |                                    |
| Con.Loan Int. @ Loan Rate =       | 9.50%  | \$1,190,000   | \$2,353,000                        |
| Con.Lender Fees                   | 1.00%  | \$150,000   | \$248,000                          |
| Construction Real Estate Tax      |        | \$334,000   | \$445,000                          |
| Title Insurance                   | 0.33%  | \$66,000  | \$86,000                           |
| Mtge.Rec.Tax                      | 2.75%  | \$413,000   | \$681,000                          |
| Construction Insurance            | 1.00%  | \$56,000  | \$111,000                          |
| Water and Sewer                   |        | \$5,000   | \$5,000                            |
| Other                             |        | \$0   | \$0                                |
| <b>TOTAL EST.SOFT COSTS</b>       |        | <b>\$3,977,000</b>                                      | <b>\$6,322,000</b>                 |

NOTE : ALL \$ FIGURES ROUNDED TO NEAREST THOUSAND

Freeman/Frazier & Associates, Inc.  
 Date : July 8, 2008  
 Property : 10 West 70th Street  
 Block, Lot : Blk 1122, Lot 37  
 Total Land Area : 6,472 sq.ft.  
 Zone : R8B & R10A  
 Page 10

Schedule C1: Revised As of Right - Residential Condominium Pricing

| <b>Floor</b> | <b>Area</b>  | <b>Price</b>        | <b>Price/SF</b> | <b>Outdoor Space</b> |
|--------------|--------------|---------------------|-----------------|----------------------|
| Five         | 3,277        | \$7,560,563         | \$2,250         | 555                  |
| Six          | 2,039        | \$5,141,389         | \$2,325         | 1,149                |
| <b>Total</b> | <b>5,316</b> | <b>\$12,701,951</b> | <b>\$2,389</b>  |                      |

Schedule C2: Revised Proposed Residential Condominium Pricing

| <b>Floor</b> | <b>Area</b>   | <b>Price</b>        | <b>Price/SF</b> | <b>Outdoor Space</b> |
|--------------|---------------|---------------------|-----------------|----------------------|
| Five         | 3,337         | \$7,994,225         | \$2,300         | 555                  |
| Six          | 3,292         | \$7,177,059         | \$2,135         | 140                  |
| Seven        | 3,418         | \$7,518,764         | \$2,200         | 0                    |
| Eight        | 3,408         | \$8,178,288         | \$2,400         | 0                    |
| PH           | 1,789         | \$5,526,063         | \$2,700         | 1,031                |
| <b>Total</b> | <b>15,243</b> | <b>\$36,394,399</b> | <b>\$2,388</b>  |                      |

BSA Hearing Response  
 10 West 70th Street  
 New York, NY  
 July 8, 2008

Exhibit A: Comparison of Efficiency Ratios

| <b>Revised Proposed Development with Courtyard</b> |              |              |               |            |
|--|--------------|--------------|---------------|------------|
| Floor  | Gross        | Sellable     | Loss          | Ratio      |
| Ground   | 1018         | na           |               |            |
| Two  | 326          | na           |               |            |
| Three  | 326          | na           |               |            |
| Four   | 375          | na           |               |            |
| Five   | 4512         | 3337         | (1175)        | 74%        |
| Six  | 4347         | 3292         | (1055)        | 76%        |
| Seven  | 4347         | 3418         | (929)         | 79%        |
| Eight  | 4347         | 3408         | (939)         | 78%        |
| PH   | 2757         | 1789         | (968)         | 65%        |
| <b>Total</b>                                       | <b>22352</b> | <b>15244</b> | <b>(7108)</b> | <b>68%</b> |

| <b>Proposed Development with Courtyard w/o Penthouse</b> |              |              |               |            |
|--|--------------|--------------|---------------|------------|
| Floor  | Gross        | Sellable     | Loss          | Ratio      |
| Ground   | 1018         | na           |               |            |
| Two  | 326          | na           |               |            |
| Three  | 326          | na           |               |            |
| Four   | 375          | na           |               |            |
| Five   | 4512         | 3337         | (1175)        | 74%        |
| Six  | 4347         | 3292         | (1055)        | 76%        |
| Seven  | 4347         | 3418         | (929)         | 79%        |
| Eight  | 4347         | 3408         | (939)         | 78%        |
| <b>Total</b>   | <b>19595</b> | <b>13455</b> | <b>(6140)</b> | <b>69%</b> |

| <b>Proposed Development with Courtyard w/o Eighth Floor</b> |              |              |               |            |
|---|--------------|--------------|---------------|------------|
| Floor   | Gross        | Sellable     | Loss          | Ratio      |
| Ground  | 1018         | na           |               |            |
| Two   | 326          | na           |               |            |
| Three   | 326          | na           |               |            |
| Four  | 375          | na           |               |            |
| Five  | 4512         | 3337         | (1175)        | 74%        |
| Six   | 4347         | 3292         | (1055)        | 76%        |
| Seven   | 4347         | 3418         | (929)         | 79%        |
| PH  | 2757         | 1789         | (968)         | 65%        |
| <b>Total</b>  | <b>18006</b> | <b>11836</b> | <b>(6170)</b> | <b>66%</b> |

| <b>As of Right Development</b> |             |             |               |            |
|--------------------------------|-------------|-------------|---------------|------------|
| Floor                          | Gross       | Sellable    | Loss          | Ratio      |
| Ground                         | 1018        | na          |               |            |
| Two                            | 326         | na          |               |            |
| Three                          | 326         | na          |               |            |
| Four                           | 375         | na          |               |            |
| Five                           | 4512        | 3277        | (1235)        | 73%        |
| PH                             | 3082        | 2039        | (1043)        | 66%        |
| <b>Total</b>                   | <b>9638</b> | <b>5316</b> | <b>(4322)</b> | <b>55%</b> |