MARCUS ROSENBERG & DIAMOND LLP
488 MADISON AVENUE
NEW YORK, NEW YORK 10022

Telephone: (212) 755-7500
Telefax: (212) 755-8713

March 30, 2016

VIA EMAIL AND REGULAR MAIL

Hon. Margery Perlmutter
Chair
New York City Board of
Standards and Appeals
250 Broadway, 29th Floor
New York, New York 10007
Email: mperlmutter@bsa.nyc.gov

RE: BSA Cal. No.: 74-07-BZ
August 26, 2008 Resolution
on Application 74-07-BZ (the "Resolution")
Trustees of Congregation Shearith Israel ("CSI")
8-10 West 70th Street
New York, N.Y. 10023 (the "Property")
Block 1122 Lots 36237 Zoning Map No. 8C
Our Matter No.: 89628.004

Dear Chair Perlmutter:

This is to: protest Shelly S. Friedman's February 18, 2016 ex parte submission of a six page letter with multiple attachments; and demand that a stop work order immediately be issued for any construction at the above Property.

This also is to demand that copies of all submissions made to BSA on behalf of CSI, all meeting notes and all related documents and electronic data, be provided to the parties herein mentioned, Community Board 7, all neighboring property owners that received CSI's original variance application, and Alan Sugarman and my firm, as counsel of record for parties to this matter, with no less than 30 days to respond after each of the parties has received copies of the aforementioned documents, with all original highlighting and other color markings.

On June 18, 2106, Alan Sugarman and my firm, on behalf of our respective clients, submitted RCNY 101-75 (a) Zoning Challenges to the Department of Buildings ("DOB") with respect to CSI's plans which CSI and its representatives had expressly stated, under oath, to the plans approved by BSA's Resolution.

Those statements, and others made to DOB on behalf of CSI, were knowingly false intentional misrepresentations, not justified by any law, rule or regulation.

When Mr. Sugarman and my firm attempted to file BSA appeals, the submissions were rejected for failure to pay a $3,100.00 filing fee.[1] I then filed a Rule 1-12 request for BSA to review the CSI DOB filings which intentionally had misrepresented that the materially changed plans were authorized by the BSA Resolution, requesting that DOB take appropriate actions to enforce the Resolution.

Responding to multiple FOIL request filed by Alan Sugarman, Landmark West! and myself, I finally was advised on March 23, 2016 that CSI had submitted "a request for a letter of substantial compliance," a copy of which would be produced pursuant to the FOIL requests.

Later the same day, our firm employee picked up a copy of the CSI submission, including the February 18, 2016 six-page Shelly S. Friedman letter and seven enclosures.

The Friedman letter states: "Substitute Drawings" show proposed "changes highlighted"; and that it includes a "set of color-coded drawings, for reference." The copies produced to us were not color-coded or highlighted, obviously impeding the ability of our design experts and others to review them.

Mr. Friedman and BSA provided NO notice to Mr. Sugarman or to me prior to, or at the time of this submission, nor did Mr. Friedman, BSA or DOB provide any notice, much less copies of, the many communications with Mr. Friedman's firm and CSI's registered lobbyist, Capalino + Company.

The parties represented by Mr. Sugarman and my firm received, as required, notice of CSI's variance application and an opportunity to respond. Mr. Sugarman and I formally appeared, made written submissions, gave testimony before BSA on the matter and, thereafter, litigated the matter through the Appellate Division, First Department. CSI, as the variance applicant, and Mr. Friedman, as a member of the Bar governed by the Rules of Professional

[1] Please note that our client, Landmark West! is an IRC 501(c)(3) non-profit organization. CSI was excused from paying filing fees for its variance application, based on its status as a non-project organization, but Landmark West!'s attempt to file its appeal was rejected for failure to pay its filing fee. Obviously, this was wrong. This issue and others previously raised expressly are reserved.

Conduct, were required to provide prior notice to us of their various applications to, and communications with, BSA.

Section 666 (11) of the New York City Charter, incorporated in haec verba in BSA Rule 1.01.3, expressly provides:

> The board [BSA} shall have power . . . To revoke or modify, upon due notice and hearing, variances and special permits previously granted under the zoning resolution if the terms and conditions of such grants have been violated.

As discussed, the sole notice of the Friedman February 18, 2016 submission was a March 23, 2016 telephone call advising us that the document was available for review and copying pursuant to long-pending FOIL requests more than a month after the document had been submitted to BSA. Obviously, this has impeded the ability of the parties to respond.

Without addressing the merits of Friedman's submission, it does not, in word or substance, constitute a BSA Rule 1-12.11 application for a "minor amendment or correction." Rather, it clearly seeks a major change to BSA's Resolution, requiring full notice and a public hearing on the BZ calendar, pursuant to BSA Rules 1-107.1 (a)(1) and 1-12.6.

That CSI and its representatives engaged in a blatant plan, scheme and artifice to defraud City agencies is confirmed by their failure to have sought a Letter of Substantial Compliance from BSA before applying to DOB and their sworn statements that their plans had been approved by BSA. Only due to the Zoning Challenges filed by Mr. Sugarman and me, did DOB recognize that CSI's plans, which DOB already had approved based on CSI's misrepresentations, were not, as CSI and its representatives had represented, the plans which BSA had approved.

To permit CSI and its representatives to escape the consequences of their illegal conduct by obtaining a letter of substantial compliance would emasculate the important requirements for truthful filings, reward CSI and its representatives which were for violations of law, compounded by a fraudulent cover-up efforts, and encourage others to do likewise.

The BSA Rule 1-12.10 application which I filed should be granted, with a hearing to be calendared after full notice to all who were required to receive notice of CSI's variance application and all counsel who have appeared.

At the very least, Due Process requires that my firm's clients and Alan Sugarman's clients receive copies of all documents and communications submitted on behalf of CSI, and all records of BSA's examinations, meetings and internal communications and determinations, with no less than 30 days to submit a response, followed by a public hearing.

CSI's architects, attorneys and registered lobbyist have successfully delayed this process for months to permit them to make ex parte submissions. They cannot claim prejudice from a short further delay to satisfy Due Process.

Respectfully submitted,

David Rosenberg

cc: David J. Schnakenberg
General Counsel
NYC Board of Standards and Appeals
250 Broadway, 29th Floor
New York, New York 10007
Email: dschnakenberg@bsa.nyc.gov

Shelly S. Friedman, Esq.
Attorney for Congregation Shearith Israel
Friedman & Gotbaum
568 Broadway
Suite 505
New York, New York 10012
Email: sfriedman@frigot.com

Landmark West!
45 West 67th Street, #1
New York, New York 10023
Email: katewood@landmarkwest.com

Alan Sugarman, Esq.
17 W. 70th Street, Apt. 4
New York, New York 10023-4544
Email: sugarman@sugarlaw.com