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April 8, 2016

By E-mail cstallard@buildings.nyc.gov

Cynthia Stallard
Assistant General Counsel
New York City Department of Buildings
280 Broadway
New York NY 10007

Re: Intent to Revoke Approvals and Permits
Congregation Shearith Israel
BIS Job #121328919
Address: 8 West 70th Street, Manhattan
Block 1122, Lot 37

Dear Attorney Stallard:

Reference is made to your letter of March 30, 2016, to David Rosenberg concerning the above matter. Mr. Rosenberg and I are not co-counsel, but represent parties with similar interests.

Your recitation of facts omitted reference to the second level internal appeal filed by me on behalf of Nizam Kettaneh as to the decision of September 22, 2015 concerning the Kettaneh challenge.

Our second level appeal of October 14, 2015 **has been completely ignored by DOB**, perhaps because it provides inconvenient facts – to be clear, roof-top bulkheads may not be a consideration under FAR rules, but are a consideration when reviewing impact of a building on the surrounding buildings, such as, for example, a penthouse in an adjoining building. BSA considered all these factors. I ask that DOB meets its obligations and respond to that appeal. If DOB decides adversely, we will then assert our rights to appeal to the Board of Standards and Appeals. Until such time as the DOB follows its own rules, it may not allow the project to proceed. Similarly, the procedure that should be followed by the Congregation is to appeal to the BSA, and not to follow the ad hoc non-public procedure which you describe.

The referenced Notice of Intent to Revoke was a consequence of the June 8, 2015 Zoning Challenge and Appeal filed by me on behalf of Nizam Kettaneh which resulted in the DOB decision of September 22, 2015 which was scanned for posting on the BIS Web site on October 14, 2015 and **thereafter** posted on BIS.¹ On October 29, 2015, we further challenged the decision as to matters not

¹ That DOB does not respond directly by e-mail or otherwise to members of the public who file a Challenge and Appeal, and forces such parties to constantly and daily log into your BIS system indicates the DOB's disdain for the Public Challenge process.

Attorney Cynthia Stallard, NYC DOB
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resolved to our satisfaction by the decision. On January 15, 2016, we amended that further challenge after we had the opportunity to review the building plans, which were only released to us in late December pursuant to a long-standing FOIL request. Only after reviewing the plans could we provide the more specific information as to the fact that the height of the building approved by DOB substantially exceeded the height in the BSA approved plan.

DOB has not acted upon the internal further challenge of October 29, 2015, and, indeed has failed to respond to my inquiries as to such internal challenge, including my letter of January 15, 2016 to Borough Commissioner Rebholz. It is thus inappropriate for the DOB to take any further action on this matter until such time as the DOB responds to the further challenge.

In any event, DOB cannot contest that we are a party with the right to appeal decisions to the BSA and to apply for Article 78 relief when the DOB does not follow its own Rules, as is the case here.

We respectfully request the opportunity to receive a copy of any communications DOB receives from or on behalf of the Congregation and that we be allowed to attend any meetings held as to this challenge. It is irrelevant whether DOB rules require our attendance – DOB may change its rules to allow transparency and public access, and nothing in DOB rules prevent providing greater access.

If you are unable to locate any of the documents referenced above, please let me know. From your letter, it is not at all clear that you have reviewed the DOB files on this matter. You may locate most of these documents at the web site protectwest70.org.

Sincerely,



Alan D. Sugarman

cc: Rick Chandler, Commissioner
Thomas Fariello, First Deputy Commissioner
Martin Rebholz, Borough Commissioner, Manhattan
Scott Pavan, Borough Commissioner, Development HUB
Calvin Warner, Chief Construction Inspector
Mona Sehgal, General Counsel
Felicia Miller, Deputy General Counsel
Hon. Margery Perlmutter – Chair, New York City Board of Standards and Appeals
David Rosenberg, Esq. – Counsel for Landmark West!
Shelly Friedman, Esq. – Counsel for Congregation Shearith Israel