



THE CITY OF NEW YORK
COMMUNITY BOARD 9
MANHATTAN

Morningside Heights
Manhattanville
Hamilton Heights
Sugar Hill

3291 Broadway, New York, NY 10031
(212) 864-6200

June 20th, 2023

Hon. Dr. Mitchell Katz
President and Chief Executive Officer
NYC Health + Hospitals Corporation
50 Water St., Suite 1702
New York, NY 10004

Dear Dr. Katz:

During its regularly-scheduled General Board Meeting held on June 15, 2023, in a hybrid in-person and virtual format, Manhattan Community Board 9 passed the resolution below regarding plans put forth by New York City Health and Hospitals Corporation (HHC) and Bowery Residents Committee (BRC) for redeveloping the site of the Emma L. Bowen Community Services Center at 1727 Amsterdam Avenue on the northeast corner of West 145th Street and Amsterdam Avenue by unanimous consent with 43 members in attendance.

I also want to personally express my frustration with the events of the past 9 months. MCB9 had to find out about this development from a call from a constituent in the district in late August 2022. When we inquired with HHC as to the plans for the site, we were told "I don't think you're supposed to know about that yet," and it was explained that HHC had planned to brief the community only after the plans had been filed with the Department of Buildings. The proposed developers and HHC still have not conducted any outreach to the neighboring school, PS 153 Adam Clayton Powell Jr. Elementary School, despite being urged to do so as early as September 2022. I cannot help but feel that a more experienced affordable and supportive housing developer with stronger ties to the West Harlem community would not have made these mistakes.

This type of secretive, years-long development process that deliberately avoids public scrutiny is completely unacceptable and antithetical to the processes and principles laid out in the New York City Charter. Had MCB9 been included in the process from the beginning, we could have outlined our preference for a larger building with more affordable housing units and increased square footage for healthcare services 3 years ago, allowing the project to have already completed the Uniform Land Use Review Process required for an upzoning.

City-owned land is a rare commodity in our district, and public subsidies for affordable housing are valuable and scarce. It does not make sense to waste the opportunity to use them to create as much housing as possible when the opportunity arises. MCB9 looks forward to being an active and engaged partner in coming up with a new proposal for 1727 Amsterdam Avenue that fully meets the community's needs for healthcare and mental health services, supportive housing, and affordable housing.

To that end, please see the below resolution:

WHEREAS on or about August 24, 2022, a member of the West Harlem community observed dumpsters being filled up with debris and soil samples being taken at 1727 Amsterdam Avenue (Manhattan Block 2060, Lot 1) and reached out to Manhattan Community Board 9 (MCB9) to inquire as to what was happening at the healthcare facility at that site; and

WHEREAS MCB9 had not received notice of any proposed change in use at the site, which formerly housed City Department of Health and Mental Hygiene (DOHMH) services and offices and is currently home to various health providers serving the West Harlem community, including Heritage Health and Housing (a federally qualified health center providing primary care and other services), Jackson Ophthalmology group, and the Emma L. Bowen Community Service Center (“the Emma Bowen Center,” which provides mental health care for individuals with moderate to severe mental health issues, addiction treatment services, a food pantry, a daycare for children with special developmental and behavior needs, and which currently has a contract with DOHMH to provide Psychosocial Club and Behavioral Health Care Coordination at 1727 Amsterdam Avenue); and

WHEREAS when MCB9 asked New York City Health and Hospitals Corporation (HHC or “H+H”) what was happening at the site, MCB9 was told “I don’t think you’re supposed to know about that yet;” and

WHEREAS MCB9 has always maintained that City agencies and other partner organizations like HHC can best serve the West Harlem community by working proactively with MCB9 to jointly develop plans *before* they are implemented; and

WHEREAS MCB9 was subsequently informed in September 2022 that HHC planned to lease the site to Bowery Residents Committee (BRC) to be developed into a building called “Hill Top Apartments” with 120 supportive housing studio units and 80 affordable housing units and a unit

for a live-in superintendent over 159,000 square feet of residential space, with only 17,000 square feet of space reserved for health care facilities to enable the return of the Emma L. Bowen Community Service Center; and

WHEREAS MCB9 subsequently found out that HHC began this process during the administration of Mayor Bill DeBlasio and selected BRC to redevelop the site three years prior in 2019 without notifying the community or MCB9; and

WHEREAS the current structure at 1727 Amsterdam Avenue has approximately 59,209 square feet of space for health care facilities; and

WHEREAS there is a deep and growing need for community-based mental health services to treat sharp increases in mental health problems that have emerged before and during the COVID-19 pandemic; and

WHEREAS HHC and BRC informed MCB9 that the Hill Top Apartments plan does not envision the return of Heritage Healthcare or the primary care services they provided; and

WHEREAS access to primary care, mental health services, and other services needs to be *expanded* in West Harlem, not curtailed; and

WHEREAS community-based mental health services like the Emma Bowen Center were intended as part of the “deinstitutionalization movement” in the 1960s and 1970s to replace state and private psychiatric institutions and hospitals that had been documented to be severely mistreating individuals with mental health issues while sequestering them from society, but very few community-based mental health service providers were ever built and run to deal with individuals who would previously reside in such psychiatric institutions; and

WHEREAS MCB9 finds the reduction of healthcare provider space in the Hill Top Apartments plan developed by HHC and BRC to be unacceptable, ill-advised, and counter to the needs of the West Harlem community; and

WHEREAS BRC’s operations are approximately 75% homeless shelters and transitional housing, with less than a quarter of their operations comprising of supportive housing projects; and

WHEREAS BRC has recently been the subject of investigations by the Comptroller of the City of New York relating to their contracts to provide homeless outreach services at Penn Station; and

WHEREAS BRC has no track record of operations in West Harlem; and

WHEREAS both the existing structure and public plaza at 1727 Amsterdam Avenue and the proposed Hill Top Apartments plan lack any ground floor retail space that could provide “eyes on the street,” street activity, and connect the existing important retail corridor along West 145th Street; and

WHEREAS the West Harlem community has proposed an alternative plan (“the community proposal”) that would rezone 1727 Amsterdam Avenue from its current R7A designation to an R8A designation, which would allow for approximately 297,792 square feet of developable space (not including basement or cellar space), which could be used for 20,000 square feet of ground floor commercial space to house retail including but not specifically a supermarket; 40,000 square feet of healthcare facility space; and 237,000 square feet of residential space, which would be an increase of approximately 50% to the residential square footage on the site, and which also calls for BRC to be replaced or partnered with a local supportive housing provider with a longer track record of providing supportive housing in West Harlem; and

WHEREAS MCB9 maintains that there is a large unmet need for additional family-sized apartments of 2 bedrooms and up in West Harlem, and that a disproportionate influx of studio apartments is not as beneficial to the community as a project with a larger number of family units; and

WHEREAS when on February 13, 2023, MCB9 met with the City Department of Housing Preservation and Development (HPD), which administers financing for supportive housing for projects including the Hill Top Apartments project, to inquire whether a revision of the project could be made to include additional housing in line with the community proposal, HPD responded that they were trying to “avoid ULURP” (the Uniform Land Use Review Process) as it would require a longer timeframe than the Hill Top Apartments proposal that built within the limits of the existing R7A zoning; and

WHEREAS MCB9 maintains that the Hill Top Apartments proposal must *also* go through the ULURP because it is a lease or disposition of land/real property owned by the City of New York, which means that there is no delay caused by the community proposal; and

WHEREAS Section 197-c of the New York City Charter regarding the Uniform Land Use Review Process (ULURP) mandates that

“Except as otherwise provided in this charter, applications by any person or agency for changes, approvals, contracts, consents, permits or authorization thereof, respecting the use, development or improvement of real property subject to city regulation shall be reviewed pursuant to a uniform review procedure in the following categories:

...

(10) Sale, lease (other than the lease of office space), exchange, or other disposition of the real property of the city, including the sale or lease of land under water pursuant to section sixteen hundred two, chapter fifteen, and other applicable provisions of law;”

and

WHEREAS 1727 Amsterdam is owned by the City of New York while being managed and operated by HHC, thus making it “the real property of the city;” and

WHEREAS the proposed lease of 1727 Amsterdam Avenue by HHC to BRC is therefore a “sale, lease..., exchange, or other disposition of the real property of the city,” regardless of whether or not the City is managing or operating the site; and

WHEREAS the decision in *Campaign to Save Our Pub. Hosps.-Queens Coalition v Giuliani*, 172 Misc 2d 893 2nd Dept 1997, declared that “the subleasing of HHC facilities requires the application of ULURP and the approval of the Council” and further declared that “the sublease of CIH [Coney Island Hospital, an HHC facility] to PHYS-NY [a third-party nonprofit operator] constitutes an *ultra vires* act and violates the HHC Act,” findings that were upheld by the New York Court of Appeals on March 30, 1999 in *Council of the City of New York v. Giuliani*, 99 NY Int. 0041, where the Court of Appeals ruled, “HHC must continue to fulfill its statutory mission within the confines of its powers and purposes as established by its enabling legislation;” and

WHEREAS the proposed Hill Top Apartments project and its requisite lease to BRC has not gone through the ULURP as mandated by the New York City Charter; and

WHEREAS a title search for 1727 Amsterdam Avenue performed by ProNational Title Agency on December 12, 2022 confirmed that the owner of 1727 Amsterdam Avenue is the City of New York; and

WHEREAS HHC knows that the City owns 1727 Amsterdam, having recorded in the minutes of its Thursday, April 24, 2014 meeting of the HHC Board of Directors (the April 2014 minutes) that Mr. Jeremy Berman, at the time the Deputy Counsel in HHC’s Office of Legal Affairs, stated, “This is a building which is owned by the City of New York and was built in the early

1970s and for the purpose of housing DOH [DOHMH] programs of a community-based health care provider;” and

WHEREAS prior to the April 24, 2014 minutes, HHC explained the history of the 1727 Amsterdam Avenue’s ownership and control on September 12, 2013 in a resolution (the September 2013 resolution) before the Capital Committee of the HHC Board of Directors, noting

“WHEREAS, in the mid 1970’s the Building, consisting of four floors totaling approximately 59,000 square feet plus a basement, was jointly constructed by the Corporation and the City of New York (the “City”) to serve as a primary care facility to be operated by the Corporation but the fiscal crisis left both the City and the Corporation without funds to develop and operate such a program; and

WHEREAS, to make use of the Building, the City licensed approximately half to Washington Heights-West Harlem-Inwood Mental Health Council, Inc. (“Council”) for the operation of a community mental health center which evolved in subsequent years into a license of the entire Building with the balance being used for an ambulatory care facility both of which were financed largely by City Medicaid and other City funds; and

WHEREAS, although the Corporation had no program at the Building, it was drawn into being its manager and administrator due to the original (though aborted) plans and intentions of the planners and builders of the Building; and

...

WHEREAS, since the late 1980’s the Corporation has endeavored, without success, to withdraw from any role with the Building given *its tangential relationship to the Corporation* [emphasis added] thereby leaving the Corporation with the burden of operating the Building through Harlem Hospital Center, collecting the license fees from the occupants of the building and supporting the deficit at which the Building operates;”

Thereby demonstrating that HHC knows that it does not own the building, even though it has the responsibility of operating and maintaining the building; and

WHEREAS on July 20, 2022, Jeremy Berman, the Deputy Counsel to HHC, swore in an affidavit (the July 2022 affidavit) that “H+H has jurisdiction over the property known as 1727 Amsterdam Avenue, New York, NY (the ‘**Property**’ [emphasis original]) which is owned by the City of New York (the “**City**” [emphasis original])” in order to “facilitate BRC’s filings of the necessary applications for building permits for the Property with the City Buildings Department” by authorizing BRC to make such filings on behalf of HHC; and

WHEREAS all of the above-referenced documents (the September 2013 resolution, the April 2014 minutes, and the July 2022 affidavit) indicates that while HHC may operate the building, they know that it is the real property of the City of New York and a site at which City-funded

services are provided and which City capital funds have been used to construct and upgrade, which makes it subject to the ULURP; and

WHEREAS given that HHC knows or ought to know that they are required to go through the ULURP when leasing and redeveloping the 1727 Amsterdam Avenue site because MCB9 raised the issue with HHC during MCB9's September 8th, 2022 Executive Committee meeting and then again in a meeting with Deputy Counsel Jeremy Berman and others from HHC and BRC in a September 29, 2022 meeting titled by HHC as "ULURP with Manhattan CB9"; and

WHEREAS HPD, being a City agency, knows or ought to know that lease and redevelopment of the City-owned site at 1727 Amsterdam Avenue is required to go through the ULURP; and

WHEREAS DOB, being a City agency, knows or ought to know that they should not issue permits for construction on the City-owned site at 1727 Amsterdam Avenue by a third party to whom an affidavit has been sworn that is intended to be a lessee of the City-owned real property without that property first going through the ULURP; and

WHEREAS MCB9 *definitely* knows that the relevant parties must go through ULURP when leasing and redeveloping City-owned real property because we have read the New York City Charter; and

WHEREAS while MCB9 is not a law firm or law enforcement agency, MCB9 believes that violating the New York City Charter Section 197-c exposes the City, HHC, and BRC to lawsuits or other legal action; and

WHEREAS the proposed HHC and BRC project at 1727 Amsterdam is using public land owned by the City of New York and public financing from both supportive housing funding mechanisms and bonds from the Housing Development Corporation (HDC) to advance a project that does not maximize the public benefit in that it does not build enough housing and reduces healthcare services in West Harlem; and

WHEREAS on the West Harlem community values the preservation of landmarks and the importance of maintaining the character of our neighborhood; and

WHEREAS the redevelopment of the block at 1727 Amsterdam presents an opportunity to create a beacon of architectural excellence and cultural significance; and

WHEREAS it is essential to prioritize the inclusion of fine renderings that showcase the building as a jewel on the hill, reflecting its historic and cultural signature rather than a generic

design; and

WHEREAS the consideration of lighting, facade design, plaza design, and visible artwork at 1727 Amsterdam should be culturally and historically appropriate, adding to the overall aesthetic and appeal of the community; and

WHEREAS the local community has expressed a preference that the entrance the residences be placed on West 145th Street, instead of Amsterdam Avenue or West 146th Street; and

WHEREAS our community is committed to ensuring a healthy environment and managing air quality concerns and prefers any new residential construction be of non-smoking buildings with discrete and dedicated outdoor spaces for smoking that do not push smokers to adjacent properties; and

WHEREAS conducting comprehensive environmental assessments and seeking input from the established community is crucial to address potential air toxicity and mitigate any adverse effects; and

WHEREAS our community recognizes the need to balance population growth with the availability of essential services; and

WHEREAS it is important to provide housing for our current and long-time residents; and

WHEREAS our community is deeply appreciative of the medical and clinic facilities, such as the Emma Bowen Community Center, the Jackson Center of Ophthalmology, Heritage Health and Housing, Inc., and occasional City Department of Health and Mental Hygiene services provided over the years at 1727 Amsterdam Avenue, which have been instrumental in eradicating health disparities and providing high-quality care; and

WHEREAS the facilities mentioned above have demonstrated proficiency, stability, patient preference, and an array of expertise and resources, contributing significantly to the well-being of our community; and

WHEREAS concerns have been raised by both MCB9 and the general public in West Harlem about the lack of transparency and community involvement in the decision-making process for the redevelopment of 1727 Amsterdam Avenue, and there is a strong desire to reevaluate the current plan and engage in meaningful public discussion;

THEREFORE BE IT RESOLVED that Manhattan Community Board 9 calls on HHC, HPD, and all other City agencies and relevant partners to cease the illegal circumvention of the

Uniform Land Use Review Process at 1727 Amsterdam Avenue and submit any proposed lease or other disposition of the site through the ULURP; and

THEREFORE BE IT FURTHER RESOLVED that MCB9 calls upon the administration of Mayor Eric Adams to abort this unnecessary and illegal redevelopment plan concocted by the administration of former Mayor Bill de Blasio and instead support the plan put forth by the West Harlem community to generate **50% more housing** at 1727 Amsterdam Avenue while expanding the mental health services at that site; and

THEREFORE BE IT FURTHER RESOLVED that MCB9 expresses its most severe disquietude with regards to the legal risk to which HPD, HHC, and BRC are exposing the City by illegally circumventing the ULURP and thus inviting Article 78 proceedings or other legal challenges to the HHC and BRC project; and

THEREFORE BE IT RESOLVED that MCB9 urges HDC to confirm that their financial plans for any bonds related to 1727 Amsterdam Avenue account for the additional time that the ULURP may add to the project compared to if the project were developed as-of-right on private property; and

THEREFORE BE IT FURTHER RESOLVED that MCB9 supports the community plan as an alternative to the HHC and BRC plan and urges HHC and the City to revise the redevelopment plans for 1727 Amsterdam Avenue to address the community's concerns and needs around affordable housing, healthcare and mental health services, and an active retail streetscape at the site; and

THEREFORE BE IT FURTHER RESOLVED that MCB9 urges the City and HHC to ensure that the new blueprint for the redevelopment of 1727 Amsterdam Avenue is done with an R8A zoning designation that allows for the inclusion in the project of the same square footage required to accommodate the existing and necessary community services while creating **50% more housing** than what is planned under the Hill Top Apartments proposal put forth by HHC and BRC by an estimated 78,000 square feet be embraced by HHC and the City; and

THEREFORE BE IT FURTHER RESOLVED that MCB9 urgest the City and HHC to either select as a development partner for or as a replacement for BRC a different developer with extensive experience in developing supportive housing and/or affordable housing in West Harlem; and

THEREFORE BE IT FURTHER RESOLVED that the refined blueprint for 1727 Amsterdam Avenue must ensure adequate space, staffing, and equipment for the facilities mentioned earlier, enabling them to continue their essential functions and serve the community effectively; and

THEREFORE BE IT FURTHER RESOLVED that the community must actively participate in the process to refine the proposal for 1727 Amsterdam Avenue, providing input on design elements, cultural appropriateness, and the integration of artwork that reflects the history and heritage of our neighborhood, including moving the entrance of the residences to West 145th Street; and

THEREFORE BE IT FURTHER RESOLVED that MCB9 urges HHC, the City DOHMH, and other relevant parties to conduct a health needs assessment of Manhattan Community District 9 to understand the needed amount of primary care services, mental health services, and other relevant services to ensure that the project at 1727 Amsterdam Avenue provides adequate capacity for those services in a non-smoking building; and

THEREFORE BE IT FURTHER RESOLVED that efforts be made to balance population growth with the availability of services, including the City's Behavioral Health Emergency Assistance Response Division (B-HEARD) service, ensuring that the redevelopment of 1727 Amsterdam Avenue contributes to a sustainable population-to-services ratio; and

THEREFORE BE IT FURTHER RESOLVED that MCB9 calls on HHC and the City to conduct comprehensive environmental assessments, and their findings be shared with the community, allowing for collaborative efforts to mitigate any potential air toxicity concerns and; and

THEREFORE BE IT FURTHER RESOLVED that future decision-making processes regarding the redevelopment of community landmarks and facilities must prioritize transparency, public engagement, partnership with MCB9, and the inclusion of town hall meetings to gather input and address community concerns so that no further obviously inadequate and harmful proposals that underutilize public land and public subsidies while attempting to illegally avoid the Uniform Land Use Review Process do not emerge into the public view by accident after 3 years of secretive planning that excluded the general community and Manhattan Community Board 9, the official City body designated to represent West Harlem.

Hon. Dr. Mitchell Katz

June 20th, 2023

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Please feel free to contact Manhattan Community Board 9 at our offices at 3291 Broadway, New York, NY 10031 by calling (212) 864-6200 or by emailing our District Manager Eutha Prince at ep prince@cb9m.org.

Sincerely,



Barry Weinberg

Chair

Manhattan Community Board 9

barryjweinberg@gmail.com

(212) 864-6200

cc: Hon. Eric Adams, Mayor

Hon. Brad Lander, NYC Comptroller

Hon. Public Advocate Jumaane Williams

Hon. Council Speaker Adrienne Adams

Hon. Maria Torres-Springer, Deputy Mayor

Hon. Mark Levine, Manhattan Borough President

Hon. Adolfo Carrio, Commissioner of Housing Preservation and Development

Hon. Daniel Garodnick, Commissioner of City Planning

Hon. Eric Enderlin, President, New York City Housing Development Corporation

Hon. Adriano Espaillat, Member of Congress

Hon. Cordell Cleare, New York State Senate

Hon. Robert Jackson, State Senator

Hon. Daniel J. O'Donnell, Assembly Member

Hon. Inez Dickens, Assembly Member

Hon. Al Taylor, Assembly Member

Hon. Shaun Abreu, City Council Member

Hon. Kristin Richardson-Jordan, City Council Member

Hon. Mercedes Narcisse, City Council Member, Chair of Committee on Hospitals

Hon. Rafael Salamanca, Jr., City Council Member, Chair of Committee on Land Use

Hon. Gale Brewer, City Council Member, Chair of Committee on Oversight and Investigations

Hon. Marquis Harrison, Chair, Manhattan Community Board 10

Hon. Katherine Diaz, Chair, Manhattan Community Board 12

The Board of Directors of the New York City Health and Hospitals Corporation

The Community Advisory Board of Harlem Hospital

The Board of Directors of the New York City Housing Development Corporation

Mr. Zead Ramadan, Executive Director, West Harlem Development Corporation

Mr. Muzzy Rosenblatt, Executive Director, Bowery Residents Corporation



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Dear Dr. Katz:

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I also want to personally express my frustration with the events of the past 9 months. MCB9 had to find out about this development from a call from a constituent in the district in late August 2022. When we inquired with HHC as to the plans for the site, we were told "I don't think you're supposed to know about that yet," and it was explained that HHC had planned to brief the community only after the plans had been filed with the Department of Buildings. The proposed developers and HHC still have not conducted any outreach to the neighboring school, PS 153 Adam Clayton Powell Jr. Elementary School, despite being urged to do so as early as September 2022. I cannot help but feel that a more experienced affordable and supportive housing developer with stronger ties to the West Harlem community would not have made these mistakes.

This type of secretive, years-long development process that deliberately avoids public scrutiny is completely unacceptable and antithetical to the processes and principles laid out in the New York City Charter. Had MCB9 been included in the process from the beginning, we could have outlined our preference for a larger building with more affordable housing units and increased square footage for healthcare services 3 years ago, allowing the project to have already completed the Uniform Land Use Review Process required for an upzoning.

for a live-in superintendent over 159,000 square feet of residential space, with only 17,000 square feet of space reserved for health care facilities to enable the return of the Emma L. Bowen Community Service Center; and

WHEREAS MCB9 subsequently found out that HHC began this process during the administration of Mayor Bill DeBlasio and selected BRC to redevelop the site three years prior in 2019 without notifying the community or MCB9; and

WHEREAS the current structure at 1727 Amsterdam Avenue has approximately 59,209 square feet of space for health care facilities; and

WHEREAS there is a deep and growing need for community-based mental health services to treat sharp increases in mental health problems that have emerged before and during the COVID19 pandemic; and

WHEREAS HHC and BRC informed MCB9 that the Hill Top Apartments plan does not envision the return of Heritage Healthcare or the primary care services they provided; and

WHEREAS access to primary care, mental health services, and other services needs to be *expanded* in West Harlem, not curtailed; and

WHEREAS community-based mental health services like the Emma Bowen Center were intended as part of the “deinstitutionalization movement” in the 1960s and 1970s to replace state and private psychiatric institutions and hospitals that had been documented to be severely mistreating individuals with mental health issues while sequestering them from society, but very few community-based mental health service providers were ever built and run to deal with individuals who would previously reside in such psychiatric institutions; and

WHEREAS MCB9 finds the reduction of healthcare provider space in the Hill Top Apartments plan developed by HHC and BRC to be unacceptable, ill-advised, and counter to the needs of the West Harlem community; and

WHEREAS BRC’s operations are approximately 75% homeless shelters and transitional housing, with less than a quarter of their operations comprising of supportive housing projects; and

WHEREAS BRC has recently been the subject of investigations by the Comptroller of the City of New York relating to their contracts to provide homeless outreach services at Penn Station; and

“Except as otherwise provided in this charter, applications by any person or agency for changes, approvals, contracts, consents, permits or authorization thereof, respecting the use, development or improvement of real property subject to city regulation shall be reviewed pursuant to a uniform review procedure in the following categories:

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and

WHEREAS 1727 Amsterdam is owned by the City of New York while being managed and operated by HHC, thus making it “the real property of the city;” and

WHEREAS the proposed lease of 1727 Amsterdam Avenue by HHC to BRC is therefore a “sale, lease..., exchange, or other disposition of the real property of the city,” regardless of whether or not the City is managing or operating the site; and

WHEREAS the decision in *Campaign to Save Our Pub. Hosps.-Queens Coalition v Giuliani*, 172 Misc 2d 893 2nd Dept 1997, declared that “the subleasing of HHC facilities requires the application of ULURP and the approval of the Council” and further declared that “the sublease of CIH [Coney Island Hospital, an HHC facility] to PHYS-NY [a third-party nonprofit operator] constitutes an *ultra vires* act and violates the HHC Act,” findings that were upheld by the New York Court of Appeals on March 30, 1999 in *Council of the City of New York v. Giuliani*, 99 NY Int. 0041, where the Court of Appeals ruled, “HHC must continue to fulfill its statutory mission within the confines of its powers and purposes as established by its enabling legislation;” and

WHEREAS the proposed Hill Top Apartments project and its requisite lease to BRC has not gone through the ULURP as mandated by the New York City Charter; and

WHEREAS a title search for 1727 Amsterdam Avenue performed by ProNational Title Agency on December 12, 2022 confirmed that the owner of 1727 Amsterdam Avenue is the City of New York; and

WHEREAS HHC knows that the City owns 1727 Amsterdam, having recorded in the minutes of its Thursday, April 24, 2014 meeting of the HHC Board of Directors (the April 2014 minutes) that Mr. Jeremy Berman, at the time the Deputy Counsel in HHC’s Office of Legal Affairs, stated, “This is a building which is owned by the City of New York and was built in the early

WHEREAS all of the above-referenced documents (the September 2013 resolution, the April 2014 minutes, and the July 2022 affidavit) indicates that while HHC may operate the building, they know that it is the real property of the City of New York and a site at which City-funded services are provided and which City capital funds have been used to construct and upgrade, which makes it subject to the ULURP; and

WHEREAS given that HHC knows or ought to know that they are required to go through the ULURP when leasing and redeveloping the 1727 Amsterdam Avenue site because MCB9 raised the issue with HHC during MCB9's September 8th, 2022 Executive Committee meeting and then again in a meeting with Deputy Counsel Jeremy Berman and others from HHC and BRC in a September 29, 2022 meeting titled by HHC as "ULURP with Manhattan CB9"; and

WHEREAS HPD, being a City agency, knows or ought to know that lease and redevelopment of the City-owned site at 1727 Amsterdam Avenue is required to go through the ULURP; and

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WHEREAS MCB9 *definitely* knows that the relevant parties must go through ULURP when leasing and redeveloping City-owned real property because we have read the New York City Charter; and

WHEREAS while MCB9 is not a law firm or law enforcement agency, MCB9 believes that violating the New York City Charter Section 197-c exposes the City, HHC, and BRC to lawsuits or other legal action; and

WHEREAS the proposed HHC and BRC project at 1727 Amsterdam is using public land owned by the City of New York and public financing from both supportive housing funding mechanisms and bonds from the Housing Development Corporation (HDC) to advance a project that does not maximize the public benefit in that it does not build enough housing and reduces healthcare services in West Harlem; and

WHEREAS on the West Harlem community values the preservation of landmarks and the importance of maintaining the character of our neighborhood; and

the redevelopment of 1727 Amsterdam Avenue, and there is a strong desire to reevaluate the current plan and engage in meaningful public discussion;

THEREFORE BE IT RESOLVED that Manhattan Community Board 9 calls on HHC, HPD, and all other City agencies and relevant partners to cease the illegal circumvention of the Uniform Land Use Review Process at 1727 Amsterdam Avenue and submit any proposed lease or other disposition of the site through the ULURP; and

THEREFORE BE IT FURTHER RESOLVED that MCB9 calls upon the administration of Mayor Eric Adams to abort this unnecessary and illegal redevelopment plan concocted by the administration of former Mayor Bill de Blasio and instead support the plan put forth by the West Harlem community to generate **50% more housing** at 1727 Amsterdam Avenue while expanding the mental health services at that site; and

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THEREFORE BE IT FURTHER RESOLVED that MCB9 urges the City and HHC to ensure that the new blueprint for the redevelopment of 1727 Amsterdam Avenue is done with an R8A zoning designation that allows for the inclusion in the project of the same square footage required to accommodate the existing and necessary community services while creating **50% more housing** than what is planned under the Hill Top Apartments proposal put forth by HHC and BRC by an estimated 78,000 square feet be embraced by HHC and the City; and

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THEREFORE BE IT FURTHER RESOLVED that the refined blueprint for 1727 Amsterdam Avenue must ensure adequate space, staffing, and equipment for the facilities mentioned earlier, enabling them to continue their essential functions and serve the community effectively; and **THEREFORE BE IT FURTHER RESOLVED** that the community must actively participate in the process to refine the proposal for 1727 Amsterdam Avenue, providing input on design elements, cultural appropriateness, and the integration of artwork that reflects the history and heritage of our neighborhood, including moving the entrance of the residences to West 145th Street; and

THEREFORE BE IT FURTHER RESOLVED that MCB9 urges HHC, the City DOHMH, and other relevant parties to conduct a health needs assessment of Manhattan Community District 9 to understand the needed amount of primary care services, mental health services, and other relevant services to ensure that the project at 1727 Amsterdam Avenue provides adequate capacity for those services in a non-smoking building; and

THEREFORE BE IT FURTHER RESOLVED that efforts be made to balance population growth with the availability of services, including the City's Behavioral Health Emergency Assistance Response Division (B-HEARD) service, ensuring that the redevelopment of 1727 Amsterdam Avenue contributes to a sustainable population-to-services ratio; and

THEREFORE BE IT FURTHER RESOLVED that MCB9 calls on HHC and the City to conduct comprehensive environmental assessments, and their findings be shared with the community, allowing for collaborative efforts to mitigate any potential air toxicity concerns and; and

THEREFORE BE IT FURTHER RESOLVED that future decision-making processes regarding the redevelopment of community landmarks and facilities must prioritize transparency, public engagement, partnership with MCB9, and the inclusion of town hall meetings to gather input and address community concerns so that no further obviously inadequate and harmful proposals that underutilize public land and public subsidies while attempting to illegally avoid the Uniform Land Use Review Process do not emerge into the public view by accident after 3 years of secretive planning that excluded the general community and Manhattan Community Board 9, the official City body designated to represent West Harlem.

Hon. Dr. Mitchell Katz

June 20th, 2023

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Hon. Marquis Harrison, Chair, Manhattan Community Board 10

Hon. Katherine Diaz, Chair, Manhattan Community Board 12

The Board of Directors of the New York City Health and Hospitals Corporation

The Community Advisory Board of Harlem Hospital

The Board of Directors of the New York City Housing Development Corporation

Mr. Zead Ramadan, Executive Director, West Harlem Development Corporation

Mr. Muzzy Rosenblatt, Executive Director, Bowery Residents Corporation



THE CITY OF NEW YORK
COMMUNITY BOARD 9
MANHATTAN

Morningside Heights
Manhattanville
Hamilton Heights
Sugar Hill

3291 Broadway, New York, NY 10031
(212) 864-6200

June 20th, 2023

Hon. Dan Garodnick
Commissioner
City Planning
120 Broadway, 31st Fl. New
York, NY 10271

**Re: Proposed Zoning Resolution Text Amendments Designed to Ease Compliance with
Local Law 97 (Administrative Code 28-320-321)**

At its regularly scheduled General Board Meeting held in hybrid, on Thursday, June 15th, 2023.
Manhattan Community Board No. 9 passed the following Reso re:
Proposed Zoning Resolution Text Amendments Designed to Ease Compliance with
Local Law 97 (Administrative Code 28-320-321) by unanimous consent with 43
members present.

WHEREAS Local Law 97, enacted in 2019, imposes increasingly strict limits on the discharge of greenhouse gasses, with a goal of 40% reduction by 2030 and 80% reduction by 2050. The law applies to most existing or new buildings exceeding 25,000 square feet in floor area. (Rent regulated, city owned and housing authority buildings are subject to lesser restrictions relating to energy efficiency); and

WHEREAS The current Zoning Resolution contains numerous provisions which act as impediments to building owners' compliance with Local Law 97, and the Department of City Planning, at the request of the Mayor, has proposed numerous amendments which remove burdens to compliance and which seek to reduce carbon emissions by providing for accommodation for electric vehicles, centralized carbon storage, and reduction in energy use; and

- c. Streamlining rules for storage and parking of car sharing and car rental vehicles
- d. Updating parking rules, and allow for bicycle parking; 9. Decarbonize waste disposal by:
 - a. Reducing volume of stormwater and organic waste:
 - b. Allowing porous paving of sidewalks;
- c. Allowing high performance tree beds (rain gardens) and other alternative planting solutions in areas where tree beds may not be feasible;
- d. Clarifying and simplifying process of applying for rooftop gardens.
- 10. Allow small scale composting facilities in residential districts, and larger composting facilities in manufacturing districts;
- 11. Allow a 5% FAR bonus for buildings which exceed certain thresholds for heat retention by 20% for opaque exterior surfaces, and 10% for all exterior surfaces;
- 12. Allow for building owners to no longer count unused or inaccessible floor space or floor space eliminated from a building by a new development or major enlargement to make it easier to decommission mechanical rooms as part of electrification retrofits; and

WHEREAS Manhattan Community Board 9 (MCB9) broadly supports the goals of almost all of the above provisions to make it easier for property owners to conduct as-of-right improvements to reduce carbon emissions and further electrification of our City; and

WHEREAS MCB9 has heard anecdotal testimony that certain residential landlords claim to be unable to rent vacant housing units that are subject to rent regulation because 1) the units are not up to the housing or building codes and 2) the expense required to bring the units up to code cannot be recouped by the existing rent plus any rent increase permitted due to the improvement, making the apartment unrentable; and

WHEREAS MCB9 worries that Item 12 of the proposed amendments relating to sub-items (k) and (l) of the definition of "Floor Area" in 12-10 of Article I Chapter 2 could be interpreted to allow removal of the floor space of vacant housing units from the calculation of a building's Floor Area, thus allowing add-on developments that would otherwise not be permitted under current zoning and which would likely contain only market-rate housing units or other uses that are less valuable to our community than the rent regulated housing units they would replace; and

WHEREAS there currently exists a large amount of underutilized or unleashed commercial office space in Manhattan and New York City more broadly, which could also be subject to removal of a building's official Floor Area calculations due to the proposed elimination of items (k) and (l) from the Floor Area definition; and

Hon. Dan Garodnick

June 20th, 2023

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6. That accessory bicycle parking spaces continue to not be required in any buildings containing residential square footage used for the provision of affordable housing as currently laid forth in 36-711; and

If you have any questions and/or further information is needed, please do not hesitate contacting me or District Manager, Eutha Prince, at the board office (212) 864-6200.

Sincerely,

A handwritten signature in blue ink, appearing to read "Barry Weinberg".

Barry Weinberg

Chair

Manhattan Community Board 9



THE CITY OF NEW YORK
COMMUNITY BOARD 9
MANHATTAN

Morningside Heights
Manhattanville
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3291 Broadway, New York, NY 10031
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June 20th, 2023

Hon. Dan Garodnick
Commissioner
City Planning
120 Broadway, 31st Fl.
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WHEREAS The current Zoning Resolution contains numerous provisions which act as impediments to building owners' compliance with Local Law 97, and the Department of City Planning, at the request of the Mayor, has proposed numerous amendments which remove burdens to compliance and which seek to reduce carbon emissions by providing for accommodation for electric vehicles, centralized carbon storage, and reduction in energy use; and

WHEREAS The proposed amendments are a part of the Mayor's City of Yes Program. (City of Yes also addresses economic and housing opportunities, but the current proposed amendments relate only to achieving carbon neutrality); and

WHEREAS All of the proposed amendments are permissive, not mandatory, and intended to ease compliance by building owners with Local Law 97; and

WHEREAS The proposed amendments do not change the current law providing for Landmark Commission review of landmark buildings or buildings in historic districts, which will still be subject to the test of appropriateness; and

WHEREAS The proposed amendments would:

1. Allow expanded rooftop solar coverage: at present, buildings are limited to 25% of roof-tops (with a 10-foot setback from the building line) for installation of solar panels, instead allowing 100% coverage, up to 15 feet in height, except on required setbacks;
2. Allow construction of solar canopies over outdoor parking lots;
3. Allow the use of renewable energy in all zoning districts;
4. Allow battery-based energy storage units in all districts, using technology pre-approved by FDNY, in residential districts requiring a special permit subject to approval by DOB and FDNY, and in such residential districts facilities up to 10,000 square feet would be permitted as of right, and in excess of 10,000 square feet would require BSA approval; and
5. Create simplified procedure and height limit flexibility to expedite on-shore wind installations;
6. Exempt from zoning floor area, up to eight inches of exterior insulation necessary to bring buildings up to code;
7. Allow roof top installation of electric heat pumps, as a replacement for boilers, as a permitted obstruction where in R6-10 districts, for buildings lower than 120 feet maximum coverage would be 30% of roof area, up to 15' in height and in R-6-10 districts, for buildings taller than 120, coverage would be up to a maximum of 50%, with a maximum height of 55';
8. Decarbonize vehicles to achieve zero vehicle carbon emissions by 2035 by:
 - a. Allowing off-street charging stations as of right in commercial and manufacturing districts, and limited charging stations in residential districts;
 - b. Allowing 20% of garage parking spaces to be shared with the public, either for vehicle charging or car-sharing
 - c. Streamlining rules for storage and parking of car sharing and car rental vehicles
 - d. Updating parking rules, and allow for bicycle parking;
9. Decarbonize waste disposal by:
 - a. Reducing volume of stormwater and organic waste:
 - b. Allowing porous paving of sidewalks;

- c. Allowing high performance tree beds (rain gardens) and other alternative planting solutions in areas where tree beds may not be feasible;
- d. Clarifying and simplifying process of applying for rooftop gardens.
- 10. Allow small scale composting facilities in residential districts, and larger composting facilities in manufacturing districts;
- 11. Allow a 5% FAR bonus for buildings which exceed certain thresholds for heat retention by 20% for opaque exterior surfaces, and 10% for all exterior surfaces;
- 12. Allow for building owners to no longer count unused or inaccessible floor space or floor space eliminated from a building by a new development or major enlargement to make it easier to decommission mechanical rooms as part of electrification retrofits; and

WHEREAS Manhattan Community Board 9 (MCB9) broadly supports the goals of almost all of the above provisions to make it easier for property owners to conduct as-of-right improvements to reduce carbon emissions and further electrification of our City; and

WHEREAS MCB9 has heard anecdotal testimony that certain residential landlords claim to be unable to rent vacant housing units that are subject to rent regulation because 1) the units are not up to the housing or building codes and 2) the expense required to bring the units up to code cannot be recouped by the existing rent plus any rent increase permitted due to the improvement, making the apartment unrentable; and

WHEREAS MCB9 worries that Item 12 of the proposed amendments relating to sub-items (k) and (l) of the definition of “Floor Area” in 12-10 of Article I Chapter 2 could be interpreted to allow removal of the floor space of vacant housing units from the calculation of a building’s Floor Area, thus allowing add-on developments that would otherwise not be permitted under current zoning and which would likely contain only market-rate housing units or other uses that are less valuable to our community than the rent regulated housing units they would replace; and

WHEREAS there currently exists a large amount of underutilized or unleashed commercial office space in Manhattan and New York City more broadly, which could also be subject to removal of a building’s official Floor Area calculations due to the proposed elimination of items (k) and (l) from the Floor Area definition; and

WHEREAS MCB9 understands that the intent of the above modifications of the definition of “Floor Area” were intended to make it easier to allow reapportionment of mechanical rooms as part of electrification retrofits, a goal which MCB9 supports; and

WHEREAS MCB9 does not understand what possible mechanical equipment, bulkheads, or energy infrastructure equipment could necessitate 55 feet of rooftop permitted obstructions above a zoned height limit as outlined in Item 7 of the above proposed amendments when the current 40 feet permitted seems more than sufficient; and

THEREFORE BE IT RESOLVED that Manhattan Community Board 9 recommends approval of the above amendments to the Zoning Resolution proposed as part of the City of Yes program relating to the City's goal of decarbonization with the following conditions:

1. That the definition of Floor Area in 12-10 Article I Chapter 2 retain provisions currently found in items (k) and (l) to count unused, inaccessible, or redeveloped floor space as floor area ratio that are currently proposed to be removed by the zoning text or else reword them to more tightly scope such removal of floor space from Floor Area to only address reapportionment of mechanical space; and
2. That the permitted height of "Additional permitted obstructions" for R6 through R10 Districts (and any successor Districts which may be added) in 23-622 item (c)(4)(ii) of Article II Chapter 3 be limited to 40 feet instead of the proposed 55 foot limit for buildings over 120 feet, as the proposed 55 foot limit is excessive because there is no conceivable justification for 55 foot tall mechanical obstructions; and
3. That the permitted height of "Additional permitted obstructions" for R6 through R10 Districts (and any successor Districts which may be added) in 24-51 item (b)(4)(ii) of Article II Chapter 4 be limited to 40 feet instead of the proposed 55 foot limit for buildings over 120 feet, as the proposed 55 foot limit is excessive because there is no conceivable justification for 55 foot tall mechanical obstructions; and
4. That the permitted height of "Additional permitted obstructions" for Commercial Districts (and any successor Districts which may be added) in 33-42 item (b)(4)(iv) of Article III be limited to 40 feet instead of the 55 foot proposed limit for buildings over 120 feet, as the proposed 55 foot limit is excessive because there is no conceivable justification for 55 foot tall mechanical obstructions and because this is the provision which governs permitted obstructions in 104-322 of Article X, Chapter 4- Special Manhattanville Mixed Use District which lies entirely within Manhattan Community District 9; and
5. That the permitted height of "Additional permitted obstructions" for Commercial Districts (and any successor Districts which may be added) in 43-42 item (a)(4)(vi) be limited to 40 feet instead of the proposed 55 foot limit for buildings over 120 feet, as the proposed 55 foot limit is excessive because there is no conceivable justification for 55 foot tall mechanical obstructions; and
6. That accessory bicycle parking spaces continue to not be required in any buildings containing residential square footage used for the provision of affordable housing as currently laid forth in 36-711; and

If you have any questions and/or further information is needed, please do not hesitate contacting me or District Manager, Eutha Prince, at the board office (212) 864-6200.

Sincerely,



Barry Weinberg
Chair
Manhattan Community Board 9

Hon. Dan Garodnick

June 20th, 2023

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cc: Hon. Eric Adams, Mayor

Hon. Brad Lander, New York City Comptroller

Hon. Mark Levine, Manhattan Borough President

Hon. Cordell Cleare, New York State Senate

Hon. Robert Jackson, New York State Senator

Hon. Daniel J. O'Donnell, Assembly Member

Hon. Inez Dickens, Assembly Member

Hon. Al Taylor, Assembly Member

Hon. Shaun Abreu, City Council Member

Hon. Kristin Richardson-Jordan, City Council Member

Hon. Rafael Salamanca, Jr., City Council Member, Chair of Committee on Land Use