



THE COMMITTEE TO PRESERVE THE UPPER WEST SIDE

**Testimony of LANDMARK WEST!  
Before the New York City Council Committee on Governmental Operations  
Re: Board of Standards and Appeals  
Meeting at 250 Broadway, Committee Room, 16<sup>th</sup> Fl  
December 14, 2016; 1:00pm**

LANDMARK WEST! is a not-for-profit community organization committed to the preservation of the architectural heritage of the Upper West Side.

LANDMARK WEST! wishes to comment on the cornucopia of proposed legislation, introduced by Council Members Kallos, Van Bramer, Koo, Richards, Rose, Cohen, Gentile, Dickens, Vacca, Rosenthal, Constantinides, Wills, Grodenchik and Ulrich via Local Laws to amend the New York city charter, in relation to the Board of Standards and Appeals via Int. Nos. 282, 418, 514, 691, 1200, 1390, 1391, 1392, 1393 and 1394.

The Board of Standards and Appeals (BSA) plays a crucial role in regulating land use, development and construction. The BSA serves the necessary function of providing “relief” from the zoning code when extenuating circumstances exist. In theory, ensuring that we live in a safe, healthy, “pleasant” environment with no undue burden placed on any single property owner.

That said, the BSA is not a methadone clinic. Its work has increased however as developers, lawyers, lobbyists and designers have intentionally sought out and assembled complex deals, eyes wide open, and manipulated designs and financial findings for greater profit. When this becomes the normative condition, it defies the “unique” hardship requirement for zoning variances by definition.

The result is a chaotic urban environment where citizens have no sense of what to expect beyond “excess”, and a process where regular citizens are left to defend their property rights at great financial and emotional cost against developers often civically untethered to the sites they seek to monetize—for them, it has become a gamble worth taking.

In this way, the BSA indirectly overrides the Department of City Planning, incrementally sanctioning changes that collectively generate great impact. LW! has direct, recent experience with the BSA involving projects impacting our historic neighborhoods on the Upper West Side. In the case of 361 Central Park West, an individually-landmarked, internationally recognized historic church by the same architects of the main branch of the New York Public Library at 42<sup>nd</sup> Street, a developer sought six variances in order to create a 39-unit luxury condo conversion.

During the five public hearings, there were unchecked instances of misinformation by the applicant (i.e. forgetting to include restoration, abatement and appliance costs), proof of evidence withheld at prior Landmarks Preservation Commission agency and Community

Board review (i.e. stained glass provenance) as well as an imbalance of standing—to name one instance, the opposition’s lawyer sought to respond to the applicant’s claim, he was stymied, and informed that the applicant could continue, uninterrupted because “it’s his hearing” rather than the public’s hearing. To their credit, the BSA ultimately denied this application after a nearly ten-month public process at their agency alone, but that came with a six-figure legal bill to neighbors, and private citizens forced to defend their property interests against developer greed.

LW! Applauds Council Member efforts to reset the balance at BSA, and make sure that zoning variances are not a “rubber stamp”. Agency capture is a serious concern in other City agencies as well. LW! Stands ready to work with this Committee in further documenting our various recent, and direct experiences.

Thank you for your time.