

June 20, 2017

**VIA HAND DELIVERY**

Hon. Bill De Blasio  
City Hall  
New York, New York 10007

Re: 711 West End Avenue/Fraud, Pervasive Hazardous Conditions

Honorable Sir:

As Co-Chair of the Steering Committee of 711 WEA TAG, Inc. ("TAG"), the tenants' association at 711 West End Avenue ("711 WEA"), I am writing to bring to your immediate attention the imminent danger to our building and residents that results from the dangerous plans and illegal conduct of SJP Properties, Inc. (Steven Pozycki), PB2 Ventures (Paul Boardman), Edward Kalikow and 711 WEA, LLC (collectively, the "Owner/Developers") in attempting to obtain approval from the New York City Department of Buildings (the "DOB") for a 10-story addition to be constructed above, around, down through and beneath our 1950's, red brick, six-story, rent-stabilized apartment building.

After the Owner/Developers' filed fraudulent, perjured building permit applications in late December 2014, Hon. Laura Feiber of the New York City Environmental Control Board convened two hearings, after which she found 711 WEA, LLC, the owner of 711 WEA, liable for filing fraudulent building permit applications in which the owner claimed falsely that 711 WEA is both uninhabited and not subject to rent regulation. Although the fines imposed by Judge Feiber have been paid, the violations remain open on the DOB website. In addition, the NYC Department of Finance (the "DOF") twice rejected (most recently this past February) the Owner/Developers' application for a separate tax lot number for the purportedly separate new upper portion proposed for construction above 711 WEA.

The original plan of the Owner/Developers was to insert at least 10 floors of pre-fabricated, luxury condominium units upon a cement platform to be supported by 19 ten-ton pilings, which are to surround the entire periphery of 711 WEA and be driven into the 100-year-old rubble foundation beneath the building. Despite its thorough integration into the 711 WEA building, the Owner/Developers originally characterized their new construction as entirely separate from 711 and sought a separate tax lot number for the structure. Now that the DOF has twice rejected their applications, the Owner/Developers have declared themselves – in at least one private meeting with a few current, carefully selected 711 WEA tenants – to be full steam ahead in preparations for the construction of what they have characterized as either an 18-story fireproof, luxury rental building or a *single* 18-story condominium incorporating the 6 combustible, highly degraded floors of 711 WEA.

We believe that the motivation of the Owner/Developers in moving forward with this unprecedented, dangerous project lies in the extraordinary potential profits they may be able to procure if this experimental project proceeds: Never before in New York City has a developer successfully constructed a major addition to an existing, already occupied rent-regulated building. Were this project to reach completion, the Owner/Developers will have created a precedent affording them access to the enormous stock of low-rise housing that exists throughout New York City. Thus, this project, we respectfully suggest, represents a tremendous potential threat to the already severely threatened open space of our rapidly densifying City and threatens even further the rapidly dwindling supply of affordable housing which is so much at issue today.

Here is a summary of the history of the 711 WEA project: After forming TAG, after conducting research to obtain information about the nature of the project (in the face of significant DOB resistance) and after hiring structural engineer, Richard Herschlag, P.E., to review the minimal plans and information we could muster about the proposed construction, TAG filed the documents listed below in our strenuous efforts to protect our tenants and neighbors from this ill-conceived, hazardous and potentially life and safety threatening project. In 2015 and 2016 TAG hand delivered these documents to your offices as well as to other City officials, and we retain receipt stamps for each filing. The documents listed describe in detail the concerns that TAG has expressed to the DOB. Not only has the DOB provided no response whatsoever to any of these filings, but, inexplicably, the Corporation Counsel has stated to our attorneys that the DOB has no record whatsoever of *any* of the TAG filings:

1. 08/10/15 - TAG Letters to Commissioners Rick Chandler/Martin Rebholz enclosing first three Engineer's Reports of Richard Herschlag, PE (*no response*);
2. 09/22/15 - Fraud Challenge by TAG to falsified building permit applications (*no response*);
3. 09/22/15 - Summary of Data Underlying Fraud Challenge (*no response*);
4. 10/01/15 - Letter from TAG to FDNY Chiefs Spadafora and Pigott re fire hazards associated with Project (*no response* after (a) initial investigation, (b) significant expressed concerns about inadequacy of plans and resulting possibility of injury and loss of life and, upon information and belief, (c) the preparation of an extensive FDNY report on the demonstrable dangers);
5. 12/19/15 - Letter of Assemblyman Daniel O'Donnell and Councilmember Helen Rosenthal to Commissioners Chandler and Rebholz in opposition to Project (*no response*);
6. 01/04/16 Formal Demand by TAG to Commissioner Rebholz to revoke Building Permits (*no response*);

7. 01/07/16 Report of Richard Herschlag, PE on degraded condition of 711 WEA (*no response*);
8. 01/21/16 Herschlag Notice of Hazard to Commissioner Rebholz (*no response*);
9. 01/25/16 Notice of Tenant Harassment to Janeice Spitzmueller-Brown, Esq., HPD; initially, Ms. S-B refused to accept our hand-delivered submission until reminded that she has a constitutional obligation to accept a petition from a private citizen (*no response*);
10. 03/28/16 Orders of Environmental Control Board Hearing Officer Hon. Laura Feiber, finding fraudulent statements in building permits and imposing fines on Building Owner (*fraud violations remain open on DOB website*);
11. 03/29/16 CCD1 Form seeking revocation of building permits; with
- 11A. 03/29/16 Cover letter to Deputy Comm'r Scott Pavan (Plan Examiner) (*no response*).

Especially notable among the agency heads who failed to respond to our voluminous correspondence, notifications, applications and expressions of concern is the Director of the DOB's Department of Engineering Construction Safety, Geoffrey Eisele, who informed me by telephone in late April 2016 that his department, whose chief mission is safety, had not reviewed any of the documents TAG had sent to the Department's attention, most significantly: (a) the Engineer's Reports of Richard Herschlag, P.E., who first expressed concern about the lack of safety and protection inherent in the project in July 2015 and, thereafter, (b) on January 21, 2016 a Notice of Hazard – a requirement of Mr. Herschlag's license because of the potentially catastrophic effect that construction may have on our deteriorated building (the "January 2016 Inspection Report"). The January Inspection Report, attached hereto as Exhibit A, is the fourth that Mr. Herschlag has prepared in connection with this unprecedented project. He is presently at work on a fifth report detailing the degraded internal and external conditions in the building.

Of particular concern here are the threats to life and safety that Engineer Herschlag has articulated after evaluating the nature and extent of the risks associated with the project, as follows:

- a. The plans filed by the Developers are improvisatory rather than specific;
- b. The Tenant Protection Plan ("TPP") submitted by the Developers was wholly inadequate, and no new plan is known to exist;
- c. The plans for the Project make no provision for fire egress for tenants living next to the areas of the building where the Developers have removed rent-stabilized units in order to construct new elevator shafts. Plans also indicate that existing fire escapes are to be demolished;



d. The plans for the Project make no provisions for standpipes that would provide water for firefighting on the south side of the building;

e. The Plans for the Project, which call for the cladding of the entire re-engineered structure, make the roof of 711 WEA, a combustible wood frame/masonry building, inaccessible to firefighters, thereby making impossible even the most basic firefighting involved in drilling through the roof to get water to a fire within 711 WEA, which is not sprinklered;

f. Although 711 WEA LLC has received more than \$300,000 in tax abatements, *inter alia*, for pointing of the entire building, there was never any meaningful pointing of the façade during the approximately six years following the granting of the abatements. As a result there has been such significant degradation in the condition of the building that Mr. Herschlag was impelled to file his Notice of Hazard with Commissioner Rebholz in early January 2016 (*see* Exhibit B, attached hereto). Neither he nor TAG has received any response to the Notice of Hazard. Minimal efforts to do pointing work at selected areas at 711 WEA were conducted during the last week of November 2016, but the sidewalk sheds erected as protection from the work were manifestly not located near any of the most significant damage to the façade, the work was superficial and completed within a few weeks, and the rear façade remains neglected, pockmarked with fissures in the cement between the bricks, with moss and plants growing from the fissures throughout the façade (*see* photos in Exhibit A); and

g. As Engineer Herschlag explicitly warned Commissioner Rebholz in his thus-far ignored Notice of Hazard, the vibrations associated with the imminent construction have the potential to impose "catastrophic effects," *i.e.*, collapse, upon our building.

We believe that our concerns are especially noteworthy today in light of the disastrous June 14, 2017 fire at the 24-story Grenfell Tower in London, where, to date, 79 tenants are reported to have died. Just like 711 WEA, that building was flammable. Just like 711 WEA, Grenfell had no sprinkler system. Just as the Owner/Developers have planned at 711, the Grenfell Tower structure was encased in cladding. A senior official in the New York City Fire Department has warned that the plans filed by the Owner/Developers make 711 WEA inaccessible to firefighters. The London firefighters were unable to gain access to the structure to fight the fire. It is no exaggeration to say that 711 WEA is a tragedy waiting to happen.

We will deeply appreciate your prompt response to our deeply held concerns.

Very truly yours,



Stephanie R. Cooper

Enclosures

Hon. Bill De Blasio

June 20, 2017

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cc: Hon. Eric Schneiderman, NYS Attorney General  
Hon. Anthony Shorris, Deputy Mayor  
Hon. Alicia Glen, Deputy Mayor  
Hon. Rick Chandler, Buildings Commissioner  
Hon. Marisa Lago, City Planning Chair  
Hon. Carmen Farina, NYC Schools Chancellor  
Hon. Gale A. Brewer, Manhattan Borough President  
Hon. Jerrold Nadler, U.S. Congressman  
Hon. Brad Hoylman, NYS Senator  
Hon. Liz Krueger, NYS Senator  
Hon. Daniel O'Donnell, NYS Assemblymember  
Hon. Linda Rosenthal, NYS Assemblymember  
Hon. Melissa Mark Viverito, City Council Speaker  
Hon. David Greenfield, City Council Land Use Committee Chair  
Hon. Mark Levine, City Council Parks Committee Chair  
Hon. Helen Rosenthal, City Councilmember  
Hon. Ben Kallos, City Council Government Operations Committee Chair  
Hon. Scott Stringer, NYC Comptroller

# Exhibit A

**Richard Herschlag, P.E.  
521 Ludlow Street  
Easton, PA 18045  
(610) 739-8033  
herschlag@rcn.com**

December 15, 2016

RE: 711 West End Avenue Exterior Walls

Stephanie Cooper  
711 WEA Tenants' Action Group  
711 West End Avenue  
New York, New York 10025

Dear Ms. Cooper:

At your request I have performed a follow-up inspection of the exterior walls of your residential building at 711 West End Avenue. This effort is intended as an extension of the two partial inspections I performed earlier in the year, which covered the walls facing 94<sup>th</sup> Street, 95<sup>th</sup> Street, West End Avenue, and a portion of the wall facing the lot to the west. The current inspection covers the exterior walls facing the garage roof, which occupies the interior of the lot. The current inspection also covers an additional portion of the wall facing the lot to the west. The purpose of all the inspections is to determine the building's suitability for sustaining the forthcoming disruption from the proposed 10-story luxury condominium structure atop the building. A portion of the main roof was also inspected.

**Exterior Walls at South Side of Garage Roof (Facing North)**

Like the exterior walls facing the street, the walls facing the garage roof are brick and date back to about 1950. These walls exhibit moderately to severely deteriorated brick joints concentrated primarily below window sills. There is also similar deterioration visible along a portion of the parapet wall. These locations are as follows.

**West Most Window Column (Area K)**

- Beneath 7<sup>th</sup> story window.
- Beneath 6<sup>th</sup> story window.
- Beneath 5th story window.

- Beneath 4<sup>th</sup> story window.

#### 2<sup>nd</sup> West Most Window Column (Area L)

- Beneath 7<sup>th</sup> story window.
- Beneath 6<sup>th</sup> story window.

#### 3rd West Most Window Column (Area M)

- Along parapet wall.
- Beneath 7<sup>th</sup> story window.
- Beneath 6<sup>th</sup> story window.

#### West Most Offset (facing east, Area N)

- Beneath 7<sup>th</sup> story window.
- Beneath 6<sup>th</sup> story window.

#### 4<sup>th</sup> West Most Window Column (Area O)

- Beneath 7<sup>th</sup> story window.
- Beneath 6<sup>th</sup> story window.

#### 5<sup>th</sup> West Most Window Column (Area P)

- Beneath 7<sup>th</sup> story window.
- Beneath 6<sup>th</sup> story window.

#### Hallway Window Column (Area Q)

- Beneath 7<sup>th</sup> story window.
- Beneath 6<sup>th</sup> story window.

All observed mortar deterioration is severe enough to allow water penetration. Much of this water penetration has been corroborated by observable damage along the interior of the wall. As this was a visual inspection, direct probing is necessary to determine if any of the mortar deterioration is severe enough to allow bricks to fall.

#### **Exterior Walls at North Side of Garage Roof (Facing South)**

These walls exhibit moderately to severely deteriorated brick joints concentrated primarily below window sills. These locations are as follows.



**West Most Window Column (Area R)**

- Beneath 7<sup>th</sup> story window.
- Beneath 6<sup>th</sup> story window.

**2<sup>nd</sup> West Most Window Column (Area S)**

- Beneath 7<sup>th</sup> story window.
- Beneath 6<sup>th</sup> story window.

**3rd West Most Window Column (Area T)**

- Beneath 7<sup>th</sup> story window.

**West Most Offset (facing east. Area U)**

- Beneath 7<sup>th</sup> story window.

All observed mortar deterioration is severe enough to allow water penetration. Much of this water penetration has been corroborated by observable damage along the interior of the wall. As this was a visual inspection, direct probing is necessary to determine if any of the mortar deterioration is severe enough to allow bricks to fall.

**Exterior Wall Facing West at South Wing**

These walls exhibit moderately to severely deteriorated brick joints concentrated primarily below window sills. There is also similar deterioration visible along a portion of the parapet wall. These locations are as follows.

**North Most Window Column (Area J3)**

- Beneath 7<sup>th</sup> story window.
- Beneath 6<sup>th</sup> story window.

**2<sup>nd</sup> North Most Window Column (Area J2)**

- Beneath 7<sup>th</sup> story window.

**Bathroom Window Column (Area J1)**

- Along parapet wall.

- Beneath 5th story window.

Most notable is the damage beneath the 5<sup>th</sup> story bathroom window (Area J1), noted originally during my inspection this past January. At this location, mortar has deteriorated virtually completely and plant growth in the joints is clearly visible. There is pronounced water damage along the inside of the wall. This condition is hazardous and has been allowed to deteriorate over many years.

## **Roof**

The inspection was performed the day after a heavy rain. The day of inspection, a significant amount of water was still impounded immediately west of the south bulkhead. The surrounding roofing membrane was saturated as well. These defects correspond to long term visible water damage along the hallway ceiling and walls below.

## **Ongoing Façade Repairs**

I am in receipt of façade repair plans prepared by Stone Engineering, PC on behalf of the building owner. Proposed work includes pointing along brick joints as well as at window heads, sills, and jamb stones. However, the scope of this work is limited to the exterior walls facing West End Avenue, West 94<sup>th</sup> Street, and West 95<sup>th</sup> Street. *None of the defects covered within this report are addressed by the proposed work.*

## **Structural Stability**

Overall, the resulting conditions described herein are hazardous, and the damage tends to be self-reinforcing. Brittle and missing mortar allows ice formation in the cold months and the accelerated damage that goes with it. At the interior, falling plaster tends to become more frequent and dangerous. Mold tends to become more pervasive and dangerous to the health of tenants.

In addition to being considered hazardous in common practice, the conditions described are considered hazardous by applicable codes. The New York City Department of Housing Preservation and Development's (HPD) Housing Maintenance Code lists defective plaster as a Class "C" violation—immediately hazardous. Chapter 3, Article 301, Section 28-301 of the NYC Building Code describes lack of watertightness as an unsafe condition and requires correction within 90 days of a report to be filed by the responsible design professional.

The conditions described above present a still more acute and comprehensive series of hazards given the proposed construction. Based on the permit drawings, and as described in my prior written reports, various existing exterior walls are to be underpinned down to rock. The

proposed space frame columns are to be socketed to rock. Piles to support these columns will be driven or drilled through the existing footings.

Finally, since the garage floor is proposed to be lowered by 5 feet, a large amount of rock will have to be removed simply to achieve the new grade. Page SOE-201 states that most of this excavation will be achieved by chipping. This process will likely consume many weeks and will occur at the core of the building, with much of the chipping to be performed not far from existing foundation walls.

The effect of all these proposed activities will be severe vibration of the existing structure for extended periods of time. Even an intact brick and mortar exterior envelope subject to such disturbance would be at risk of significant damage. Given the already brittle and generally deteriorated condition of the mortar described herein, proceeding with the proposed construction must be judged highly risky at best and extremely hazardous at worst. Some or much of the remaining brittle mortar currently held in place by friction rather than chemical bond will be disrupted and dislodged. Joint deterioration and associated water damage will be exacerbated, and the risk of a partial collapse will be present.

### **Recommendations**

It is strongly recommended that the additional defects discussed within this report be thoroughly repaired as soon as possible. Once exterior wall repairs are complete, the exterior walls in general should be tested for representative vibration levels prior to any proposed construction that might cause the type of disturbance described herein. Furthermore, it is recommended that all city agencies responsible for enforcing applicable codes be informed of these findings and that the full force of the law be applied to protect both tenants and neighbors from these potential hazards.

As these inspections are, cumulatively, not exhaustive, it is recommended that additional inspections be performed. This should include the exterior wall facing west at the north wing of the building as well as the exterior walls at the east perimeter of the garage roof. The remainder of the roof itself should be inspected as well.

Please do not hesitate to call should you have any questions.

Yours truly,

Richard Herschlag, P.E.



Exterior walls at south side of garage roof (facing north).



Exterior walls at north side of garage roof (facing south).



Beneath 5th story window, exterior wall facing west at south wing.



Along parapet, exterior wall facing west at south wing.





Roof, immediately west of the south bulkhead.



Area J1 Area J2 Area J3



Alleyway



Area K

Area R



Area L

Area S



Garage Roof



Area M

Area T



Area N

Area U



Area O



Area P

Area Q



West 94th Street

711 West End Avenue

West 95th Street

West End Avenue

# Exhibit B

**Richard Herschlag, P.E.  
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(610) 739-8033  
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January 19, 2017

RE: 711 West End Avenue Pointing

Stephanie Cooper  
711 WEA Tenants' Action Group  
711 West End Avenue  
New York, New York 100250

Dear Ms. Cooper:

At your request I inspected 711 West End Avenue on January 5, 2017. The purpose was to assess recent point work and related repair work as per plans prepared and submitted by Stone Engineering, PC, dated May 26, 2016. This inspection was partially in response to residents who reported that at given areas of the exterior walls facing West End Avenue and West 94<sup>th</sup> Street, work outside their apartment windows was completed in very short periods, sometimes less than a day.

I probed the following three apartments: 6A-N, 4H-S, 4A-S. The method applied was to tap lightly to moderately hard with a steel chisel and to scrape at the brick joints with the same tool. The new mortar could not easily be penetrated at the three window areas I probed. This result shows that at the most basic level the point work was indeed performed.

However, there are definite flaws in the work as well as additional potential flaws. New pointing, like the old, should be beveled rather than flat, to promote proper drainage. The joints observed look more like a patch.

The joints gave a bit of a hollow sound when tapped. This may indicate that scoring of the old loose mortar was not complete and/or that the new pointing was not thoroughly packed. This cannot be known with certainty without permission to perform an invasive probe of the joints.

The new mortar was very hard when subjected to tapping and scratching. This result is not necessarily positive. The pointing material may, in fact, be too hard which, counter-intuitively,

may cause damage to the brick over multiple freeze-thaw cycles. We cannot determine this for sure without lab testing.

Finally, anecdotal reports that this was an "in and out" job are disturbing. Proper pointing is painstaking and done in stages. Removal of the deteriorated mortar alone can consume days, or at least a day in a given region of a façade. Following this, the new pointing is done in layers rather than simply packed in whole. It doesn't appear anything like this procedure could have been performed within the time period reported.

My understanding is that under the permit issued, this job was not required to engage a special inspector to verify the quality of pointing and related work under controlled conditions. We might want to arrange for such testing independently of the project, but we would nonetheless require cooperation from building management.

Failing that, any flaws or shortcomings in the work—and it seems there are such shortcomings—would become more obvious over the course of the coming years.

Please do not hesitate to call should you have any questions.

Yours truly,

Richard Herschlag, P.E.



Pointing outside apartment 4-HS.

# Exhibit C



**Richard Herschlag, P.E.  
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January 20, 2017

RE: 711 West End Avenue Mold

Stephanie Cooper  
711 WEA Tenants' Action Group  
711 West End Avenue  
New York, New York 10025

Dear Ms. Cooper:

At your request I inspected Apartment 3M-S of 711 West End Avenue on January 5, 2017. The purpose was to assess a report of possible mold within the walls.

Mold was found at the southwest corner of the southwest bedroom. As observable in the photograph below, dark discoloration of the walls at the bottom corner, along with the spotty pattern are highly indicative of mold growth. The apparent source is water from the exterior side of the wall. Numerous areas of deteriorated pointing have been observed along the rear façade of the building and have led to similar problems throughout the building.

This is a serious issue. Once mold gets in to the gypsum wallboard, particularly the paper, it can grow unchecked. Mold will tend to become more pervasive and dangerous to the health of tenants over time. I recommend a professional mold test be performed. There are many types of mold, ranging from relatively harmless to highly hazardous. Effective treatment includes eliminating the source, ripping out the drywall or equivalent, applying fungicide thoroughly to the brick, and restoring the finish work. A superficial approach will be a waste of time and money. Therefore, professional mold remediation is recommended, both for this apartment and for the others in the building similarly affected.

Please do not hesitate to call should you have any questions.

Yours truly,

Richard Herschlag, P.E.



Mold at southwest corner of southwest bedroom, Apartment 3M-S.