



THE COMMITTEE TO PRESERVE THE UPPER WEST SIDE

**Testimony of LANDMARK WEST!  
Certificate of Appropriateness Committee  
Before the Board of Standards and Appeals  
RE: 200 Amsterdam Avenue, 2017-285-A  
March 27, 2018**

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

The Certificate of Appropriateness Committee wishes to comment on the Application pursuant to Section 666.7(a) of the New York City Charter and Section 1-06 of the Board of Standards and Appeals (the "Board" or "BSA") Rules of Practice and Procedure, to request that the Board revoke building permit No. 122887224-01-NB (the "Permit"), issued by the New York City Department of Buildings ("DOB") on September 27, 2017. The application seeks to demonstrate that the permit is not only a validly issued building permit because of the purported "zoning lot" of which the Development site is purported to be a part of, does not comply with the requirements of the definition of a zoning lot in the Zoning Resolution Section 12-10.

When the first articles mentioning a [then] 666' tower would rise on the site of the Lincoln Square Synagogue emerged, even journalists could not refrain from sinister references. This is an R8 district. Other people own and pay maintenance fees to park vehicles in what the developers are double-dipping as a rear yard equivalent. A convoluted series of agreements, delineations, mergers, lifted covenant restrictions and a land swap—too many to unpack in brief testimony has sculpted a site for what seeks to be the tallest building on the island of Manhattan north of 59<sup>th</sup> street. If realized, it will contain zero units of affordable housing and in fact make a series of existing affordable homes in the adjacent building unlivable by law. The overall refrain was "how could this be possible?" Today, the moment is before us. It can only be possible if you, the commissioners of the Board of Standards and Appeals allow it.

The lobbyist disclosures and large team of consultants assembled to defend and justify this unprecedented proposal underscores the aggressive reach of the developer.

The community rightly filed a zoning challenge. FOIL requests followed. While the Department of Buildings usurped its own process, and disenfranchised the public from their timely response, ultimately lifting an audit, and notice to revoke, they corresponded with the developer and shut the community out. The DOB's answer to the challenge finally came via back-door delivery on March 9<sup>th</sup> in the letter penned by Michael J. Zoltan, Assistant General Counsel. Arriving before the still-outstanding six-month-old FOIL requests, (which are prepared, but jammed up with Counsel review), the DOB retraces its steps in a two page explanation of the convoluted zoning lot formation.

Ultimately, the DOB agrees that it made a mistake in releasing permits. They have taken steps to remedy this mistake so that it never happens again, by superseding a decades-old memo and

introducing a new DOB bulletin. If it is wrong and the DOB knows it is wrong, why should this community bear the impact of their mistake?

The BSA is “empowered by the City Charter to interpret the meaning or applicability of the Zoning Resolution, Building and Fire Codes, Multiple Dwelling Law, and Labor Law.” The DOB has concluded its own wrong-doing, therefore this matter should be clear. The BSA is to determine DOB decisions, and the DOB has decided it acted improperly. The only question is the DOB’s finding that correcting their error would be arbitrary and capricious. The DOB is allowed to correct an error of the law, and nothing compels you to grant them permission to continue on their self-disclosed wrong path. § 28-104.2.10 of the City Charter notes that you can revoke the approval for failure to comply with the provisions of the code...this development fails such compliance.

We ask the BSA to correct this issue, and revoke the DOB Permits that the DOB acknowledges never should have been issued.