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**Testimony of Assemblymember Linda B. Rosenthal Before the New York City Board of Standards and Appeals in Support of Landmark West's Zoning Challenge of the Validity of the Building Permit at 36 West 66th Street**

August 6, 2019

I am Assemblymember Linda B. Rosenthal and I represent the Upper West Side and Hell's Kitchen in the New York State Assembly. Thank you for the opportunity to testify today in opposition to Extell Development's (Extell) proposal to construct a 775-foot tower at 36 West 66th Street. As a long-time opponent of overdevelopment, an outspoken critic of the zoning lot mergers that have heretofore allowed the construction at 200 Amsterdam Avenue to continue in my district and the author of state legislation (A.5026) to close the mechanical void loophole, I strongly urge the New York Board of Standards and Appeals (BSA) to appeal NYCDOB reject Extell's proposal at 36 West 66th Street.

Extell has reserved an astounding and excessive 161 feet of interbuilding space for mechanical infrastructure. Knowing that mechanical void space is not counted toward the total building floor area ratio (FAR), Extell is attempting to circumvent the letter of the law to stretch the building height so that the units above the void will have access to better views and thereby fetch higher prices on the market.

Earlier this year, the New York City Council passed a local law to clarify the law on void space and set clear limits on the amount of space within a building that could be used for void space before being counted toward total FAR.

While I and more than 40 of my colleagues in the New York State Legislature who represent parts of New York City believe that that the Council effort did not go far enough, the effort did clarify the intent of local lawmakers to circumscribe this kind of development. The BSA cannot possibly allow plans for a development so contrary to the spirit of the zoning resolution to move forward; doing so would signal to developers that they could calculatedly flout zoning rules so long as plans are filed within a certain timeline.

As if it weren't enough to add 160 additional feet of empty space to the building, Extell also proposed to use a series of other developer tricks to do an end-run around the zoning rules. The zoning lot merger that Extell utilizes to cobble together development rights enabling it to achieve its current 775-foot height violates the rules of the Lincoln Square Special District, which limits building height to approximately 30 stories by controlling FAR. By merging zoning lots and

selectively applying the Special District rules to different lots, Extell is constructing a building much taller than would be permitted if it followed the rules of the Special District.

In addition to the obvious developer overreach, this building represents the kind of short-sighted urban planning that the New York City must abandon. The zoning rules are in place not just to protect our access to light and air, two precious commodities in our concrete jungle, but also to ensure that all new development is contextual. A 775-foot tower may make sense for Midtown, but not for the middle of the much more residential Upper West Side. Development of this scale will have tremendous and unplanned-for impacts on local infrastructure, such as local schools, transportation, supermarkets and sidewalks, just to name a few.

Rubberstamping the plans for this development now doesn't just allow construction at this site to move forward, it broadcasts to developers citywide that BSA is weak and when challenged, will stand with developers who have violated the letter and spirit of the law and not the people in the communities it should serve.

All across the City, people are rising up against the kind of system of broken government where the wealthy and well-connected continue to chart their path like manifest destiny, while the rest of us are left holding the bag full of consequences. New York City has been struggling through an affordable housing crisis that has left more than 60,000 people – and so many children - living on the streets every single night, while thousands of others struggle to pay their rent and put food on the table.

And despite these grim statistics, we are here today fighting to stop a building with 16 stories of empty space. This space could be used to provide homes to hardworking New Yorkers, but instead, it's being used so the residents in the top floors can literally look down on the rest of us from their penthouses in the clouds.

There are few dichotomies that more clearly and sadly embody the tale of two cities narrative that City Hall has sworn to fight against. I thank you again for the opportunity to testify again and renew my request that the BSA reject Extell's proposal at 36 West 66th Street.