

Date: August 5, 2019Examiner's Name: Toni MatiasBSA Calendar #: 2019-89-A and 2019-94-AElectronic Submission: ☒ Email ☐ CD

Subject Property/

Address: 36 West 66th Street, ManhattanApplicant Name John Low-Beer on behalf of City Club of New York and Klein Slowick, PLLC on behalf of Landmark West!Submitted by (Full Name): David Karnovsky, Fried, Frank, Harris, Shriver & Jacobson LLP on behalf of West 66th Sponsor LLC

A) The material I am submitting is for a case currently **IN HEARING**, scheduled for 8/6/19.  
The reason I am submitting this material:

- ☐ Response to issues/questions raised by the Board at prior hearing
- ☐ Response to request made by Examiner
- ☒ Other: \_\_\_\_\_

Brief Description of submitted material: Letter on behalf of West 66th Sponsor LLC

List of items that are being voided/superseded: \_\_\_\_\_

B) The material I am submitting is for a **PENDING** case. The reason I am submitting this material:

- ☐ Response to BSA Notice of Comments
- ☐ Response to request made by Examiner
- ☐ Dismissal Warning Letter

Brief Description of submitted material: \_\_\_\_\_

List of items that are being voided/superseded: \_\_\_\_\_

**MASTER CASE FILE INSTRUCTIONS**

- ***Bind one set of new materials in the master case file***
- ***Keep master case file in reverse chronological order (all new materials on top)***
- ***Be sure to VOID any superseded materials (no stapling!)***
- ***Handwritten revisions to any material are unacceptable***

Fried, Frank, Harris, Shriver &amp; Jacobson LLP

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David.Karnovsky@friedfrank.com

August 5, 2019

Honorable Members of the Board  
NYC Board of Standards and Appeals  
250 Broadway, 29th Floor  
New York, NY 10007

Re: Cal. No. 2019-89-A; 2019-94-A  
Premises: 36 West 66th Street

Dear Honorable Members of the Board:

In its August 1 “Reply Statement of Facts and Law,” Appellant the City Club of New York makes a spurious claim that the foundation for the building at 36 West 66th Street was not complete as of April 15, 2019, in a desperate attempt to argue that the project did not vest before the City Council enacted the “Mechanical Voids Text Amendment” on May 29, 2019. According to Appellant City Club, the foundation will not be completed until the sub-cellar and cellar floors are completed and the first-floor slab is poured. (Reply Statement of City Club et al. at pp. 30–31.)

Counsel for Appellant City Club base this conclusion on their own inexpert, bizarre and badly mistaken reading of Owner’s DOB-approved foundation drawings, as well as an affidavit from one of them, Charles Weinstock, which alleges that in an unrelated case involving another project altogether (200 Amsterdam) an attorney for that project stated that the foundation for that building would be complete with the pouring of the first-floor slab.

Attached is a copy of a letter from Bart E. Sullivan, Principal at McNamara-Salvia, structural engineer for 36 West 66th Street, which addresses Appellant City Club’s flawed assertions. Mr. Sullivan explains how City Club’s error reflects fundamental misunderstandings of the relevant drawings, the permitting process, and the sequencing of construction.

As Mr. Sullivan explains, the plan approved by DOB for the foundation permit issued to 36 West 66th Street (Drawing FO 100.03) shows the foundation wall and the sub-cellar slab which forms the base of the foundation structure. Completion of the foundation in accordance with Drawing FO 100.03, including completion of the sub-cellar slab, occurred on April 15, 2019.

Mr. Sullivan also explains that the cellar and first floor slabs are not part of the foundation, as Appellant City Club asserts, but rather are part of the building’s superstructure.

Fried, Frank, Harris, Shriver &amp; Jacobson LLP

The fact that partial depictions of these floors appear on the foundation wall sections of Drawings FO-300.03 and FO-301.01 (the drawings cited by counsel to Appellant City Club) does not signify that they are *part* of the foundation. Rather, structural design drawings must show the interface between the foundation and the superstructure, and the construction joints detailed in these sections show how the foundation walls will accommodate the cellar and first-floor slabs, which will be completed by the superstructure contractor at a later date. In that regard, Mr. Sullivan's letter points out that the framing plans for the cellar and first-floor are found in Drawings S-004 and S-010—part of the drawing set for the superstructure (as denoted by the drawing number prefix "S" (superstructure) rather than "FO" (foundation)).

In short, Appellant City Club's claim has no basis in fact and has been concocted by its counsel in a last minute "Hail Mary" attempt to somehow avoid the reality that the project was vested under Section 11-331 as of April 15, 2019, well prior to the enactment of the new legislation by the City Council.

Mr. Weinstock's affidavit is a particularly egregious example of how counsel for Appellants have proceeded in advancing this claim and should be struck from the record for several reasons, not limited to the fact that it relates to what counsel to 200 Amsterdam purportedly said about *that* project, not this one, and is thus irrelevant.

Mr. Weinstock is counsel of record in this matter, and the presentation of an affidavit from him as a fact witness is improper. Further, Mr. Weinstock acknowledges that the alleged conversation he purports to relate was made in the context of the negotiation of a stipulation between the parties to court proceedings involving 200 Amsterdam. As such, that conversation was presumptively part of confidential settlement discussions—and counsel for 200 Amsterdam has confirmed that fact.

You are respectfully referred to Mr. Sullivan's letter for an accurate description of how foundation completion for 36 West 66th Street was measured in accordance with the approved foundation drawings.

Sincerely,



David Karnovsky

Enclosures

cc: Michael Zoltan, Assistant General Counsel, NYC Department of Buildings  
John Low-Beer, Esq. (On Behalf of the City Club of New York)  
Stuart A. Klein, Esq. (On Behalf of Landmark West!)  
Susan Amron, General Counsel, NYC Department of City Planning  
Ellen V. Lehman, Esq., Fried Frank Harris Shriver & Jacobson LLP

August 2, 2019

Honorable Members of the Board  
NYC Board of Standards and Appeals  
250 Broadway, 29<sup>th</sup> Floor  
New York, NY 10007

**RE: Cal. No. 2019-89-A, 2019-94-A  
36 W66th ST.**

Dear Honorable Members of the Board:

This firm is structural engineer to the project located at 36 West 66<sup>th</sup> Street. We write in order to address the contention by Appellants in Cal. No. 2019-89-A that the building's foundation was not complete as of April 15 of this year because "the foundation would not be completed until the sub-cellar and cellar floors were finished and the first-floor slab poured." (Reply Statement of Facts and Law of the City Club et.al. at PP. 30-31). For the reasons described below, this assertion is incorrect and reflects a misunderstanding of the relevant drawings, the permitting process, and the sequencing of construction.

The plan approved by the New York City Department of Buildings (DOB) for the Foundation Permit is drawing FO 100.03, a copy of which is attached for reference. That drawing shows the foundation walls and the sub-cellar slab, which forms the base of the foundation structure. It does not include the cellar and first-floor slabs. Completion of the foundation in accordance with Drawing FO 100.03, including completion of the sub-cellar slab, occurred on April 15.

The cellar and first floor slabs are not part of the "Foundation", but rather part of the "Superstructure". The fact that partial depictions of these floors appear on the foundation wall sections of drawings FO-300.03 and FO-301.01, copies of which are also attached, does not signify that they part of the "Foundation". Structural design drawings must show the interface between the foundation and the superstructure, and the foundation wall sections shown in drawings FO-300.03 and FO-301.01 are one example of that

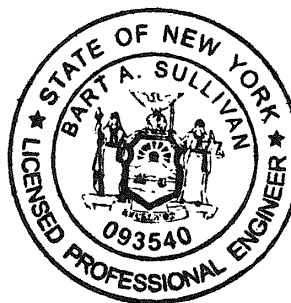
interface. The construction joints detailed in these sections show how the foundation walls completed by the Foundation Contractor will accommodate the slabs later completed by the Superstructure Contractor.

The framing plans for the Cellar and 1<sup>st</sup> Floor are found in drawings S-004 and S-010, copies of which are also attached for reference. These are not part of the Foundation permit set . The change in the drawing number prefix from "FO-" to "S-" reflects the DOB's standard nomenclature for distinguishing between foundation and superstructure drawings, respectively.

Very truly yours,  
McNamara • Salvia



Bart Sullivan, P.E.  
Principal









1 SECTION  
SCALE: 3/4" = 1'-0"

2 SECTION  
SCALE: 3/4" = 1'-0"

SECTION

SCALE: 3/4" = 1'-0"

**4 SECTION**  
SCALE: 3/4" = 1'-0"  
CONCRETE SEALER

5 SECTION  
SCALE: 3/4" = 1'-0"

6 SECTION  
SCALE: 3/4" = 1'-0"

**WEST 66TH STREET**  
36 WEST 66TH STREET, NEW YORK, NY

**OWNER/DEVELOPER:**  
West 66th Investor, LLC  
c/o Paul Hastings, LLP

75 EAST 58TH STREET  
NEW YORK, NY 10022  
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**SLCEArchitects, LLP**  
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 62 West 45th Street, 11th Floor

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**ELEVATOR CONSULTANT:**

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Solutions Worldwide**

**INTERIOR DESIGNER:**  
**SHAMIR SHAH DESIGN**

27 West 24th Street, Suite 604  
New York, NY 10010  
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INTERIOR DESIGNER:  
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**LIGHTING DESIGNER:**  
**FILAMENT33 INC**  
7150 GERMANTOWN AVE

Philadelphia, PA 19118  
TEL.: (464) 6740133


07/13/18 ISSUED TO DDM  
06/04/18 CD PROGRESS SET  
05/04/18 50% CD SET  
04/15/18

|          |                              |
|----------|------------------------------|
| 04/19/18 | REVISION PLAN SECURING       |
| 04/12/18 | FOUNDATION AND 16H FL UPDATE |
| 03/19/18 | CD PROGRESS SET              |
| 11/15/17 | DON FILING                   |
| 11/14/17 | 100% DD                      |
| 11/03/17 | FOUNDATION UPDATE            |

|          |                      |
|----------|----------------------|
| 09/21/17 | PRICING SET          |
| 09/06/17 | PROGRESS CHECK SET   |
| 06/23/17 | 50% ETD Set          |
| 02/14/17 | 90% SCHEMATIC DESIGN |

|      |            |           |
|------|------------|-----------|
| Rev: | Date:      | Revision: |
| 1    | 09/21/2017 | 1         |

|             |        |
|-------------|--------|
| NB#         |        |
| NORTH ARROW | Scale: |

 KEY PLAN

WEST 40TH STREET

AVENUE C

WEST

COLUMBUS AV

WEST 60TH STREET

CENTRAL PARK WEST

PROJECT:

**DRAWING TITLE:**  
**FOUNDATION SECTIONS**

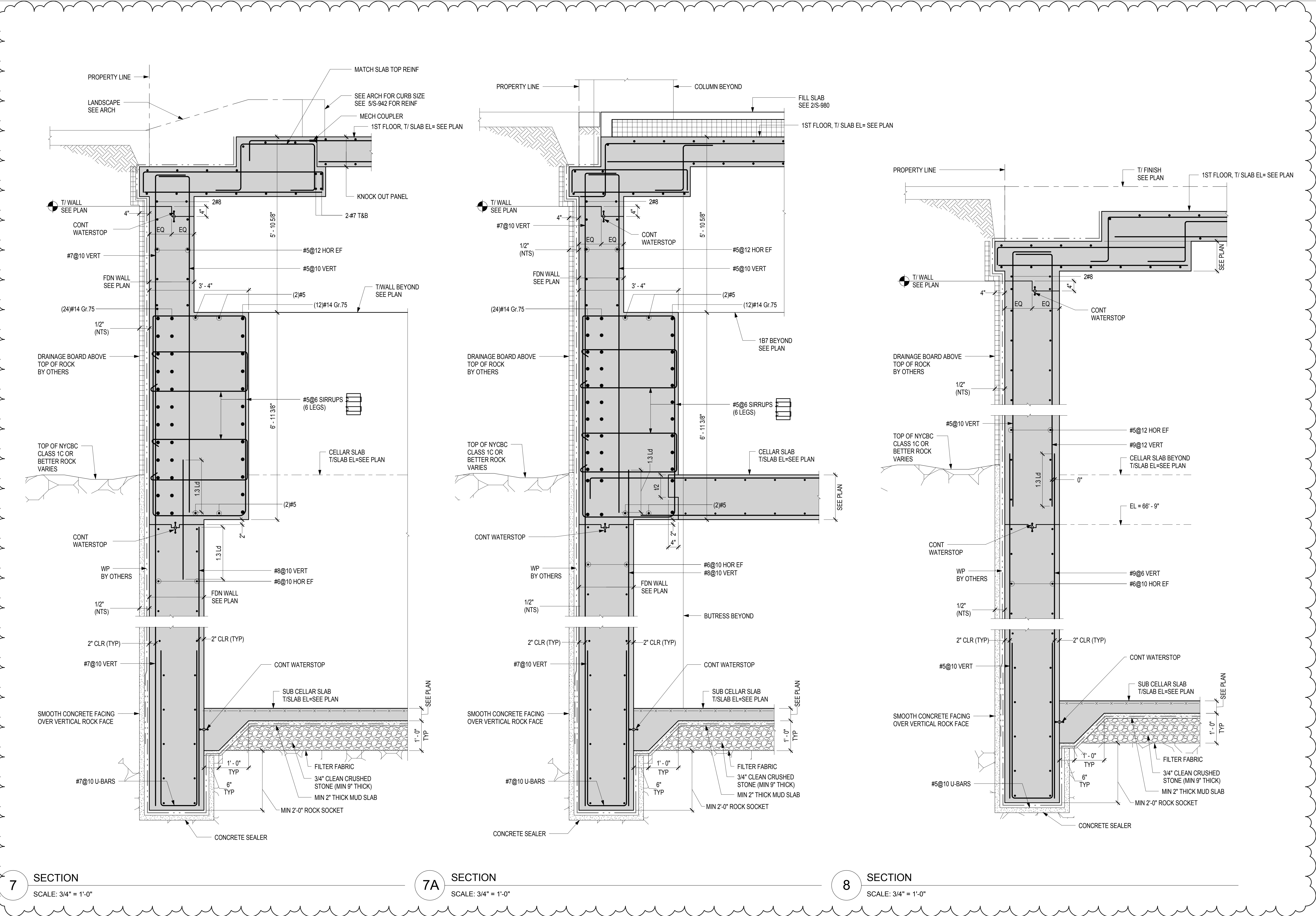
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| SEAL & SIGNATURE: | DATE:       | 01/17/2014 |
|                   | PROJECT No: | 13549.1    |
|                   | EXAMINER:   | JW         |



CHECKED BY: \_\_\_\_\_  
 DRAWING No: **FO-300.03**  
 DOR NO. \_\_\_\_\_

R. 001000 X X





7 SECTION SCALE: 3/4" = 1'-0"

7A SECTION SCALE: 3/4" = 1'-0"

8 SECTION SCALE: 3/4" = 1'-0"

**WEST 66TH STREET**  
36 WEST 66TH STREET, NEW YORK, NY

OWNER/DEVELOPER:  
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9750 GERARDSDOWN AVE  
Philadelphia, PA 19118  
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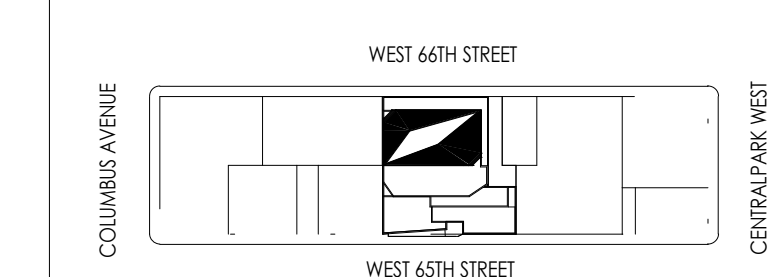
07/13/18 ISSUED TO DOB  
06/04/18 CD PROGRESS SET  
05/04/18 50% CD SET  
03/19/18 CD PROGRESS SET  
11/15/17 DOB FILING  
11/14/17 100% DD  
11/03/17 FOUNDATION UPDATE  
09/21/17 PRICING SET

NO: \_\_\_\_\_ Date: \_\_\_\_\_ Revision: \_\_\_\_\_  
D.O.B. NUMBER: \_\_\_\_\_

**NB#**

NO. BY: \_\_\_\_\_ Scale: \_\_\_\_\_

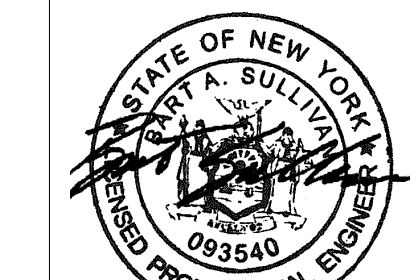
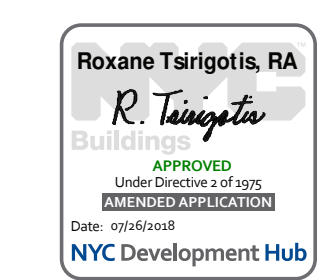
KEY PLAN:



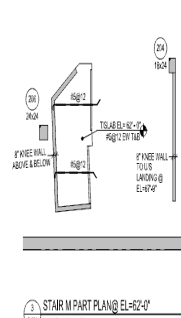
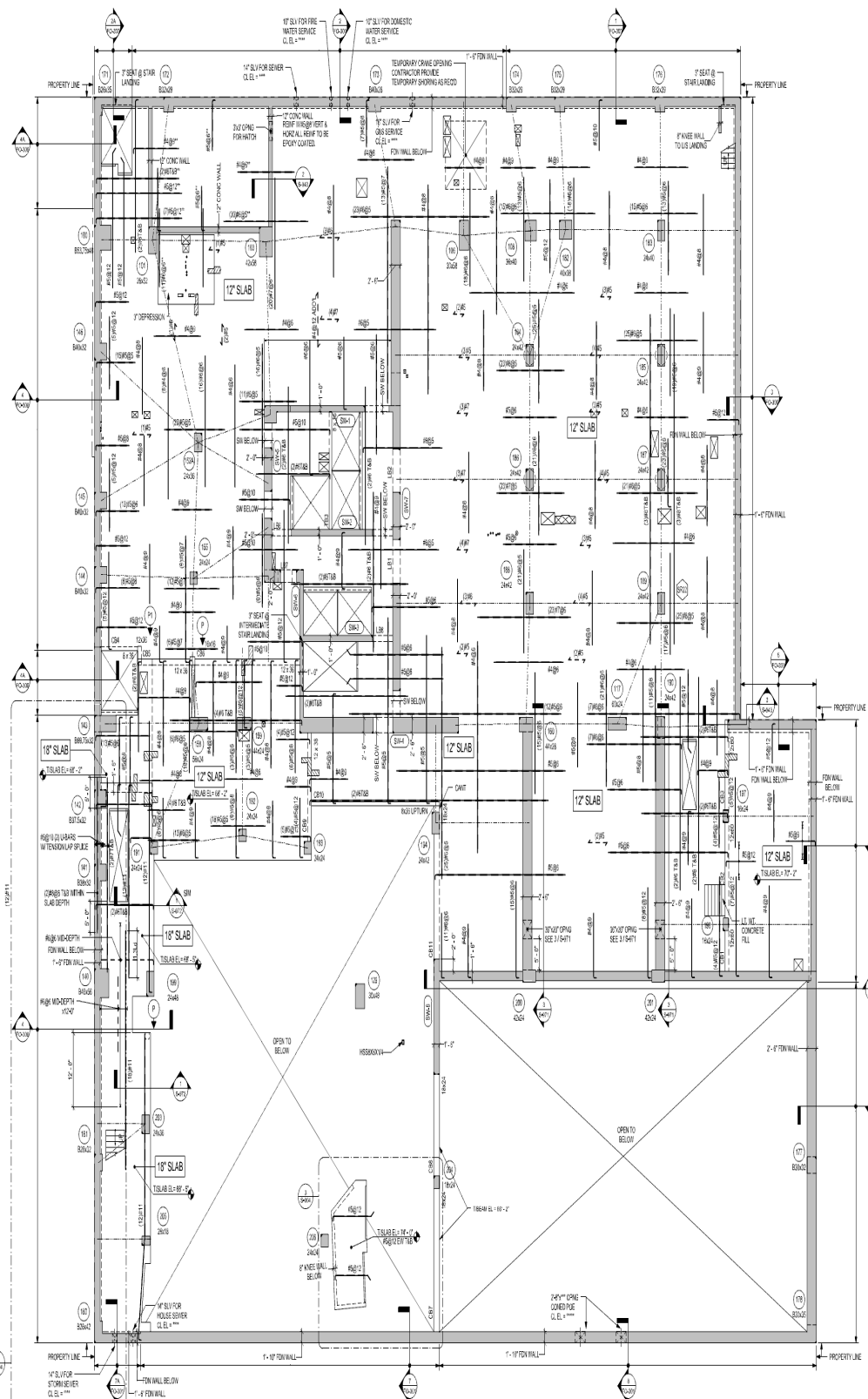
PROJECT:

DRAWING TITLE:  
**FOUNDATION SECTIONS**

SEAL & SIGNATURE: \_\_\_\_\_ DATE: 01/17/2021  
PROJECT NO: 15046.DD  
DRAWN BY: \_\_\_\_\_ CHECKED BY: \_\_\_\_\_  
DRAWING NO: \_\_\_\_\_  
**FO-301.01**  
DOB NO. \_\_\_\_\_







**WEST 66TH STREET**  
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**vda**  
vda is a division of vda inc.  
vda inc. is a division of vda inc.  
vda inc. is a division of vda inc.

**SHAMIR SHAH DESIGN**  
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**FOCUS LIGHTING**  
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**FILAMENT33 INC**  
1100 Broadway 10th Floor  
New York, NY 10018  
TEL: 212 245 1400  
FAX: 212 245 1401

**ADDITIONAL NOTES:**  
1. SEE SHEET 16055/2020 FOR GENERAL NOTES.  
2. SEE SHEET 16055/2020 FOR GENERAL NOTES.  
3. SEE SHEET 16055/2020 FOR GENERAL NOTES.  
4. SEE SHEET 16055/2020 FOR GENERAL NOTES.

CELLAR FRAMING PLAN (E) WALL ALTERNATE  
SCALE: 1/8" = 1'-0"

CELLAR FRAMING PLAN  
SCALE: 1/8" = 1'-0"

| FLOOR  | TSAB ELEVATION | UNIT |
|--------|----------------|------|
| CELLAR | 88'-2"         |      |

| FLOOR TYPE | CONC STRENGTH | TYPICAL REIN     | COMMENTS |
|------------|---------------|------------------|----------|
| 12" SLAB   | F-8000PS      | #5@12" X 18" MIN |          |
| 18" SLAB   | F-8000PS      | #5@12" X 18" MIN |          |

- NOTES:
- FOR BALANCE OF NOTES SEE SHEET 16055/2020
  - INDICATES ADDITIONAL COLUMN STRIPS REINFORCEMENT DUE TO LATERAL LOAD (N/A) SEE SHEET 16055/2020
  - INDICATES EPOXY COATED REINFORCEMENT SEE SHEET 16055/2020
  - 12" X 18" COL. W/ 4" VERT & #4@12" TIES

| CONCRETE BEAM SCHEDULE |            |                   |                |                |      |        |              |  |  |
|------------------------|------------|-------------------|----------------|----------------|------|--------|--------------|--|--|
| MARK                   | SIZE (WxD) | CONTINUOUS BOTTOM | CONTINUOUS TOP | ADDITIONAL TOP | SIZE | TYPE   | SPACING (IN) | REMARKS                                    |  |
| TB1                    | 6x33       | 3.47              | 3.47           | -              | #3   | Type 1 | 6            |  |  |
| TB2                    | 10x18      | 2.49              | 2.49           | -              | #4   | Type 2 | 7            |  |  |
| TB3                    | 6x18       | 2.49              | 2.49           | -              | #3   | Type 2 | 6            |  |  |
| TB4                    | 6x33       | 3.47              | 3.47           | -              | #3   | Type 1 | 4            |  |  |
| TB5                    | 12x24      | 2.49              | 2.49           | -              | #4   | Type 2 | 10           |  |  |
| TB6                    | 6x24       | 2.47              | 2.45           | -              | #3   | Type 2 | 6            |  |  |
| CB1                    | 12x40      | 3.49              | 2.49           | -              | #4   | Type 2 | 10           | Provide Skin Reinf. #5@12" E.P.            |  |
| CB2                    | 12x40      | 2.49              | 2.49           | -              | #4   | Type 2 | 10           | Provide Skin Reinf. #5@12" E.P.            |  |
| CB3                    | 12x40      | 2.49              | 2.49           | -              | #4   | Type 2 | 10           |  |  |
| CB4                    | 6x36       | 2.49              | 2.49           | -              | #4   | Type 2 | 12           | Provide Skin Reinf. #5@12" E.P.            |  |
| CB5                    | 12x36      | 2.49              | 2.47           | -              | #4   | Type 2 | 12           |  |  |
| CB6                    | 12x36      | 2.49              | 2.47           | -              | #4   | Type 2 | 12           |  |  |
| CB7                    | 18x24      | 2.49              | 2.47           | -              | #4   | Type 2 | 10           |  |  |
| CB8                    | 18x24      | 2.49              | 2.47           | -              | #4   | Type 2 | 10           |  |  |
| CB9                    | 12x36      | 2.49              | 2.47           | -              | #4   | Type 2 | 10           |  |  |
| CB10                   | 6x36       | 2.47              | 2.47           | -              | #4   | Type 2 | 12           |  |  |
| CB11                   | 18x24      | 2.49              | 2.47           | -              | #4   | Type 2 | 12           | UPPER BEAM Provide Skin Reinf. #4@12" E.P. |  |

NB#121190200

PROJECT: [REDACTED]

KEY PLAN: [REDACTED]

DATE: 08/10/2017  
BY: [REDACTED]

PROJECT: [REDACTED]

DRAWING TITLE: CELLAR FRAMING PLAN

DATE: 08/10/2017

DATE: 08/10/2017

DATE: 08/10/2017

DATE: 08/10/2017





|             |          |
|-------------|----------|
| DWG         | 08110402 |
| REVISED     | 130401   |
| DESIGNER    | Cedric   |
| CHECKED BY  | Autor    |
| DRAWING NO. | S 010.01 |





## **BSA SUBMISSION** **NOTICE**

Date: August 5, 2019

Examiner's Name: Toni Matias

BSA Calendar #: 2019-89-A and 2019-94-A

Electronic Submission: ☒ Email ☐ CD

Subject Property/

Address: 36 West 66th Street, Manhattan

Applicant Name John L. Low-Beer and Charles Weinstock on behalf of City Club of New York and Klein Slowick PLLC on behalf of Landmark Westl

Submitted by (Full Name): Charles Weinstock

A) The material I am submitting is for a case currently **IN HEARING**, scheduled for \_\_\_\_\_.  
The reason I am submitting this material:

- ☐ Response to issues/questions raised by the Board at prior hearing  
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Brief Description of submitted material: Letter on behalf of City Club of New York in response to August 5, 2019 David Karnovsky letter

List of items that are being voided/superseded: \_\_\_\_\_

B) The material I am submitting is for a **PENDING** case. The reason I am submitting this material:

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- *Be sure to VOID any superseded materials (no stapling!)*
- *Handwritten revisions to any material are unacceptable*



CHARLES WEINSTOCK

August 5, 2019

Board of Standards and Appeals  
250 Broadway  
New York, NY 10007

36 West 66th Street, Manhattan  
BSA Cal. Nos. 2019-89-A and 2019-94-A

Dear Members of the Board:

I write on behalf of the City Club of New York in response to David Karnovsky's letter to you earlier today – in particular, in response to his vituperative attack on my August 1, 2019 affirmation.

I will not repeat the facts in the affirmation; they plainly establish that co-counsel for Extell Development Company, the firm of Kramer Levin Naftalis & Frankel – and indeed, the very attorney at Kramer Levin who appeared alongside Mr. Karnovsky in the recent Supreme Court action relating to 36 West 66th Street, Jeffrey L. Braun – have acknowledged that a building foundation is not complete until the first-floor slab has been poured.

Mr. Karnovsky attempts to muddy the waters with three legal arguments: (1) that Mr. Braun's admission was made in another lawsuit involving another property and is therefore irrelevant; (2) that it was made during a negotiation between the parties and is therefore confidential; and (3) that as an attorney in this case, I am prohibited by the New York Rules of Professional Conduct from offering any testimony. None of these arguments holds up.

First, it is immaterial that Mr. Braun's admission was made in another case. The fact remains that the attorney working alongside Mr. Karnovsky to defend the project here has interpreted the phrase "completion of the foundation" to mean completion of the first-floor slab.

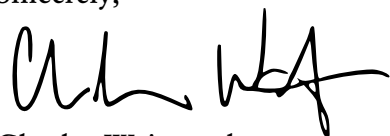
Second, the admission was *not* made in the course of some confidential settlement negotiation. On the contrary, it was simply Mr. Braun's interpretation of the stipulation he had negotiated – extrinsic evidence of the agreement's meaning. There is nothing confidential about that. Moreover, his later action – postponing the required notification that the foundation was nearing "completion" until the first-floor



slab, not the sub-cellar slab, was nearing completion – confirmed his understanding of the phrase's meaning.

Finally, as to my right to submit the affirmation, Rule 3.7 of the Rules of Professional Conduct describes a variety of situations in which attorneys are free to offer their own testimony – most pertinently, when it relates to "a matter of formality and there is no reason to believe that substantial evidence will be offered in opposition to the testimony." It is difficult for me to imagine that there will be evidence of any kind, much less "substantial" evidence, in opposition to my account. Far from being a "concoction," to use Mr. Karnovsky's phrase, it is a fully accurate – and damning – response to the owner's claim that its project has vested.

Sincerely,



Charles Weinstock

cc: Toni Matias, Esq.  
Felicia Miller, Esq.  
Michael J. Zoltan, Esq.  
Susan Amron, Esq.  
David Karnovsky, Esq.  
Ellen V. Lehman, Esq.  
Stuart A. Klein, Esq.  
John R. Low-Beer, Esq.



Date: August 5, 2019Examiner's Name: Toni MatiasBSA Calendar #: 2019-89-A and 2019-94-AElectronic Submission: ☒ Email ☐ CD

Subject Property/

Address: 36 West 66th Street, ManhattanApplicant Name John Low-Beer on behalf of City Club of New York and Klein Slowick, PLLC on behalf of Landmark West!Submitted by (Full Name): David Karnovsky, Fried, Frank, Harris, Shriver & Jacobson LLP on behalf of West 66th Sponsor LLC

A) The material I am submitting is for a case currently **IN HEARING**, scheduled for 8/6/19.  
The reason I am submitting this material:

- ☐ Response to issues/questions raised by the Board at prior hearing
- ☐ Response to request made by Examiner
- ☐ Other: \_\_\_\_\_

Brief Description of submitted material: Letter on behalf of West 66th Sponsor LLC

List of items that are being voided/superseded: \_\_\_\_\_

B) The material I am submitting is for a **PENDING** case. The reason I am submitting this material:

- ☐ Response to BSA Notice of Comments
- ☐ Response to request made by Examiner
- ☐ Dismissal Warning Letter

Brief Description of submitted material: \_\_\_\_\_

List of items that are being voided/superseded: \_\_\_\_\_

**MASTER CASE FILE INSTRUCTIONS**

- ***Bind one set of new materials in the master case file***
- ***Keep master case file in reverse chronological order (all new materials on top)***
- ***Be sure to VOID any superseded materials (no stapling!)***
- ***Handwritten revisions to any material are unacceptable***



|  |   |
|--|---|
| <b>Kramer Levin</b>  |    |
| Paul D. Selver<br>Partner<br>T 212.715.9199<br>F 212.715.8231<br>pselver@kramerlevin.com | 1177 Avenue of the Americas<br>New York, NY 10036<br>T 212.715.9100<br>F 212.715.8000 |

August 6, 2019

Hon. Margery H. Perlmutter, Chair  
Comms. Chanda, Ottley-Brown, Sheta and Scibetta  
New York City Board of Standards and Appeals  
250 Broadway  
New York, NY 10007

Re: Calendar Nos. 2019-89-A, 2019-94-A  
36 West 66th Street, Manhattan

Dear Members of the Board:

I do not represent the owner in the above-referenced appeals but I do represent the owner of the property at 200 Amsterdam Avenue, Manhattan, which also has been the subject of proceedings before your Board.

It has been brought to my attention that Charles N. Weinstock, an attorney for the appellants in one of the above-referenced appeals, has submitted an affirmation dated August 1, 2019, in which he describes a statement that I allegedly made in his presence during the course of a conference held on May 9, 2018, regarding when the foundation at 200 Amsterdam Avenue would be completed.

The conference to which Mr. Weinstock refers was held in the jury room of Justice W. Franc Perry III of the New York State Supreme Court and at Justice Perry's request. The sole purpose of the conference was to discuss a potential litigation settlement – a settlement that would avoid the necessity of Justice Perry's ruling on an application by opponents of the 200 Amsterdam Avenue project for a temporary restraining order that would immediately halt construction activity at the project site.

Because the sole purpose of the conference was to discuss a settlement of litigation issues, I believe that the conversations that took place during that conference were privileged in their entirety, that it was improper and objectionable for Mr. Weinstock to purport to repeat statements made during the conference in this or any other proceeding, and that it would be wrong for this Board to consider Mr. Weinstock's account of the conference.

Furthermore, while the stipulation that was arrived at during that conference is a matter of public record, I also submit that arrangements and understandings that were negotiated by lawyers to avoid (or at least postpone) a TRO application until such time



08/06/2019

2019-89 A and 2019-94 A  
NYSCEF DOC. NO. 43

RECEIVED NYSCEF: 02/16/2021

Hon. Margery Perlmutter, Chair

August 6, 2019



as the construction of a project reached a point where it was visible above grade is not probative in any way of the status of an entirely different project, built by a different developer, designed by different engineers and architects, and approved by the Department of Buildings on the basis of entirely different plans.

Respectfully submitted,

  
Paul D. Selver



Re: BSA Cal. Nos. 2019-89-A and 2019-94-A - 36 West 66th Street - August 6, 2019 Hearing - Letter on behalf of West 66th Sponsor LLC

Dear David:

I am in receipt of your letter of even date to the Board regarding the vesting question. Putting aside the various and sundry allegations, I do not see this issue as being part of the final determination upon which the appeal was based. So, while I was told questions regarding this issue were asked and I am reluctant to insinuate myself into the Board's review process, I do not see how this is a subject ripe for this appeal.

Best regards,

Stu Klein

**STUART A. KLEIN, ESQ.**

KLEIN SLOWIK PLLC

90 BROAD ST., SUITE 602

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**From:** "Lehman, Ellen" <[Ellen.Lehman@friedfrank.com](mailto:Ellen.Lehman@friedfrank.com)>  
**Date:** Monday, August 5, 2019 at 12:44 PM  
**To:** "[submit@bsa.nyc.gov](mailto:submit@bsa.nyc.gov)" <[submit@bsa.nyc.gov](mailto:submit@bsa.nyc.gov)>, "[TMATIAS@bsa.nyc.gov](mailto:TMATIAS@bsa.nyc.gov)" <[TMATIAS@bsa.nyc.gov](mailto:TMATIAS@bsa.nyc.gov)>  
**Cc:** "Karnovsky, David" <[David.Karnovsky@friedfrank.com](mailto:David.Karnovsky@friedfrank.com)>, "Michael Zoltan (Buildings)" <[MZoltan@buildings.nyc.gov](mailto:MZoltan@buildings.nyc.gov)>, "Felicia Miller (Buildings)" <[femiller@buildings.nyc.gov](mailto:femiller@buildings.nyc.gov)>, Mona Sehgal <[msehgal@buildings.nyc.gov](mailto:msehgal@buildings.nyc.gov)>, "[jlowbeer@yahoo.com](mailto:jlowbeer@yahoo.com)" <[jlowbeer@yahoo.com](mailto:jlowbeer@yahoo.com)>, "[sklein@buildinglawnyc.com](mailto:sklein@buildinglawnyc.com)" <[SKlein@buildinglawnyc.com](mailto:SKlein@buildinglawnyc.com)>, Chuck Weinstock <[cweinstock@mac.com](mailto:cweinstock@mac.com)>, "[SAmron@planning.nyc.gov](mailto:SAmron@planning.nyc.gov)" <[SAmron@planning.nyc.gov](mailto:SAmron@planning.nyc.gov)>  
**Subject:** BSA Cal. Nos. 2019-89-A and 2019-94-A - 36 West 66th Street - August 6, 2019 Hearing - Letter on behalf of West 66th Sponsor LLC

Hello,

I have attached a letter on behalf of West 66<sup>th</sup> Sponsor LLC in connection with the above-referenced BSA appeals.

A hard copy will be delivered to the Board office. May all other parties please confirm that you are accepting service by email?

Thank you,

Ellen V. Lehman  
Associate  
[Ellen.Lehman@friedfrank.com](mailto:Ellen.Lehman@friedfrank.com) | Tel: +1 212 859 8436

Fried, Frank, Harris, Shriver & Jacobson LLP  
One New York Plaza, New York, NY 10004  
[friedfrank.com](http://friedfrank.com)



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THE COMMITTEE TO PRESERVE THE UPPER WEST SIDE

**Testimony of LANDMARK WEST!  
Certificate of Appropriateness Committee  
Before the Board of Standards and Appeals, 22 Reade Street  
Item 2019-94-A, August 6, 2019**

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

LANDMARK WEST! is grateful to be able to finally address this development issue in the public forum. For the first time, neighbors, advocates, the community board, and electeds, who have remained completely shut-out of a behind-the-scenes, who-dunnit, as-of-right, none-of-your-business while I dominate your park and neighborhood development will, after more than four years, and at least one bait-and-switch placeholder building, for the first time, have an opportunity to be heard, and considered by a deciding agency.

Should this be at the BSA? Likely not. City Planning, the agency who has said they “are not happy about it” referring to this site, has otherwise been silent. We look to their minutes and discussions preceding the 1993 revisions of the Lincoln Square Special District Zoning, and the resulting text, which calls for “producing building heights ranging from the mid-20 to 30 stories”.

Given the plain English, one is hard-pressed to imagine that they didn’t expect to see buildings with heights ranging in excess of the mid-20 to 30 stories!

Yet, today, we are here, discussing a building, three times as tall, where 239 cumulative feet of vertical rise, (30% of the proposed height) is sheer void! We are discussing a building of absurd bulk, on a specific site that DCP even considered (development site 6, the “ABC assemblage”) but never imagined would metastasize into something like what is before you.

Zoning is meant to be a limit, one that provides a sense of predictability to the neighboring community. It is set forth to protect the public, and in a case such as this, specifically those 400 or more contiguous apartments from an out-of-scale neighbor. Yet Zoning is under siege.

Definitions, TDRs, ZLMs, the tools provided by the Zoning Resolution are often manipulated and abused. Although one is unlikely to use a wrench to drive a nail, nobody says you can’t, and anyone who would is not considering the permanent damage to the wrench. Similarly, the Upper West Side faces outrageous circumstances with the potential for damaging precedent. The current iteration of 36 West 66<sup>th</sup> Street, a building that is a merger of more than five zoning lots, for 127-units is a far cry from the 261-foot-tall, 25-story structure initially filed—the one that complied with the Lincoln Square Special District requirements. Repeated amendments of a filing for a wholly different building bring us before you today.



We are asking you to look at the facts.

Is the split zoning lot properly applied? No.

Is the bulk packing applied as intended? No.

Is the mechanical space justified? No.

Then why does this unwarranted development continue as-of-right? Why is it exempt from the zoning that governs the rest of the neighborhood?

And more importantly, when can the public have their right to protections as afforded to them by the Zoning Resolution?

This project is egregious in so many ways, we ask that you revoke the permits in favor of a compliant design that follows zoning.