New York Supreme Court

APPELLATE DIVISION—FIRST DEPARTMENT

LANDMARKWEST! INC.,

Petitioner-Appellant,

—against—

NEW YORK CITY BOARD OF STANDARDS AND APPEALS, NEW YORK CITY DEPARTMENT OF BUILDINGS, EXTELL DEVELOPMENT COMPANY, and WEST 66TH SPONSOR LLC,

Respondents-Respondents.

CASE NOS.
2021-02808
2021-04423

RECORD ON APPEAL
VOLUME VI OF IX
(Pages 3347 to 3799)

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Date: November 27, 2019 Examiner's Name: Toni Matias

BSA Calendar #: 2019-94-A Electronic Submission: ■ Email ☐ CD

Subject Property/
Address: 36 West 66th Street, Manhattan

Applicant Name 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 12/17/19.
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: Statement on behalf of West 66th Sponsor LLC, affidavits and exhibits

List of items that are being voided/superseded: _____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List of items that are being voided/superseded: _____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)*
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- ***Handwritten revisions to any material are unacceptable***

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November 27, 2019

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

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

Dear Honorable Members of the Board:

On behalf of West 66th Sponsor LLC, the owner of the property at 36 West 66th Street, enclosed is one original and one copy of a supplemental statement of law and facts and accompanying affidavits and exhibits.

This submission is also being filed electronically by email.

Sincerely,

David Karnovsky

Enclosures

cc: Michael Zoltan, Assistant General Counsel, NYC Department of Buildings
Mona Sehgal, General Counsel, NYC Department of Buildings
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

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BSA Cal. No. 2019-94-A
Supplemental Statement of Law and Facts

This Supplemental Statement of Law and Facts is submitted on behalf of West 66th Sponsor LLC ("Owner") in opposition to the arguments raised by Landmark West! ("LW") in its Supplemental Statement of Facts, dated November 6, 2019 (the "LW Supplement"), regarding mechanical deductions approved by the Department of Buildings ("DOB") for the new development at 36 West 66th Street (the "Building").

This supplemental statement first addresses the threshold question of whether the Board has statutory authority and jurisdiction to entertain these arguments, and we show that the Board does not and that the proceeding should therefore be discontinued and dismissed. We then demonstrate that LW's arguments fail on the merits in any event.

I. THE BOARD LACKS AUTHORITY AND JURISDICTION UNDER THE CITY CHARTER TO EXPAND THE SCOPE OF THE APPEAL, SUA SPONTE, TO INCLUDE ISSUES NOT TIMELY RAISED BY APPELLANT IN ITS APPEAL

Issues concerning mechanical deductions were not timely raised by LW when it initiated this appeal.[1] Indeed, the Board expressly ruled in its written decision on Cal. Nos. 2019-89-A and 2019-94-A, filed on October 15, 2019 (the "Decision"), that LW failed to timely raise a challenge to the mechanical deductions:

> a timely third issue has not been presented by Appellants regarding whether the amount of floor space used for mechanical equipment in the New Building is excessive or irregular, and Appellants' discussion of mechanical space in the New Building in their initial filings instead center on the volume and floor-to-ceiling heights of mechanical spaces.

BSA Cal. No. 2019-89-A; 2019-94-A, 3, n. 1. Accordingly, the Board has definitively concluded that the mechanical deduction issue was not timely raised by LW under applicable appeals procedures.

The Board nevertheless announced at its September 17, 2019 meeting that it would consider LW's new argument and established a supplemental briefing schedule for doing so.

[1] As demonstrated in our August 28, 2019 Supplemental Statement of Facts and Law and discussed at length at the September 10, 2019 Public Hearing, the issues raised by LW in its appeal were limited to the legality of the floor to ceiling heights of the Project's mechanical spaces and whether the Project complies with bulk distribution regulations for zoning lots located in the Special Lincoln Square District in accordance with ZR Section 83-34. (See September 10, 2019 Public Hearing Transcript, Transcript 1 hereto.)

At the September 10 Public Hearing, Counsel to the BSA thus advised counsel for LW that "because you did not raise this [the mechanical deduction] issue in your papers within 30 days, that is why it is not before the Board." (Transcript 1 at 38). The Chair likewise stated that issues "need to be raised at the outset so that the Board gets the right information and that it's properly before us, according to statutory requirements." (Id. at 68.) She continued that "to bring up things on the eve of decision, really, because it was clear that we were going to be deciding this on the next hearing, right, I think for one, I think is improper." (Id. at 69)

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The Board stated that it would reopen the appeal sua sponte to expand the scope of the appeal LW had filed. As discussed below, however, the City Charter grants the Board only limited authority to review a DOB determination upon its own initiative and circumscribes the relief available in such a sua sponte review. In exercising this limited authority, for example, the Board is not permitted to direct a revocation of Owner's building permit or otherwise impair Owner's rights under the DOB permit issued for the Building.[2]

The Decision cites Section 72-11 of the Zoning Resolution as legal authority for the decision to reopen the hearing. BSA Cal. No. 2019-89-A; 2019-94-A, 3, n. 1. Section 72-11 provides, in relevant part:

> The Board of Standards and Appeals shall hear and decide appeals from or may, on its own initiative, review any rule or regulation, order, requirement, decision, or determination of the Commissioner of Buildings, of any duly authorized officer of the Department of Buildings, or of the Commissioner of any agency which, under the provisions of the New York City Charter, has jurisdiction over the use of land or over the use or bulk of buildings or other structures, subject to the requirements of this Resolution.

But the Board's appeals jurisdiction is defined by the City Charter, not the Zoning Resolution. Section 72-11 is, at most, a paraphrase (and, as discussed further below, one that is both imprecise and incomplete) of relevant City Charter provisions. There is plainly no basis to conclude that the Zoning Resolution can modify or augment the powers and duties of the Board under the City Charter, including the scope of its appeals jurisdiction. The City Charter governs.

---

[2] In reopening the hearing sua sponte to consider the mechanical equipment issue, the Decision cites a statement made by DOB counsel at the September 10 Public Hearing that should LW file a new complaint with DOB regarding the mechanical equipment, and DOB decide that there is no basis for rescinding the building permit it issued for the Project in April 2019, DOB likely would not issue a final determination from which Appellant could appeal to the BSA. BSA Cal. No. 2019-89-A; 2019-94-A, 3, n. 1.

DOB is correct. LW has no right to the issuance of a final determination by DOB on this issue. See Matter of New York City Yacht Club v. New York City Dept. of Bldgs., 102 N.Y.S. 3d 19, 20 (1st Dep't. 2019) (petitioner not entitled to a final determination appealable to the BSA absent a clear legal right to such determination). DOB's final determination is the April 2019 permit approval, and the 30-day time period for appeal of that determination expired in May 2019 without LW having raised any issue regarding the mechanical floor space deductions. As described more fully in REBNY's October 14, 2019 letter to the Board, the Board's decision to consider LW's untimely argument has effectively required DOB to issue a new final determination to which LW is not entitled.

The Decision makes no mention of the key reason offered by the Board at its September 17 Public Meeting why a reopening of the hearing on LW's appeal was appropriate, i.e., that a similar procedure concerning mechanical equipment was followed in BSA Cal. No. 2016-4327-A. (See September 17, 2019 Public Hearing Transcript, Transcript 2 hereto, at 10-11.) However, as discussed in greater detail in the REBNY letter, the record in that appeal clearly shows that, in contrast to LW's failures here, issues regarding the propriety of mechanical deductions were raised squarely by the Appellant, Sky House Condominium, in its statement of facts. Sky House Statement of Facts, Exhibit E to the REBNY letter.

Owner adopts in full and incorporates by reference herein all arguments made by REBNY in its October 14 letter, including the exhibits thereto.

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The relevant City Charter provisions are as follows:

First, Section 666(6)(a) of the City Charter provides that:

The Board shall have power: to hear and decide appeals from and review,

(a) except as otherwise provided by law, any order, requirement, decision or determination of the commissioner of buildings or any borough superintendent of buildings acting under a written delegation of power from the commissioner of buildings filed in accordance with the provisions of section six hundred forty-two or section six hundred forty-five of this charter . . . .

Second, Section 666(8) of the City Charter provides that:

The Board shall have power: . . . [t]o review, upon motion of any member of the board, rule, regulation, amendment, or repeal thereof, and any order, requirement, decision or determination from which an appeal may be taken to the board under the provisions of this chapter or of any law, or of any rule, regulation or decision of the board; but no such review shall prejudice the rights of any person who has in good faith acted thereon before it is reversed or modified. The provisions of this chapter related to appeals to the board shall be applicable to such review.

Third, Section 669 of the City Charter, governing "Procedure on appeals," defines who may file an appeal (subd. a), the procedure for the filing of an appeal in accordance with rules of the Board (subd. b), the timing for the hearing of appeals and notice thereof (subd. c), and the method for appeal of a decision of the Board (subd. d).

The above City Charter provisions make clear that an "appeal" filed by an aggrieved party under Section 666(6)(a) is distinct from a "review" undertaken by the Board under Section 666(8).

Importantly, unlike in the case of a "review" initiated by the Board under Section 666(8), the provisions of Section 666(6)(a) governing appeals initiated by a third party (like the appeal in this case) do not impart to the Board any authority to expand the scope of an appeal, acting on its own initiative upon the motion of a Commissioner. That authority is strictly limited to a "review."

Critically, a "review" undertaken by the Board upon the motion of a Commissioner under Section 666(8) can be undertaken sua sponte but is subject to a crucial limitation:

no such review shall prejudice the rights of any person who has in good faith acted thereon before it is reversed or modified.

(emphasis added). The plain language of this provision thus does not authorize the Board, acting sua sponte to review an issue, to render a decision adverse to a party who has in good faith acted

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in reliance on the DOB determination at issue. If the Board overturns a rule, regulation, determination or decision of the DOB Commissioner under that Section in a way that would prejudice a party who has relied upon the DOB action at issue it can have prospective application only.[3]

It follows from the above that the Board cannot graft a "review" under Section 666(8) onto a pending "appeal" brought under Section 666(6)(a) in order to expand the scope of the appeal beyond what LW has timely presented to the Board. To do so would expose Owner to an adverse determination and thereby violate the Charter's requirement that "no such review shall prejudice the rights of any person who has in good faith acted thereon before it is reversed or modified."[4] Stated differently, the Board cannot, by means of a "review" initiated sua sponte pursuant to Section 666(8), grant the relief LW requested in its appeal. That is, it can neither vacate the building permit granted to Owner nor grant any other relief that would prejudice the rights of Owner, which has acted in reliance on that permit.

In view of the above, Owner respectfully requests that the Board reverse its September 17 determination to reopen the appeal filed by LW to consider issues that LW failed to properly raise in its appeal. Neither ZR Section 72-11 nor the City Charter authorizes the Board to expand the scope of an appeal *sua sponte*. Rather, the Board's authority is limited to initiating a "review" subject to the proviso of Section 666(8). Any decision in favor of LW in the reopened appeal would therefore be ultra vires.

For these reasons, the proceeding should be discontinued and dismissed.

[3] Section 666(8) was enacted as Section 719(6) of the City Charter under Chapter 503 of the Laws of 1916, the original legislation that established the Board. (See Exhibit 1 hereto.) While the legislative history does not discuss this provision, the language of its proviso is clear and unambiguous.

[4] The Board's conflation of a "review" with an "appeal" also fails to recognize that a "review" under Section 666(8) is a separate proceeding subject to all the procedural provisions governing an appeal: "The provisions of this chapter relating to appeals to the board shall be applicable to such review" under Section 666(8). Among other things, this would indicate that if the Board wishes to conduct a "review" of its own initiative under Section 666(8), it is bound by the Board's own rules governing the time period within which an appeal may be filed. See BSA Rule 1-06.3.

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II. THE DOB PROPERLY APPROVED THE MECHANICAL DEDUCTIONS FOR THE BUILDING.

A. The Amount of Mechanical Space and Number of Full Mechanical Floors in the Building Are Comparable to That Found in Similar Buildings.

At the Board's September 17 Public Meeting, the Chair posed the following two questions:

First, whether DOB has a method of determining whether the amount of floor space devoted to mechanical space in a building is appropriate, based on a standard formula. The Chair cited to what she described as a "5 percent rule" utilized at one time. (Transcript 2 at 15.)

Second, whether there is a typical number of full interstitial mechanical floors in buildings similar to the Building. The Chair observed in this regard that the tall buildings with mechanical "void" spaces brought to the Board's attention in Cal. No. 2016-4327-A (Sky House Condominium) had three full interstitial mechanical floors while the Building has four such floors. (Transcript 2 at 25-26.)

As set forth in the accompanying affidavit of Michael Parley (the "Parley Affidavit"), a preeminent zoning expert who provides consulting services to developers, institutions and architects for sites in New York City, there is no standard amount of deduction for mechanical equipment in residential buildings measured as a percentage of gross floor area, nor is developing a uniform standard practical. (Parley Aff. ¶¶ 6-10.) Further, there is no typical number of full interstitial mechanical floors in tall buildings, including those with so-called mechanical "voids." (Id. ¶¶ 14-16.)

1. The Amount of Mechanical Deduction as a Percentage of Gross Floor Area

The 5% rule noted by the Chair refers to the mechanical deductions on each occupied floor, which are generally 4-5% of the gross floor area on each floor. (Id. ¶ 7.) Beyond that, however, there is too wide a range of variation among buildings to indicate a uniform amount of total mechanical deductions. (See id. ¶ 8 (describing variations by building type).) For example, a low-rise building may have deductions of as low as 6%, while a taller building may have deductions up to 20% or more. Id. For that reason, "a standard measure of 'gross to zoning' does not exist and is not assumed or applied by DOB." Id. This assessment is consistent with DOB's position as presented during the Sky House proceedings; DOB submitted a letter to the Board on August 25, 2017 stating that "there is no such rule of thumb" used "to determine the maximum mechanical space allowed for a building based upon the percentage of the building's zoning floor area." (Exhibit 2 hereto at 2.)

In order to understand how the Building compares in this regard to other tall buildings, Mr. Parley prepared an analysis, attached as Exhibit 1 to the Parley Affidavit, which shows the total percentage of gross floor area that does not count towards zoning floor area, i.e., the percentage deducted, for a number of prominent buildings that fall into two categories: (a) buildings that are between 1000 and 1500 feet tall; and (b) buildings that are between 665 and

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880 feet tall. This analysis was based on Mr. Parley's review of filed drawings for each building. The analysis focuses exclusively on gross floor area above grade and therefore excludes below-grade space. It does not distinguish between deductions for mechanical equipment and other deductions, such as Green Zone deductions; however, deductions other than mechanical deductions typically amount to no more than 1-2% of total building gross floor area. (Parley Aff. ¶ 8.)

The result of this analysis shows a wide variation in the amount of deductions from floor area as a percentage of total gross floor area. Among the buildings that are between 1000 and 1500 feet high, i.e., the so-called "Supertalls," the percentages range from 9.02% to 22.41%, with an average of 16.24%. (Id. ¶ 10, Exhibit 1 thereto.)[5] Among the buildings that are between 665 and 880 feet high, the percentages range from 13.45% to 21.60%, with an average of 16.87%. (Id.)

As detailed in the Parley analysis, the deductions for the building at 36 West 66th Street constitute 13.45% of total gross floor area, an amount well within these ranges and less than the averages. (Id.)

The building at 15 East 30th Street, which was the subject of Cal. No. 2016-4327-A (Sky House Condominium), has deductions that constitute 15.14% of total gross floor area, a percentage higher than that for 36 West 66th Street. (Id. ¶ 12, Exhibit 1.) The owner in that proceeding stated that mechanical deductions in the building constituted 5% of the total above-grade square footage, Cal. No. 2016-4327-A, 3; however, Mr. Parley finds that this figure is not supported by the calculations set forth in the ZD-1 for that building, dated October 5, 2017. (Parley Aff., Exhibit 1.)

2. The Number of Full Interstitial Mechanical Floors

For each building in the two categories considered above (buildings between 1000-1500 and 665-880 feet tall), Mr. Parley also identified the number of full mechanical floors exclusive of rooftop mechanicals, i.e., so-called full "interstitial" mechanical floors.

The results show that there is a wide variation in the number of such interstitial full mechanical floors within the sample, ranging from 2 floors (1 building) to 3 floors (3 buildings) to 4 floors (4 buildings) to 5 floors (1 building) to 6 floors (2 buildings) to 12 floors (1 building). (Parley Aff. ¶ 14, Exhibit 1.) The analysis thus shows that the number of full interstitial mechanical floors at 66th Street (4 floors) is in no sense an outlier, or otherwise indicative of an excess amount of mechanical space. It is entirely within the spectrum of the number of such floors in other tall buildings.

At the Board's September 17 Public Meeting, the Chair suggested that existing buildings with mechanical "voids" identified to the Board in the proceedings under Cal. No. 2016-4327-A each had three full floor interstitial floors. (Transcript 2 at 26). However, Mr. Parley's analysis

[5] These statistics do not include one building included in the analysis, 111 West 57th Street, which Mr. Parley describes as a statistical anomaly with deductions of 49.36%. Mr. Parley attributes this to the building's very small floor plates, which resulted in a stacking of mechanical equipment on multiple floors. (Id. ¶ 9)

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shows that 220 Central Park West, 111 West 57th Street, 217 West 517 Street and 432 Park Avenue, all cited to the Board in that proceeding as buildings with mechanical "void" spaces each have greater numbers of such floors. See Cal. No. 2016-4327-A, 5. (Parley Aff. ¶ 14, Exhibit 1.)

In sum, the Parley analysis demonstrates, in response to the questions raised by the Chair at the Board's September 17 2019 Public Meeting, that the amount of mechanical space and number of full mechanical floors in the Building are comparable to that found in similar tall buildings and are in no sense atypical. These comparisons to other buildings belie any claim that the amount of mechanical space and numbers of mechanical floors in the Building are improper or excessive.

B. The DOB Draft Bulletin Cited and Relied Upon by LW Does Not Dictate the Amount of Mechanical Deductions at the Building

LW argues that the mechanical deductions approved by DOB for floors 15, 17, 18 and 19 are improper based on an analysis prepared by Michael Ambrosino which purports to apply a method derived from a draft Buildings Bulletin, dated 2013 (the "Draft Bulletin") relating to mechanical equipment. Mr. Ambrosino states in his affidavit that the Draft Bulletin "provided the criteria for determining floor area deductions [in his analysis]" and concludes that floors 15, 17, 18 and 19 fail to meet those criteria. (Ambrosino Aff. at 2.) However, the Draft Bulletin has not been promulgated, and does not dictate how mechanical deductions are made.

It is DOB procedure to publish final Buildings Bulletins and post them on its website with an issuance date and bulletin number.[6] The Draft Bulletin is not posted on the website, and permit applicants are under no notice that it applies.

The history of the Draft Bulletin illustrates why it has not been adopted and is not operative. A first draft of the Draft Bulletin was circulated by DOB to industry professionals for review and comment in 2012. (Parley Aff. ¶ 17.) Since that time, revised versions of the Draft Bulletin have been circulated for review and comment no less than five times, the most recently in 2015, a copy of which is attached hereto as Exhibit 3. (Id. ¶ 17.) (The document cited by and relied upon by Mr. Ambrosino is in fact a superseded draft circulated in 2013). Since 2015, there have been no indications that DOB is engaged in efforts to finalize and promulgate a Bulletin. (Id.)

Over the years, industry professionals have raised significant issues and problems with respect to the Draft Bulletin. This is undoubtedly one of the reasons why, almost eight years after the first version was circulated by DOB for comment, it has not been adopted. (Id. ¶ 22.) Industry issues and concerns regarding the Draft Bulletin (including, in particular, how its various provisions would apply to severely restrict the deduction of an open floor from the calculation of floor area), have generally fallen into three categories:

[6] See NYC Buildings, 2019 Buildings Bulletins, https://www1.nyc.gov/site/buildings/codes/building-bulletins-current.page.

First, industry professionals have expressed concern that Section A(1) of the Draft Bulletin, which lists the types of mechanical equipment that qualify for a floor area deduction, is under inclusive. The list has been expanded over time, but industry professionals have identified additional types of equipment that are not listed and should be included. (See Parley Aff. ¶ 20; Russo Aff. ¶ 9.) These include, by way of example: expansion tanks, air separators, VFDs, control panels, HVAC chemical treatment stations, pool equipment rooms.

Second, industry professionals have pointed out that Section A(2) of the Draft Bulletin would unduly restrict mechanical deductions for areas needed to service equipment. In this regard, the Draft Bulletin only permits deductions of floor space for equipment service areas (a) in the amount of a 1:1 ratio of equipment area-to-adjacent service area or (b) as set forth in the manufacturer's specifications for the equipment. However, a 1:1 ratio of equipment area-to-adjacent service area is typically insufficient and the clearance requirements set forth in manufacturer's specifications are generally the bare minimum only (e.g., limited to the amount of space needed to swing open an access door to a piece of equipment). Neither standard adequately accounts for the amount of space needed to perform a variety of activities, for example, to walk around an entire piece of equipment, open up the piece of equipment, remove parts from within the equipment and set them down safely on the floor, or temporarily remove or replace the entire piece of equipment or large components thereof from the floor. (See Parley Aff. ¶ 20; Russo Aff. ¶ 10.) The Draft Bulletin also does not recognize the need for adjacent service area for horizontal piping and ducts. (See Russo Aff. ¶ 11.)

Third, industry professionals have also advised DOB that the Draft Bulletin does not adequately account for the fact that mechanical floors, like any floor, require corridors, vestibules and general access routes that allow an individual to traverse the floor and that meet life safety requirements for evacuation in an emergency. The 2015 version of the Bulletin continues to present issues in this regard, since it effectively allows a maximum of only 10% of the floor space to be deducted for circulation purposes. (See Parley Aff. ¶ 21; Russo Aff. ¶ 12.)

Overall, the standard set forth in the Draft Bulletin which allows for deduction of a full floor only where at least 90% of the floor space is occupied by mechanical equipment and adjacent service area is unduly rigid and artificial (and, for various reasons such as those outlined above, is virtually impossible to achieve under the terms of the Draft Bulletin). (See Russo Aff. ¶ 15.)[7]

[7] Further, the Draft Bulletin assumes that it is possible to produce an exact calculation of the amount of mechanical equipment and related access space on the basis of MEP drawings submitted during the permit application phase, despite the fact that these drawings do not fully depict the dimensions of certain types of equipment. In particular, the MEP drawings do not fully depict the dimensions of most pipes, ducts and other connections. Instead, these are most often shown on the MEP drawings using a simplified graphic to indicate their location, e.g., a single line or two lines. The exact locations of these connections and their actual width is depicted on shop drawings produced only at a later date. For this reason, the MEP drawings tend to understate the actual amount of area occupied by mechanical equipment. (Russo Aff. ¶ 14.) Exhibit A to the affidavit of Luigi Russo consists of two diagrams showing a portion of a mechanical floor in an existing building. The first shows the space as depicted on an MEP drawing; the second shows the same space as depicted on a shop drawing. The difference between the two is striking, and demonstrates how the shop drawings "densify" what is only shown in outline on MEP drawings.

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The accompanying affidavits of Michael Parley, Igor Bienstock and Luigi Russo, three industry professionals who work in different disciplines (Parley - Zoning Consultant; Bienstock - Mechanical Engineer; and Russo - Architect), each make clear that the Draft Bulletin is not reflective of current DOB practice. (See Parley Aff. ¶ 22; Russo ¶¶ Aff. 4-5; Bienstock Aff. at 2.) As stated by Mr. Russo:

> Based on my professional experience, DOB's review of the mechanical plans for 36 West 66th Street was typical of how DOB reviews mechanical plans in the normal course of plan examination. The plan examiner reviews each floor by examining all of the drawings for a floor relating to each mechanical trade: HVAC mechanical ductwork, HVAC mechanical piping, fire protection, and plumbing. These drawings *in combination* provide the plan examiner with an understanding of the overall use of the space. Based on this examination, the plan examiner determines both whether the space is occupied by mechanical equipment and whether the type and amount of equipment is generally consistent with that found in a residential building.
>
> In my experience, DOB has not required a calculation of the area of each piece of equipment, and has not applied a fixed ratio of area of equipment to overall floor space in determining whether to allow for deduction of an entire floor. Rather, examiners seek to ensure that the floor will be devoted to housing mechanical equipment and cannot realistically be occupied for other purposes.
>
> (Russo Aff. ¶¶ 4-5.)

The affiants' description of DOB practice is consistent with discussion during the proceedings in Cal. No. 2016-4327-A (Sky House Condominium). Significantly, DOB made no reference or citation to the Draft Bulletin at the hearing or in any of its submissions in that proceeding.

The Ambrosino Affidavit nevertheless describes the Draft Bulletin as "approved 1/14/2019" (Ambrosino Aff. ¶ 2). This is flatly wrong. The copy of the 2013 version of the Draft Bulletin attached to the Ambrosino Affidavit is in fact an attachment to a ZRD-1 determination request approved by DOB on January 14, 2019, and thus bears a DOB approval stamp reflecting its approval of the ZRD-1 ("Approved With Conditions"), not the Draft Bulletin. (See ZRD-1, dated January 14, 2019, Control No. 50635, Exhibit 4 hereto.)

LW not only fails to acknowledge the source of the copy of the Draft Bulletin attached to the Ambrosino Affidavit, i.e., the ZRD-1, but also fails to disclose to the Board what the ZRD-1 determination in fact states with respect to the Draft Bulletin:

> **The attached 'draft' Bulletin has not been officially issued by DOB and may not be deemed as such**.
>
> (Exhibit 4 at 1 (emphasis added).)[8]

[8] The ZRD-1 determination request in question was made with respect to a building proposed for 1230 Madison Avenue (Manhattan Block 1500, Lot 55) and sought confirmation that the eighteenth through twentieth floors of that building would not count towards floor area, based upon a representation that these floors would consist "only of

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In sum, LW's argument that DOB's approval of the mechanical deductions for the Project was improper because DOB did not review the mechanical drawings under the Draft Bulletin's standards should be rejected. The Draft Bulletin is neither adopted nor an accurate reflection of DOB practice. For this reason, as well as the reasons set forth in Section C below, Mr. Ambrosino's analysis, which assumes incorrectly that the Draft Bulletin is approved and must be followed in all respects in evaluating mechanical deductions, should be disregarded and rejected.

C. The Mechanical Floors at the Project Were Properly Deducted from the Floor Area Calculations. The Ambrosino Diagrams and Calculations are Fatally Flawed.

In its October 16, 2019 submission, DOB confirmed that floors 15, 17, 18 and 19 contain substantial amounts of mechanical equipment and that a deduction of the full floors was warranted. Its submission states:

> The Department has reviewed the mechanical drawings for the Proposed Building and has concluded that the floor space on such floors is devoted to housing the mechanical equipment of the Proposed Building and those floors cannot be occupied for purposes other than the housing of such equipment. As such, the floor space devoted to mechanical equipment is properly exempt from the zoning floor area.

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mechanical use and containing elevators, elevator vestibules, stairwells & corridors for maintenance access only." (Exhibit 4 at 3.) The ZRD-1 request did not include any detailed calculations of the mechanical deductions and other deductions from floor area.

In support of its request, the applicant cited to the provisions of Section 12-10 of the Zoning Resolution which exclude mechanical equipment from the calculation of floor area and stated further that "the Department has also used the enclosed draft Buildings Bulletin as a guide for establishing mechanical spaces that are excluded from floor area," with citation to the provisions of the Draft Bulletin which allow for deduction of a full floor that is 90% occupied by mechanical equipment and access space, as well as the stairwell and elevator shaft space associated therewith. (Id.) The DOB determination states in relevant part that:

> The request to review and confirm the proposed mechanical deductions at the 18th through 20th floors of the attached plans is approved and clarified as follows:
>
> 1. The attached 'draft' Bulletin has not been officially issued by the DOB and may not be deemed as such. However, as per DOB policy both items noted by the applicant [floor space together with stairwell and elevator shaft space] may be excluded as mechanical deductions from the zoning floor area.

(Id. at 1.) The applicant was directed to submit detailed plans for review by an examiner to verify the deductions. (Id.)

The ZRD-1 thus makes clear that the Draft Bulletin is not adopted. At the same time, it also makes clear that the deduction of an entire floor occupied by mechanical equipment, inclusive of stairwell and elevator shaft space, may be accomplished consistent with DOB policy. That policy was confirmed in BSA Cal. No. 315-08-A.

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(DOB Statement at 3.)[9] DOB further provided a detailed listing of the various types of equipment located on each of floors 15, 17, 18 and 19. (Id. at 3-4.)

The DOB also provided the Board with a copy of a composite drawing for Floor 15 which overlays on a single drawing all of the separate mechanical drawings approved for that floor (HVAC mechanical ductwork, HVAC mechanical piping, fire protection, and plumbing) in order to illustrate the full range of mechanical equipment for that floor examined by DOB. Owner subsequently supplemented this composite for Floor 15 by submitting composites for Floors 17, 18 and 19.[10] The composite drawings amply illustrate that the floors are occupied by mechanical program (i.e., mechanical equipment, equipment access areas, and circulation space) throughout, and that they cannot be realistically occupied for purposes other than the housing of this equipment and associated space.[11]

Mr. Ambrosino argues otherwise, but his diagrams and analysis are replete with errors and severely understate the size and scope of the mechanical program. These errors are described in greater detail in the Russo and Bienstock Affidavits. We briefly describe them below.

First, Mr. Ambrosino fails to account for various forms of equipment that are clearly shown on the HVAC mechanical ductwork plans that he examined. In particular, he did not account for mechanical fans, heaters, shafts, chases, horizontal ductwork distribution and plenums. (Bienstock Aff. at 1.)

Second, and even more significantly, Mr. Ambrosino's analysis is based on the HVAC mechanical ductwork plans alone. That is, he omits *all* of the equipment shown on the three other sets of mechanical plans for each floor, i.e., HVAC mechanical piping, fire protection and plumbing. (Bienstock Aff. at 2.)

Third, Mr. Ambrosino applies standards in the Draft Bulletin that, as discussed above, are unduly restrictive and are not representative of DOB practice.

Lastly, Mr. Ambrosino's percentage calculations are faulty. To calculate the percentage of a floor used for equipment and service area to meet the Draft Bulletin's 90% threshold, Mr. Ambrosino includes the area of the building core, structure and curtain wall within the denominator, i.e., within the total area of the floor. However, these areas cannot be occupied by

[9] Citations to DOB Statement refer to the Department of Building's Letter Statement dated October 16, 2019.
[10] In its October 16 submission, DOB had provided architectural drawings sheets for Floors 17, 18 and 19, which are not composite drawings and do not fully depict the various types of mechanical equipment. To provide the Board and LW with a complete and accurate set of drawings, Owner submitted composite drawings for Floors 17, 18 and 19 on October 21, 2019 as well as the mechanical equipment schedule drawings. In a letter to the Board dated November 4, 2019, DOB confirmed that the submission replacing the architectural drawings with true composite drawings was an "accurate representation of Department records" and "help[s] illustrate the complete layout of the mechanical equipment."
[11] The affidavit of George M. Janes argues that the area of FDNY corridors on the mechanical floors—areas that were requested by and designated for the FDNY in the event of an emergency—should not be deducted from floor area because FDNY access corridors are not deducted on other non-mechanical interstitial levels. However, the deduction for mechanical space is inclusive of circulation space. On floors that do not contain mechanical equipment, there is no deduction applicable to circulation space.

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mechanical equipment and the building core by itself is nearly 10% of the total area of the floor. This method of calculation—which has no basis even under the rigid standards of the Draft Bulletin—virtually guarantees that an owner will be unable to deduct an entire mechanical floor.

In these ways, the diagrams and calculations provided by Mr. Ambrosino are not a fair measure of the mechanical floors at the Project. The full range of mechanical equipment is shown on the composite drawings, and these drawings accurately reflect that each floor is occupied by multiple systems of interconnected mechanical equipment and program. Exhibit B to the affidavit of Igor Bienstock provides a comparison between the diagrams prepared by Mr. Ambrosino and the composite drawings.

D. The Building Mechanical Layout Was Carefully Designed In Accordance With Best Practices To Meet the Specific Needs of the Building. Mr. Ambrosino's Hypothetical Alternative Layout of Certain Equipment for the 17th Floor Does Not Reflect A Complete Engineering Plan and is Unrealistic

In his affidavit, Igor Bienstock, a highly experienced engineer retained to design the mechanical layouts for the Building, explains that there are a host of considerations an engineer must take into account, including accessibility, constructability, proximity of equipment and systems to the occupied spaces they serve, required separations between specific systems, and proximity to exterior walls for air intake and exhaust, among others. (Bienstock Aff. at 3.) These considerations are highlighted in Mr. Bienstock's detailed description of the equipment found in each of Floors 15, 17, 18, and 19. (Id. at 4-8.) That description details why certain pieces of equipment are best located on a particular floor, why various types of equipment must be located in close proximity to each other, and why certain equipment is best located in a particular area within a floor. For example:

- The southern portion of the fifteenth floor contains the generator because the generator requires intake and exhaust louvers for ventilation and the louvers are only available at this location. In turn, the fifteenth floor contains the automatic transfer switch (ATS) because it is efficient to have the ATS located on the same level as the generator. The electrical room in which the ATS switch is located is positioned on the northern portion of the fifteenth floor for its close proximity to the shaft carrying emergency risers to serve the floors above.

- The seventeenth floor houses the central heating plant for the building and is located in the middle of the building to serve apartments both below and above. The boiler room was located on the east side of the floor for proximity to an air intake louver. The air handling unit is located on the northern portion of the floor to serve the amenity space on the 16th floor below.

- The eighteenth floor contains equipment to serve all building cooling needs. The eighteen water cooled chillers, primary and secondary chilled water pumps and secondary condenser water pumps are located on the eastern portion of the floor because it is the most efficient location to distribute to the chilled water pipe riser locations, which are dictated by the apartment layouts above. Primary condenser pumps are located on the

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western portion of the floor due for proximity to piping risers. Heat exchangers are located in the middle between these two areas as a central location to minimize piping distribution on either side.

- The nineteenth floor contains the air handling units that serve the residential units directly above. The units are located on the eastern portion of the floor for adjacency to the intake air louver as well as to the riser locations. The floor also contains a water reserve storage tank room and accompany fire pump room; it is necessary to locate the fire reserve tank in the middle of the building to maintain require pressure at the sprinkler heads and the standpipes located in the intermediate zone.

The Bienstock affidavit amply illustrates that the design of a mechanical floor layout is not a random affair, but is guided by a host of complex and interrelated considerations in order to promote safety and operational efficiency. No two buildings are exactly alike, and, in particular, there is no cookie cutter method of designing a layout for a large building such as 36 West 66th Street.

In his affidavit, Mr. Ambrosino proposes an alternative layout for certain equipment located on the 17th floor in order to demonstrate how less floor space could be used for mechanical equipment than under the plan Mr. Bienstock has designed. The Board should not credit this argument because it applies the wrong legal standard and the analysis is both flawed and incomplete.

DOB reviews mechanical plans to ensure that the floors are devoted to housing mechanical equipment for the building and those floors cannot realistically be occupied for other purposes. In doing so, DOB does not substitute its judgment for that of the mechanical engineer to determine whether the mechanical layout is well-designed, optimal for the needs of the building, and efficient. In particular, DOB does not consider alternative layouts or require that the mechanical engineer demonstrate that its layout conserves more floor space than alternate approaches. DOB is neither charged with this responsibility nor equipped to make this determination; there is, in any event, no basis to assume that having equipment occupy the minimum amount of space on a floor equates to mechanical efficiency. Rather, the mechanical engineer must consider a number of factors related to operational efficiency and safety, as outlined by Mr. Bienstock in his affidavit. (See id. at 3.)

Regardless, Mr. Ambrosino's alternative layout is a fiction. Quite simply, the alternative design was prepared without any investigation into the particulars of the building and is wholly unconstrained by any of the detailed considerations which govern Mr. Bienstock's actual design. Mr. Ambrosino in fact acknowledges that there are numerous design criteria that apply to mechanical layouts, but that he is "not privy to the original design principles for the HVAC systems for this building." (Ambrosino Aff. at 2.) He nevertheless puts forward what is essentially a cartoon, based on what he calls a "more aggressive design concept and philosophy." (Id. at 3.)

The diagram provided by Mr. Ambrosino depicts nine pieces of equipment that could purportedly be moved from the western portion of the floor to the eastern portion of the floor

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(although only *eight* of those pieces of equipment appear in the "consolidated" layout). Mr. Bienstock outlines several reasons why this is not workable, as follows:

- The diagram used in the proposed layout does not depict all of the mechanical equipment on the floor. It does not depict certain pieces of equipment shown on the mechanical ductwork plans (expansion tanks, air separators, pumps, water source heat pumps, fans, VFDs and control panels). It also does not depict any of the equipment shown on the remaining sets of mechanical plans (HVAC mechanical piping, fire protection and plumbing).

- The proposed layout does not show or provide space for the necessary piping and ductwork distribution that connects to the HVAC equipment and the routes to the locations they serve. Much of the distribution system is routed to specific shaft locations that align with the apartment floor layouts above or below.

- Taking into account the omitted pieces of equipment, the alternative layout would not allow for adequate access to the equipment and circulation space and it could not be properly installed.

- The diagram used in the proposed layout also does not depict any equipment remaining on the western portion of the floor. However, there are additional pieces of equipment (fans and air handling units) and horizontal connection located on the western portion of the floor. The fans and air handling units require proximity to the air intake and exhaust louvers present only on that side of the floor and the horizontal connections are routed based on the floor layouts below. As a result, this equipment could not be relocated and removing the nine pieces of equipment would not empty the western portion of the floor.

III. CONCLUSION

For the reasons set forth above, this proceeding should be dismissed because the Board does not have statutory authority and jurisdiction to entertain these arguments. If the proceeding is not dismissed, the appeal application should be denied on the merits.

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Supplemental Statement of Law and Facts
Index of Exhibits, Transcripts and Appendices

Supplemental Statement of Law and Facts

- **Exhibit 1:** Amendment to the City Charter under Chapter 503 of the Laws of 1916
- **Exhibit 2:** Dept. of Buildings Letter, August 25, 2017
- **Exhibit 3:** Buildings Bulletin 2015-Draft
- **Exhibit 4:** ZRD1 dated January 14, 2019 (Control No. 56035)

Igor Bienstock Affidavit

- **Exhibit A:** Mechanical Drawings and Schedules
- **Exhibit B:** Mechanical Drawings Comparison

Luigi Russo Affidavit

- **Exhibit A:** Shop Drawing Comparison

Michael Parley Affidavit

- **Exhibit 1:** Floor Area Deductions Comparison Chart

Transcripts

- **Transcript 1:** September 10, 2019 Public Hearing
- **Transcript 2:** September 17, 2019 Public Hearing

Cited BSA Decisions and Case Law

- BSA Decision 2016-4327-A
- Matter of New York City Yacht Club v. New York City Dept. of Bldgs., 102 N.Y.S. 3d 19, 20 (1st Dep't. 2019)

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§ 118-a. The mayor may appoint, and at pleasure remove, a director of the port, who shall, under the direction of the mayor, represent him in matters pertaining to the port, harbor and waterfront.

§ 2. This act shall take effect immediately.

Chap. 503.

AN ACT to amend the Greater New York charter, in relation to the construction, alteration, structural changes in, occupancy, use and inspection of buildings and structures in said city, the enforcement of laws and ordinances and rules and regulations relating to said subject, the jurisdiction, powers and duties in relation thereto of departments, boards, bureaus and officers of said city and of the department of labor and the industrial commission of the state of New York, and by creating a board of standards and appeals, and a board of appeals in said city, and repealing certain provisions.[1]

Became a law May 10, 1916, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section four hundred and six of the Greater New York charter, as amended by chapter six hundred and forty-eight of the laws of nineteen hundred and five, is hereby amended so as to read as follows:

L. 1897, ch. 378, § 406, as re-enacted by L. 1901, ch. 466, and amended by L. 1905, ch. 648, amended.

DUTIES OF SUPERINTENDENT; APPOINTMENT AND REMOVAL OF SUBORDINATES.

§ 406. Each superintendent of buildings except as otherwise provided in this act, shall, within the borough in which he has jurisdiction, have exclusive jurisdiction and charge, subject to and in accordance with the general rules and regulations to be established by the board of standards and appeals, of the construction, alteration, structural changes in and removal of buildings

[1] The amendments effected by this act are so numerous and extensive that it is impracticable to indicate the changes made.

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of New York, as to all matters therein set forth, and no order, direction, or requirement at variance therewith shall be made or issued by any officer, department, board or bureau of the said city, except the tenement house department, nor by the department of labor of the state of New York, or any commission, board, officer or member thereof.

6. Temporary certificates. The superintendent of buildings may on request of the owner or his authorized representative, issue a temporary certificate of occupancy for any part of a building or structure, provided that such temporary occupancy or use would not in any way jeopardize life or property. But no such temporary certificate shall be issued in the case of a tenement house unless and until a certificate is issued by the tenement house commissioner as provided in section thirteen hundred and forty-four.

The word class as used in this section refers to the classification of buildings in the building code.

Ch. 14a added.

§ 6. The Greater New York charter is hereby amended by adding thereto a new chapter, to be inserted after chapter fourteen and to be known as chapter fourteen-a and to read as follows:

CHAPTER XIV-A.

BOARD OF STANDARDS AND APPEALS; PENALTIES FOR VIOLATION OF ORDERS, ET CETERA, OF BOARD, OF SUPERINTENDENT OF BUILDINGS AND OF FIRE COMMISSIONER.

BOARD OF STANDARDS AND APPEALS.

§ 718. 1. Constitution and appointment. The board of standards and appeals is hereby established. The words "the board" when used in this chapter refer to said board. It shall consist of the fire commissioner, the superintendents of buildings, the chief of the uniformed force of the fire department and six other members to be appointed by the mayor who are hereinafter referred to as the appointed members. Of the appointed members first appointed by the mayor, two shall be appointed for terms of one year, two for terms of two years and two for terms of three years, and annually thereafter the mayor shall appoint two members for terms of three years each. At all times there shall be among the appointed members of the board persons qualified as follows: one, other than the chairman, shall have had not less than ten years' experience as an architect; one, other than the chairman, shall have had not less than ten years' experience as a structural engineer; one, other than the chairman, shall have had not less than ten years' practical experience as a builder. The mayor shall designate one of the appointed members of the board as chairman and shall also appoint a secretary. The board shall appoint a chief clerk and such other subordinates as may be needed, who shall receive such compensation as may be provided pursuant to law. The clerk of the board of examiners is hereby transferred to the position of chief clerk of the board of standards and appeals. The chairman of the board shall be an architect or structural engineer of at least fifteen years' experience; he shall receive such annual compensation as shall be fixed by the board of aldermen upon the recommendation of the board of estimate and apportionment, he shall act as chairman of the board and of the board of appeals, and he shall not be engaged in any other occupation, profession or employment. The appointed members of the board other than the chairman shall receive such compensation as may be fixed by the board of aldermen upon the recommendation of the board of estimate and apportionment for each attendance at a meeting of the board.

2. Removal and filling vacancies. The mayor shall have power to remove any appointed member of the board, and the secretary of the board, and to fill vacancies occurring by such removal or other cause. Vacancies shall be filled for the unexpired term of the member whose place has become vacant.

3. Meetings. Meetings of the board and of the board of appeals shall be held at the call of the chairman and at such other times as such boards may determine. All meetings of such boards shall be open to the public. Each board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official action.

4. Bulletin; filing and publication of decision. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the board and of the board of appeals shall immediately be filed in the office of the board and shall be a public record. The board shall print and publish monthly or oftener at its option, a bulletin in which it shall publish every rule, regulation, every amendment or repeal thereof made by the board, and every order, requirement, decision

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and determination of the board of appeals, and the reasons therefor whenever it shall deem it practical to do so, and such other matters, including indices and digests, as the board may deem it advisable to publish.

JURISDICTION.

§ 718-a. The board shall: 1. Have power to test materials to be used pursuant to law, and to make investigations concerning all matters relating to the enforcement and effect of the provisions of this chapter, the building code, and the rules and regulations made by the board;

2. Make, amend and repeal rules and regulations for carrying into effect the provisions of the laws, ordinances and rules and regulations in respect of any subject or matter, jurisdiction whereof is conferred upon the board by this act, or upon a superintendent of buildings by title two of chapter nine of this act or by ordinance or upon the fire commissioner by title three of chapter fifteen of this act or by ordinance, and to include in such rules and regulations provisions applying to specific conditions and prescribing means and methods of practice to effectuate such provisions and for carrying into effect the powers of the board. Such rules and regulations shall take the place of rules and regulations made by a president of a borough, a superintendent of buildings or the fire commissioner;

3. Make, amend and repeal rules and regulations regarding the enforcement of those provisions of the labor law and other laws which relate to the construction, alteration, structural changes in, plumbing and drainage of, elevators, fire escapes on, adequacy and means of exit from and fire alarm systems in all buildings, except tenement houses, within the city of New York.

All rules and regulations made by the board pursuant to this section, shall take the place of the industrial code and of any rules or regulations of the labor department relating to the same subject matter.

4. Exercise exclusively with respect to buildings situated in the city of New York, the same powers as are conferred upon the industrial commission by chapter seven hundred and nineteen of the laws of nineteen hundred and fifteen.

5. During the month of December annually suggest to the mayor and corporation counsel changes or amendments to the law.

RULES AND REGULATIONS.

§ 718-b. 1. At least eight affirmative votes shall be necessary to the adoption, repeal or amendment of any rule or regulation by the board. At least ten days' notice of intention to adopt, amend or repeal any rule or regulation shall be given by publication in the bulletin of the board, and a public hearing shall be given before any action is taken thereon. The adopted rules and regulations and amendments and changes thereof, shall take effect not less than twenty days after the publication thereof in the bulletin of the board.

2. All rules and regulations heretofore lawfully adopted by a president of a borough, a superintendent of buildings, the fire commissioner or by any other officer, department, board or bureau of the city or by the labor department of the state or the industrial commission thereof relating to any matter within the jurisdiction of the board, shall continue in force until amended, repealed or superseded, and be enforced as rules and regulations of the board of standards and appeals. The corporation counsel shall, as soon as practicable after this act takes effect, compile, for the use of the board, a copy of such rules and regulations as he deems so continued in effect.

INSPECTION OF BUILDINGS.

§ 718-c. Each member of the board and the secretary shall have all powers to enter, inspect and examine buildings and structures, that are conferred upon a superintendent of buildings or upon the fire commissioner.

BOARD OF APPEALS.

§ 718-d. The appointed members of the board of standards and appeals and the chief of the uniformed force of the fire department, exclusive of the other members, shall hear and decide appeals from and review any rule, regulation, amendment or repeal thereof, order, requirement, decision or determination of a superintendent of buildings made under the authority of title two of chapter nine of this act or of any ordinance or of the fire commissioner under the authority of title three of chapter fifteen of this act or of any ordinance, or of the labor law. No member of the board shall pass upon any question in which he or any corporation in which he is a stockholder or security holder is interested.

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Hearings on appeals shall be before at least five members of the board of appeals, and the concurring vote of five members of the board of appeals shall be necessary to a decision.

The words board of appeals when used in this chapter refer to the said appointed members of the board of standards and appeals and the chief of the uniformed force of the fire department, when acting under the powers conferred by this section.

INSPECTIONS.

§ 718-e. Whenever the board of appeals shall deem it necessary that an inspection shall be made of any building, structure or vessel which is the subject of an appeal from an order, requirement, decision or determination of the fire commissioner, the chairman of the board and not less than two members of the board of appeals designated by the chairman shall visit and inspect such building, structure or vessel, and shall report their findings to the board of appeals in writing. The members other than the chairman shall receive for each such visit or inspection, and for attendance at meetings of the board of appeals, the same compensation as is paid to appointed members for attendance at meetings of the board of standards and appeals.

APPEALS.

§ 719. 1. What appealable. An appeal may be taken to the board of appeals from any order, requirement, decision or determination made by any superintendent of buildings under the authority of title two of chapter nine of this act or of any ordinance (except an order requiring an unsafe building, staging or structure to be made safe, and except an order punishing, removing or dismissing an employee, inspector or other subordinate), or made by the fire commissioner under the authority of title three of chapter fifteen of this act or of any ordinance, and from any rule, regulation, amendment or repeal thereof relating to the construction, alteration, structural changes in, equipment, occupancy or use of any building or structure, or vaults and sidewalks appurtenant thereto.

2. Who may appeal. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the city.

3. Appeal how taken. Such appeal shall be taken within such time as shall be prescribed by the board of appeals by general rule, by filing with the officer from whom the appeal is taken and with the board of appeals of a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

4. Stay. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by the supreme court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

5. Hearing of and decision upon appeal. The board of appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the law, the board of appeals shall have power in passing upon appeals, to vary or modify any rule or regulation or the provisions of any existing law or ordinance relating to the construction, structural changes in, equipment, alteration or removal of buildings or structures, or vaults and sidewalks appurtenant thereto, so that the spirit of the law shall be observed, public safety secured and substantial justice done. The board of appeals shall not vary or modify the tenement house law nor any rule, regulation or ruling of the tenement house commissioner. The decision shall be in writing and shall be filed in the office of the board and promptly published in the bulletin of the board. Each decision shall so far as is practicable be in the form of a general statement or resolution

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which shall be applicable to cases similar to or falling within the principles passed upon in such decision.

6. Review by board of appeals on its own motion. Any rule, regulation, amendment or repeal thereof and any order, requirement, decision or determination from which an appeal may be taken to the board of appeals under the provision of this section, may be reviewed by the board of appeals, upon motion of any member thereof, but no such review of a decision upon an appeal shall prejudice the rights of any person who has in good faith acted thereon before it is reversed or modified. The provisions of this chapter relating to appeals to the board of appeals shall be applicable to such review.

CERTIORARI TO REVIEW DECISION OF BOARD OF APPEALS.

§ 719-a. 1. Petition. Any person or persons, jointly or severally aggrieved by any decision of the board of appeals upon appeal or review had under section seven hundred and nineteen, or any officer, department, board or bureau of the city, or the industrial commission of the labor department of the state, may present to the supreme court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented to a justice of the supreme court or at a special term of the supreme court within thirty days after the filing of the decision in the office of the board, or its publication in the bulletin.

2. Writ of certiorari. Upon the presentation of such petition, the justice or court may allow a writ of certiorari directed to the board of appeals to review such decision of the board of appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court or a justice thereof. Such writ shall be returnable to a special term of the supreme court of the judicial district in which the property affected, or a portion thereof, is situated. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

3. Return to writ. The board of appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return must concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and must be verified.

4. Proceedings upon return. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

5. Costs. Costs shall not be allowed against the board, unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

6. Preferences. All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

PENALTY FOR NON-COMPLIANCE WITH ORDERS, ET CETERA, OF BOARD, OF SUPERINTENDENTS OF BUILDINGS AND OF FIRE COMMISSIONER.

§ 719-b. Any person who shall knowingly violate or fail to comply with any lawful order or requirement of the board made under the authority of this chapter or of a superintendent of buildings made under the authority of title two of chapter nine of this act or of the fire commissioner made under the authority of title three of chapter fifteen of this act, shall be guilty of a misdemeanor; and shall in addition thereto, and in addition to all other liabilities and penalties imposed by law, ordinances, rules and regulations, forfeit and pay for each and every such violation and non-compliance respectively, a penalty in the sum of not more than two hundred and fifty dollars, as may be fixed by the court awarding judgment therefor. An action may be brought for the recovery of any such penalty or penalties in any municipal court or court of record in said city in the name of the city.

§ 774, as amended by L. 1914, ch. 459, amended.

§ 7. Section seven hundred and seventy-four of the Greater New York charter, as amended by chapter four hundred and fifty-nine of the laws of nineteen hundred and fourteen,[2] is hereby amended so as to read as follows:

[2] Section 774 was added by L. 1911, ch. 899, and amended by L. 1913, ch. 695.

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NYC Buildings

Rick D. Chandler, P.E.
Commissioner

Mark Davis
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New York, NY 10007
www.nyc.gov/buildings

+1 212 393 2049 tel

August 25, 2017

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

Re: Interpretive Appeal No. 2016-4327-A
15 E. 30th Street, Manhattan
Block 860, Lot 12, 63, 67, and 69

Dear Honorable Members of the Board:

The Department of Buildings (the "Department") submits this response to Appellant's August 8, 2017 submission in the above-captioned matter. For the reasons stated in the Department's July 11, 2017 submission in this matter, and as further explained below, the Department's approval and permit issued for the above referenced new building are proper and should be upheld.

I. Floors 2-4 of the Subject Property are Exempt from "Floor Area" Under the "Mechanical Equipment" Exemption.

As explained in the Department's July 11, 2017 submission, floors two through four of the proposed new building approved and permitted under NB Job # 122128679 (the "Job") fall under exception 8 to ZR 12-10's definition of "floor area" for "floor space used for mechanical equipment." The Department has reviewed the mechanical space drawings, including new, more detailed approved drawings for the space at issue[1] and has concluded that the floor space on such floors is devoted to housing the mechanical equipment of the building, and it cannot be occupied for purposes other than housing such equipment. As such, the floor space devoted to mechanical equipment is properly exempt from floor area. The ZR does not contain any regulations on the floor-to-ceiling height of a building's mechanical spaces, and thus there is no maximum height. Contrary to Appellant's suggestion, the height of these floors does not prevent the space from being designated as mechanical space, and nor is such height, by itself, a separate "use."

[1] Attached hereto as Exhibit "A."

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At the July 25, 2017 hearing in this matter, the Board asked the Department questions about its typical plans reviews for mechanical deductions. The questions and the Department's responses follow.

Q1) Is there a "rule of thumb" to determine the maximum mechanical space allowed for a building based upon the percentage of the building's zoning floor area?

a. There is no such rule of thumb.

Q2) Is the amount of mechanical space claimed in a proposed building compared to similar buildings to ensure that such deductions are common for the particular building type?

a. No; each building is analyzed individually.

Q3) Is it significant for the Department's review that the mechanical floors in the Subject Building are grouped together in floors 2-4 and 51-52 rather than spread throughout the building?

a. No; each floor is analyzed individually.

II. The Job is not in Violation of Legal Light and Air Requirements.

In its latest submission, Appellant repeats its unsupported arguments that light and air requirements applicable to residential uses apply to the Job.

Firstly, as detailed at length in the Department's July 11th submission , the Hotel Chandler is not a residential building that would trigger such requirements. According to its Certificate of Occupancy (CO), it is a transient hotel. While Appellant has argued that some tenants live permanently at the Hotel Chandler under Rent Stabilization Law protection, as fully explained in the Department's previous submission, such occupancy does not trigger zoning resolution, housing maintenance code, or multiple dwelling law provisions related to residential occupancy.

Furthermore, even if the light and air requirements that Appellant cites apply to the Hotel Chandler, Appellant has not presented any evidence (despite many opportunities to do so) that even one of the permanent occupants of the Hotel Chandler lives in a unit that would purportedly trigger the size requirements for the space between the hotel and the Subject Building.

III. The Job Does not Violate Minimum Space Between Buildings Requirements.

Appellant raises for the first time in its latest submission the issue of the Job's compliance with MDL 28's distance between buildings requirement. MDL §28(2) states, in relevant part:

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> if any building or dwelling is placed on the rear of the same lot with a multiple dwelling or a multiple dwelling is placed anywhere on the same lot with another building, there shall be left between the two buildings an open space unoccupied from the ground up and at least forty feet in depth, measured in the direction from one building to the other for the first one hundred twenty-five feet above the curb level, and eighty feet above that point.

Appellant appears to interpret this provision to apply to the Hotel Chandler and the Subject Building because, after the zoning lot merger at issue, they will be on the same *zoning lot*. However, the MDL is a New York State Law, and *zoning lots* are governed only by the New York City Zoning Resolution. As MDL 28(2) does not specifically refer to *zoning lots*, and because there is no other reason to interpret the term "lot" in this section as referring to a *zoning lot,* the term "lot" is properly read here to refer to a *tax lot*, created per State law. Because the Hotel Chandler and the Subject Building were constructed on different *tax lots* and remain on different *tax lots* (74 and 12, respectively), the distance requirement of MDL 28(2) does not apply.

To the extent that Applicant argues in its latest submission that ZR 23-711's minimum distance regulations apply to the Hotel Chandler, the hotel's non-residential use (explained above and in the Department's first submission) precludes such application.

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IV. CONCLUSION

For the reasons stated above, the Department respectfully requests that the BSA uphold the Department's approval and permit of the Job.

Respectfully submitted,

Mark Davis
Assistant General Counsel

Cc: Christopher Rizzo, Attorney for Appellant
Thomas Fariello, R.A., First Deputy Commissioner
Martin Rebholz R.A., Borough Commissioner, Manhattan
Mona Sehgal, General Counsel
Felicia R. Miller, Deputy General Counsel
Anita Laremont, General Counsel, Department of City Planning
Jesse Masyr, Attorney for Madison 30 31 Owner, LLC.
Neil Weisbard, Attorney for Hotel Chandler

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NYC Buildings

NYC Buildings Department
280 Broadway, New York, NY 10007

Robert D. LiMandri, Commissioner

BUILDINGS BULLETIN 2015-DRAFT

Zoning Interpretation

Supersedes:

Issuer: Thomas Fariello, R.A.
First Deputy Commissioner

Issuance Date: Month, Day, 2015

Purpose: This document is to clarify the extent to which floor space used for mechanical equipment may be excluded from the sum of a building's zoning floor area as defined by Zoning Resolution (ZR) Section 12-10.

Related Code Section(s): ZR 12-10 "floor area" (8)
BSA Cal. No. 315-08-A

Subject(s): Zoning, floor area
Zoning, mechanical equipment
Zoning, mechanical deductions

"Floor Area" is defined within Zoning Resolution (ZR) Section 12-10 as "…the sum of the gross area of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings…." The definition also provides items that shall not be included as "floor area." Floor space devoted to mechanical equipment, as specified by ZR 12-10 (8) of "floor area," shall not be included as "floor area":

12-10
DEFINITIONS
. . . .
Floor area (2/2/11)
. . . .
However, the #floor area# of a #building# shall not include:
. . . .
floor space used for mechanical equipment, except that such exclusion shall not apply in R2A Districts, and in R1-2A, R2X, R3, R4, or R5 Districts, such exclusion shall be limited to 50 square feet for the first #dwelling unit#, an additional 30 square feet for the second #dwelling unit# and an additional 10 square feet for each additional #dwelling unit#. For the purposes of calculating floor space used for mechanical equipment, #building segments# on a single #zoning lot# may be considered to be separate #buildings#;

The purpose of this Bulletin is to clarify what types of equipment qualify as "mechanical equipment" as well as establishing size criteria for "floor area" deduction. In doing so, the Department shall interpret that in order for floor

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space devoted to mechanical equipment to be excluded from "floor area," such equipment must be necessary for the operation of a building or portion thereof and not only to support a particular type of occupancy or use within the building. Please note that this Bulletin does not address ZR 12-10 (2) of "floor area" related to bulkheads, water tanks and cooling towers.

A. Limitations on "floor area" deductions

(1) Floor spaces occupied by the following mechanical equipment may be excluded from "floor area"

a) Heating, ventilation, air conditioning equipment including, but not limited, to chillers, pumps and heating exchange equipment (HX), and heat pumps, except those specified within Part B(1)

b) Packaged terminal air conditioning units

c) Boilers and domestic hot water heating equipment

d) Emergency generators and related equipment including automatic transfer switches provided such equipment is used in connection with the occupancy, components, equipment or systems specified in BC Chapter 27, whether required or voluntary

e) Uninterrupted power supply (UPS) system supplying emergency back-up power to essential building systems including fire alarm and egress lighting systems

f) Fire alarm control panels and fire command station

g) Fire sprinkler pump and system

h) Mechanical shafts including enclosure

i) Plumbing and gas pipe risers and chases including enclosure *

j) Horizontal piping and ducts lower than 6'-0" above the floor level *

k) Chimneys and boiler flues*

l) Electrical service panels, conduits, risers, chases and related equipment

m) Refuse chutes* (in addition to "refuse disposal room" exclusion where ZR 28-23 is applicable)

n) Refuse compactor when not located in the cellar

o) Tanks including fuel tanks, water storage tanks and storm water retention tanks

p) Domestic water pumps and equipment

q) Cogeneration equipment

r) Elevator machine and equipment not above roof in a bulkhead

*See paragraph 2 below

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(2) Floor space directly adjacent to mechanical equipment necessary for the purpose of access and servicing of such equipment (except as otherwise noted in Part C). Such areas shall be determined in accordance with (a), (b) or (c) below, unless an asterisk appears after equipment listed above signifying that no adjacent service area can be deducted:

a) 1 : 1 ratio of equipment area-to-adjacent service area;

b) Manufacturer's recommendation for accessing and servicing area for a particular equipment item or clearance specified by NYC construction and electrical codes; or

c) 3' x 3' area for each electrical service panel and fire alarm control panel

B. Floor spaces that must be included as "floor area"

The following items are examples of floor spaces that cannot be deducted from "floor area" and is by no means an exhaustive list. Such examples are provided so that similar instances or circumstances of like kind or character are also included in "floor area."

(1) Spaces containing individual radiators, convectors and air conditioning units (including portable, window boxair conditioning units);

(2) Rooms and/or spaces containing computer servers and related equipment;

(3) Rooms and/or spaces containing telecommunication equipment except where such equipment only supports a required emergency voice/alarm communication system (i.e. fire command station) pursuant to BC 907.2.12.2; and

(4) Rooms and/or spaces containing cable television / broadband equipment.

C. Criteria for excluding incidental floor space from "floor area" for rooms and floors

Notwithstanding floor space that is identified in Paragraph B, if rooms or portions of an open floor layout meet the criteria set forth below, then such rooms or spaces may be excluded from "floor area" including interior walls and exterior walls.

(1) If 90 percent of a room contains floor space that may be excluded by applying Part A(1) and Part A(2), and the remainder of such room consists exclusively of circulation space and is not occupied, then the entirety of such room, including interior walls, may be excluded from "floor area";

(2) If 90 percent of an open floor layout (i.e. no partitions) contains floor space that may be excluded by applying Part A(1) and Part A(2), and the remainder of such floor consists exclusively of circulation space is not occupied, then the entirety of such open floor, including exterior walls, may be excluded from "floor area"; and

(3) When a floor is wholly devoted to mechanical space either by applying C(1) or C(2), then the stairwell and elevator shaft at that floor may also be excluded from "floor area" pursuant to BSA Cal. No. 315-08-A.

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DEPT BLDGS Job No. 123470902
Scan Code ESHS3044175

ZRD1/CCD1 Response Form

Location Information (To be completed by a Buildings Department official if applicable)

House No(s) 1230 Street Name Madison Avenue

Borough Manhattan Block 01500 Lot 0055 BIN 1046960 Job No. 123470902

DETERMINATION (To be completed by a Buildings Department official)

Request has been:	☐ Approved	☐ Denied	☒ Approved with conditions
Follow-up appointment required?	☐ Yes	☒ No	

Primary Zoning Resolution or Code Section(s). ZR 12-10 definition

Other secondary Zoning Resolution or Code Section(s):

Control Number: 56035

Comments:

The proposed 20 story, mixed use, New Building of class 1-B construction classification is located in the R10, C1-5 and special Madison Avenue Preservation district. Applicant requests confirmation of exclusion of mechanical spaces based on a DRAFT DOB Building Bulletin (see attached) to include:
1. If 90 percent of the open floor layout contain floor space that may be excluded by applying Part A(1) and Part A (2) and the remainder of such floor is non-occupied, then the entirety of such open floor, including exterior walls. maybe excluded from the floor area:
2. When a floor is wholly devoted to mechanical spaces wither by applying C(1) or C(2), then the stairwell and elevator shaft as that floor may also be excluded from the "floor area"

The request to review and confirm the proposed mechanical deductions at the 18th through 20th floors of the attached plans is approved and clarified as follows:
1. The attached 'draft' Bulletin has not been officially issued by the DOB and may not be deemed as such. However, as per DOB policy both items noted by the applicant may be excluded as mechanical deductions from the zoning floor area.
2. Applicant shall submit detailed calculation for the mechanical deduction and other zoning floor area deductions to be reviewed by plan examiner to verify the compliance with ZR 12-10 definition of floor area.
3. On the attached plans the areas "open to below" at the 19th and 20th floors that are enclosed by the mechanical screen walls may not be deducted, as they are not mechanical floor areas, and are open to the mechanical floor area at the 18th floor (which may be deducted as proposed).

This CCD1/ZRD1 is approved ONLY for the specific request and conditions as noted above. The attached plans / documentation have not been reviewed beyond the context of the specific request and shall not be deemed as having been reviewed and approved in accordance with applicable Zoning Resolution, Building and other Codes. DOB examiner shall verify that plans filed, comply with all the conditions of approval.

==========

Note: If approved determination is not scanned or micro filmed, it will be deemed invalid.

Name of Authorized Reviewer (please print): Azmi Zaned-Atkins, RA

Title (please print): Code & Zoning Specialist, Manhattan Borough

Authorized Signature: Date:

Issuers: write signature, date, and time on each page of the approved forms; and attach this form.

REVIEWED BY
Azmi Zaned-Atkins, RA
Code & Zoning Specialist

APPROVED
WITH CONDITIONS
01/14/19
Page 1 of 11
Control No. 56035

Note: Determination will expire if construction documents approval is not obtained within 12 months of issuance.

12/15

R. 002550

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ZRD1: Zoning Resolution Determination Form

Orient and affix BIS job number label here

Must be typewritten.

Use this form only to request Zoning Resolution determination (use CCD1 for all other requests)

1 Location Information *Required for all requests on filed applications.*

House No(s) 1230 Street Name Madison Avenue

Borough Manhattan Block 01500 Lot 0055 BIN 1046960 CB No. 108

2 Applicant Information *Required for all requests on filed applications.*

Last Name Glas First Name Gloria Middle Initial B

Business Name SLCE Archirects LLP Business Telephone (212) 979-8400

Business Address 1359 Broadway 14th Floor Business Fax

City New York State Zip 10018 Mobile Telephone

E-Mail gglas@slcearch.com License Number 020204

License Type ☐ P.E. ☒ R.A. **DOB PENS ID # (if available)**

3 Attendee Information *Required if different from Applicant in Section 2 or no Applicant.*

Relationship to the property: ☐ Attorney ☒ Filing Representative (Class 2) ☐ Other

Last Name GO/AK/NAT/PAO/TOW/IS First Name JO/HO/PET/BR/AR Middle Initial

Business Name JM ZONING Business Telephone (212) 964-4464

Business Address 299 BROADWAY, SUITE 1100 Business Fax (775) 628-3726

City NEW YORK State NY Zip 10007 Mobile Telephone

E-Mail NB@JMZONING.COM License/Registration # (if P.E./R.A./R.L.A./Attorney) 001185

4 Nature of Request *Required for all requests. Only one request may be submitted per form.*

Determination request is for: ☒ Determination ☐ Predetermination

Determination request issued to: ☒ Borough Commissioner's Office (Initial) ☐ Technical Affairs (Appeal)

Job associated with this request? ☒ Yes (provide job # / doc # / obj # / examiner name below) ☐ No

Job #: 123470902 Document: 01 Objection #: 13-15 Examiner: Wymen Yu

Has this request or a similar one been previously Denied? ☐ Yes *(attach all denied request form(s) and attachment(s))* ☒ No

Enter short description of Technical Topic (5 words or less): FLOOR AREA MECHANICAL EXCLUSIONS

Enter All Control #(s) for related CCD1/ZRD1 requests:

Request for 1-3 family dwelling? ☐ Yes ☒ No For HPD Affordable Housing? ☐ Yes ☒ No Fee Exempt per 28-112.1? ☐ Yes ☒ No

Zoning District(s): R10 MDL:

Zoning Overlay(s): C1-5 BBs:

Special District(s): MP Other:

ZR Section: 12-10 Code Section: Rule #: TPPN, Memo.

Indicate all Buildings Department officials that you have previously reviewed this issue with (if any): ☐ Borough Commissioner ☐ Code & Zoning Specialist ☐ General Counsel's Office ☐ Deputy Borough Commissioner ☐ Chief Plan Examiner ☐ Other

ADMINISTRATIVE USE ONLY		
Control #:	REVIEWED BY Azmi Zahed, AIA, RA Code & Zoning Specialist	Appointment date
Appointment Scheduled With:		
Comments:		
Review Team Members:		
Reviewed By:	APPROVED WITH CONDITIONS 01/14/19 Page 2 of 11 Control No. 56035	**Date**

01/18

R. 002551

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160565/2020
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021

2019 94 A 12/04/2019

ZRD1: Zoning Resolution Determination Form

5 Description of Request (additional space is available on page 3)

NOTE: Buildings Department officials will only interpret or clarify the Zoning Resolution. Any request for variations of the Zoning Resolution must be filed with the Board of Standards and Appeals (BSA) or the Department of City Planning (DCP).

Please itemize all attachments, including plans/sketches, submitted with this form. ***(attachment may not be larger than 11" x 17")***
If request is based on a plan examiner objection, type in the applicable objection text exactly as it appears on the Objection sheet and include a copy of the Objection sheet in the submitted Pdf.

Respectfully requesting the Department's confirmation that proposed floors dedicated to mechanical use only do not count as floor area.

The above referenced building is a new twenty-story, 210 feet high, Class I-B (2 hour protected) mixed use building. The building is to have a commercial use at the cellar and first floors, with residential above. The building is located on the west side of Madison Avenue between East 88th and East 89th Streets in a R10/C1-5 district.

Per ZR 12-10 DEFINITIONS
..., the floor area of a building shall not include:
(8) floor space used for mechanical equipment,...

Additionally, the Department has also used the enclosed draft Buildings Bulletin as a guide for establishing mechanical spaces that are excluded from floor area. In the bulletin, Part C: it states "CRITERIA FOR EXCLUDING INCIDENTAL, NON-OCCUPIABLE SPACE FROM FLOOR AREA FOR ROOMS AND FLOORS:
(2) If 90 percent of an open floor layout contains floor space that may be excluded by applying Part A (1) and Part A(2) and the remainder of such floor is non-occupied, than the entirety of such open floor, including exterior walls, maybe excluded from floor area;
and
(3) When a floor is wholly devoted to mechanical space either by applying C(1) or C(2), then the stairwell and elevator shaft at that floor may also be excluded from "floor area" ...".

Please note that all equipment specified at floors eighteen through twenty qualifies per Part A(1) and (2).
As demonstrated on the attached plans, the proposed eighteenth through twentieth floors are dedicated to mechanical uses only.

Please confirm that the entire proposed eighteen through twentieth floors, consisting only of mechanical use and containing elevators, elevator vestibules, stairwells & corridors for maintenance access only, do not count towards floor area.

ITEMIZED LIST OF ATTACHMENTS:
1) 1230 Madison Ave 18 through 20th Floors Plans
2) Buildings Bulletin 2013 Draft
3) Fee Paid Receipt

NOTE: Department of Buildings Determination will be issued on the ZRD1 Response Form

6 Statements and Signature *Required for all requests (If Attorney, include 'Esquire' or 'Esq.' in signature)*

I hereby state that all of the above information is correct and complete to the best of my knowledge. Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both. It is unlawful to give to a City employee, or for a City employee to accept, any benefit, monetary or otherwise, either as a gratuity for properly performing the job or in exchange for special consideration. Violation is punishable by imprisonment or fine, or both.

Name (please print)
Gloria B Glas

Signature

Date
10-31-2018

REGISTERED ARCHITECT GLORIA B. GLAS STATE OF NEW YORK 026020

P.E. seal (required for [illegible] over seal – not required for [illegible] applications)

REVIEWED BY
Azmi Zahed-Atkins, RA
Code & Zoning Specialist

ADMINISTRATIVE USE ONLY **Control #:**

Reviewed By: **Date:**

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WITH CONDITIONS
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01/18

R. 002552

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160565/2020
2018-04-A 12/04/2019
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021

ZRD1: Zoning Resolution Determination Form

7	**Description of Request** (use this section if additional space is required for description)

NOTE: Department of Buildings Determination will be issued on the ZRD1 Response Form

8	**Statements and Signature** *Required for all requests (If Attorney, include 'Esquire' or 'Esq.' in signature)*	
	I hereby state that all of the above information is correct and complete to the best of my knowledge. Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both. It is unlawful to give to a City employee, or for a City employee to accept, any benefit, monetary or otherwise, either as a gratuity for properly performing the job or in exchange for special consideration. Violation is punishable by imprisonment or fine, or both.	Name (please print) Gloria B Glas Signature Date 10-31-2018 P.E. ... *...ate over seal – not required for ... applications)*

REGISTERED ARCHITECT GLORIA B. GLAS STATE OF NEW YORK 020203

REVIEWED BY
Azmi Zahed-Atkins, RA
Code & Zoning Specialist

ADMINISTRATIVE USE ONLY	**Control #:**	
Reviewed By:		**Date**

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WITH CONDITIONS
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R. 002553

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160565/2020
2019-94-A 12/04/2019
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NYC Buildings

NYC Buildings Department
280 Broadway, New York, NY 10007

Robert D. LiMandri, Commissioner

BUILDINGS BULLETIN 2013-XXX

Zoning Interpretation

Supersedes:

Issuer: Thomas Fariello, R.A.
First Deputy Commissioner

Issuance Date: XXX, 2013

Purpose: This document is to clarify the extent to which floor space used for mechanical equipment may be excluded from the sum of a building's zoning floor area as defined by Zoning Resolution (ZR) Section 12-10.

Related Code Section(s): ZR 12-10 "floor area" (8)
BSA Cal. No. 315-08-A

Subject(s): Zoning, floor area
Zoning, mechanical equipment
Zoning, mechanical deductions

"Floor Area" is defined within Zoning Resolution (ZR) Section 12-10 as "...the sum of the gross area of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings...." The definition also provides items that shall not be included as "floor area." Floor space devoted to mechanical equipment, as specified by ZR 12-10 (8) of "floor area," shall not be included as "floor area."

The purpose of this Bulletin is to clarify what types of equipment qualify as "mechanical equipment" as well as establishing size criteria for "floor area" deduction. In doing so, the Department shall interpret that in order for floor space devoted to mechanical equipment to be excluded from "floor area," such equipment must be necessary for the operation of a building or portion thereof and not only to support a particular type of occupancy or use within the building. Please note that this Bulletin does not address ZR 12-10 (2) of "floor area" related to bulkheads, water tanks and cooling towers.

A. **Limitations on "floor area" deductions**

(1) Floor spaces occupied by the following mechanical equipment may be excluded from "floor area"

a) Heating, ventilation, air conditioning equipment (including, but not limited, to chillers, pumps and heating exchange equipment (HX) except those specified within Part B(1);

b) Boilers and domestic hot water heating equipment;

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Azmi Zahed Atkins, RA
Code & Zoning Specialist

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Building Code Review
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c) Domestic water pumps and equipment;

d) Emergency generators and related equipment including automatic transfer switches provided such equipment is used in connection with the occupancy, components, equipment or systems specified in BC Chapter 27, whether required or voluntary;

e) Uninterrupted power supply (UPS) system supplying emergency back-up power to essential building systems including fire alarm and egress lighting systems;

f) Fire sprinkler pump and system;

g) Mechanical shafts including enclosure;

h) Plumbing and gas pipe risers and chases including enclosure; *

i) Horizontal piping and ducts lower than 6'-0" above the floor level; *

j) Chimneys and boiler flues;*

k) Electrical service panels, conduits, risers, chases and related equipment;

l) Refuse chutes* (in addition to "refuse disposal room" exclusion where ZR 28-23 is applicable);

m) Refuse compactor rooms; ~~when not located in the cellar~~ [removed as superfluous]

n) Tanks including fuel tanks, water storage tanks and storm water retention tanks;

o) Cogeneration equipment; and

p) Elevator machine rooms not above roof in a bulkhead.

*See paragraph 2 below

(2) Floor space directly adjacent to mechanical equipment necessary for the purpose of access and servicing of such equipment (except as otherwise noted in Part C). Such areas shall be determined in accordance with either (a) or (b), unless an asterisk appears after equipment listed above signifying that no adjacent service area can be deducted:

a) 1 : 1 ratio of equipment area-to-adjacent service area; or

b) Manufacturer's recommendation for accessing and servicing area for a particular equipment item or clearance specified by NYC construction and electrical codes.

B. Floor spaces that must be included as "floor area"

The following items are examples of floor spaces that cannot be deducted from "floor area" and is by no means an exhaustive list. ~~Such examples are provided so that~~ similar instances or circumstances of like kind or character are also included in "floor area."

(1) Spaces containing individual radiators, convectors and air conditioning units (including portable, window box, in-wall or packaged terminal air conditioning units);

(2) Rooms and/or spaces containing computer servers and related equipment;

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Azmi Zahed-Atkins, RA
Code & Zoning Specialist
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(3) Rooms and/or spaces containing telecommunication equipment except where such equipment only supports a required emergency voice/alarm communication system (i.e. fire command station) pursuant to BC 907.2.12.2; and

(4) Rooms and/or spaces containing cable television / broadband equipment.

C. Criteria for excluding incidental, non-occupied floor space from "floor area" for rooms and floors

Notwithstanding floor space that is identified in Paragraph B, if rooms or portions of an open floor layout meet the criteria set forth below, then such rooms or spaces may be excluded from "floor area including interior walls and exterior walls"

(1) If 90 percent of a room contains floor space that may be excluded by applying Part A(1) and Part A(2) and the remainder of such room is non-occupied, then the entirety of such room, including interior walls, may be excluded from "floor area";

(2) If 90 percent of an open floor layout (i.e. no partitions) contains floor space that may be excluded by applying Part A(1) and Part A(2) and the remainder of such floor is non-occupied, then the entirety of such open floor, including exterior walls, may be excluded from "floor area"; and

(3) When a floor is wholly devoted to mechanical space either by applying C(1) or C(2), then the stairwell and elevator shaft at that floor may also be excluded from "floor area" pursuant to BSA Cal. No. 315-08-A.

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Azmi Zahed-Atkins, RA
Code & Zoning Specialist
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WITH CONDITIONS
01/14/19
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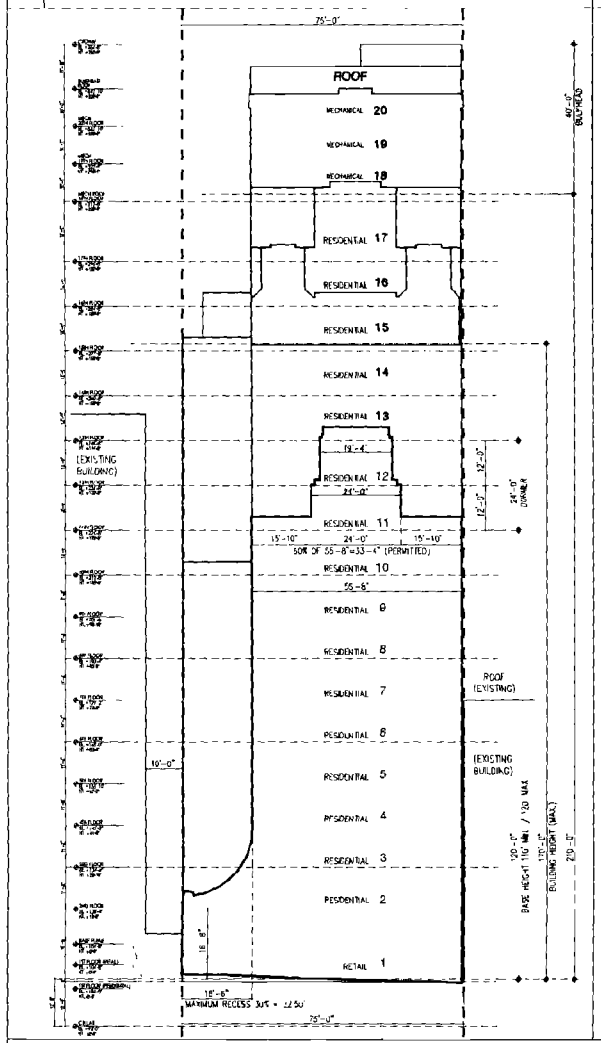
2019-94-A 12/04/2019

1 ELEVATION



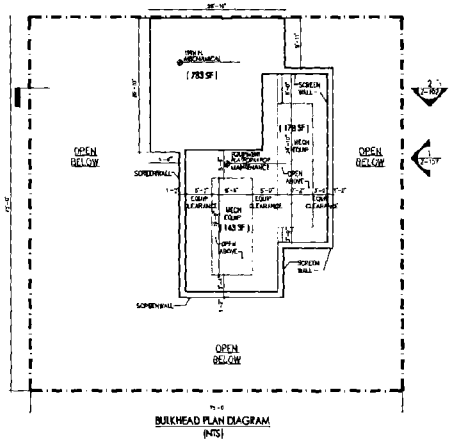
PERMITTED OBSTRUCTIONS FOR WIDE STREET
SECTION 23-62(g)(3)(ii)
ACCESSORY MECHANICAL EQUIPMENT (INCLUDING ENCLOSURES) SHALL BE PERMITTED TO PENETRATE THE SKY EXPOSURE PLANE PROVIDED THAT SUCH OBSTRUCTIONS & SCREENING ARE CONTAINED WITHIN A VOLUME THAT COMPLIES WITH:

LOT COVERAGE OF OBSTRUCTIONS DOES NOT EXCEED 20% OF LOT COVERAGE OF BUILDING MAX HEIGHT OF OBSTRUCTIONS IS 40'

LOT COVERAGE OF OBSTRUCTION = 1,124 SF
(783 SF + 163 SF + 178 SF = 1,124 SF)

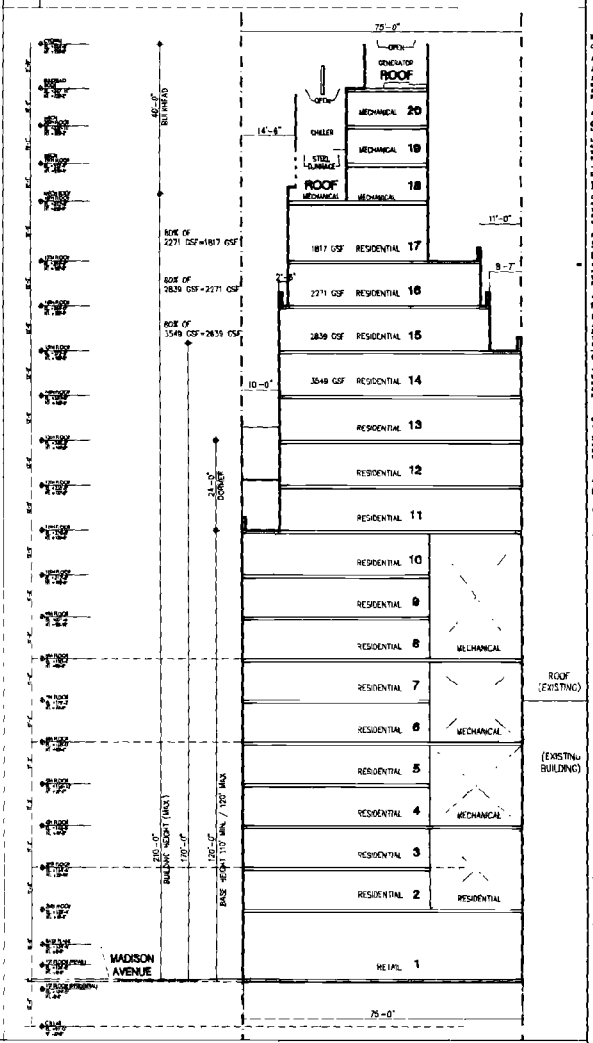
LOT COVERAGE OF BUILDING = 5625 SF
5625 X .20 = 1125 SF
1,124 SF < 1125 SF COMPLIES

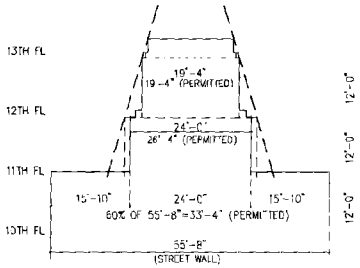
MAX HEIGHT OF OBSTRUCTION = 40.00'
40.00' < 40.00' COMPLIES



BULKHEAD PLAN DIAGRAM
(NTS)

2 SECTION





DORMER CALCULATION
(N.T.S)

33'-4" MINUS 14'= 19'-4" PERMITTED
19'-4" PROPOSED

33'-4" MINUS 7'= 26'-4" PERMITTED
24'-0" PROPOSED

1% OF 55'-8"= 7"
12' X 7" =84"=7'

99-052 RECESSES, BALCONIES, AND DORMERS

1. DORMERS SHALL BE ALLOWED AS A PERMITTED OBSTRUCTION, PROVIDED THAT ON ANY #STREET# FRONTAGE, THE AGGREGATE WIDTH OF ALL DORMERS AT THE MAXIMUM BASE HEIGHT DOES NOT EXCEED 60 PERCENT OF THE WIDTH OF THE #STREET WALL# OF THE HIGHEST #STORY# ENTIRELY BELOW THE MAXIMUM BASE HEIGHT. FOR EACH FOOT ABOVE THE MAXIMUM BASE HEIGHT, THE AGGREGATE WIDTH OF ALL DORMERS SHALL BE DECREASED BY ONE PERCENT OF THE #STREET WALL# WIDTH OF THE HIGHEST #STORY# ENTIRELY BELOW THE MAXIMUM BASE HEIGHT

APPROVED WITH CONDITIONS

1230 MADISON AVE

ARIL CAPITAL
A Brad Bilotta Investment Company

SLCEArchitects, LLP

Robert A.M. Stern Architects

SDC
Engineering, P.C.

ICOR
Consulting Engineers

Jenkins & Huntington, Inc

VIDARI INC

LONGMAN LINDSEY

DEPARTMENT OF BUILDINGS APPLICATION NUMBER
123 470 902

10-31-19 DOB RESUBMISSION
09-25-19 DOB SUBMISSION
03-14-19 SCHEMATIC DESIGN

No. Date Description

SCALE

KEY PLAN

E 69TH STREET
MADISON AVENUE
SCALE: 1"=0"

1230 MADISON AVE
NEW YORK, NEW YORK

ZONING SECTION

SEAL & SIGNATURE

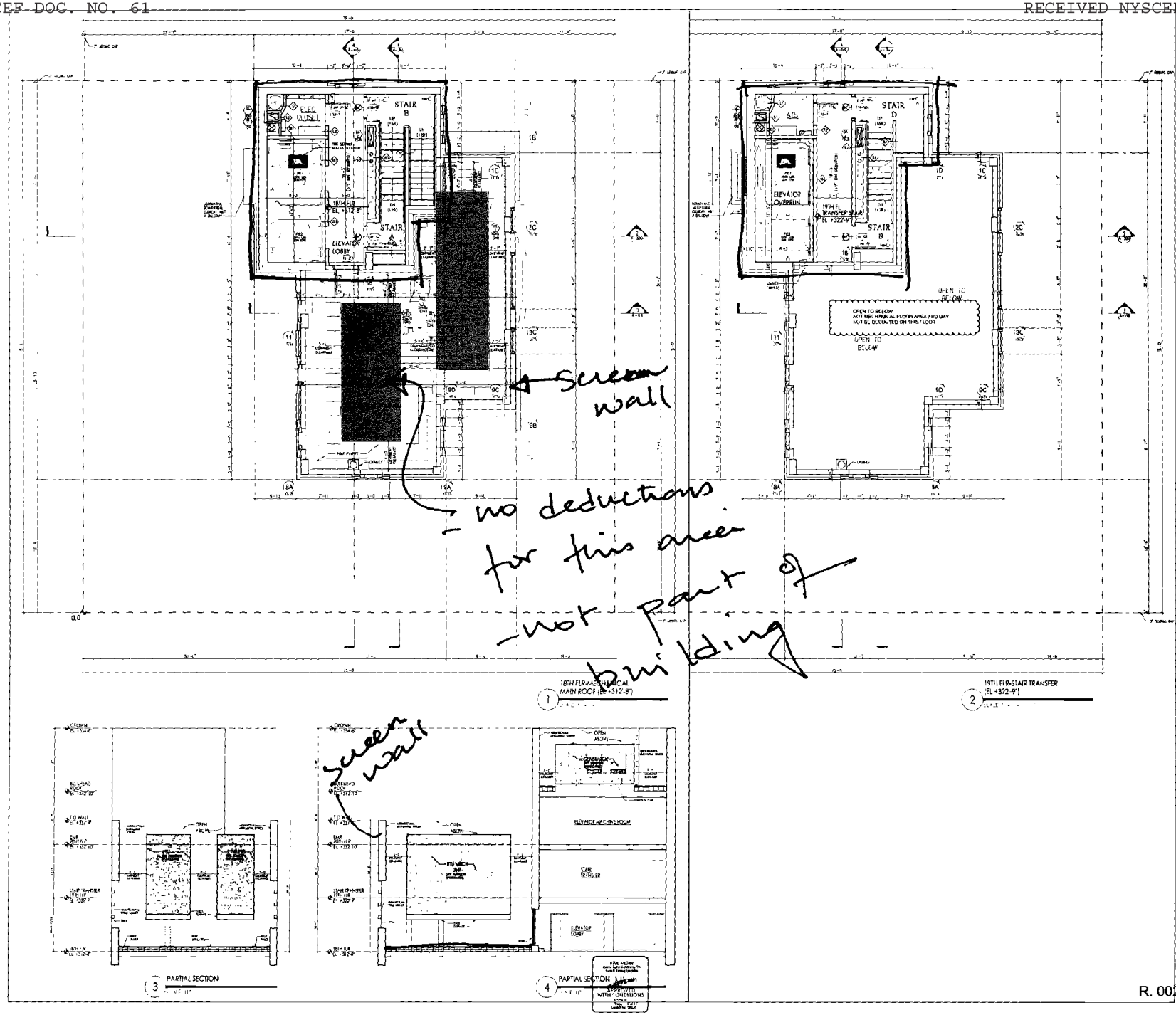
DATE
PROJECT No. 2017-72
DRAWN BY
CHECKED BY
SHEET NO.
Z-107.00

R. 00255

3383

2019-94-A

12/04/2019



1230 MADISON AVE

OWNER / DEVELOPER
AREL CAPITAL
A Reed Estate Investment Company

ARCHITECT OF RECORD
SLCE Architects, LLP

DESIGN ARCHITECT
Robert A.M. Stern Architects

STRUCTURAL ENGINEER
SDG
Engineering, P.C.

MEP ENGINEER
JCOR
Consulting Engineers

PLAN EXPEDITOR
Jenkins & Huntington Inc

WASTE WATER CONSULTANT
VIDARS INC.

ACOUSTICAL CONSULTANT
LONGMAN LINDSEY

DEPARTMENT OF BUILDINGS APPLICATION NUMBER
123 470 902

NO	DATE	REMARK
10-15		CONFORMATION
09-16		CONFORMATION
07-20		CONFORMATION
03-21		STRUCTURAL ZEBOM

SCALE

KEY PLAN

PROJECT
1230 MADISON AVE
NEW YORK, NEW YORK

TITLE
18TH FLR AND 19TH FLR MECHANICAL / ROOF PLAN

SEAL & SIGNATURE

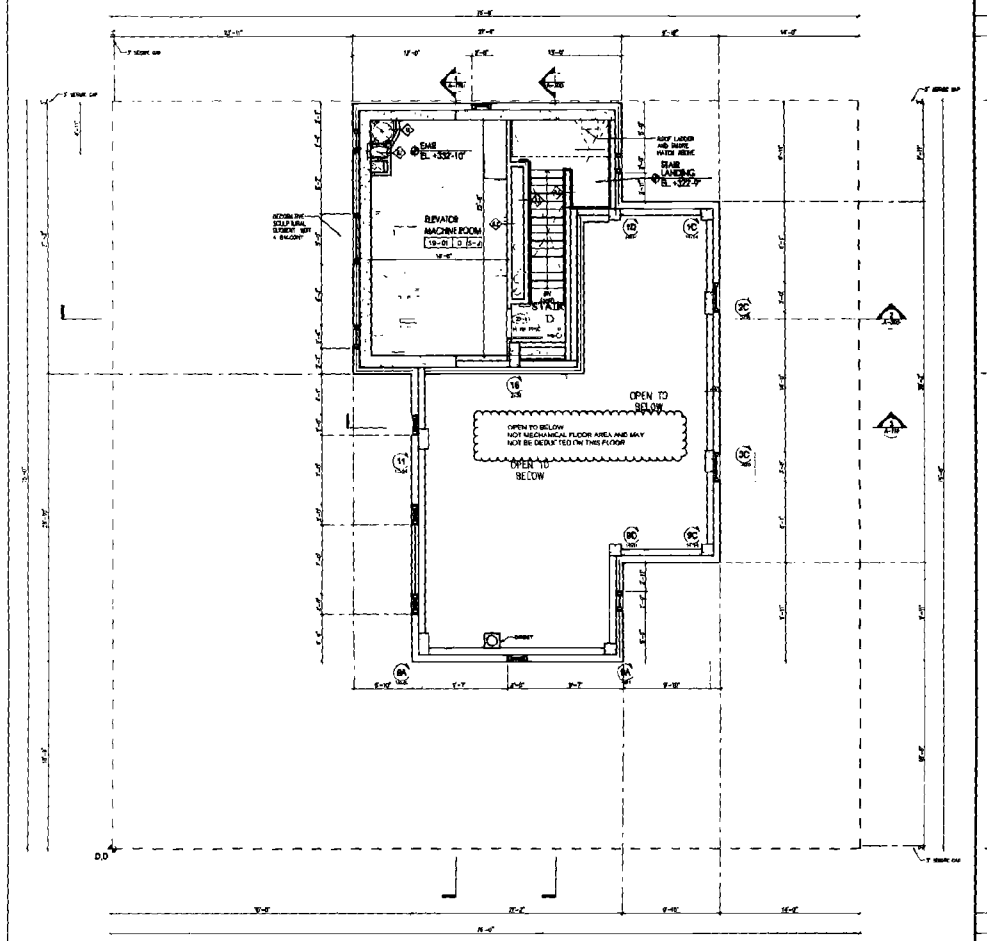
DATE
PROJECT NO
DRAWN BY
CHECKED BY
DRG NO
A-119.00

R. 002556

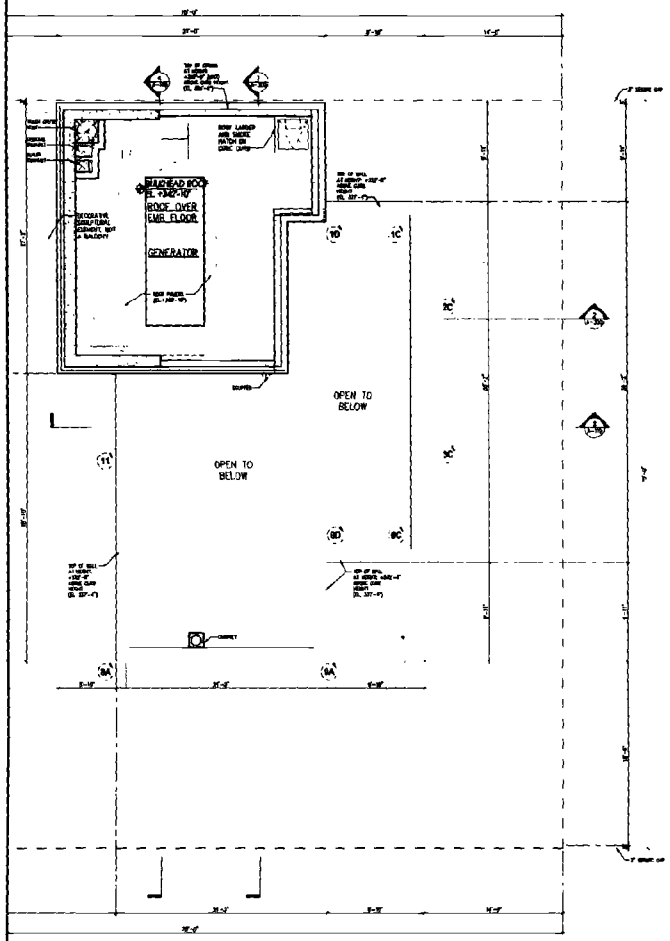
3384

2019-94-A

12/04/2019



1 20TH FLR-EMR (EL.+332'-10")



2 BULKHEAD ROOF (EL.+347'-10")

1230 MADISON AVE

AREL CAPITAL
A Red Electa Investment Company

SLCE Architects, LLP

Robert A.M. Stern Architects

SDG
Engineering, P.C.

JOCR
Consulting Engineers

Jaros, Baum & Bolles, Inc.

VEDARC, INC.

LOWCAMA LINDSEY

123 470 902

1230 MADISON AVE
NEW YORK, NEW YORK

20TH FLR EMR
BULKHEAD ROOF

A-120.00

R. 002559

3385

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2019-94 A 12/04/2019
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***** NEW YORK CITY *****

*** DEPARTMENT OF BUILDINGS ***

R E C E I P T

INVOICE #: 13476049 DATE: NOVEMBER 28 2018 TIME: 9:09 A.M.

TOTAL PAYMENT RECEIVED: 1000.00

PAYMENT: 1000.00 CHECK #: 6503
PAYMENT: 0.00

FOR: DETERMINATION-INITIAL FEE-ZONING

JOB #: 123470902 01
1230 MADISON AVENUE

RECEIVED FROM: MANHATTAN BOROUGH OFFICE STATION: 05
05111 000201 00251 OT

REVIEWED BY
Azmi Zahed-Atkins, RA
Code & Zoning Specialist

APPROVED
WITH CONDITIONS
01/14/19
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2019-94-A 12/02/2019
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021

AFFIDAVIT OF IGOR BIENSTOCK

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Igor Bienstock, being duly sworn, deposes and says:

Introduction:

My name is Igor Bienstock. I am a licensed professional engineer in the State of New York and engineer of record for the 36 West 66th Street project (the "Project"). I am a Senior Partner at ICOR Associates, LLC, an engineering consulting firm that designs building HVAC, electrical, plumbing and fire protection systems. Prior to joining ICOR, I was a Partner and Senior Vice President of Cosentini Associates, a 700-person MEP/FP engineering consulting firm headquartered in New York City. My design experience spans more than 40 years and includes work on many large, complex projects in New York City and across the world. I am thoroughly versed in the governing NYC Building Codes as well as design best-practices, which take into account constructability, operability, and equipment serviceability.

Section I – Omissions and Defects in the Michael Ambrosino Analysis:

I have reviewed the affidavit submitted by Michael Ambrosino, on behalf of Landmark West!, dated November 5th, 2019. In his affidavit, Mr. Ambrosino states that he performed an analysis of the mechanical rooms on Floors 15, 17, 18, and 19 by studying all "Mechanical, Electrical and Plumbing (MEP) drawings for the above project dated August 17, 2018 on file at the Department of Buildings" and calculating the percentage of floor area occupied by MEP systems based on this review. However, the diagrams prepared by Ambrosino are an annotated version of the mechanical ductwork plans that (a) fail to identify all of the equipment on those plans themselves; (b) do not reflect equipment shown on the *other* mechanical drawings; and (c) have a number of omissions and defects. These omissions and defects are described below.

1. Elements Omitted From The Mechanical Ductwork Plans

Mr. Ambrosino's analysis of the mechanical ductwork plans fails to account for various forms of equipment that are clearly shown on those plans. In particular, Mr. Ambrosino identified the footprints occupied by only some of the mechanical equipment and associated clearance areas. In doing so, he did not account for the following:

- Mechanical fans and heaters
- All mechanical shafts and chases
- All horizontal ductwork distribution and plenums

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2. Other MEP Drawings Excluded From the Analysis

Moreover, in conducting his analysis, Mr. Ambrosino used as a base background the HVAC mechanical ductwork plans only (sheets M-216.00, M-220.00, M-221.00, and M-222.00). Accordingly, *none* of the equipment shown on the other three sets of MEP design drawings are accounted for in his analysis. Specifically, the drawings do not depict and his area calculations therefore do not include space occupied by the following systems and equipment:

- Mechanical piping (M-316.00, M-319.00, M-320.00, M-321.00)
- Plumbing equipment and distribution (P-216.00, P-220.00, P-221.00, P-222.00)
- Fire sprinkler/standpipe equipment and distribution (SP/SD-216.00, SP/SD-220.00, SP/SD-222.00, SP/SD-224.00)

By using the mechanical ductwork plans only, the diagrams significantly understate the amount of mechanical equipment on each floor. A full and complete depiction of the Project mechanical equipment is shown on the architectural composite drawings submitted to the Board (sheets A-132.00, A-140.00, A-144.00, and A-148.00).[1]

Exhibit A includes a full set of the mechanical plans and composite drawings. Exhibit B includes blow-up excerpts from the composite drawing for each mechanical floor with a side-by-side comparison with the diagrams provided by Mr. Ambrosino. The comparison shows the extent to which the diagrams provided by Mr. Ambrosino understate the amount of mechanical equipment on each floor.

3. Other Omissions and Defects

Mr. Ambrosino's methodology has other omissions and defects as well. For example, he adopts the rigid methodology of the Department of Buildings' draft Mechanical Bulletin, which, as discussed in detail in the affidavit of Luigi Russo, does not provide a sufficient amount of space for circulation and to ensure that the ongoing maintenance and repair of each piece of equipment can be conducted safely and efficiently.

This failure to take account of the various types of mechanical ductwork, piping and shafts throughout the mechanical floors has two further implications which Mr. Ambrosino's work does not consider: First, there is a need for adjacent service areas to be provided for the horizontal connections. Second, the MEP drawings submitted to DOB for permitting purposes do not fully depict the actual dimensions of most of these pipes, ducts and other connections. Instead, the MEP drawings typically indicate these with a single or double line. When shop drawings are prepared, these connections are confirmed, their actual dimensions are depicted, and the space fills out considerably.

[1] The composite architectural drawings also include the following additional elements: swimming pool equipment, IT/telecom infrastructure equipment, and electrical equipment.

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2019-94-A 12/02/2019
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Section II – Michael Ambrosino Affidavit - Alternate 17th Floor Layout

In Mr. Ambrosino's affidavit, he provides a proposed alternate layout for the 17th floor mechanical room, seemingly in order to demonstrate how the equipment on this floor could have been designed to occupy a smaller footprint. The layout provided, however, is clearly not a complete engineering plan. It only accounts for the footprint of select floor mounted HVAC equipment (the diagrams highlight nine pieces of equipment on the western portion of the floor although only eight pieces are shown relocated in the "consolidated" layout), and is not one that could realistically be installed or operable, for many reasons, including but not limited to the following:

- The proposed layout does not include all of the equipment shown on the mechanical ductwork plans, notably as follows:
    - Expansion tanks and air separators
    - Pumps
    - Water Source Heat Pumps
    - Fans
    - VFDs and control panels

- The proposed layout does not include all of the additional categories of equipment shown on the plans he did not review, as listed above (HVAC mechanical piping, fire protection and plumbing).
- The proposed layout does not show, nor does it provide space for the necessary piping and ductwork distribution that connects to the HVAC equipment or space to access the valves and gauges attached to the distribution.
- Were it to take into account the various omitted pieces of equipment, the proposed layout would not allow for walking aisles or adequate means to access equipment.

Even assuming the nine particular pieces of equipment Mr. Ambrosino focuses on could be moved as shown on his drawing (which they could not), there are additional pieces of equipment located on the western portion of the floor—fans and air handling units—that require proximity to air intake and exhaust louvers present only on that side of the floor and which therefore could not be relocated. Further, the western portion of the floor includes horizontal connections throughout. Accordingly, moving the nine pieces of equipment would not empty the western portion of the floor, as Mr. Ambrosino's overly simplistic diagram purports to illustrate.

Moreover, Mr. Ambrosino's alternative layout is based on the false premise that having equipment occupy the minimum amount of space on a floor equates to mechanical efficiency. When designing a full building, however, there are a host of considerations an engineer must take into account, including accessibility, constructability, and proximity of equipment and systems to the occupied spaces they serve. Other considerations include the effect of location on individual system parameters, such as voltage drops and operating pressures, as well as the required separation between specific systems, proximity to exterior walls for air intake and exhaust, etc.

For example, much of the distribution system within these floors (an element of the mechanical program which Mr. Ambrosino has ignored altogether) is routed based on the layouts of the

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occupied spaces they serve above and below; that is, ductwork, piping, and conduits must distribute from the specific equipment within the machine rooms to shaft locations that correspond to and serve the apartment floor layouts they feed.

Section III – Considerations Governing the ICOR Mechanical Room Layouts

Below is a description of all systems designed for the four interstitial mechanical floors, with general explanations of why they are located on a particular floor and considerations governing the layout on the individual floors.

Several preliminary observations are in order:

It is important to note that, as a luxury residential condominium, the mechanical equipment has a number of features not found, for example, in a rental building. These pieces of equipment include:

- Chilled water system for the Tower portion of the building that requires additional pumps, chillers, heat exchangers, accessories and appurtenances;
- Full redundancy on all water side equipment;
- Electrical substations throughout the tower, which require additional electrical gear on the mechanical floors but allows us to distribute vertically at higher voltage, thereby drastically reducing the amount of conduits and wiring needed throughout the other floors;
- Humidification equipment for apartment makeup air units; and
- Waterside economizer system.

A. 15th floor MER:

The 15th Floor houses mechanical equipment that serves the podium level residential units (Floors 2 to 14). Equipment is strategically located on this level to minimize distribution required to serve the apartments directly below. This floor also houses electrical and plumbing equipment/systems that serve the entire building.

1. MEP Room #1 (Northwest corner) – Houses the AC unit to provide temperature control to the electrical equipment which is located in the Electrical Room #2. Equipment is located here for its adjacency to the room it serves.

2. Electrical Room #1 – Houses IT and technology equipment that connects upper building technology systems with the lower half.

3. Electrical Room #2 – Houses ATS switches, transformers and electrical distribution panels. Electrical equipment located in this room provides emergency power to the elevator equipment located on floors above the 16th floor and roof, residential units, and mechanical equipment requiring emergency power by code. It is located here for proximity to the emergency generator. This electrical room was located here for its close proximity to the shaft carrying emergency risers to serve the floors above.

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4. Electrical Room #3 – This room houses transformers and electrical distribution panels. Equipment located in this room provides power to mechanical equipment, pool equipment located on this floor as well as the mechanical equipment located on the 16th floor. This electrical room was located here for its close proximity to the shaft carrying emergency risers to serve the floors above.

5. MEP Room #2 (Northeast corner) – This room houses an AC unit to provide temperature control to electrical equipment located in the Electrical Room #3. Equipment is located here for its adjacency to the room it serves.

6. Storm Water Detention Tank Room – This room contains a tank, required by code, that collects rain water from 16th floor terrace, loggias at the apartments above, as well as the main roof. The tank is located below these exterior spaces in order to collect storm water by gravity. This room is centralized on the floor to efficiently collect from all the storm water risers from above.

7. Pool Equipment Room – This room houses the equipment (pumps, filters, chemical storage etc.) that serves the outdoor pool located at the 16th floor directly above. This room is located here as it is directly beneath the 16th floor pool.

8. Mechanical Room #1 – This room houses the air handling unit that provides ventilation to the residential corridors below. It is located at this level because it serves the residential units directly below. Its location on the floor must be proximate to intake and exhaust louvers, which are on the southern and eastern façades. Moreover, this is a large piece of equipment and required space to house this equipment was only available along the east side of the mechanical room. This room also contains exhaust and supply fans that serve the apartment levels below, as well as the ventilation requirements of other rooms on this floor. Fans are similarly located here for proximity to exterior louvers, to minimize required ductwork distribution.

9. Generator Room – This room houses a generator to serve the building. The generator is located at this level because it requires intake and exhaust air for ventilation. The louvers are only available at this level. This unit was centralized in plan to allow generator to be located close to both the intake and exhaust louvers, and minimize fuel oil piping and electrical feeders distributing to and from the generator.

10. Mechanical Room #2 – This room houses the air handling unit that provides code required ventilation to the residential apartments below. It is located at this level because it serves the residential apartments directly below, and is required to be proximate to intake and exhaust louvers located on the southern facade. This room also contains a steam generator that provides humidification for this air handler. Moreover, this is large piece of equipment and required space to house this equipment that was not limited by structure.

B. <u>17th floor MER:</u>

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This floor houses the central heating plant for the entire building. Heating and hot water distribution equipment is strategically located at this floor because it is centralized vertically in the building and the heating equipment serves apartments both below and above this floor.

1. Mechanical Room #1 – This room houses an air handling unit and return air fan that serve the amenity spaces on the 16th floor directly below. This location was selected as it is directly above the space it serves, to minimize required ductwork distribution. This MER also houses lighting controls and electrical panels.

2. Boiler Room– This room houses boilers that produce all heat for building heating and domestic hot water. This room also houses fans for boiler room ventilation and elevator shaft pressurization as well as air conditioning units to serve the MER. The boiler plant was located at this level (mid-level of the building) for efficient and cost-effective hot water distribution system. A fan coil unit serving the adjacent electrical room is also located in this room. The boiler room was placed on the east side of this floorplate as the boilers must be near an air intake louver for combustion air. An intake louver is located at the southeast corner of the floor.

3. Electrical Room – This room houses electric panels that serve elevator equipment on the 16th floor and mechanical equipment on 17th floor. The electrical room was located at this level to feed high voltage power via a minimal run of conduits in lieu of individual feeders for each piece of equipment from the transformers located at the 19th floor MER. This will reduce the amount of conduit runs for this level to the mechanical rooms.

4. Mechanical Room #2 – This room houses multiple sets of hot water pumps, hot water heat exchangers, hydronic accessories such as expansion tanks, chemical treatment tanks, and VFDs controllers. These serve multiple primary, secondary, and domestic hot water systems for the building. This room also houses various fans that provide required ventilation to mechanical rooms on this floor. Pumps were placed along the west side as larger mechanical space is required for the all the pumps, heat exchangers as well as hydronic accessories.

C. <u>18th floor MER:</u>

This floor houses the central condenser water plant that serves all building cooling needs as well as a central chiller plant that specifically serves the tower apartments above. The cooling plant was located on this level specifically to limit the operating water pressures in the various water loops that circulate from both above and below to manageable levels. The chiller plant was also located at this level to be closer to the tower residential levels it serves.

1. Electrical Room – The electrical room houses transformers as well as electrical distribution panels to serve the mechanical equipment on the 18th floor. An AC unit to

control temperature is also located in this room. It is centralized on the floor plan to optimize the distribution to all equipment on the floor surrounding it.

2. Mechanical Room #1 – This room houses (18) water cooled chillers, primary and secondary chilled water pumps, secondary condenser water pumps, hydronic accessories such as expansion tanks, air separators, VFDs to operate the pumps, air conditioning units for the MER, as well as various fans that provide required ventilation for the mechanical rooms and elevator shaft pressurization. The chillers, chilled water pumps, secondary condenser water pumps, and associated heat exchangers on this floor produce and circulate chilled water for the Tower Residential units above (20th through 37th floor) as well as air handling units located on the 16th and 17th floors. Another set of secondary condenser water pumps is located within this MER. These supply condenser water for equipment in the sub cellar, cellar, ground floor and the ground floor community facility. The location selected is the most efficient location in order to distribute to the chilled water pipe riser locations that are dictated by the apartment layouts on the floor above.

3. Mechanical Room #2 – This MER houses plate and frame heat exchangers. Heat exchangers are utilized to isolate condenser water from the cooling tower from the condenser water that is circulated through the building equipment. These heat exchangers are also located on this level to provide a necessary pressure break so that equipment on the secondary side of the heat exchangers can operate at manageable operating pressures. This room is centered between the primary condenser water pumps and secondary water pumps to minimize piping distribution on either side.

4. Mechanical Room #3 - This MER houses primary condenser water pumps, VFDs to operate the pumps, hydronic accessories (expansion tanks, chemical treatment tanks etc.). Primary condenser pumps are utilized to circulate condenser water through the cooling tower and the Plate and Frame Heat Exchangers located within Mechanical Room #2. Pumps were located here due to proximity to piping risers from above which feed them. This room also houses fans for MER ventilation, dryer exhaust, and air conditioning units to serve MER. Fans are located here as they are required to connect to an exhaust air louver, located at the northwest corner.

D. <u>19th floor MER:</u>

This floor houses Air Handling units that serve the tower residential units directly above (20th through 27th floors). Equipment is strategically located on this level to minimize distribution required to serve the apartments directly above. This floor also houses a smoke purge fan, electric substation, fire reserve tank, fire pumps, domestic hot water heaters, and fire protection equipment for the electrical room housing transformers.

1. Mechanical Room #1 – This floor houses a set of domestic hot water heaters and a PRV station that provides domestic water to 20th through 26th floors directly above. Water heaters were located on this floor so that proper water pressure can be maintained at

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the plumbing fixtures on the floors they are serving. An air conditioning unit to serve the MER is also located in this room.

2. Mechanical Room #2 – This room houses two large energy recovery air handling units that serve tower residential floors directly above (20th through 27th). These units were located at this level as these units serves the residential floor directly above. One unit provides required make-up air to the residential units and the other air handling unit provides required ventilation air to the residential corridors. These units were located here as they require a large amount of intake air, and they are required to be adjacent to the intake air louver located at the southeast corner. The equipment also requires a large floor area, unobstructed by structure, due to their large footprints. The location is also the most efficient location for distribution ductwork from the units to the riser locations that are dictated by the apartment layouts on the floors above. This room also houses a steam generator provides humidification for the air handler. Smaller air conditioning unit serving the MER is also located in this room.

3. Water Reserve Storage Tank Room – This room houses the fire reserve tank. This tank contains required sprinkler/standpipe reserve water for floors below the 19th floor, as required by code. The fire reserve tank is located on this floor to maintain required pressure at the sprinkler heads and the standpipes located at the zones/floors below 19th floor.

4. Fire Pump Room – This room houses a fire pump to draw water from a fire reserve tank located on this floor to serve sprinkler/standpipe for floors below the 19th floor, as required by code. It is located here to be adjacent to the reserve tank it is connected to. An AC unit that serves the adjacent electrical room is also located in this room.

5. Electrical Room – This room houses main electric switchgear, transformers, and electrical distribution panels that serve all residential units on 20th through 39th floor and provide bulk power to the distribution panels on MERs at 17th, 18th & 19th floor. Transformers were located at this level as the transformers are closer to the tower residential floors above, and it minimizes the amount of conduits to be run vertically through floor below.

6. Mechanical Room #3 – This room houses a large post fire smoke exhaust fan required to serve the mechanical levels. It is located here so that it can be directly adjacent to the exhaust louver in the northwest corner to which it connects. There is another set of domestic hot water heaters and a PRV station that provides domestic water to 27th through 33rd floors above. Water heaters were located on this floor so that proper water pressure can be maintained at the plumbing fixtures. A specialty fire suppression system dedicated to the adjacent electrical room is also located in this room.

As demonstrated in this description, the layout of the mechanical equipment at the Project was guided in large part by the need for that equipment to be located in proximity to the areas it serves or in proximity to other types of equipment, among other factors related to operational and energy efficiency specific to the characteristics of this building. In my professional opinion, the

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mechanical layouts for the Project reflect these and other relevant considerations in a manner consistent with sound engineering practice.

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2019-04-A 12/02/2019

Igor Bienstock

Sworn to before me on
this 27th day of Nov., 2019

Notary Public

JORGE MELENDEZ
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES SEP. 29, 2021

[Signature Page to Affidavit of Igor Bienstock]

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160605/2020
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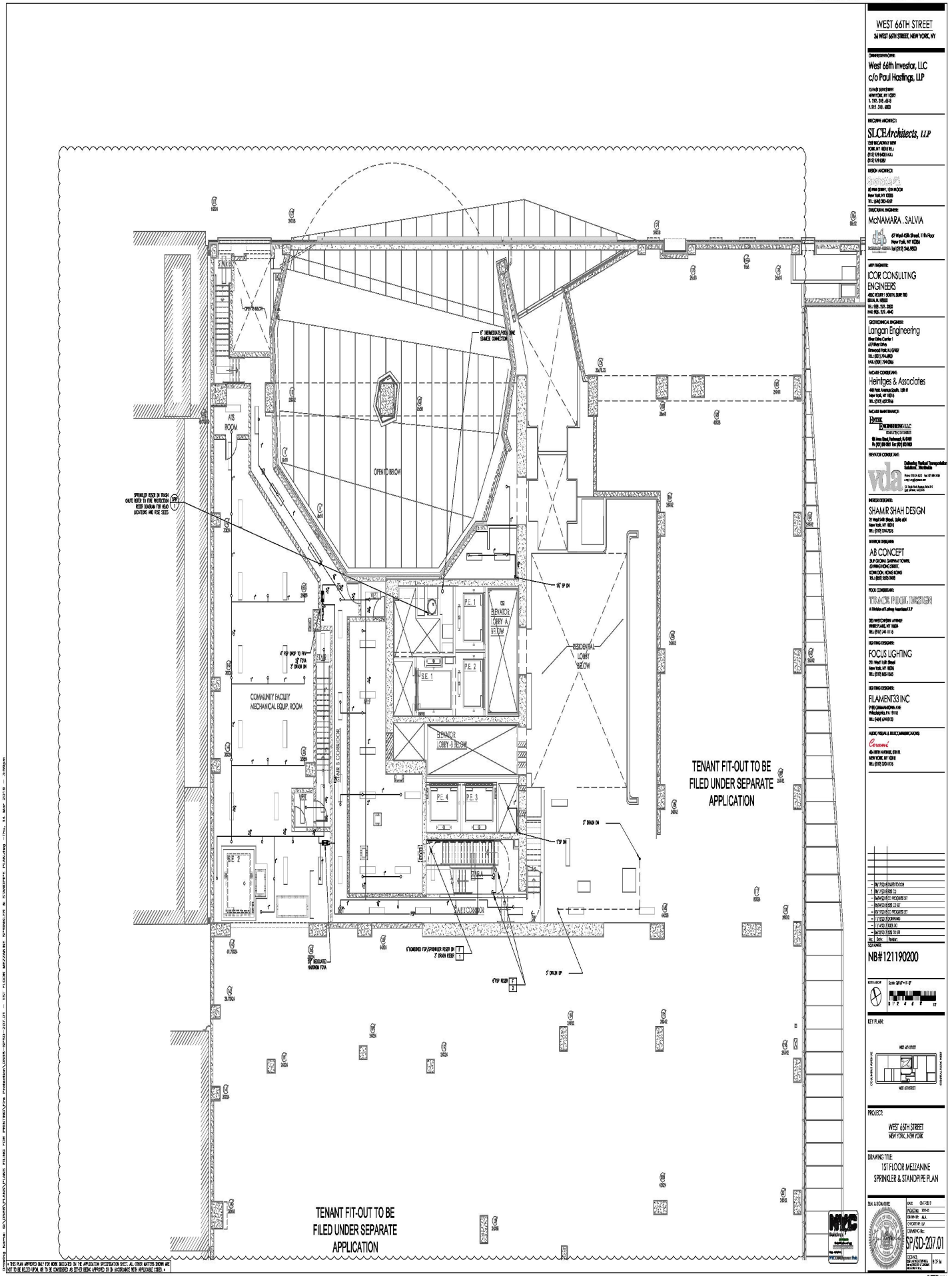

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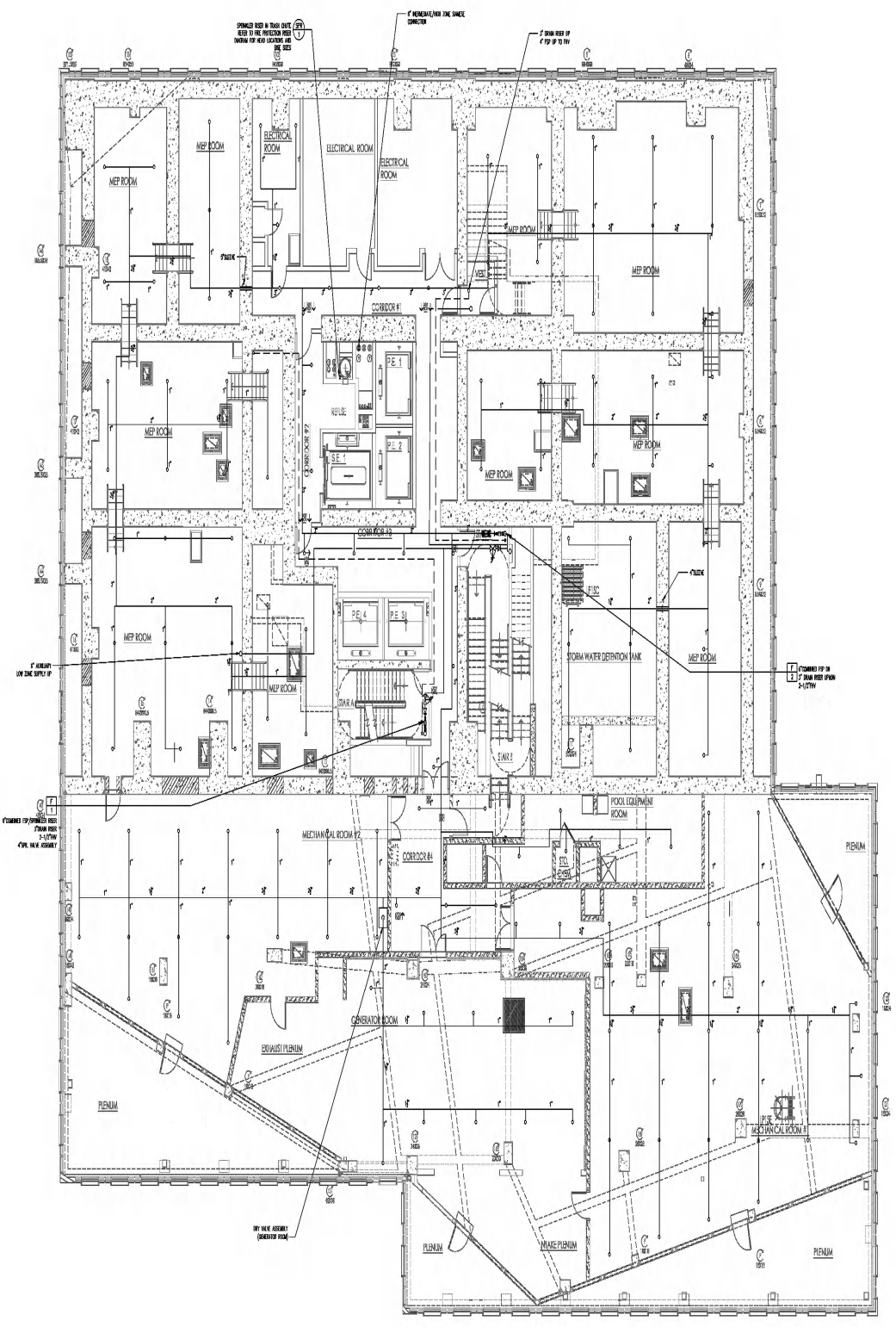

WEST 66TH STREET
36 WEST 66TH STREET, NEW YORK, NY

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ELEVATOR CONSULTANT:
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INTERIOR DESIGNER:
SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACE POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC

AUDIO VISUAL & TELECOMMUNICATIONS:
Cerami

No.	Date	Revision
1	09/11/2020	REVISED PER DOB COMMENTS
2	10/16/2020	REVISED PER DOB COMMENTS
3	11/06/2020	REVISED PER DOB COMMENTS
4	12/04/2020	REVISED PER DOB COMMENTS
5	12/18/2020	REVISED PER DOB COMMENTS
6	01/15/2021	REVISED PER DOB COMMENTS
7	01/29/2021	REVISED PER DOB COMMENTS

PLAN NUMBER
NB#121190200

NORTH ARROW

Scale: 3/64"=1'-0"

KEY PLAN

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
15TH FLOOR
SPRINKLER & STANDPIPE PLAN

SEAL & SIGNATURE:

DATE: 09/11/2020
PROJECT#: 2016-02
DRAWN BY: ALA
CHECKED BY: LF
DRAWING NO.: SP/SD-216.00

DOB NO.:
SHEET NO.: 17 OF 36

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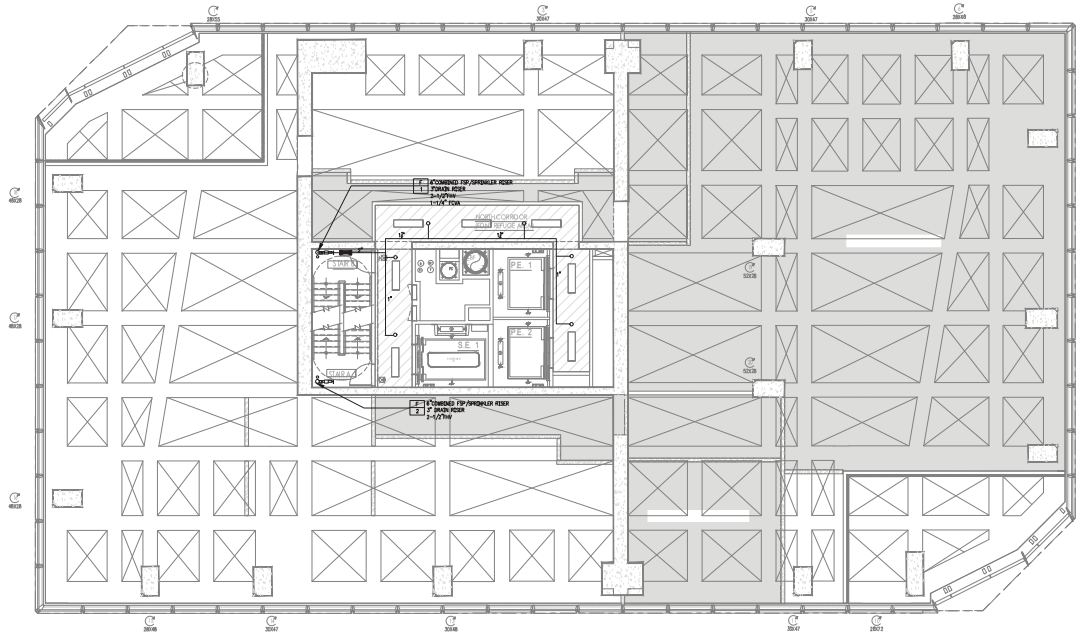

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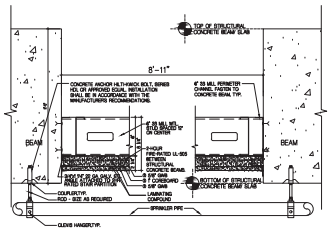

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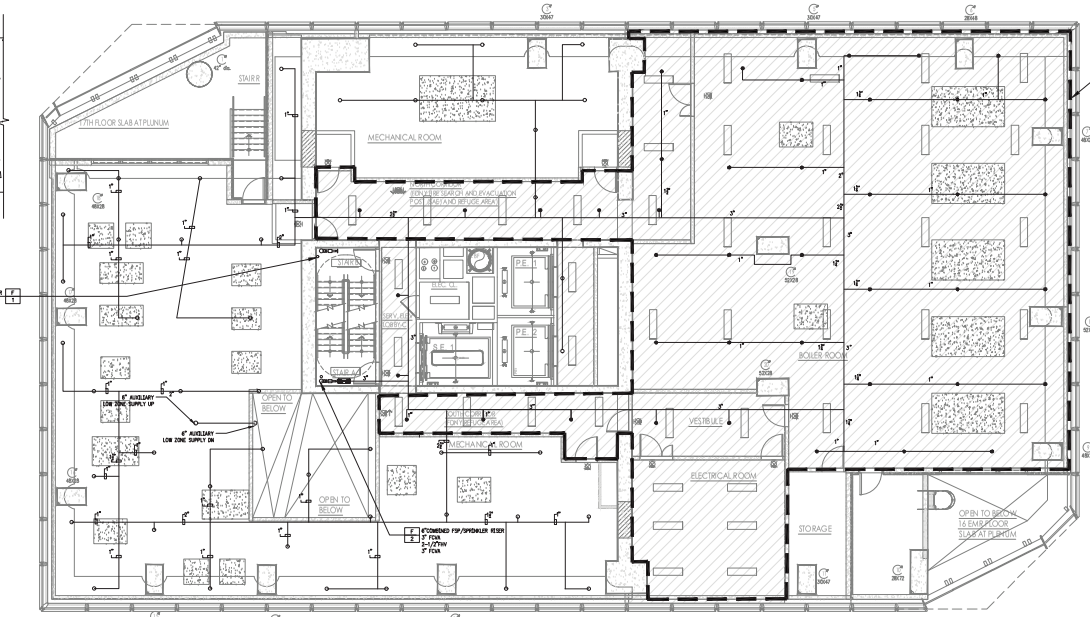

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2	10/12/2018	PER DOB COMMENTS
3	02/04/2019	PER DOB COMMENTS
4	03/14/2019	PER DOB COMMENTS
5	03/15/2019	PER DOB COMMENTS
6	11/19/2019	PER FDNY
7	11/14/2019	PER DOB

DOB # NB# 121190200

NORTH Scale: 3/16" = 1'-0"

KEY PLAN:

PROJECT:
WEST 66TH STREET
NEW YORK , NEW YORK

DRAWING TITLE:
17TH FLOOR & FDNY ACCESS 1 SPRINKLER & STANDPIPE PLANS

SEAL & SIGNATURE:
Roxanne Tsukigata, RA
NYC Development Hub

DATE: 03/15/2019
PROJECT No.: 2018
DRAWN BY: M.A.
CHECKED BY: RT
DRAWING No.: SP/SD-220.00
SCALE: 3/16" = 1'-0"
SHEET No.: 31 OF 36
PLOT SIZE: 24 X 36

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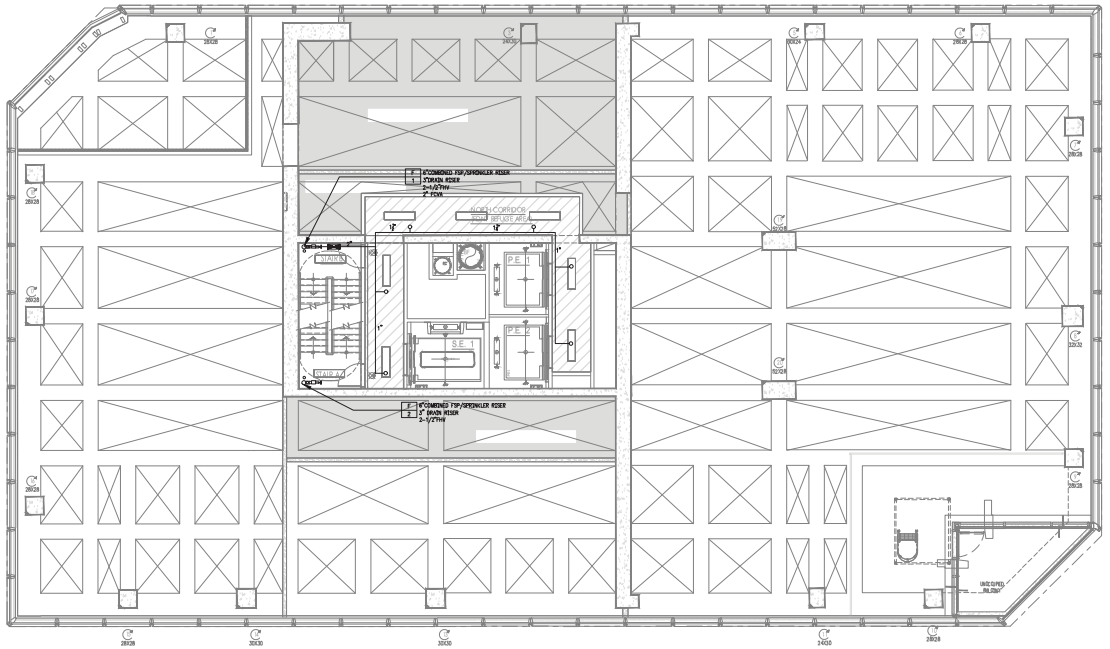

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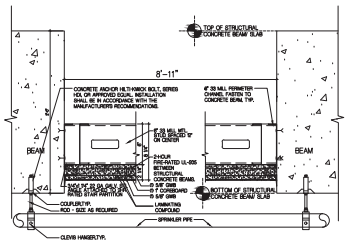

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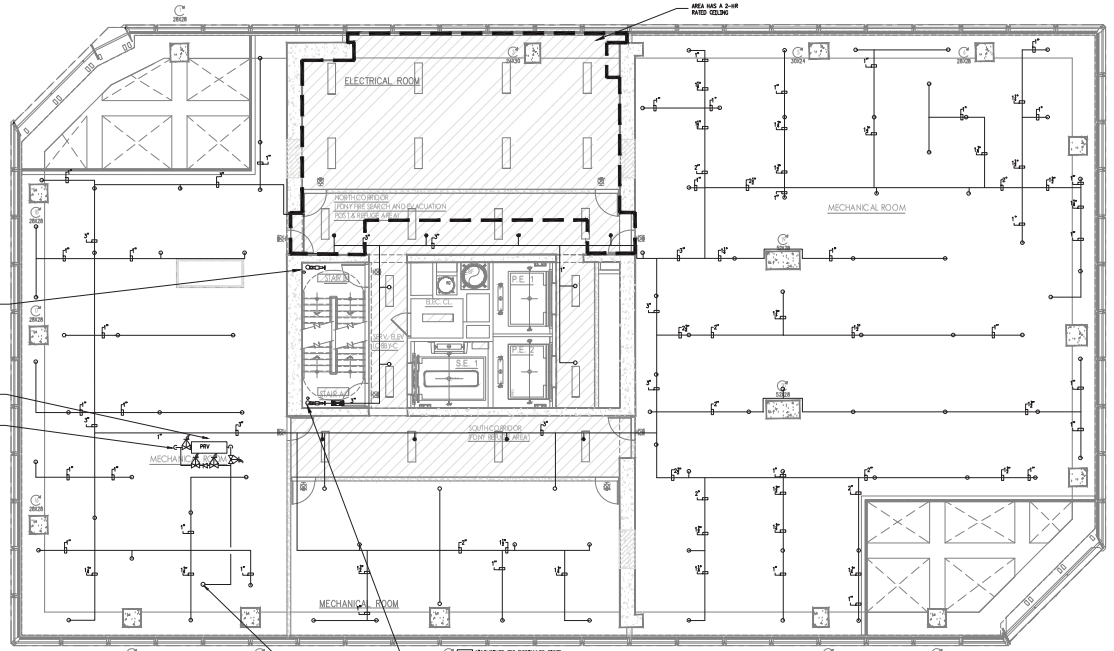

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NO	Date	Revision
1	06/17/2020	ISSUED TO DOB
2	09/17/2020	ISSUED FOR CO
3	10/13/2020	ISSUED TO DOB
4	04/04/2020	CO PROGRESS SET
5	10/04/2020	FOR CO SET
6	10/19/2020	CO PROGRESS SET
7	11/14/2020	FOR CO

NB#121190200

SCALE: 3/16" = 1'-0"

KEY PLAN:

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

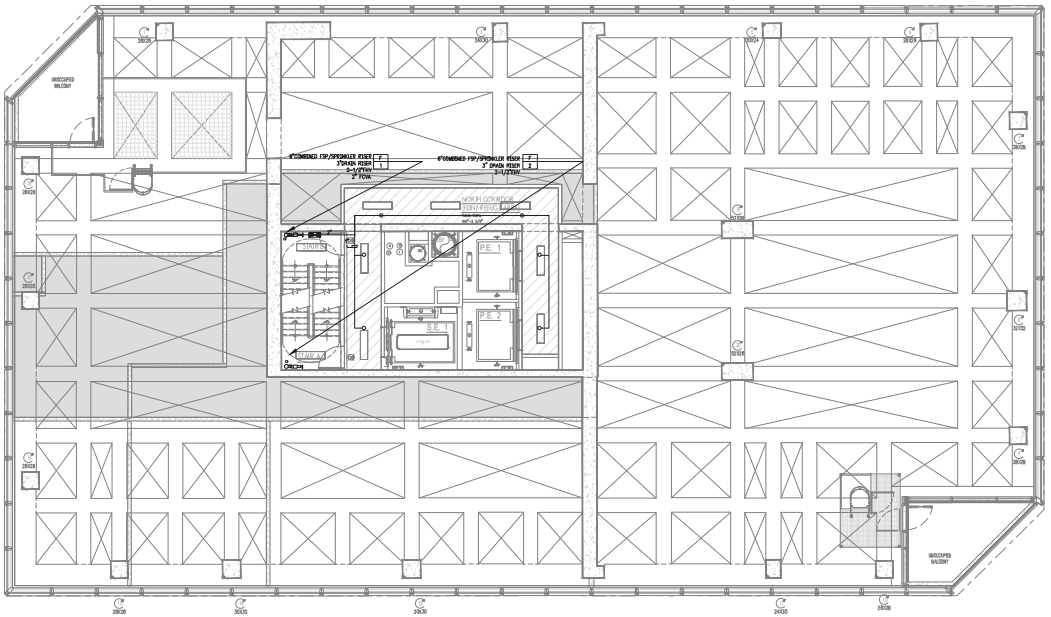
DRAWING TITLE:
18TH FLOOR & FDNY ACCESS 4 SPRINKLER & STANDPIPE PLANS

SEAL & SIGNATURE:
Rosaria Tartaglia, PA
R. Tartaglia
AT PROFESSIONAL ENGINEER
NYS LICENSE
NYC Development Hub

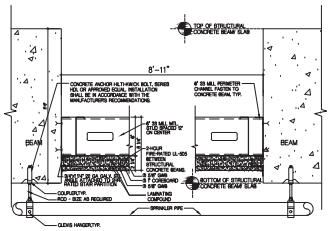
DATE: 08-17-2018
PROJECT #: 18.048
DRAWN BY: M.A.
CHECKED BY: L.V.
DRAWING NO.
SP/SD-222.00
SHEET NO. 33 OF 36

3400

FILED: NEW YORK COUNTY CLERK 03/15/2021 01:36 PM INDEX NO. 160905/2020
NYSCEF DOC. NO. 41 RECEIVED NYSCEF: 03/15/2021



2 19TH FLOOR FDNY ACCESS 7 SPRINKLER & STANDPIPE PLAN (SPRINKLERS @ +447.31')
SCALE: 3/16" = 1'-0"



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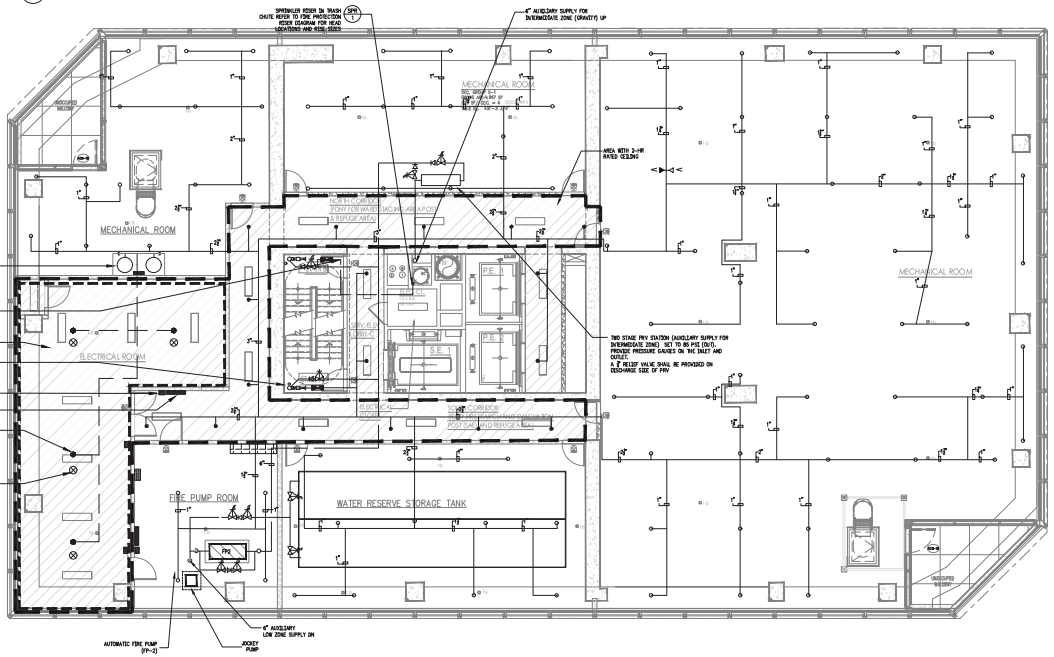
N.T.S.



1 19TH FLOOR SPRINKLER & STANDPIPE PLAN (SPRINKLERS @ +431.31')
SCALE: 3/16" = 1'-0"

• THIS PLAN APPROVED ONLY FOR WORK INDICATED ON THE APPLICATION SPECIFICATION SHEET. ALL OTHER MATTERS SHOWN ARE NOT TO BE RELIED UPON, OR TO BE CONSIDERED AS EITHER BEING APPROVED OR IN ACCORDANCE WITH APPLICABLE CODES. •

Drawing Name: G:\2018\PLANS\PLANS FILING FOR PRINTING\Fire Protection\2018-SPSD-224.00 - 19TH FLOOR & FDNY ACCESS 7 SPRINKLER & STANDPIPE PLAN.dwg - Thu, 04 Mar 2019 - 5:05pm

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

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c/o Paul Hastings, LLP
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YORK, NY 10018
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(212) 979-6587

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CONSULTING ENGINEERS
18 Arrow Street, Hackensack, NJ 07601
Ph. (201) 820-0181 Fax (201) 820-0184

ELEVATOR CONSULTANT:
vda Delivering Vertical Transportation Solutions. Worldwide.
P. 646 • 776 • 4 220 F. 646 • 776 • 4 203
M. 347 • 693 • 8844 (Mobile)
220 East 42nd Street, 13th Floor
New York, New York 10017

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27 West 24th Street Suite 604
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65 WING HONG STREET,
KOWLOON, HONG KONG
TEL: (852) 2620-0428

POOL CONSULTANT:
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333 WESTCHESTER AVENUE
WHITE PLAINS, NY 10604
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231 West 18th Street
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TEL: (212) 865-7565

LIGHTING DESIGNER:
FILAMENT33 INC
3190 GIRARD MAVEAVE
Philadelphia, PA 19118
TEL: (484) 874-0133

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454 FIFTH AVENUE, 8TH FL
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TEL: (212) 370-1776

–	09/13/18 REVISED TO DOB
1	09/13/18 PER CO
–	10/04/18 CO PROCESSED
–	10/04/18 PER CO SP
–	01/11/19 CO PROCESSED
–	01/14/19 PER CO
No.	Date Revision

NB# 121190200

SCALE: 3/16" = 1'-0"

KEY PLAN:

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

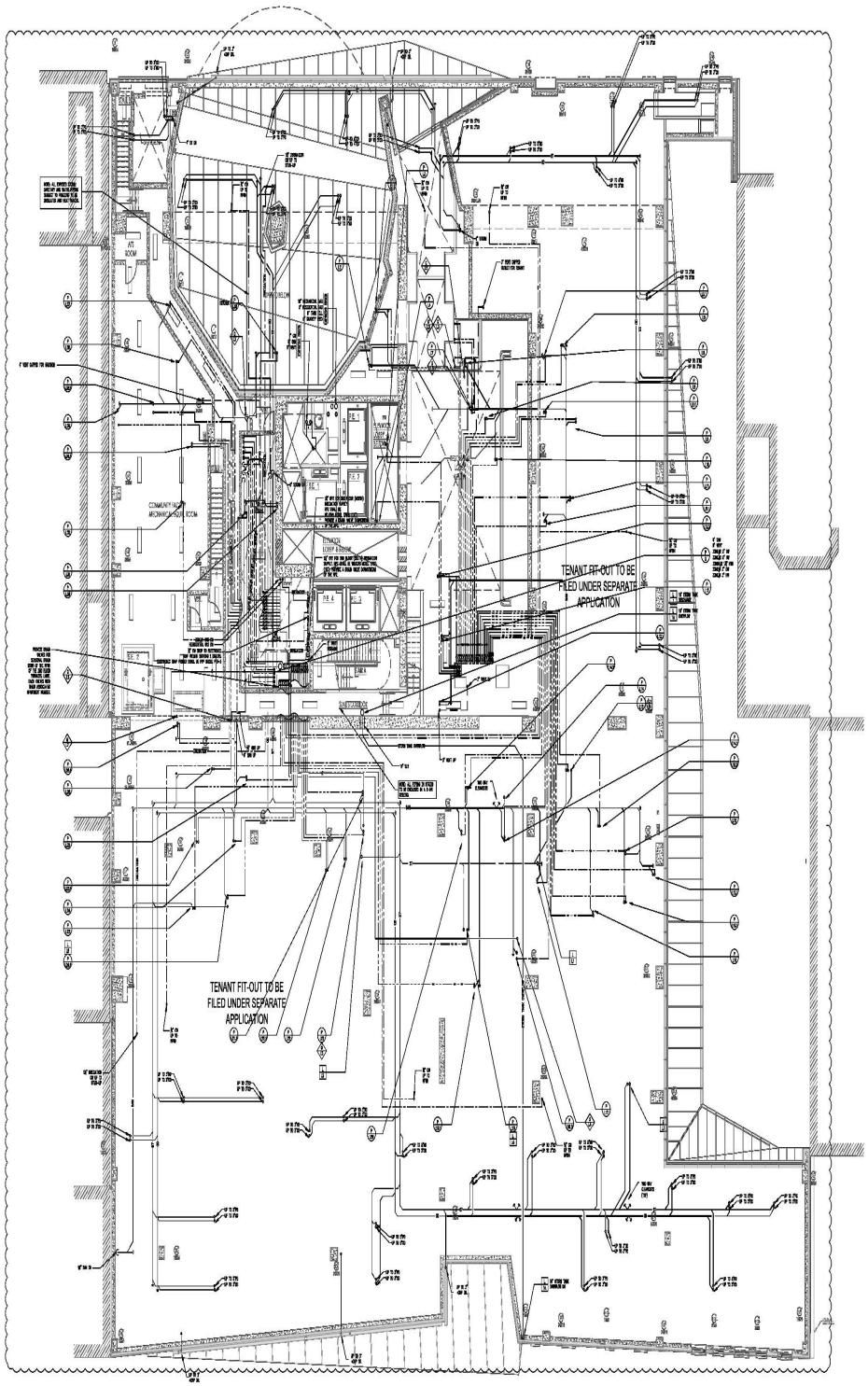
DRAWING TITLE:
19TH FLOOR & FDNY ACCESS 7
SPRINKLER & STANDPIPE PLANS

SEAL & SIGNATURE:
Roxanne Tsakopoulos, RA
NYC Development Hub

DATE: 03/13/2019
PROJECT No.: 2018-SPSD-224.00
DRAWN BY: M.A.
CHECKED BY: R.T.
DRAWING No.: SP/SD-224.00
SCALE: 3/16" = 1'-0"
SHEET No.: 35 OF 36

3401

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160605/2020
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021



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

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

ARCHITECT:
SLCE Architects, LLP

DESIGN ARCHITECT:
Studio V

STRUCTURAL ENGINEER:
McNAMARA . SALVIA

MEP ENGINEER:
ICOR CONSULTING ENGINEERS

GEOTECHNICAL ENGINEER:
Langan Engineering

FACADE CONSULTANT:
Heintges & Associates

FACADE MAINTENANCE:
BKSK ENGINEERING LLC

EXPEDITOR CONSULTANT:
vda

INTERIOR DESIGNER:
SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACE POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC.

AUDIO VISUAL & TELECOMMUNICATIONS:
Cerami

No.	Date	Revision
1	09/17/2020	PER NB COMMENTS
2	10/26/2020	PER DOB COMMENTS
3	11/20/2020	PER DOB COMMENTS
4	12/04/2020	PER DOB COMMENTS
5	12/18/2020	PER DOB COMMENTS
6	01/15/2021	PER DOB COMMENTS

NB#121190200

NORTH ARCH | Scale: 1/8"=1'-0" | 0 2 4 8 16

KEY PLAN:

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
1ST FLOOR MEZZANINE
PLUMBING PIPING PLAN

SEAL & SIGNATURE:

DATE: 09/17/2020
PROJECT#: 2014-02
DRAWN BY: ALA
CHECKED BY: EP
DRAWING NO.: P-207.01
SCALE: 1/8"=1'-0"

NYC Buildings Initiative for Design, Energy, Environment & Sustainability

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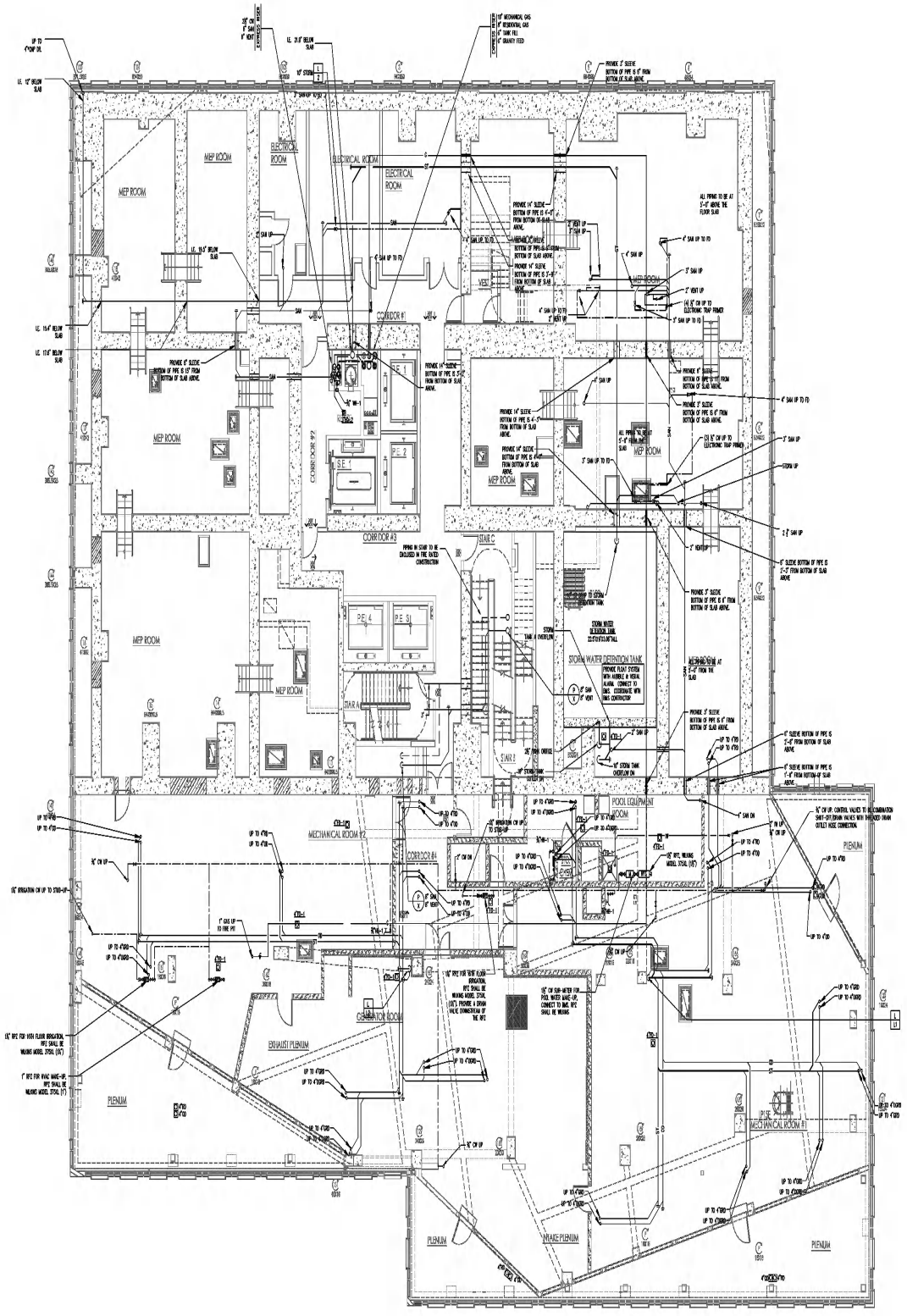
Drawing Name: G:\PROJECTS\2014\02_WEST 66TH\PLANS\PLANS FILING FOR PERMIT\MEP\Plumbing\P207.01 - 1ST FLOOR MEZZANINE PLUMBING PIPING PLAN.dwg - Tue, 05 Mar 2019 - 1:01 pm

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160505/2020
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021



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

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

EXECUTIVE ARCHITECT:
SLCE Architects, LLP

DESIGN ARCHITECT:

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McNAMARA . SALVIA

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ICOR CONSULTING ENGINEERS

GEOTECHNICAL ENGINEER:
Langan Engineering

FACADE CONSULTANT:
Heintges & Associates

FACADE MAINTENANCE:

ELEVATOR CONSULTANT:

INTERIOR DESIGNER:
SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACE POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC

AUDIO VISUAL & TELECOMMUNICATIONS:

No.	Date	Revision
1	09/17/2020	ISSUED TO DOB
2	09/17/2020	PER DOB COMMENTS
–	09/24/2020	ISSUED TO PROGRESS SET
–	09/24/2020	PER CO #1
–	10/07/2020	ISSUED FOR BID
–	10/19/2020	ISSUED TO PROGRESS SET
–	11/13/2020	ISSUED FOR BID
–	11/14/2020	PER DOB
–	11/20/2020	ISSUED FOR BID

NB# 121190200

NORTH ARCH | Scale: 3/16" = 1'-0"

KEY PLAN:

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
15TH FLOOR
PLUMBING PIPING PLAN

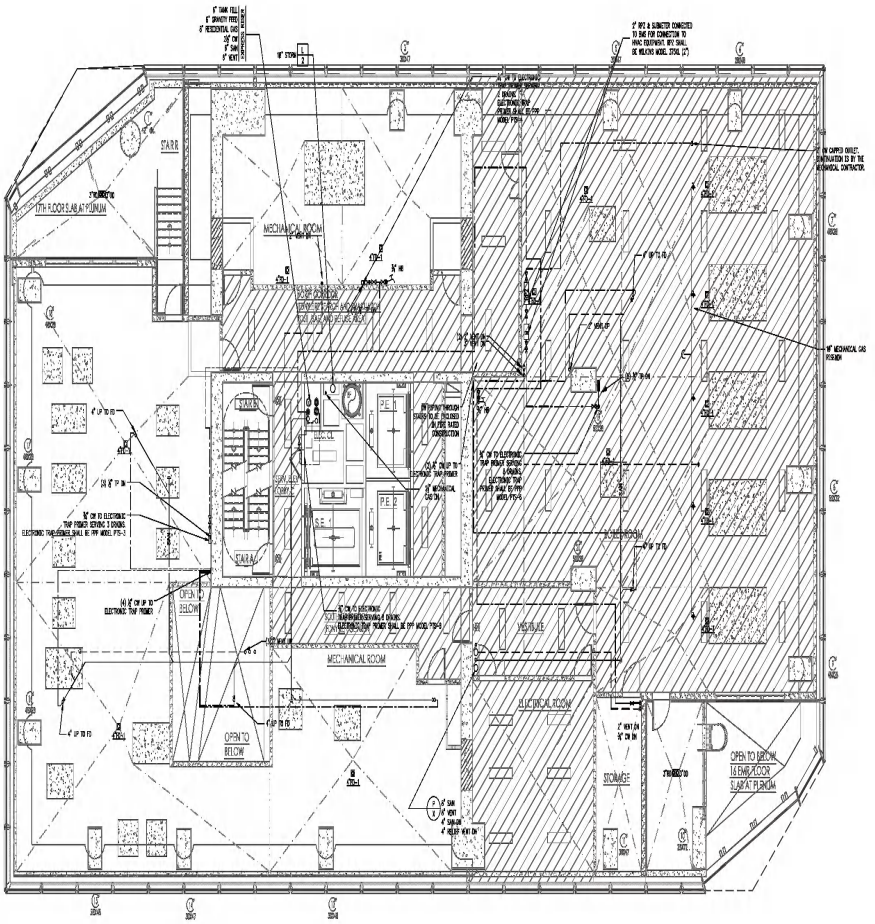
SEAL & SIGNATURE:

DATE: 09/17/2020
PROJECT#: 2016.02
DRAWN BY: A.G.
CHECKED BY: S.P.
DRAWING #: P-216.00

* THIS PLAN APPROVED ONLY FOR WORK INDICATED ON THE APPLICATION SPECIFICATION SHEET. ALL OTHER MATTERS SHOWN ARE NOT TO BE ACTED UPON, OR TO BE CONSIDERED AS EITHER BEING APPROVED OR IN ACCORDANCE WITH APPLICABLE CODES. *

Drawing Name: G:\Projects\Projects_Jobs_Files\Printed\Plumbing\2020-11-20_15TH FLOOR_PLUMBING PIPING PLAN.dwg - Thu, 26 Nov 2020 - 6:28pm

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160605/2020
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021



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

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

ARCHITECT:
SLCE Architects, LLP

DESIGN ARCHITECT:
Stonehill & Taylor

STRUCTURAL ENGINEER:
McNAMARA . SALVIA

MEP ENGINEER:
ICOR CONSULTING ENGINEERS

GEOTECHNICAL ENGINEER:
Langan Engineering

FACADE CONSULTANT:
Heintges & Associates

FACADE MAINTENANCE:
BKSK ENGINEERING LLC

EXPEDITOR CONSULTANT:
vla

INTERIOR DESIGNER:
SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACE POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC

AUDIO VISUAL & TELECOMMUNICATIONS:
Cerami

No.	Date	Revision
1	09/17/2020	ISSUED TO DOB
2	09/17/2020	PAPER CO.
3	09/24/2020	CO PROGRESS SET
4	09/24/2020	CO SET
5	11/02/2020	DOB FILING
6	11/19/2020	CO PROGRESS SET
7	11/19/2020	DOB FILING
8	11/24/2020	PAPER SET
9	02/11/2021	PAPER CHASE

NB#121190200

NORTH ARCH | Scale: 3/8"=1'-0"

KEY PLAN

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
17TH FLOOR
PLUMBING PIPING PLAN

SEAL & SIGNATURE:

DATE: 09/17/2020
PROJECT#: 2019-02
DRAWN BY: A.G.
CHECKED BY: S.P.

DRAWING NO.
P-220.00

DOB NO.
121190200-I1-NB
Building Number 1
Document Number 01

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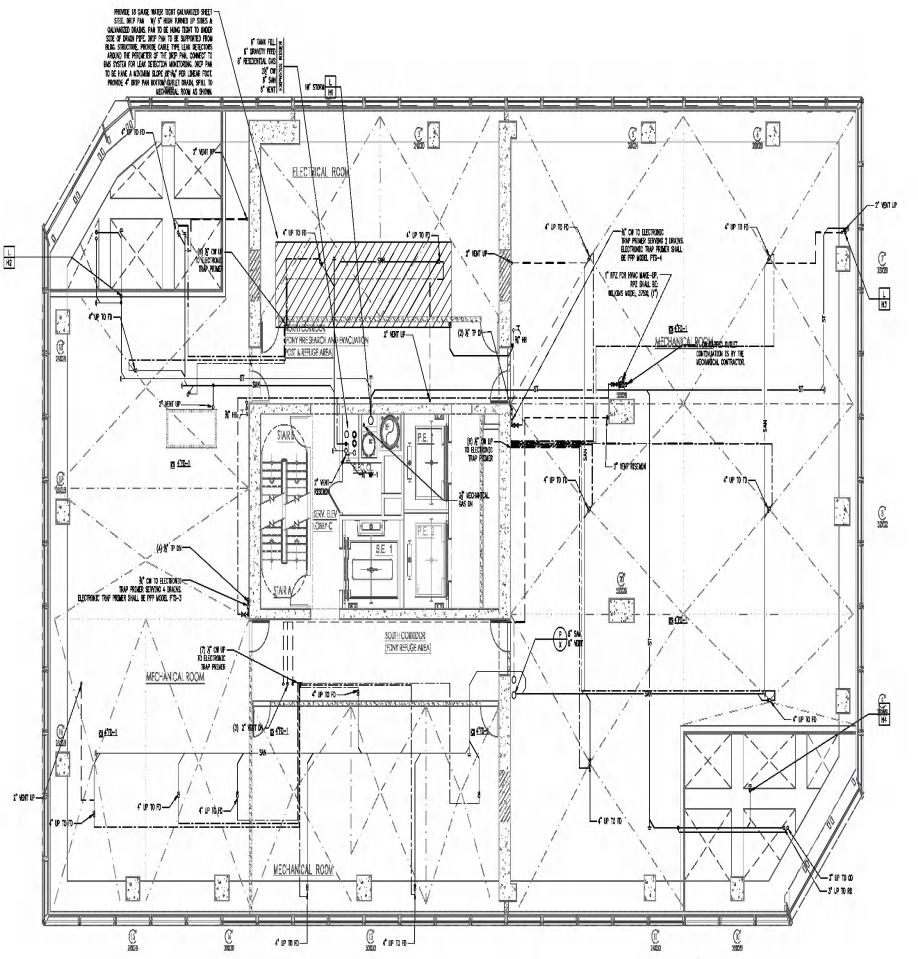
Drawing Name: G:\PROJECTS\PROJECTS\NEW JOBS FILING FOR PERMITTING\Plumbing\DWGS - P - 2020.DWG - 17TH FLOOR PLUMBING PIPING PLAN.dwg - Tue, 09 Mar 2019 - 1:03pm

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160605/2020
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021



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

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

ARCHITECT:
SLCE Architects, LLP

DESIGN ARCHITECT:

STRUCTURAL ENGINEER:
McNAMARA . SALVIA

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ICOR CONSULTING ENGINEERS

GEOTECHNICAL ENGINEER:
Langan Engineering

FACADE CONSULTANT:
Heintges & Associates

FACADE MAINTENANCE:

EXPEDITOR CONSULTANT:

INTERIOR DESIGNER:
SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACK POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC.

AUDIO VISUAL & TELECOMMUNICATIONS:
Cerami

No.	Date	Revision
1	09/17/2020	ISSUED TO DOB
2	09/17/2020	PAC
3	01/15/2021	ISSUED TO DOB
4	04/09/2021	PAC PROCESS SET
5	05/04/2021	DOB SET
6	04/07/2021	DOB FILING
7	05/13/2021	PAC PROCESS SET
8	11/04/2021	DOB SET
9	12/14/2021	PAC PROCESS SET

NB#121190200

NORTH ARCH | Scale: 3/8"=1'-0"

KEY PLAN

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
18TH FLOOR
PLUMBING PIPING PLAN

SEAL & SIGNATURE:

DATE: 09/17/2020
PROJECT#: 2014.02
DRAWN BY: A.G.
CHECKED BY: S.P.

DRAWING NO.
P-221.00

DOB NO.

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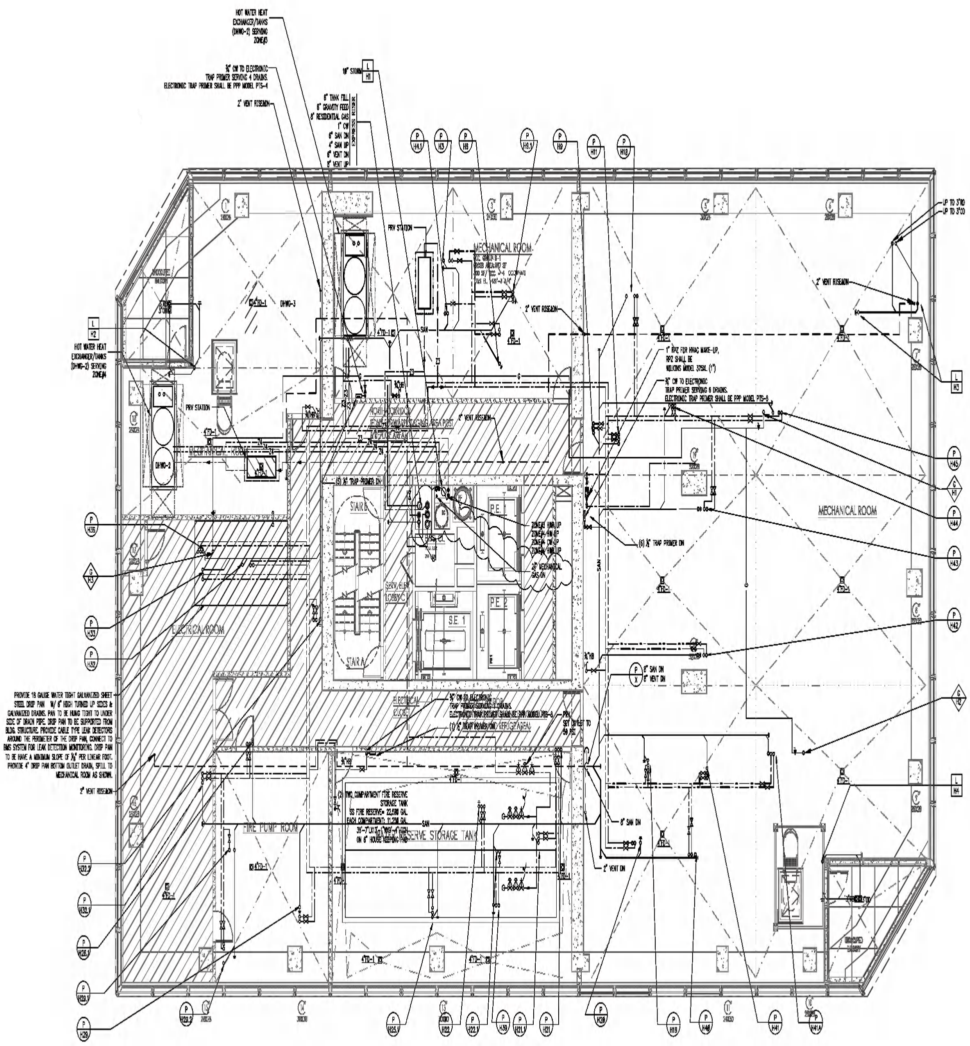
3406



WEST 66TH STREET
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FACADE MAINTENANCE:
ENTEK ENGINEERING LLC

ELEVATOR CONSULTANT:
vda

INTERIOR DESIGNER:
SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACK POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC

AUDIO VISUAL & TELECOMMUNICATIONS:
Cerami

No:	Date:	Revision:
-	08/17/2018	ISSUED TO DOB
1	08/17/2018	80% CD
-	06/04/2018	CD PROGRESS SET
-	06/04/2018	50% CD SET
-	04/27/2018	DOB FILING
-	03/19/2018	CD PROGRESS SET
-	11/14/2017	100% DD
-	06/23/2017	50% DD SET
-	02/14/2017	100% SD DWGS

D.O.B. NUMBER:
NB#121190200

NORTH ARROW
Scale: 3/16" = 1'-0"

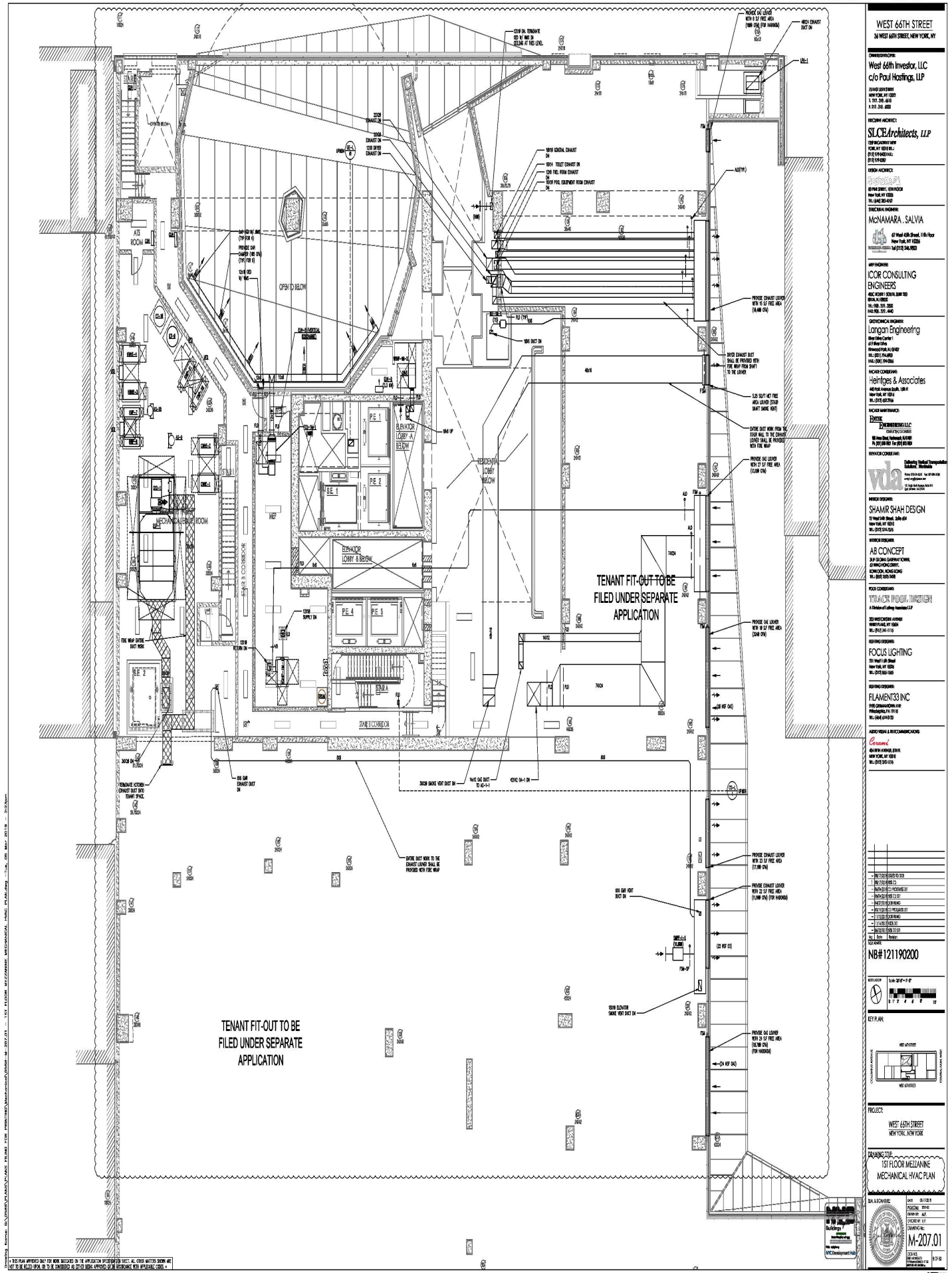
KEY PLAN:

PROJECT:
WEST 66TH STREET
NEW YORK , NEW YORK

DRAWING TITLE:
19TH FLOOR
PLUMBING PIPING PLAN

SEAL & SIGNATURE:
DATE: 08-17-2018
PROJECT No: 2015-85
DRAWN BY: N.G.
CHECKED BY: V.P.
DRAWING No:
P-222.00
27 OF 50

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160605/2020
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021



FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM
NYSCEF DOC. NO. 61
INDEX NO. 160565/2020
RECEIVED NYSCEF: 02/16/2021

GENERAL NOTES:

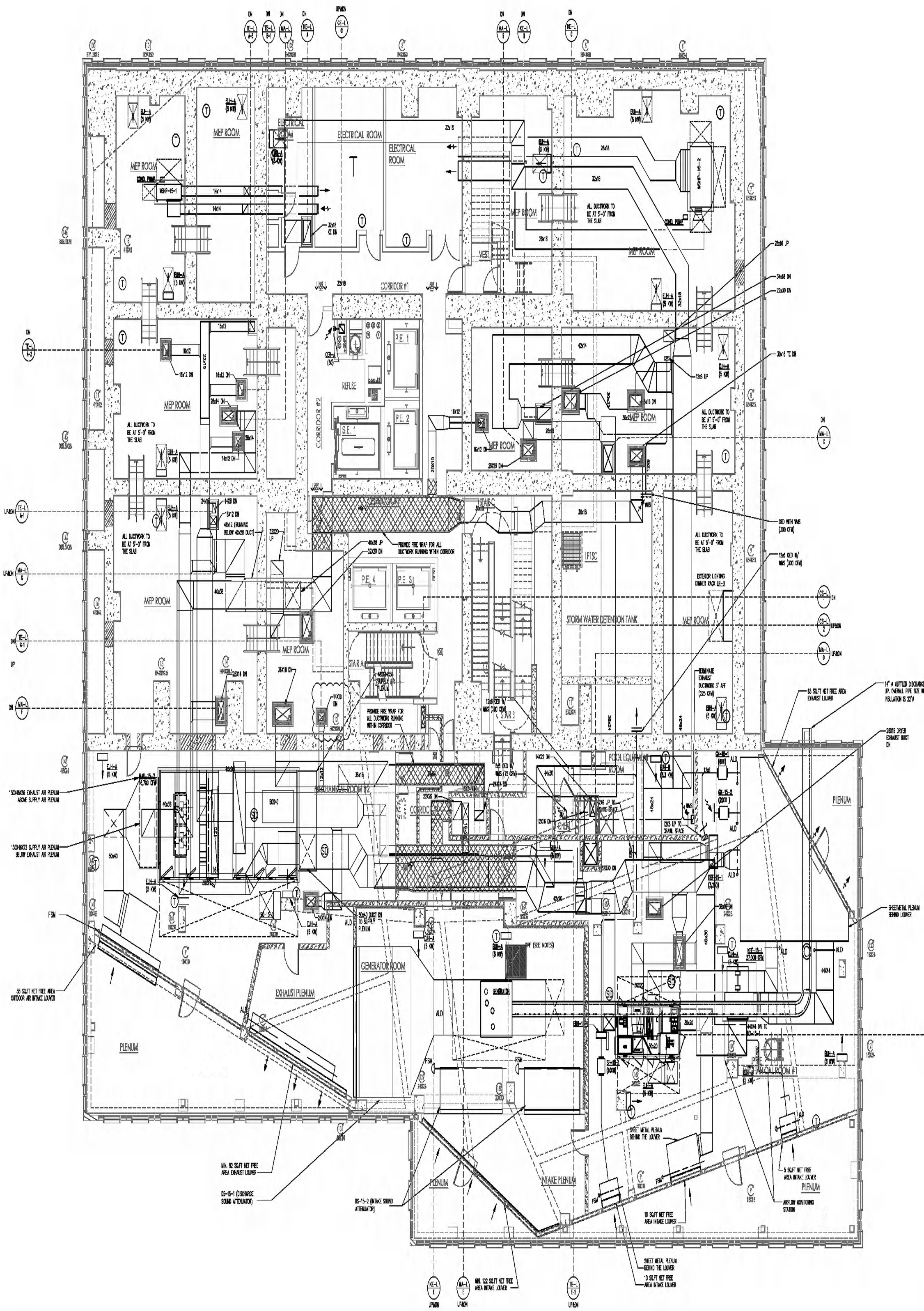
1. ALL DUCTWORK SERVING FANS (EXCEPT DRYER EXHAUST DUCTWORK) AND OR HVAC UNITS ON ROOF OR MER ARE TO BE ACOUSTICALLY LINED ON THAT FLOOR.
2. PROVIDE 2 HR FIRE WRAP AS INDICATED.
3. MAU-15-1 & MAU-15-2
   A. OUTSIDE AIR INTAKE DUCT – 10 FEET OF INTERNAL LINING FROM UNIT
   B. 15 FEET INTERNAL LINING ON SUPPLY

DIESEL PARTICULATE FILTER (DPF) NOTES:

(8) 12" DIAMETER X 12" LONG CATALYZED, WALL-FLOW, PASSIVE DIESEL PARTICULATE FILTER ELEMENTS ALL ARRANGED IN A (2) HIGH X (4) WIDE ARRAY DESIGNED FOR USE ONLY ON AN MTU/ONSITE ENERGY 16V2000 1250KW GENERATOR (PROVIDED BY ALTERNATE POWER GENERATION CONTACT ZACH WENDROFF 908-963-7374) RUNNING AT FULL LOAD. ENGINE EXHAUST IS DIRECTED ACROSS THESE DPF ELEMENTS WITHIN A CUSTOM BUILT 304 SERIES STAINLESS STEEL HOUSING. THE OVERALL HOUSING SIZE CANNOT EXCEED LARGER THAN 60.00" LONG, 60.00" WIDE, AND 38.50" TALL. THIS HOUSING MUST INCORPORATE AN INTERNALLY INSULATED SILENCER SECTION TO ACHIEVE CRITICAL GRADE SOUND ATTENUATION OF 25-32DB(A) AT A BACKPRESSURE NO GREATER THAN 56% OF THE ENGINE MANUFACTURERS MAXIMUM ALLOWABLE BACKPRESSURE.

THE CATALYZED DPF ELEMENTS ESSENTIALLY FILTER OUT UNBURNED CARBON PARTICLES OR SOOT, THAT OCCURS IN THE DIESEL ENGINE EXHAUST, ESPECIALLY UNDER COLD START UP CONDITIONS. THE DPF'S WILL CAPTURE 85+% OF THESE CARBON PARTICLES, OF A SPECIFIED SIZE, TO THEIR OVERALL CAPACITY. THESE CARBON PARTICLES, OR OFTEN CALLED PARTICULATE MATTER (PM), NEED TO BE REMOVED FROM THE DPF'S. THIS IS ACCOMPLISHED BY THE CATALYZED COATING ON THE DPF ELEMENTS REACHING A "LIGHT OFF" TEMPERATURE, DRIVEN BY THE EXHAUST GAS TEMPERATURE. ONCE THIS LIGHT OFF TEMPERATURE IS ACHIEVED, THE DPF WILL OPERATE IN A CONDITION CALLED CONTINUOUS REGENERATION. CONTINUOUS REGENERATION WILL BURN OFF THE CARBON PARTICLES TRAPPED WITHIN THE DPF ELEMENTS AS LONG AS THE LIGHT OFF TEMPERATURE IS SUSTAINED.

IT IS IMPORTANT THAT THE LIGHT OFF EXHAUST TEMPERATURE IS MET FOR PROPER OPERATION. WHEN LIGHT OFF TEMPERATURE IS NOT MAINTAINED, CARBON PARTICLES WILL BUILD UP IN THE DPF ELEMENTS AND WILL INCREASE BACKPRESSURE IN THE EXHAUST. TO HELP MANAGE THIS, A DIFFERENTIAL PRESSURE SWITCH AND MONITORING DEVICE IS RECOMMENDED TO BE UTILIZED IN A PASSIVE DPF SYSTEM TO ALERT THE OPERATOR, OR TO TRIGGER AN ALARM IF A SPECIFIED LIMIT OF BACK PRESSURE HAS BEEN REACHED. WHEN THAT OCCURS, SUFFICIENT LOAD MUST BE APPLIED TO THE ENGINE IN ORDER TO REACH AND MAINTAIN THE LIGHT OFF TEMPERATURE OF THE DPF'S.



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

OWNER/DEVELOPER:
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c/o Paul Hastings, LLP
75 EAST 55TH STREET
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F. 212.318.6000

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New York, NY 10005
TEL.: (646) 383-4762

STRUCTURAL ENGINEER:
McNAMARA . SALVIA
62 West 45th Street, 11th Floor
New York, NY 10036
Tel (212) 246.9800

MEP ENGINEER:
ICOR CONSULTING ENGINEERS
485C ROUTE 1 SOUTH, SUITE 200
ISELIN, NJ 08830
TEL.: 908.272.3300
FAX: 908.272.4440

GEOTECHNICAL ENGINEER:
Langan Engineering
River Drive Center 1
619 River Drive
Elmwood Park, NJ 07407
TEL.: (201) 794.6900
FAX.: (201) 794.0366

FACADE CONSULTANT:
Heintges & Associates
440 Park Avenue South, 15th Fl
New York, NY 10016
TEL.: (212) 652.2966

FACADE MAINTENANCE:
ENTEK ENGINEERING LLC

ELEVATOR CONSULTANT:
vda

INTERIOR DESIGNER:
SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACK POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC

AUDIO VISUAL & TELECOMMUNICATIONS:

NB#121190200

KEY PLAN:

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
15TH FLOOR
MECHANICAL HVAC PLAN

SEAL & SIGNATURE:

DATE: 08-17-2018
PROJECT No: 2015-85
DRAWN BY: M.P.
CHECKED BY: V.P.
DRAWING No: M-216.00
17 OF 80

* THIS PLAN APPROVED ONLY FOR WORK INDICATED ON THE APPLICATION SPECIFICATION SHEET. ALL OTHER MATTERS SHOWN ARE NOT TO BE RELIED UPON, OR TO BE CONSIDERED AS EITHER BEING APPROVED OR IN ACCORDANCE WITH APPLICABLE CODES. *

48 X 36

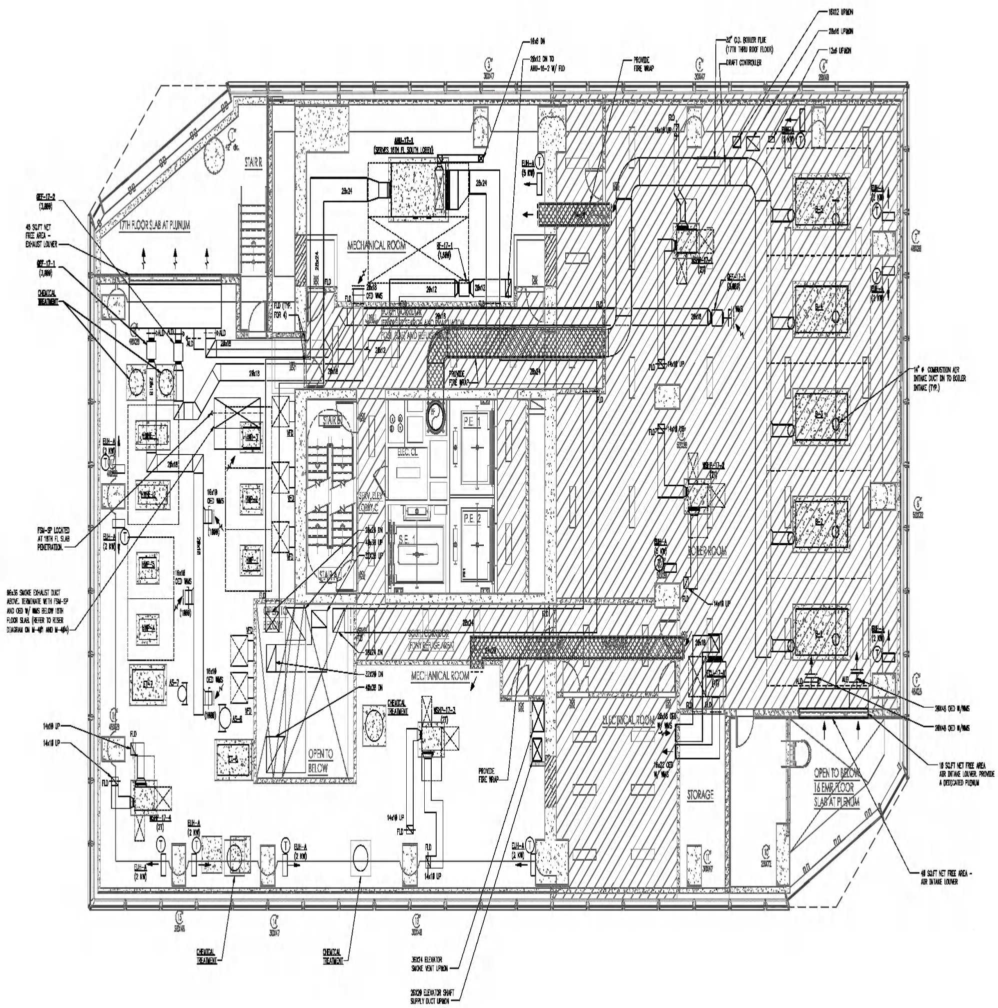
3409

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM
NYSCEF DOC. NO. 61

INDEX NO. 160565/2020
RECEIVED NYSCEF: 02/16/2021

GENERAL NOTES:

1. ALL DUCTWORK SERVING FANS (EXCEPT DRYER EXHAUST DUCTWORK) AND OR HVAC UNITS ON ROOF OR MER ARE TO BE ACOUSTICALLY LINED ON THAT FLOOR.
2. FURNISH AND INSTALL ALL NEUTRALIZATION TANKS AT BOILER ROOM AND AS REQUIRED BY CODE OR SPECIFICATIONS. PIPING FROM FLUE TO EACH NEUTRALIZATION TANK SHALL BE BY MECHANICAL CONTRACTOR.
3. PROVIDE DRAIN CONNECTION AT THE BOTTOM OF FLUE RISER AS WELL AS DRAIN CONFECTIONS AT EVERY 15 FEET WITH HIGH TEMPERATURE STAINLESS STEEL HOSE PIPE ON THE FLUE'S HORIZONTAL RUN IN BOILER ROOM. CONDENSATE DRAIN PIPE SHALL BE SCHEDULE 80 CPVC. ALL BREACHING CONNECTIONS TO DRAIN SHALL BE PLASTIC HOSE LOOPED TO CREATE TRAP.



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

OWNER/DEVELOPER:
West 66th Investor, LLC
c/o Paul Hastings, LLP
75 EAST 55TH STREET
NEW YORK, NY 10022
T. 212.318.6618
F. 212.318.6000

EXECUTIVE ARCHITECT:
SLCE Architects, LLP
1359 BROADWAY NEW YORK, NY 10018 TEL.: (212) 979-8400 FAX.: (212) 979-8387

DESIGN ARCHITECT:
Snøhetta
80 PINE STREET, 10TH FLOOR
New York, NY 10005
TEL.: (646) 383-4762

STRUCTURAL ENGINEER:
McNAMARA . SALVIA
62 West 45th Street, 11th Floor
New York, NY 10036
Tel (212) 246.9800

MEP ENGINEER:
ICOR CONSULTING ENGINEERS
485C ROUTE 1 SOUTH, SUITE 200
ISELIN, NJ 08830
TEL.: 908.272.3300
FAX: 908.272.4440

GEOTECHNICAL ENGINEER:
Langan Engineering
River Drive Center 1
619 River Drive
Elmwood Park, NJ 07407
TEL.: (201) 794.6900
FAX.: (201) 794-0366

FACADE CONSULTANT:
Heintges & Associates
440 Park Avenue South, 15th Fl
New York, NY 10016
TEL.: (212) 652.2966

FACADE MAINTENANCE:
ENTEK ENGINEERING LLC
CONSULTING ENGINEERS

ELEVATOR CONSULTANT:
vda
Delivering Vertical Transportation Solutions...Worldwide

INTERIOR DESIGNER:
SHAMIR SHAH DESIGN
27 West 24th Street, Suite 604
New York, NY 10010
TEL.: (212) 274-7576

INTERIOR DESIGNER:
AB CONCEPT
31/F GLOBAL GATEWAY TOWER,
63 WING HONG STREET,
KOWLOON, HONG KONG
TEL.: (852) 2525-2428

POOL CONSULTANT:
TRACE POOL DESIGN
A Division of Lothrop Associates LLP
333 WESTCHESTER AVENUE
WHITE PLANS, NY 10604
TEL.: (917) 741-1115

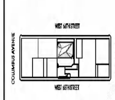
LIGHTING DESIGNER:
FOCUS LIGHTING
221 West 116th Street
New York, NY 10026
TEL.: (212) 865-1565

LIGHTING DESIGNER:
FILAMENT33 INC
9190 GERMANTOWN AVE
Philadelphia, PA 19118
TEL.: (464) 674-0133

AUDIO VISUAL & TELECOMMUNICATIONS:
Cerami
404 FIFTH AVENUE, 8TH FL.
NEW YORK, NY 10018
TEL.: (212) 370-1776

NB#121190200

KEY PLAN:



PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
17TH FLOOR
MECHANICAL HVAC PLAN

SEAL & SIGNATURE:

DATE:	08-17-2018
PROJECT No:	2015-85
DRAWN BY:	M.P.
CHECKED BY:	V.P.
DRAWING No:	M-220.00
DOB NO.	21 OF 80

Buildings
AMENDED APPLICATION
NYC Development Hub

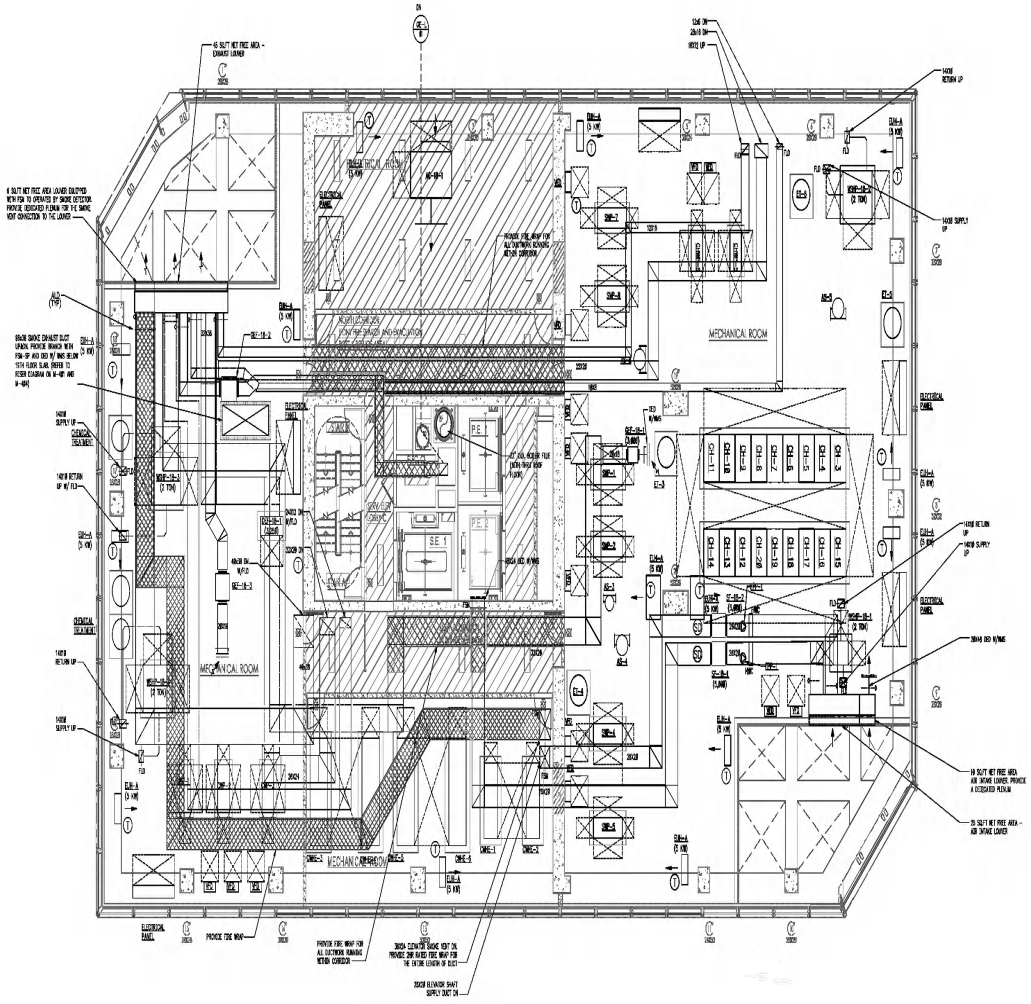
* THIS PLAN APPROVED ONLY FOR WORK INDICATED ON THE APPLICATION SPECIFICATION SHEET. ALL OTHER MATTERS SHOWN ARE NOT TO BE RELIED UPON, OR TO BE CONSIDERED AS EITHER BEING APPROVED OR IN ACCORDANCE WITH APPLICABLE CODES. *

48 X 36

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160605/2020
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021

GENERAL NOTES:

1. ALL DIFFUSERS SERVING FANS (EXCEPT EXPOSED EXHAUST DIFFUSERS) AND OR HVAC UNITS ON ROOF OR MER ARE TO BE ACOUSTICALLY LINED IN THAT FLOOR.



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

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

ARCHITECT:
SLCE Architects, LLP

DESIGN ARCHITECT:
Gensler

STRUCTURAL ENGINEER:
McNAMARA . SALVIA

MEP ENGINEER:
ICOR CONSULTING ENGINEERS

GEOTECHNICAL ENGINEER:
Langan Engineering

FACADE CONSULTANT:
Heintges & Associates

FACADE MAINTENANCE:
Bonnie Engineering LLC

EXPEDITOR CONSULTANT:
vda

INTERIOR DESIGNER:
SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACE POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC

AUDIO VISUAL & TELECOMMUNICATIONS:
Cerami

No.	Date	Revision
–	08/17/2018	ISSUED FOR CO
1	08/17/2018	ISSUED FOR CO
–	07/13/2018	ISSUED FOR DOB
–	09/04/2018	ISSUED FOR DOB
–	09/04/2018	CO PROGRESS SET
–	09/04/2018	ISSUED FOR CO SET
–	04/01/2019	FOR PERMIT
–	04/19/2019	CO PROGRESS SET
–	11/15/2019	FOR PERMIT
–	11/14/2019	ISSUED FOR CO
–	04/27/2020	ISSUED FOR CO

DOB NUMBER:
NB#121190200

NORTH ARCH | Scale: 3/16" = 1'-0"

KEY PLAN:

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
18TH FLOOR
MECHANICAL HVAC PLAN

SEAL & SIGNATURE:

DRAWING NO.:
M-221.00

Drawing Name: BUILDING PLANS\PLANS FILING FOR PERMIT\Mechanical\Drawings\M-221.00 - 18TH FLOOR MECHANICAL HVAC PLAN.dwg - Tue, 05 Mar 2019 - 2:29pm

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160505/2020
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021

GENERAL NOTES:

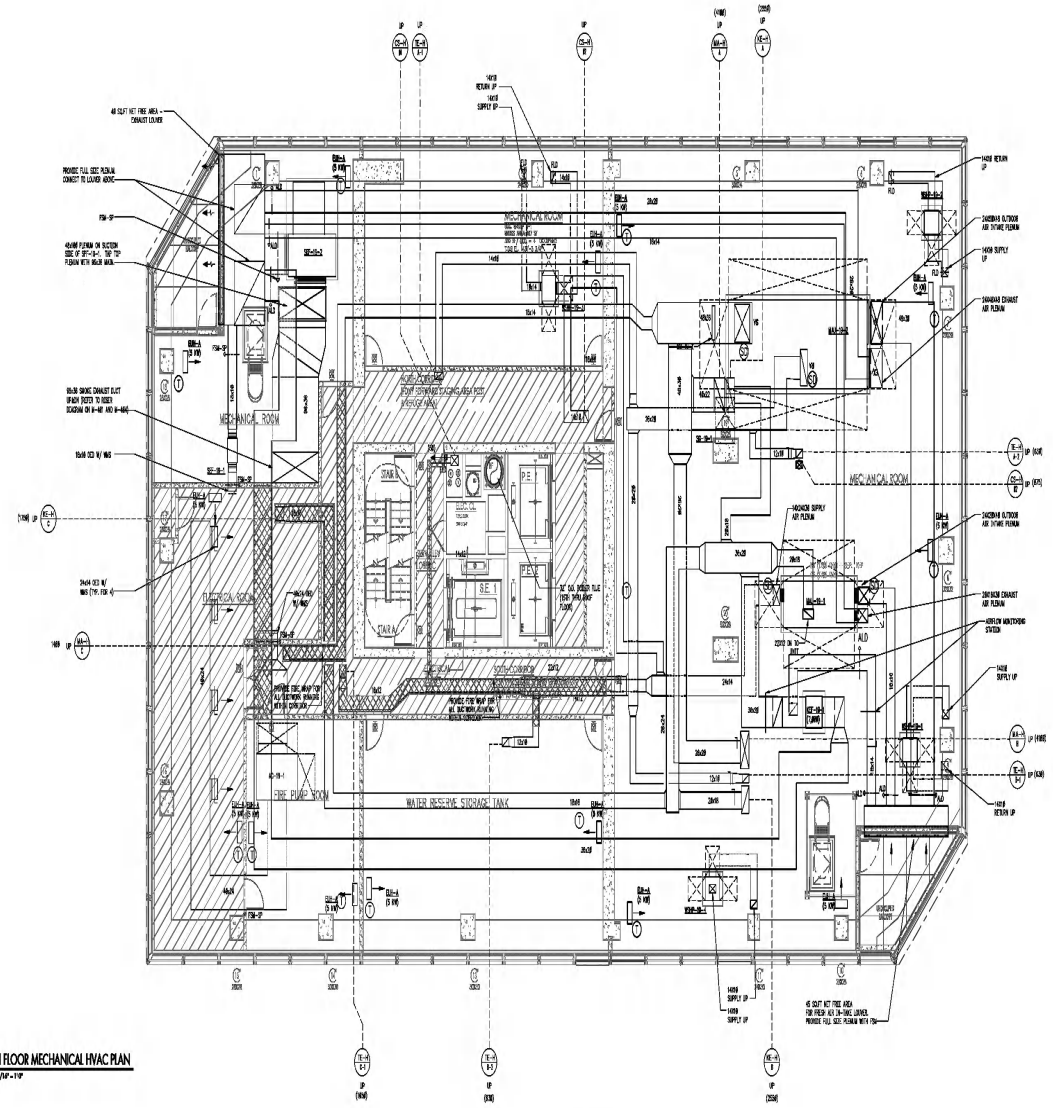
1. ALL DUCTWORK SERVING TANK (EXCEPT DRYER EXHAUST DUCTWORK) AND ON HVAC UNITS ON ROOF OR ABOVE ARE TO BE ACOUSTICALLY LINED ON THAT FLOOR.

2. ALL DUCTWORK SHALL BE PROVIDED WITH 2-HR RATED FIRE WRAP.

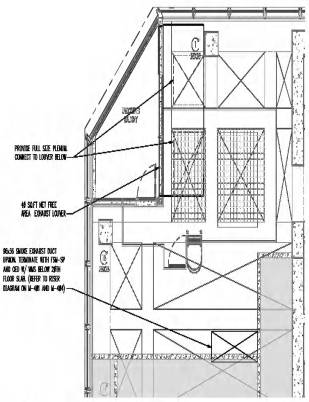
3. MAS-15-1 & MAS-15-2:

A. OUTSIDE AIR INTAKE DUCT – PROVIDE 15 FEET OF ACOUSTICAL LINING.

B. SUPPLY AIR DUCT – PROVIDE 20 FEET OF ACOUSTICAL LINING.



1 19TH FLOOR MECHANICAL HVAC PLAN
SCALE: 3/16" = 1'-0"



2 19TH FLOOR FDNY ACCESS 7 MECHANICAL HVAC PLAN
SCALE: 3/16" = 1'-0"

THIS PLAN APPROVED ONLY FOR WORK INDICATED ON THE APPLICATION SPECIFICATION SHEET. ALL OTHER MATTERS SHOWN ARE NOT TO BE ACTED UPON, OR TO BE CONSIDERED AS EITHER BEING APPROVED OR IN ACCORDANCE WITH APPLICABLE CODES. •

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

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

ARCHITECT:
SLCE Architects, LLP

DESIGN ARCHITECT:
Stonehill & Taylor

STRUCTURAL ENGINEER:
McNAMARA . SALVIA

MEP ENGINEER:
ICOR CONSULTING ENGINEERS

GEOTECHNICAL ENGINEER:
Langan Engineering

HVAC CONSULTANT:
Heintges & Associates

HVAC MAINTENANCE:
ENTEK ENGINEERING LLC

EXPEDITOR CONSULTANT:
vda

INTERIOR DESIGNER:
SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACE POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC

AUDIO VISUAL & TELECOMMUNICATIONS:
Cerami

No.	Date	Revision
—	09/17/2018	ISSUED TO DOB
1	09/17/2018	DOB CO
—	04/04/2019	CO RESUBMITTED
—	05/06/2019	DOB CO SET
—	04/07/2020	DOB FILING
—	05/15/2020	CO RESUBMITTED
—	11/04/2020	DOB CO SET
—	04/07/2021	DOB CO SET

JOB NUMBER:
NB#121190200

NORTH ARROW — Scale: 3/16" = 1'-0"

KEY PLAN:

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
19TH FLOOR & FDNY ACCESS 7 MECHANICAL HVAC PLAN

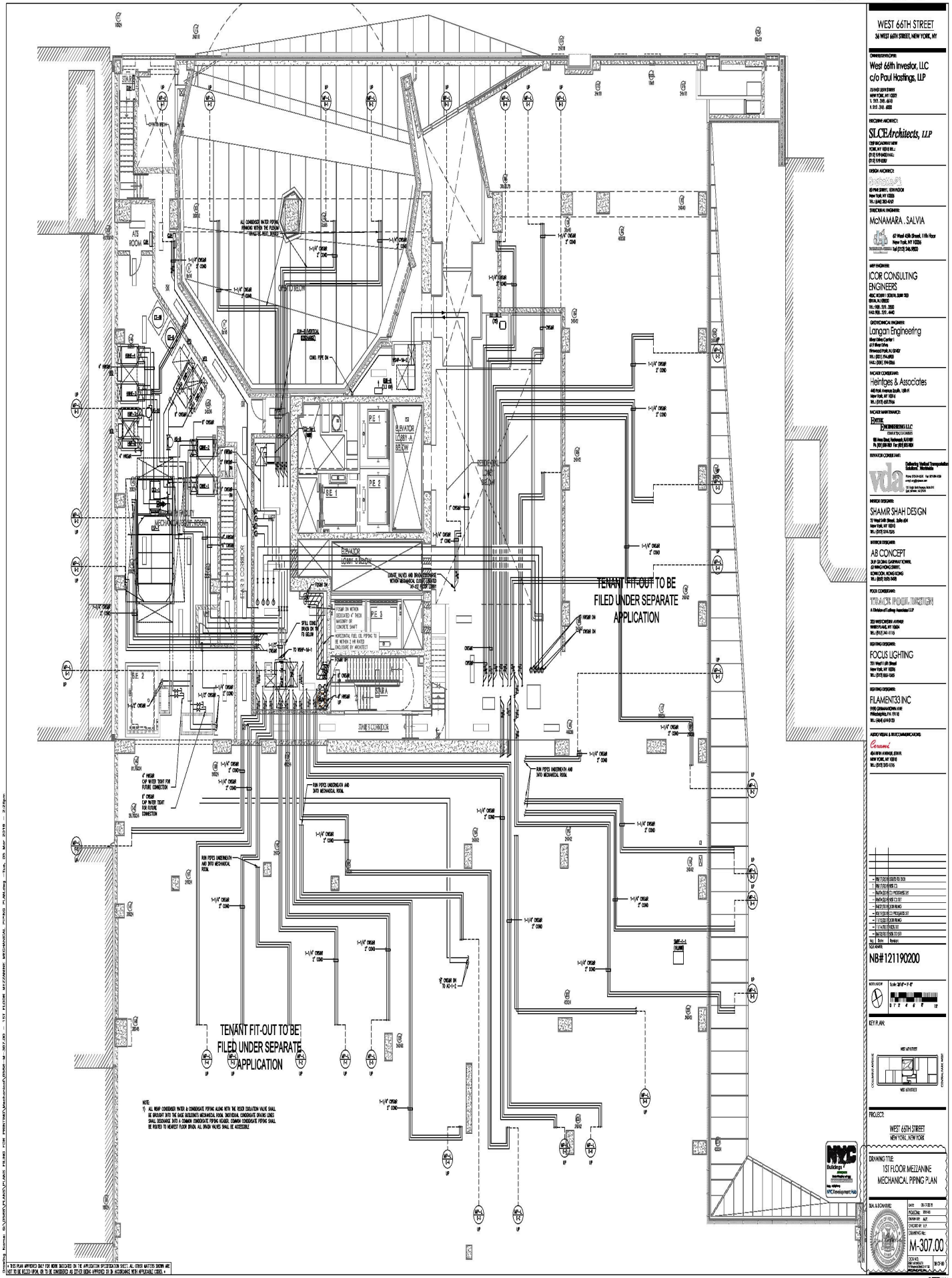
SEAL & SIGNATURE:

DATE	05/15/2019
PROJECT NO.	2016.02
DRAWN BY	ALF
CHECKED BY	S.T.
DRAWING NO.	M-222.00

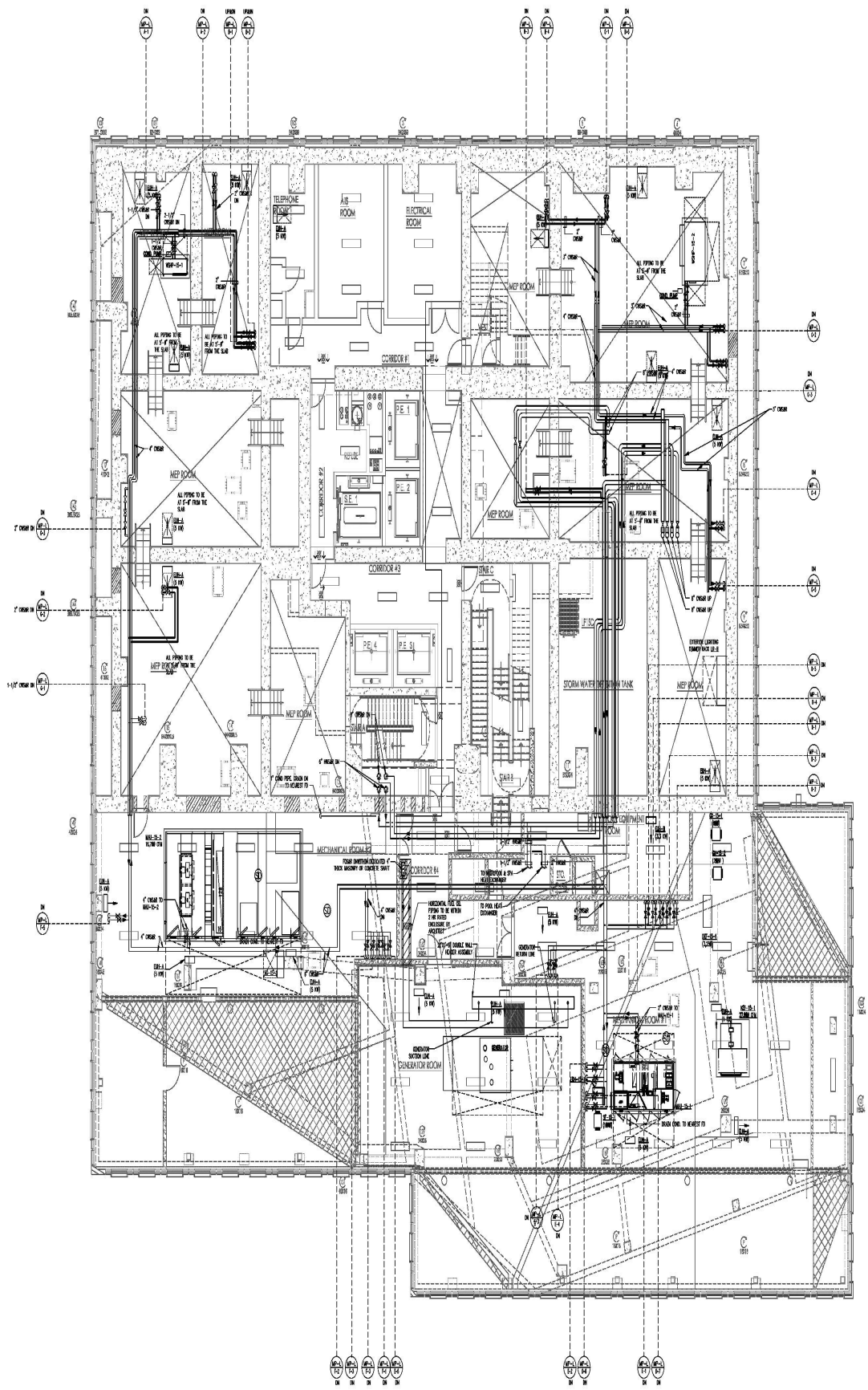
DOB NO. [illegible]

Drawing Name: G:\PROJECTS\PROJECTS_ACTIVE_FILING_FOR_PRINTING\Mechanical\Drawings - M - 222.00 - 19TH FLOOR MECHANICAL HVAC PLAN.dwg - Thu, 14 Mar 2019 - 4:09pm

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160605/2020
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021



FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160605/2020
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021



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

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

ARCHITECT:
SLCE Architects, LLP

DESIGN ARCHITECT:
Studios AS

STRUCTURAL ENGINEER:
McNAMARA . SALVIA

MEP ENGINEER:
ICOR CONSULTING ENGINEERS

GEOTECHNICAL ENGINEER:
Langan Engineering

FACADE CONSULTANT:
Heintges & Associates

FACADE MAINTENANCE:
ENNIS ENGINEERING LLC

TRANSPORTATION CONSULTANT:
vda

INTERIOR DESIGNER:
SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACE POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC

AUDIO VISUAL & TELECOMMUNICATIONS:
Cerami

No.	Date	Revision
1	09/17/2020	ISSUED TO DOB
2	09/17/2020	RE-ISSUED CO
–	10/09/2020	CO PROGRESS SET
–	10/09/2020	RE-ISSUED CO SET
–	11/02/2020	CO FOR FILING
–	11/04/2020	CO SET
–	11/27/2020	RE-ISSUED CO SET

NB# 121190200

NORTH ARCH

KEY PLAN

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
15TH FLOOR
MECHANICAL PIPING PLAN

SEAL & SIGNATURE:

DATE: 09-17-2020
PROJECT#: 2019-02
DRAWN BY: AKP
CHECKED BY: S.P.
DRAWING #: M-316.00

NYC Builders' Pledge

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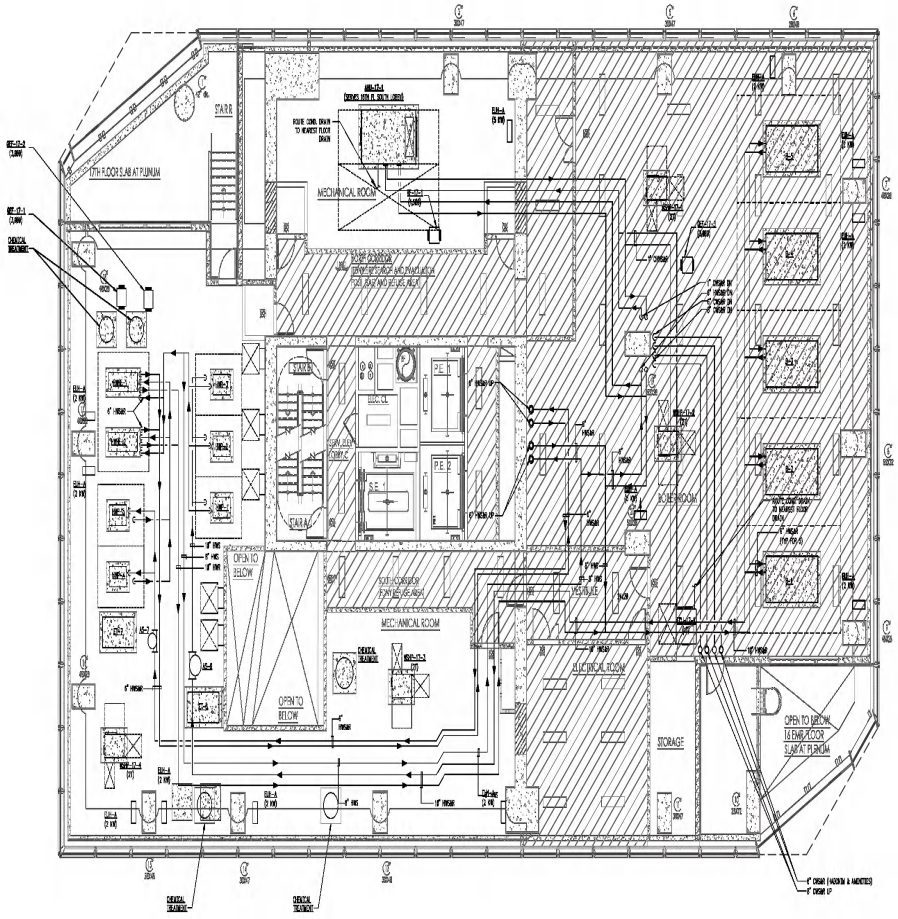
Drawing Name: C:\Users\mchoi\Documents\Revit Central\Autosave_2019\Model M_316.00 - 15TH FLOOR MECHANICAL PIPING PLAN.dwg - Thu, 21 Mar 2019 - 10:08am

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160605/2020
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021



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

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

ARCHITECT:
SLCE Architects, LLP

DESIGN ARCHITECT:
Studio V

STRUCTURAL ENGINEER:
McNAMARA . SALVIA

MEP ENGINEER:
ICOR CONSULTING ENGINEERS

GEOTECHNICAL ENGINEER:
Langan Engineering

FACADE CONSULTANT:
Heintges & Associates

FACADE MAINTENANCE:
BKSK ENGINEERING LLC

EXPEDITOR CONSULTANT:
vda

INTERIOR DESIGNER:
SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACK POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC

AUDIO VISUAL & TELECOMMUNICATIONS:
Cerami

- PW1 DOB COMMENTS
- PW1 DOB HVAC CD
- PW1 DOB CD PROGRESS SET
- PW1 DOB CD SET
- PW2 DOB FILING
- PW2 DOB CD PROGRESS SET
- PW2 DOB FILING
- PW3 DOB FILING
- PW3 DOB CD SET

No. | Date | Revision

JOB NUMBER
NB#121190200

NORTH ARCH | Scale: 3/16" = 1'-0"

KEY PLAN:

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
17TH FLOOR
MECHANICAL PIPING PLAN

SEAL & SIGNATURE | DATE: 09.17.2020 | PROJECT #: 19140 | DRAWN BY: AKP | CHECKED BY: V.P.

DRAWING NO.
M-319.00

DOB NO.
(NO. 121190200)

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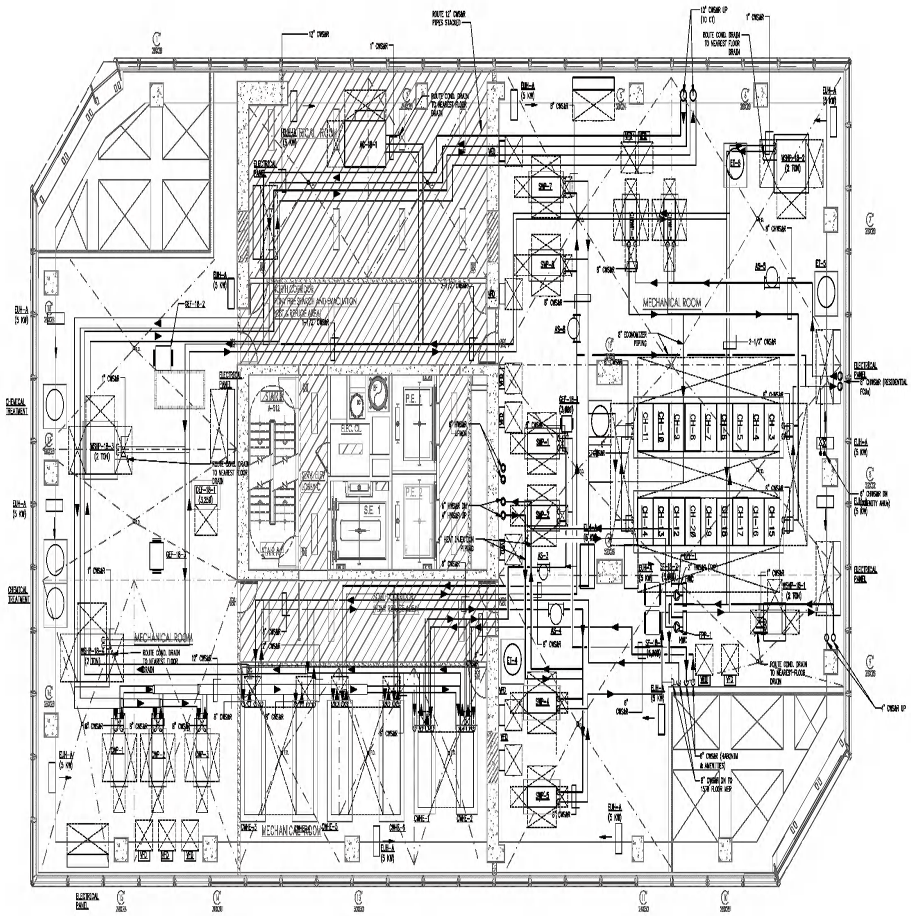
Drawing Name: G:\PROJECTS\NB#121190200 - 36 W 66TH ST\PLANS FOR PERMITTING\Mechanical\DWGS\M-319.00 - 17TH FLOOR MECHANICAL PIPING PLAN.dwg - Tue, 05 Mar 2019 - 2:38pm

3415



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

OWNER/DEVELOPER:
West 66th Investor, LLC
c/o Paul Hastings, LLP
75 EAST 55TH STREET
NEW YORK, NY 10022
T. 212 . 318 . 6618
F. 212 . 318 . 6000

EXECUTIVE ARCHITECT:
SLCE Architects, LLP
1359 BROADWAY NEW YORK, NY 10018 TEL.: (212) 979-8400 FAX.: (212) 979-8387

DESIGN ARCHITECT:
Snøhetta
80 PINE STREET, 10TH FLOOR
New York, NY 10005
TEL.: (646) 383-4762

STRUCTURAL ENGINEER:
McNAMARA . SALVIA
62 West 45th Street, 11th Floor
New York, NY 10036
Tel (212) 246.9800

MEP ENGINEER:
ICOR CONSULTING ENGINEERS
485C ROUTE 1 SOUTH, SUITE 200
ISELIN, NJ 08830
TEL.: 908 . 272 . 3300
FAX: 908 . 272 . 4440

GEOTECHNICAL ENGINEER:
Langan Engineering
River Drive Center 1
619 River Drive
Elmwood Park, NJ 07407
TEL.: (201) 794.6900
FAX.: (201) 794-0366

FACADE CONSULTANT:
Heintges & Associates
440 Park Avenue South, 15th Fl
New York, NY 10016
TEL.: (212) 652.2966

FACADE MAINTENANCE:
ENTEK ENGINEERING LLC

ELEVATOR CONSULTANT:
vda

INTERIOR DESIGNER:
SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACK POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC

AUDIO VISUAL & TELECOMMUNICATIONS:
Cerami

NB#121190200

KEY PLAN:

PROJECT:
WEST 66TH STREET
NEW YORK , NEW YORK

DRAWING TITLE:
18TH FLOOR
MECHANICAL PIPING PLAN

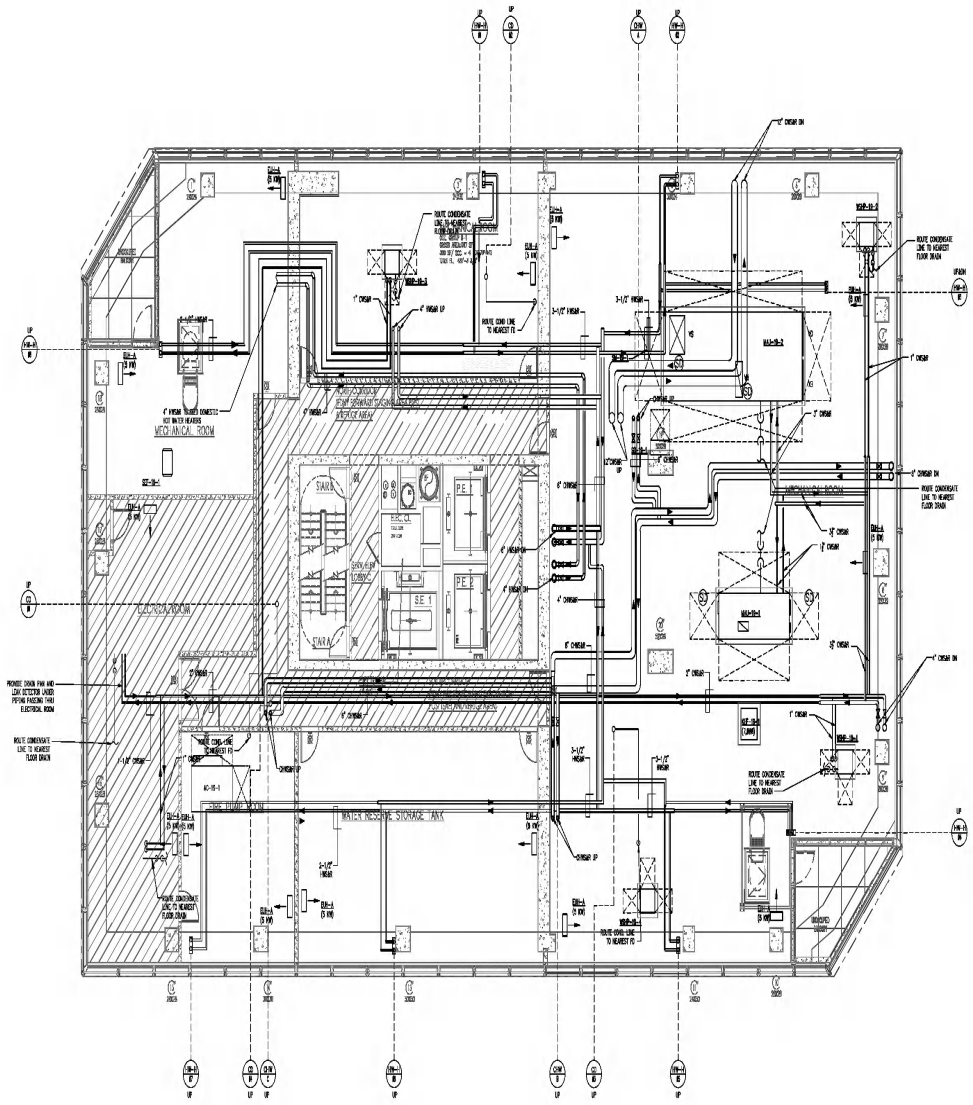
SEAL & SIGNATURE:

DATE:	08-17-2018
PROJECT No:	2015-85
DRAWN BY:	M.P.
CHECKED BY:	V.P.
DRAWING No:	M-320.00
DOB NO.	51 OF 80

48 X 36

• THIS PLAN APPROVED ONLY FOR WORK INDICATED ON THE APPLICATION SPECIFICATION SHEET. ALL OTHER MATTERS SHOWN ARE NOT TO BE RELIED UPON, OR TO BE CONSIDERED AS EITHER BEING APPROVED OR IN ACCORDANCE WITH APPLICABLE CODES. •

FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160605/2020
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021



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

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

EXECUTIVE ARCHITECT:
SLCE Architects, LLP

DESIGN ARCHITECT:

STRUCTURAL ENGINEER:
McNAMARA . SALVIA

MEP ENGINEER:
ICOR CONSULTING ENGINEERS

GEOTECHNICAL ENGINEER:
Langan Engineering

FACADE CONSULTANT:
Heintges & Associates

FACADE MAINTENANCE:
ENTEK ENGINEERING LLC

EXPEDITOR CONSULTANT:
vda

INTERIOR DESIGNER:
SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACE POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC

AUDIO VISUAL & TELECOMMUNICATIONS:
Cerami

No.	Date	Revision
–	09/17/2019	ISSUED TO DOB
1	09/17/2019	DOB Cp
–	04/24/2020	CO PROCEDURE 01
–	05/04/2020	DOB CO SET
–	04/07/2020	DOB FILING
–	05/15/2020	CO PROCEDURE 01
–	11/04/2020	DOB 01
–	04/27/2021	DOB CO 01

JOB NUMBER:
NB#121190200

NORTH ARROW

KEY PLAN:

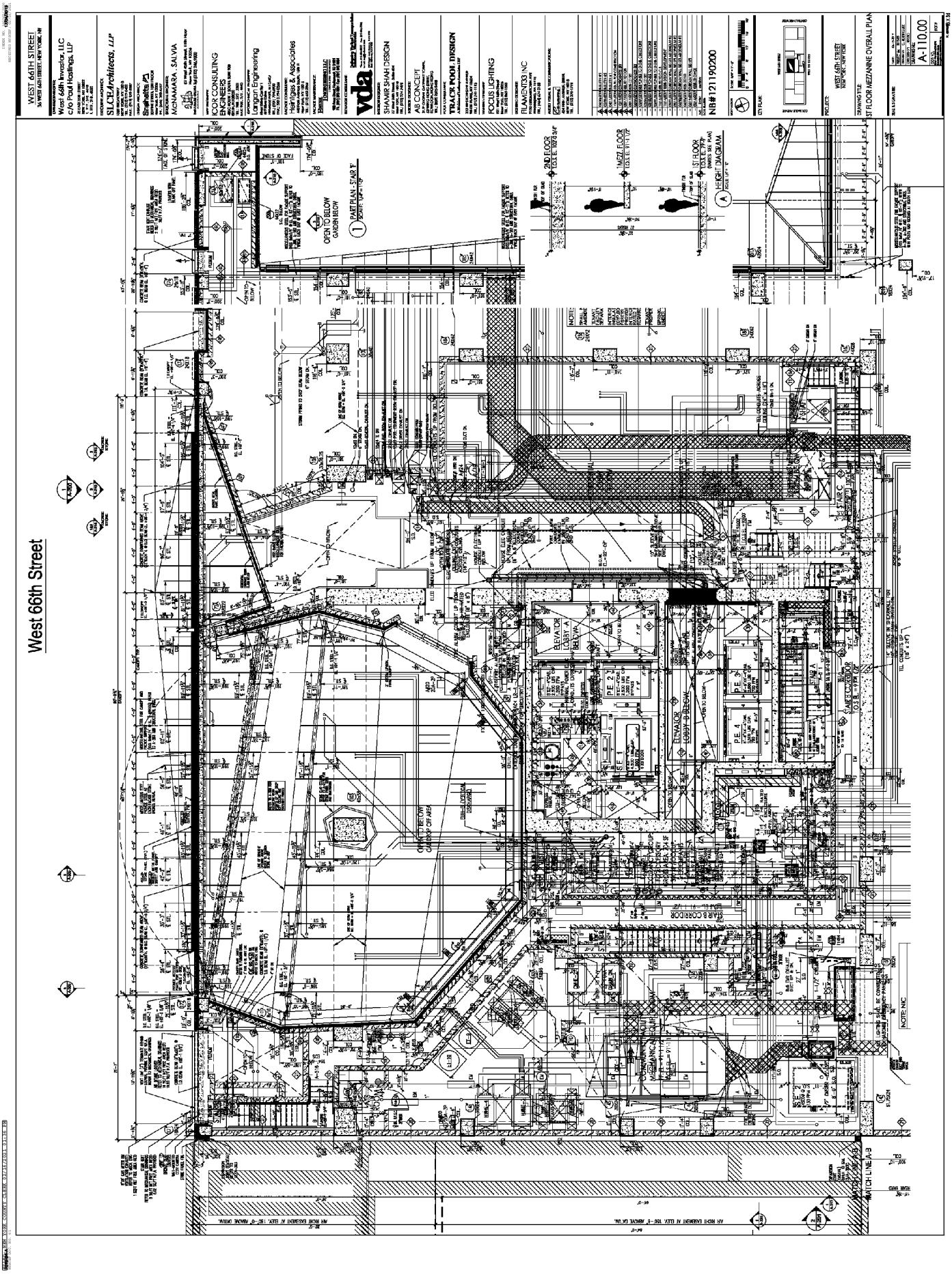
PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
19TH FLOOR
MECHANICAL PIPING PLAN

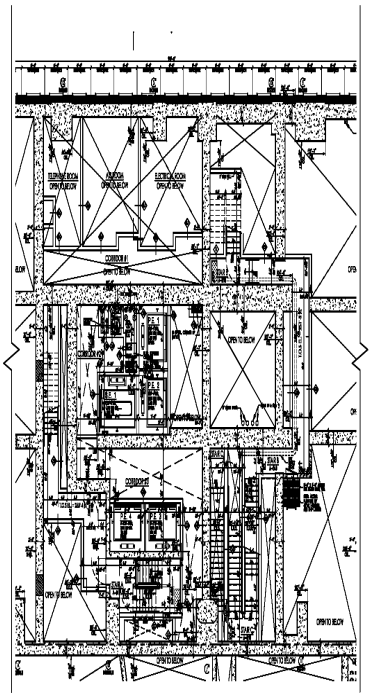
SEAL & SIGNATURE:

DRAWING NO.
M-321.00

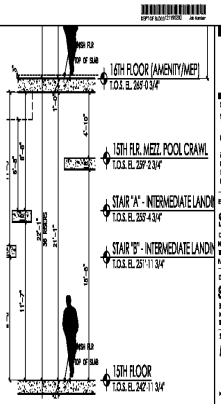
THIS PLAN APPROVED ONLY FOR WORK INDICATED ON THE APPLICATION SPECIFICATION SHEET. ALL OTHER WORKING SHOWN ARE NOT TO BE BUILT UPON OR TO BE CONSIDERED AS EITHER BEING APPROVED OR IN ACCORDANCE WITH APPLICABLE CODES.


West 66th Street
WEST 66TH STREET
NEW YORK, NEW YORK
1ST FLOOR MEZZANINE OVERALL PLAN
A-110.00
NB#121190200
OPEN TO BELOW
GARDEN BELOW
OPEN TO BELOW
GARDEN OF ARTS
ELEVATOR LOBBY A
ELEVATOR LOBBY B
ELEVATOR LOBBY C
STAIR A
STAIR B CORRIDOR
STAIR C
MECHANICAL
MATCH LINE A-3
2ND FLOOR
1MEZZ FLOOR
1ST FLOOR
HEIGHT DIAGRAM

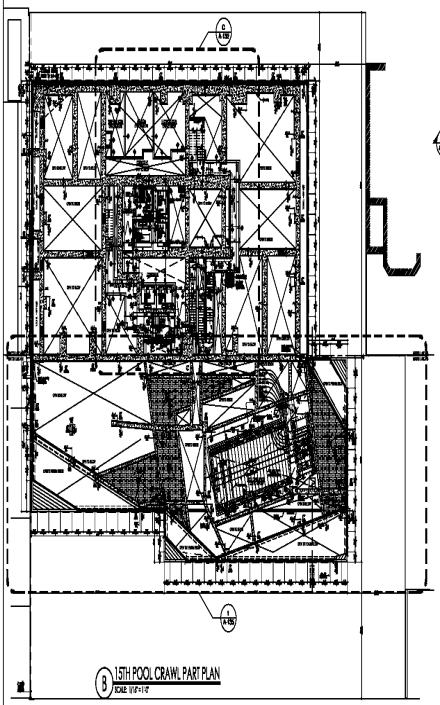
FILED: NEW YORK COUNTY CLERK 02/16/2021 01:36 PM INDEX NO. 160042/2021
NYSCEF DOC. NO. 61 RECEIVED NYSCEF: 02/16/2021



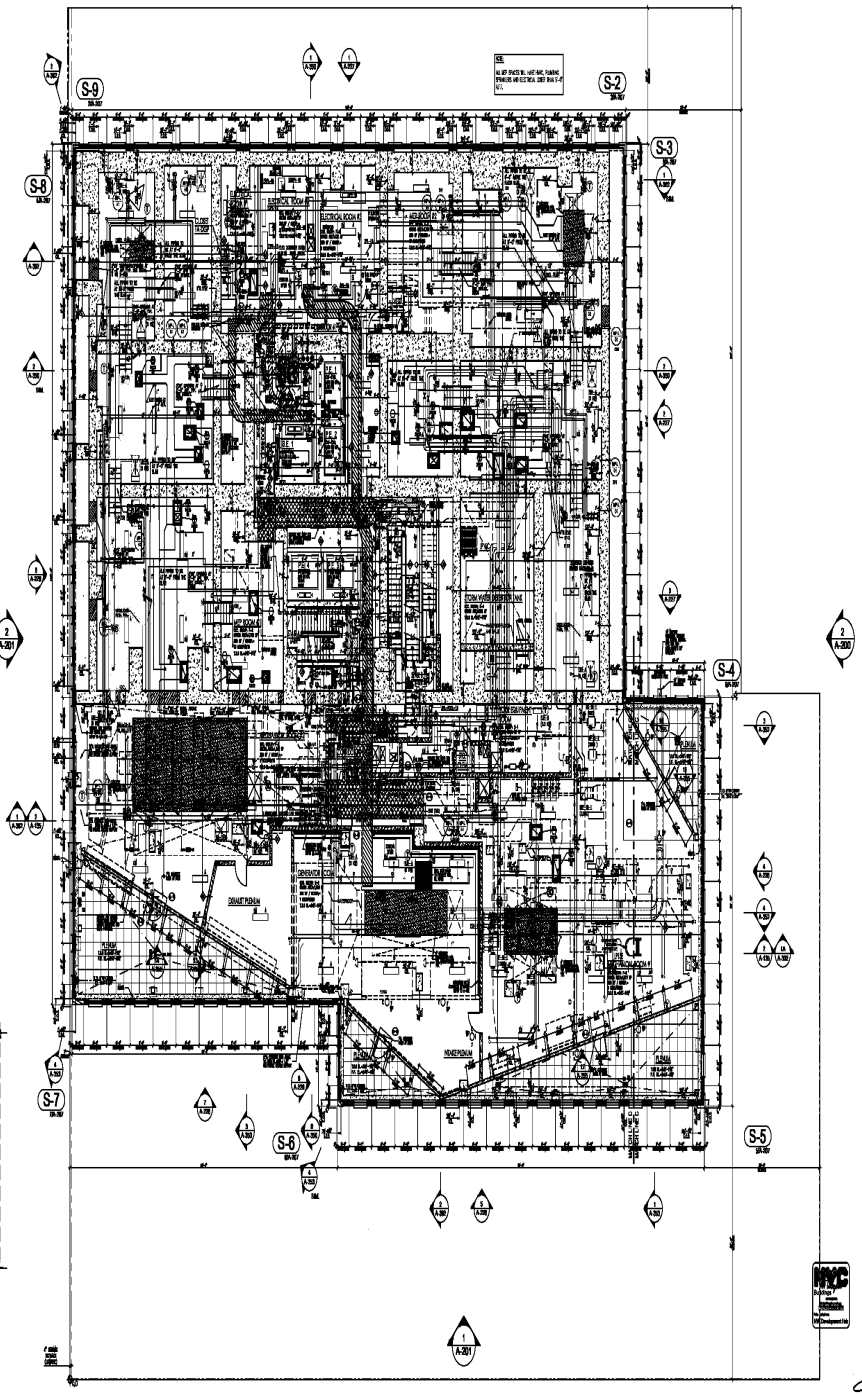
C 15TH POOL CRAWL CORE AND STAIR PART PLAN
SCALE: 1/16"=1'-0"



A HEIGHT DIAGRAM
SCALE: 1/8"=1'-0"



B 15TH POOL CRAWL PART PLAN
SCALE: 1/16"=1'-0"



West 66th Street

West 65th Street

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

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

ARCHITECTURE ARCHITECT:
SLCE*Architects*, LLP

DESIGN ARCHITECT:
Sagnetta

STRUCTURAL ENGINEER:
McNAMARA . SALVIA

MEP ENGINEER:
ICOR CONSULTING ENGINEERS

GEOTECHNICAL ENGINEER:
Langan Engineering

FACADE CONSULTANT:
Heintges & Associates

FACADE MAINTENANCE:
Empire Engineering LLC

ELEVATOR CONSULTANT:
wja

INTERIOR DESIGNER:
SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACE POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC

AUDIO VISUAL & TELECOMMUNICATIONS:
Cerami

DOB NUMBER
NB#121190200

KEY PLAN

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
15TH FLR OVERALL PLAN
(18TH FL MARKETING)

SEAL & SIGNATURE:

DRAWING NO.
A-132.00

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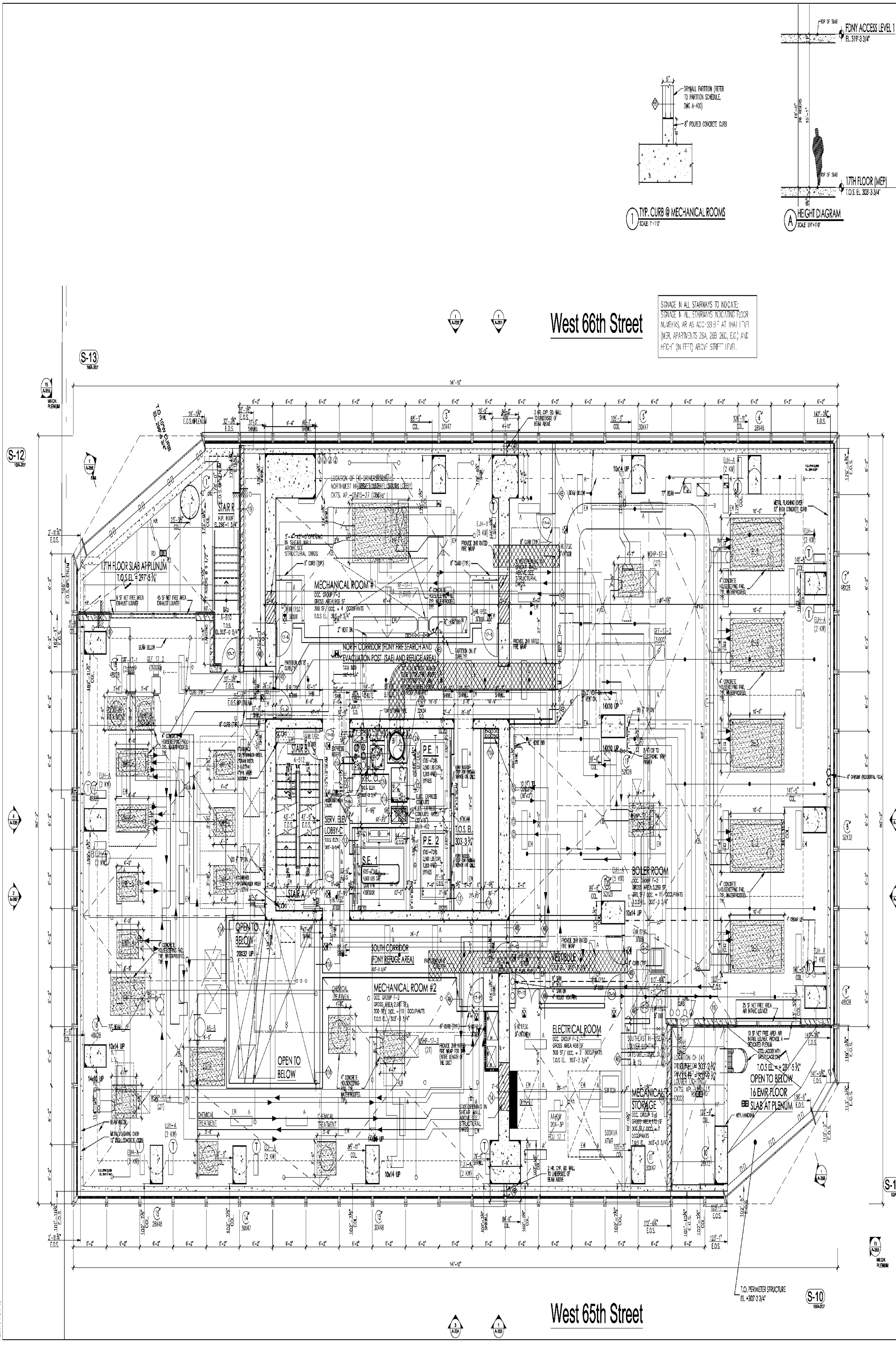
RECEIVED NYSCEF: 02/16/2021

12/04/2019



SIGNAGE IN ALL STAIRWAYS TO INDICATE: SIGNAGE IN ALL STAIRWAYS INDICATING FLOOR NUMBERS, AR AS ACCESSIBLE AT THAT LEVEL (MER, APARTMENTS 25A, 26B, 26C, ETC) AND HEIGHT (IN FEET) ABOVE STREET LEVEL.

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vda — Delivering Vertical Transportation Solutions, Worldwide

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SHAMIR SHAH DESIGN

INTERIOR DESIGNER:
AB CONCEPT

POOL CONSULTANT:
TRACE POOL DESIGN

LIGHTING DESIGNER:
FOCUS LIGHTING

LIGHTING DESIGNER:
FILAMENT33 INC

AUDIO VISUAL & TELECOMMUNICATIONS:

NB#121190200

KEY PLAN:
WEST 66TH STREET
COLUMBUS AVENUE
CENTRAL PARK WEST
WEST 65TH STREET

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
17TH FLR (MEP SLAB) PLAN
(22ND FL MARKETING)

SEAL & SIGNATURE:

DATE:	04-15-2015
PROJECT No:	2015-86
DRAWN BY:	C. RODRIGUEZ
CHECKED BY:	L. RUSSO
DRAWING No:	A-140.00
DOB NO.	#OF#

FDNY66-64-48

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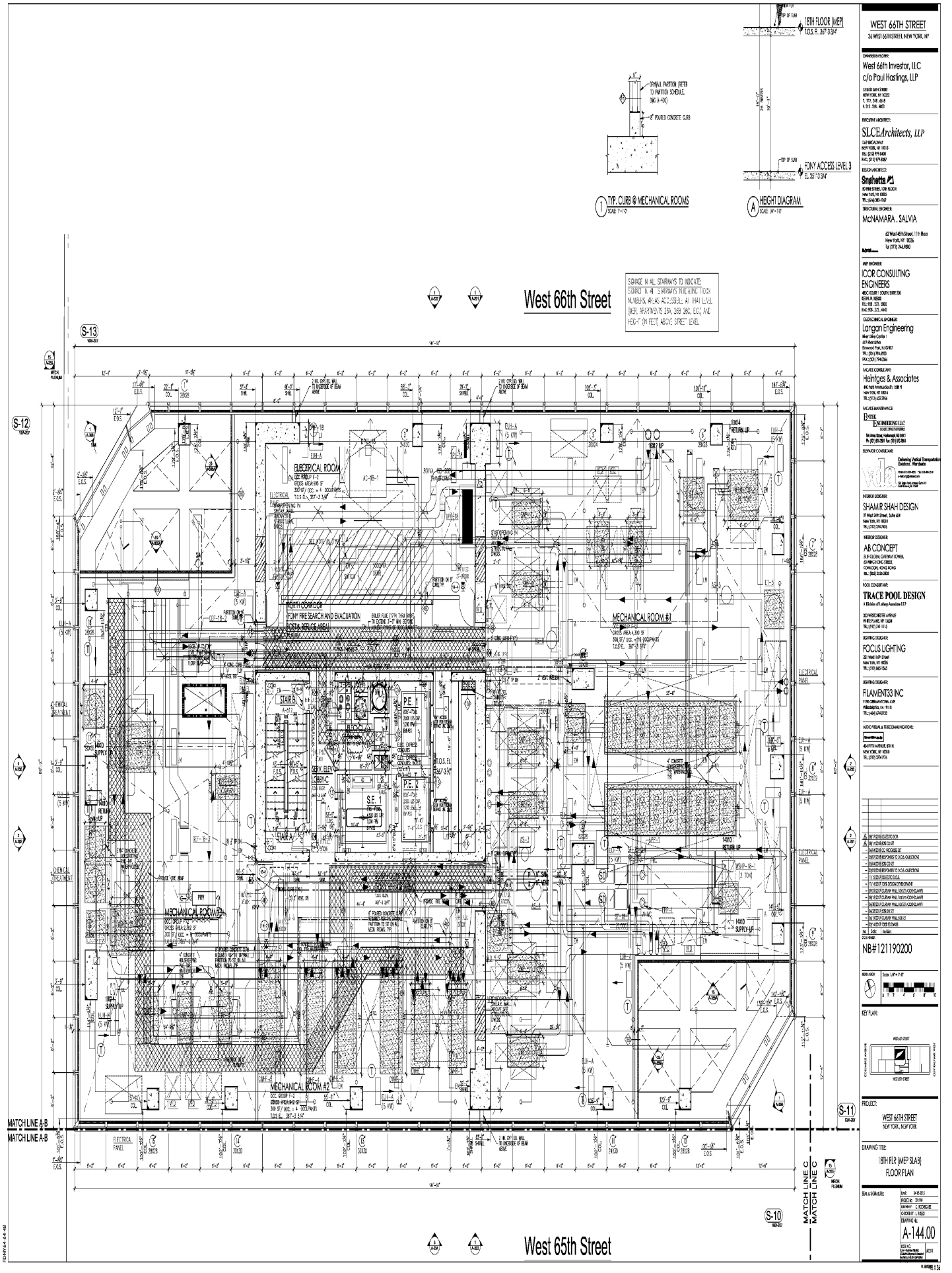

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1	DRAFT DOB SUBMISSION SET
2	DOB FILING SET
3	ADDENDUM NO. 1 TO DOB FILING SET
4	ADDENDUM NO. 2 TO DOB FILING SET
5	DOB COMMENTS RESPONSE TO DOB FILING SET
6	ADDENDUM NO. 3 TO DOB FILING SET
7	DOB COMMENTS RESPONSE TO DOB FILING SET
8	11/15/2019 ISSUED TO DOB
9	11/22/2019 ISSUED TO DOB
10	11/14/2019 CITY DESIGN REVIEW UPDATE
11	DRAWINGS FOR DOB PAID 100 SET ADDENDUM #1
12	DRAWINGS FOR DOB PAID 100 SET ADDENDUM #2
13	DRAWINGS FOR DOB PAID 100 SET ADDENDUM #3
14	DRAWINGS FOR DOB SET
15	DRAWINGS FOR DOB PAID SET
16	DRAWINGS FOR DOB PAID SET
No.	Date Revision

DOB NUMBER
NB#121190200

NORTH ARROW
SCALE: 1/4"=1'-0"
0 1'-0" 2'-0" 4'-0" 8'-0" 16'-0"

KEY PLAN

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
18TH FLR (MEP SLAB) FLOOR PLAN

SEAL & SIGNATURE:

DATE: 04-09-2020
PROJECT #: 2018-01
DRAWN BY: C. RODRIGUEZ
CHECKED BY: R.DEBO
DRAWING NO.
A-144.00
DOB NO.
1 for Another Window
2 Mechanical Enhancement
Ave Blocks, Lot 31 Exploration
REVISION #019

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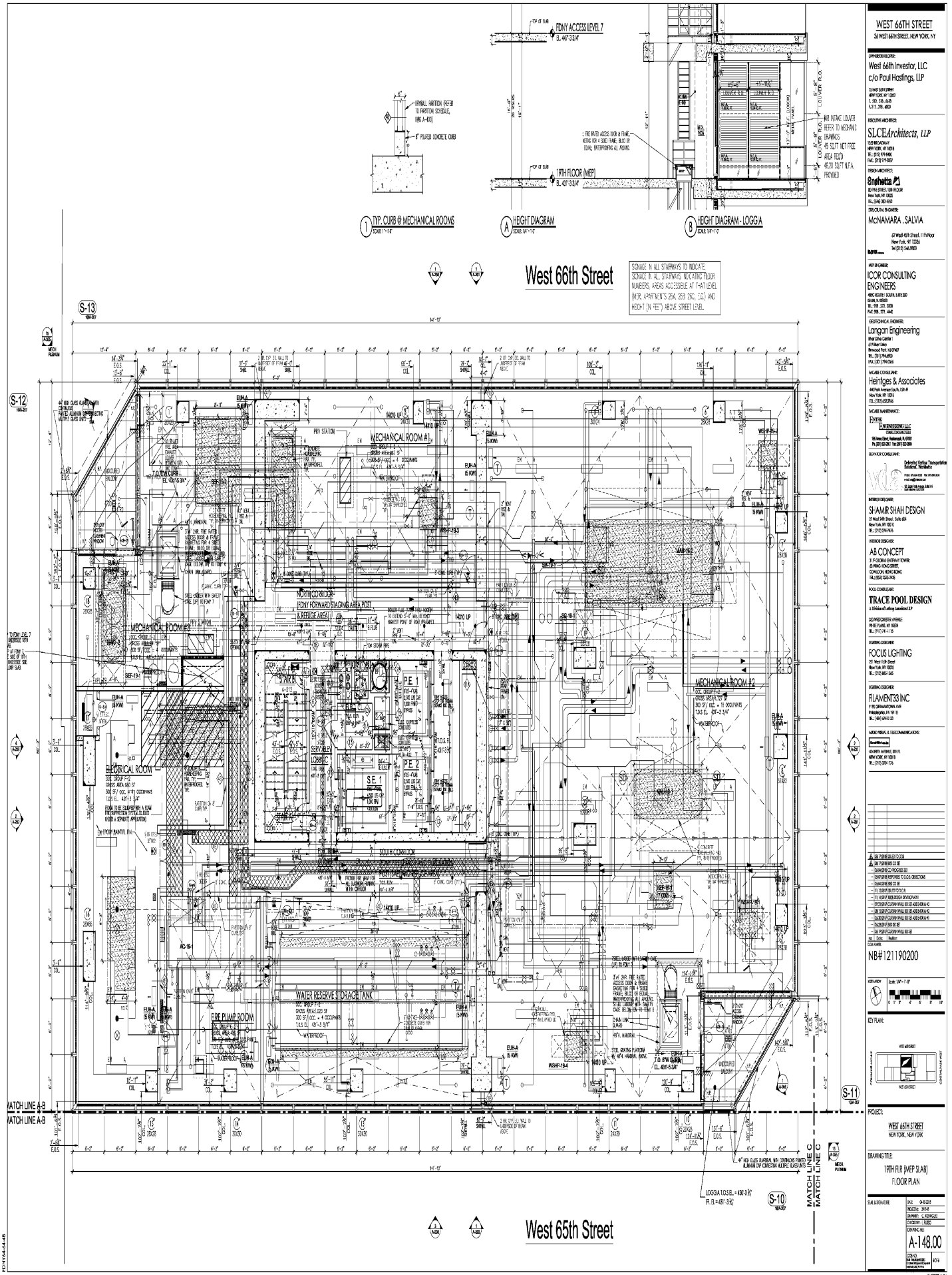

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DEPT OF BLDGS 121190200 Job Number
ES088374737 Scan Code
12/04/2019

PUMP SCHEDULE

PUMP NO.	MANUF.	TYPE	MODEL NO.	LOCATION	SERVICE	DESIGN CAPACITY GPM	DESIGN HEAD (FT.)	MAX. SHUT OFF HEAD (FT.)	MIN. NPSH (FT.)	IMPELLER DIA. IN.	MAX. WORKING PRESS PSIG	MOTOR BHP	MOTOR H.P.	MOTOR RPM	CONTROLLER VFD/ MOTOR STARTER	ELECTRICAL DATA V/P/HZ	WEIGHT (LBS)	REMARKS
CHWP-1&2 (ONE STAND BY)	B&G	END SUCTION	2BD - SERIES E-1510	39TH	CHW	140	65			8.25	175	3.21	5	1800	VFD	460/3/60	268	1,2,3,4
CHWP-3&4 (ONE STAND BY)	B&G	END SUCTION	2BD - SERIES E-1510	39TH	CHW	140	75			8.75	175	3.21	5	1800	VFD	460/3/60	268	1,2,3,4
CHWP-5&6 (ONE STAND BY)	B&G	END SUCTION	6G - SERIES E-1510	18TH	CHW	1300	100			10.625	250	40.3	50	1800	VFD	460/3/60	1630	1,2,3,4
CWP-1,2&3 (ONE STAND BY)	B&G	DOUBLE SUCTION SPLIT CASE	VSC	18TH	CW	1500	85			9.875	300	38.94	50	1800	VFD	460/3/60	1741	1,2,3,4
SWP-1&2(ONE STAND BY)	B&G	END SUCTION	4EB SERIES E-1510	18TH	CW	700	100			11	175	21.3	25	1800	VFD	460/3/60	705	1,2,3,4
SWP-4&5(ONE STAND BY)	B&G	END SUCTION	5GB SERIES E-1510	18TH	CW	1200	100			11.625	175	38.7	50	1800	VFD	460/3/60	1565	1,2,3,4
SWP-7&8(ONE STAND BY)	B&G	END SUCTION	5EB SERIES E-1510	18TH	CW	1160	75			10.375	175	24.9	30	1800	VFD	460/3/60	770	1,2,3,4
SWP-10&11 (ONE STAND-BY)	B&G	END SUCTION	3EB SERIES E-1510	1 MEZZ	CW	460	100			10.625	175	13.11	20	1800	VFD	208/3/60	560	1,2,3,4
HWP-1,2&3 (ONE STAND-BY)	B&G	END SUCTION	5EB SERIES E-1510	17TH	HW	900	100			10.75	175	27.11	40	1800	VFD	460/3/60	945	1,2,3,4
HWP-4&5 (ONE STAND-BY)	B&G	END SUCTION	4EB SERIES E-1510	17TH	HW	800	100			10.75	250	19.4	25	1800	VFD	460/3/60	705	1,2,3,4
HWP-6,7 (ONE STAND-BY)	B&G	END SUCTION	2BD - SERIES E-1510	1 MEZZ	HW	200	75			9.25	175	4.66	7.5	1800	VFD	208/3/60	335	1,2,3,4
FPP-1	B&G	INLINE	PL-45B	SEE PLANS	HW	30	15				150		1/6	3300		115/1/60	15	
FPP-2	B&G	INLINE	PL-130	CELLAR	HW	65	15				150		2/5	3200		115/1/60	27	
CP-1	B&G	INLINE	PL-55	SEE PLANS		30	35				150		2/5	3250		115/1/60	15	

NOTES:

1. PROVIDE VFD. 2. PROVIDE WITH SUCTION DIFFUSER WITH STRAINER. 3. PROVIDE INVERTER DUTY RATED PREMIUM EFF MOTOR. 4.PUMPS TO BE MOUNTED ON INERTIA PAD

AIR SEPARATOR SCHEDULE

UNIT NO.	MANUFACTURER	MODEL No.	SERVICE	LOCATION	CAPACITY GPM	PIPE SIZE	WORK PRESS. (PSIG)	OPERATING WEIGHT (LBS)	REMARKS
AS-1	B&G	RL-3F	CW	L39	140	3	125	173	ASME RATED
AS-2	B&G	RL-3F	CW	L39	140	3	125	173	ASME RATED
AS-3	B&G	RL-6F	HW	L18	700	6	250	564	ASME RATED
AS-4	B&G	RL-8F	HW	L18	1200	8	250	1171	ASME RATED
AS-5	B&G	RL-8F	CW	L18	1300	8	250	1171	ASME RATED
AS-6	B&G	RL-8F	CW	L17	1800	8	125	1171	ASME RATED
AS-7	B&G	RL-6F	CW	L17	565	6	250	564	ASME RATED
AS-3	B&G	RL-8F	CW	L18	1160	8	125	1171	ASME RATED
AS-9	B&G	RL-6F	CW	L1 MEZZ.	400	6	150	564	ASME RATED
AS-10	B&G	RL-3F	CW	L1 MEZZ.	150	3	150	173	ASME RATED

COOLING TOWER SCHEDULE

UNIT NO.	MANUFACTURER	MODEL NO.	TYPE	NOMINAL TOTAL TONS	NO. CELLS	GPM PER CELL	TOTAL GPM	SERVICE	LOCATION	FLUIO TEMP ENT. (F)	FLUIO TEMP LVG. (F)	AMBIENT TEMP. WB(F)	FANS NO. PER CELL	FANS RPM	FANS AIR FLOW CFM/CELL	FANS MOTOR HP/CELL	ELECTRIC BASIN HEATERS NO. PER CELL	ELECTRIC BASIN HEATERS KW PER CELL	DIMENSIONS PER CELL LxWxH (FT)	OPERATING WEIGHT (LBS) /CELL	ELEC. DATA V/P/HZ	REMARKS
CT-1,2	EVAPCO	UT 224-3M18	INDUCED DRAFT	1,500	2	1,500	3,000	CW	ROOF(40TH FL)	100	85	78	1		268,800	30	2	15	18' x 11'-10" x 18'-9-3/4"	45,100	460/3/60	

NOTES: PROVIDE NEMA 3R VFD W/COOLED AND HEATED ENCLOSURE FOR FANS, PROVIDE VIBRATION ISOLATION, SEE SPECIFICATION FOR ADDITIONAL INFORMATION

PROVIDE FAN WITH PREMIUM EFFICIENT MOTOR AND VFD, PROVIDE TOWER WITH STANDARD FAN, WATER SILENCER, LADDER, LADDER EXTENSION AND PLATFORM, LOUVER ACCESS DOOR.

BOILER SCHEDULE

UNIT No.	MANUFACTURER	MODEL No.	TYPE	SERVICE	LOCATION	INPUT MBH	OUTPUT MBH	WATER EWT (F)	WATER LWT (F)	P.D. psig	FLUE OUTLET SIZE	COMB. INLET SIZE	FUEL	EFFICIENCY AHRI (%)	WORK PRESS. PSIG	ELEC. DATA V/P/HZ	WEIGHT (LBS)	REMARKS
B-1,2,3,4,5	LOCHINVAR	CREST FB6000	GAS FIRED CONDENSING	HW	17TH FL	6,000	5,520		180	4	14"	14"	NAT. GAS	92	150	208/3/60	8000	NOTES

NOTE:

1) PROVIDE PH NEUTRALIZATION KIT, FACTORY DDC CONTROL AND INTERFACE WITH BMS CONTROLS, SEE BOILER SPEC AND BMS CONTROL SPEC. 2) BOILERS TO BE MOUNTED ON 4" CONCRETE PAD.

COOLING TOWER FILTRATION SYSTEM SCHEDULE

UNIT NO.	MANUFACTURER	MODEL NO.	LOCATION	TYPE	FILTERATION EFFICIENCY (%)	FLOW RATE (GPM)	STRAINER INLET (IN)	SEPERATOR OUTLET (IN)	PUMP HP	MAX. PRESS. (PSI)	AMPS	V/PH/HZ	WEIGHT (LBS)	DIMENSIONS (LXWXH)	REMARKS
CTFS-1	LAKOS	ETCX-04100-EFS	L39	SIDESTREAM	99	500	6	4	10	150	12	460/3/60	1233	45X32X82	NOTES

NOTES: PROVIDE PUMP W/HOA STARTER, AUTO-PURGE VALVE AND CONTROLLER, INLET/OUTLET VALVE KIT , CONTROL BY BMS VENDOR,

ENTIRE PACKAGE MUST BE PRE-PIPED AND PREWIRED TO A SINGLE POINT OF POWER CONNECTION , PROVIDE HIGH EFFICEINT WATER NOZZLES THAT OPERATE AS LOW AS 10 PSI,
UNIT TO BE MOUNTED ON 4" CONCRETE PAD.

WATER COOLED CHILLER SCHEDULE

UNIT NO.	MANUF.	MODEL	LOCATION	COOLING CAPACITY PER MODULE (TONS)	PRESSURE RATING (PSIG)	CONDENSER WATER E.W.T. (°F)	CONDENSER WATER L.W.T. (°F)	CONDENSER WATER FLOW RATE (GPM)	CONDENSER WATER PRESSURE DROP (FT.)	CHILLED WATER E.W.T. (°F)	CHILLED WATER L.W.T. (°F)	CHILLED WATER TOTAL CAP. (MBH)	HEAT REJECTED (MBH)	FLOW RATE GPM	P.D. (FT.)	REF. TYPE	COMPRESSOR TYPE	ELECTRICAL (TOTAL) VOLTAGE	MCA	MAX FUSE	EFF. (NPLV)	OVERALL DIMENSION (LxDxH) (IN.)	TOTAL NET INSTALL WT. (LBS)	REMARKS
CH-3 TO 20	MULTISTACK	MS030XC2H2W2AAC	18TH FLOOR	30.8	200	87	102	60.8	8	54	44	369	456	74	13.9	R-410A	STANDARD SCROLL	460/3/60	411	450	0.607	103.5X55.5X78	5480	SEE NOTES

NOTES:
1. PERFORMANCE DATA IS PER MODULE.
2. PROVIDE UNIT DISCONNECT SWITCH PER MODULE.
3. THE UNIT MUST BE FITTED WITH A 60 MESH STRAINER UPSTREAM OF THE HEAT EXCHANGERS
4. GALVANIZED STEEL PIPES & FITTINGS SHALL NOT BE USED FOR PIPING CONNECTING TO CHILLER.
5. THE MINIMUM RECOMMENDED COOLING LOOP SYSTEM FLUID VOLUME SHALL BE >6 GALLONS PER TOTAL CHILLER TONS AT FULL LOAD.
6. FACTORY INSTALLED TEMPERATURE CONTROLLER WITH AQUASTAT.
7. CHILLER TO BE MOUNTED ON 4" CONCRETE PAD.

HEAT EXCHANGER SCHEDULE

UNIT NO.	MANUF.	MODEL	PLATE QUANTITY (#)	FRAME SIZE (IN)	TYPE	LOCATION	SERVICE	PRIMARY WATER TEMP IN (°F)	PRIMARY TEMP OUT (°F)	PRIMARY FLOW RATE (GPM)	PRIMARY MEDIA	PRIMARY WORKING PRESSURE (PSIG)	PRIMARY PRESSURE DROP (PSIG)	SECONDARY WATER TEMP IN (°F)	SECONDARY TEMP OUT (°F)	SECONDARY FLOW RATE GPM	SECONDARY WORKING PRESSURE (PSIG)	SECONDARY PRESSURE DROP (PSIG)	MEDIA	HEAT EXCHANGED (MBH)	FOULING FACTOR	EFFECTIVE SURFACE AREA (S.F.)	OPERATING WEIGHT (LBS)	REMARKS
CHWHE-1&2	B&G	AP64A	93	39.4	PLATE	39TH FLOOR	CHW	44	54	140	30% GLYCOL	150	10	56	46	140	150	10	WATER	703	-	576	3,092	1,2
CWHE-1&2	B&G	AP86	277	78.7	PLATE	18TH FLOOR	CW	85	100	700	WATER	250	10	102	87	700	250	10	WATER	5230	-	2664	9,279	1,2
CWHE-3&4	B&G	AP110	315	78.7	PLATE	18TH FLOOR	CW	85	100	1200	WATER	250	10	102	87	1200	250	10	WATER	8968	-	4043	10,602	1,2
CWHE-5&6	B&G	AP110	283	78.7	PLATE	18TH FLOOR	CW	85	100	1100	WATER	250	10	102	87	1100	250	10	WATER	8218	-	3630	10,261	1,2
CWHE-7&8	B&G	AP110	97	39.37	PLATE	1ST MEZZ	CW	85	100	400	WATER	250	10	102	87	400	150	10	WATER	2987	-	1227	6,830	1,2
HWHE-1&2	B&G	AP110	150	51.18	PLATE	17TH FLOOR	HW	180	160	600	WATER	150	10	158	178	600	250	10	WATER	5,860	-	1912	5,840	1,2
HWHE-3&4	B&G	AF86	75	23.62	PLATE	1ST MEZZ	HW	160	160	200	WATER	250	10	158	178	200	150	10	WATER	1,758	-	630	5,491	1,2

NOTES: 1) PROVIDE 316-SS SINGLE WALL CONSTRUCTION, 2) HEAT EXCHANGER TO BE MOUNTED ON 4" CONCRETE PAD

ENERGY RECOVERY UNIT SCHEDULE (WATERSOURCE HEAT PUMP)

UNIT NO.	MANU.	MODEL	LOCA-TION	AREA SERVED	SUPPLY Flow (CFM)	SUPPLY ESP (IN)	SUPPLY MOTOR HP	SUPPLY MOTOR BHP	SUPPLY MOTOR RPM	RETURN Flow (CFM)	RETURN ESP (IN)	RETURN MOTOR HP	RETURN MOTOR BHP	RETURN MOTOR RPM	Circuit #1 V/PVHZ	Circuit #1 MCA	Circuit #1 MOP	OA MIN. FLOW (CFM)	SUMMER SUPPLY O.A.T. DB/WB (°F)	SUMMER SUPPLY L.A.T. DB/WB (°F)	SUMMER EXH. R.A.T. DB/WB (°F)	SUMMER EXH. E.A.T. DB/WB (°F)	WINTER SUPPLY O.A.T. DB (°F)	WINTER SUPPLY L.A.T. DB (°F)	WINTER EXH. R.A.T. DB (°F)	WINTER EXH. E.A.T. DB (°F)	COOLING E.A.T. DB/WB (°F)	COOLING L.A.T. D.B (°F)	COOLING L.A.T. W.B. (°F)	COOLING E.W.T. (°F)	COOLING L.W.T. (°F)	COOLING TOTAL CAP. (MBH)	COOLING SEN. CAP. (MBH)	COOLING WATER FLOW GPM	WPD (FT)	HOR (MBH)	EER	HOT GAS REHEAT EAT DB (°F)	HOT GAS REHEAT LAT DB (°F)	HOT GAS REHEAT TOTAL CAP. (MBH)	HEATING E.A.T. DB (°F)	HEATING L.A.T. DB (°F)	HEATING E.W.T. (°F)	HEATING L.W.T. (°F)	HEATING TOTAL CAP. (MBH)	HEATING WATER FLOW GPM	HEATING WATER PRE. DROP(ft)	HOA (MBH)	COP	ELECTRIC PREHEAT E.A.T. DB (°F)	ELECTRIC PREHEAT L.A.T. DB (°F)	ELECTRIC PREHEAT CAP. (KW)	PRE FILTER	UNIT FILTER	REF.	Circuit#2 V/P/HZ	Circuit#2 MCA	Circuit#2 MOP	UNIT WT. (LBS)	REMARKS
MAU-15-1	VENMAR	VHC-50	15TH FL. MER	CORRIDOR	4,300	1.5	202	201.79	2544	5,000	1.5	203	201.98	3269	460/3/60	5	15	4,300	95/78	78.8/68.2	72/62	85.9/71.9	10	52.3	70	33.6	78.8/68.2	55	54.4	87	100	187.9	110.4	24		223	18.3	55	70	58.4	52.3	97.6	70	55	211.4	24	6.9	180	5.9	N/A				MERV-8	R410A	460/3/60	41	50	3,696	NOTES
MAU-15-2	VENMAR	A-1-15E	15TH FL. MER	APT MAKE-UP AIR	18,500/27,000	2.0	607.5	606.1	3594	15,200	2.0	207.5	205.8	1781	460/3/60		15	18,500/27,000	92/73	81.5/67	70/58	88.7/70.4	10	39.5	70	17.6	81.5/67	49.6	49.5	87	102.4	1399	929.4	220	9.3	1692	18.3	48	73.9	726.1	39.5	65.4	70	55.3	1410	165	9.3	1214	7.2	N/A				MERV-8	R410A	460/3/60	200	350		NOTES
MAU-19-1	VENMAR	VHC-36	19TH FL. MEP.	CORRIDOR	2,200	1.5	5	2	2640	1,400	1.5	1	0.79	2388	460/3/60	5	15	2,200	95/78	83.1/71	72/62	90.7/74.8	10	41	70	21.3	83.1/71	51.3	51.3	87	101.4	137.2	75.6	18		168.2	18.1	51.3	72.8	51.2	41	104.1	70	54.5	149.9	16	5.3	123.8	6.1	N/A				MERV-8	R410A	460/3/60	25	30	2,573	NOTES
MAU-19-2	VENMAR	A-1-10E	19TH FL. MEP.	APT MAKE-UP AIR	5500/10000	1.5	205	204.81	2091	4,000	1.5	3	2.55	1805	460/3/60	23	30	5500/10000	95/73	80.3/69.5	70/65	90/73	10	46.1	70	20.3	86.9/72	51.3	51.2	87	102.3	666.8	384.5	106	5.4	813.7	15.5	31	76.2	272.2	30	73	70	62.5	463.6	106	5.4	395.7	6.8	30	32	6.4		MERV-8	R410A	460/3/60	131	175		NOTES

NOTES: 1) PROVIDE 115V FACTORY WIRED CONVENIENCE OUTLET, STAINLESS STEEL DRAIN PANS & INSULATION LINERS, TEMPERATURE SENSOR, AND MODULATING COOLING/HEATING

2) PROVIDE VFD FOR SUPPLY AND RETURN FAN, 3) UNITS TO BE MOUNTED ON 4" CONCRETE PAD,4) UNITS TO BE PROVIDED W/ FACTORY INSTALLED CONTROLLER, 5) SEE SPECIFICATIONS FOR ADDITIONAL INFORMATION,

6) PROVIDE VIBRATION ISOLATORS PER SPEC 230549, 7) CONTROL BY BMS VENDOR, 8) PROVIDE FACTORY MOUNTED MOTORIZED DAMPER FOR ALL INTAKE AND EXHAUST,9) UNITS TO BE EQUIPPED WITH ENTHALPY WHEEL,

10) PROVIDE A DEDICATED POWER CONNECTION FOR RETURN FAN AND ONE SINGLE POWER CONNECTION FOR THE REST OF THE UNIT, 11) PROVIDE WITH VARIABLE CAPACITY SCROLL (VCC) COMPRESSORS ON ALL CIRCUITS.

ENERGY RECOVERY VENTILATOR SGHEDULE (DX AIR COOLED WITH GAS HEATING)

UNIT NO.	MANUF.	MODEL NO.	LOCATION	AREA SERVED	SUPPLY Flow (CFM)	SUPPLY ESP (IN)	SUPPLY MOTOR HP	SUPPLY MOTOR BHP	SUPPLY MOTOR RPM	RETURN Flow MIN. (CFM)	RETURN ESP (IN)	RETURN MOTOR HP	RETURN MOTOR BHP	RETURN MOTOR RPM	Circuit #1 V/PVHZ	Circuit #1 MCA	Circuit #1 MOP	O.A. (CFM)	SUMMER SUPPLY O.A.T D.B (°F)	SUMMER SUPPLY O.A.T W.B (°F)	SUMMER SUPPLY L.A.T D.B (°F)	SUMMER SUPPLY L.A.T W.B (°F)	SUMMER EXHAUST R.A.T D.B (°F)	SUMMER EXHAUST R.A.T W.B (°F)	SUMMER EXHAUST E.A.T D.B (°F)	SUMMER EXHAUST E.A.T W.B (°F)	WINTER SUPPLY O.A.T D.B (°F)	WINTER SUPPLY O.A.T W.B (°F)	WINTER SUPPLY L.A.T D.B (°F)	WINTER SUPPLY L.A.T W.B (°F)	WINTER EXHAUST R.A.T D.B (°F)	WINTER EXHAUST R.A.T W.B (°F)	WINTER EXHAUST E.A.T D.B (°F)	WINTER EXHAUST E.A.T W.B (°F)	DX COOLING E.A.T D.B (°F)	DX COOLING E.A.T W.B (°F)	DX COOLING L.A.T D.B (°F)	DX COOLING L.A.T W.B (°F)	DX COOLING TOTAL CAPACITY (MBH)	DX COOLING SENS. CAPACITY (MBH)	EER	HOT GAS REHEAT TOTAL CAPACITY (MBH)	HOT GAS REHEAT L.A.T D.B (°F)	HOT GAS REHEAT L.A.T W.B (°F)	GAS HEATING E.A.T D.B (°F)	GAS HEATING L.A.T D.B (°F)	GAS HEATING TOTAL CAPACITY (MBH)	GAS HEATING INPUT CAPACITY (MBH)	PRE FILTER	UNIT FILTER	REF.	Circuit#2 V/P/HZ	Circuit#2 MCA	Circuit#2 MAX FUSE	UNIT WT (LBS)	REMARKS
MAU-40-1	AAON	RN-011-3	ROOF(40TH FL)	CORRIDOR	2,800	1.25	3	1.71	1755	1,300	1.0	1	0.64	1250	460/3/60	4	15	2,500	95	75	85.3	69.5	75	62	92.7	73.3	10	9	36.35	34.03	70	58	17.9	17.8	85.3	69.5	54	53.3	120.7	82.6	14.6	43	70	59.6	36.35	94.1	156	195		MERV-8	R41CA	460/3/60	31	35	2,360	
MAU-40-2	AAON	RN-040-3	ROOF(40TH FL)	APT MAKE-UP AIR	11000/7400	1.25	15	9.38	1528	6,000	1.0	3	2.3	950	460/3/60	6	15	11000/7400	95	75	85.3	69.3	75	62	92.5	73.3	10	9	37.1	34.8	70	58	18.2	18	85.3	69.3	55.6	55.4	463.9	341.6	13.5	171	70	60.83	37.1	91.6	648	810		MERV-8	R410A	460/3/60	106	125	7,022	

NOTES:
1. UNIT TO BE PROVIDED WITH FACTORY INSTALLED CONTROLLER
2. 1.15 HP MOTOR SERVICE FACTOR PREMIUM EFFICIENCY MOTOR.
3. DAMPERS LOW LEAKAGE TYPE.
4. STAINLESS STEEL DRAIN PANS.
5. DOUBLE-WALL CONSTRUCTION WITH THERMAL BREAK-R13.
6. PROVIDE CLOGGED FILTER SWITCH.
7. PROVIDE 30" HIGH SEISMIC/WIND RESISTANT ROOF CURB.
8. EXTERIOR PAINT FINISH SHALL BE CAPABLE OF WITHSTANDING AT LEAST 2500 HOURS WITH NO CORROSIVE EFFECTS WHEN AT LEAST 2500 HOURS WITH NO CORROSIVE EFFECTS WHEN TESTED IN ACCORDANCE WITH ASTM B117-95.
9. PROVIDE VFD FOR SUPPLY AND EXHAUST FAN. VFD SHALL BE LOCATED WITHIN UNIT CONTROL PANEL AND SHALL BE PRE WIRED WITH UNIT.
10. EACH R.T. UNIT TO HAVE PREWIRED CONTROL POWER TRANSFORMER FOR POWER TO SERVICE LIGHT WITH ON/OFF SWITCH AND CONVENIENT RECEPTACLE WITH THE CONTROLLER.
11. PROVIDE SEPARATE ELECTRICAL FEED FOR RETURN FAN.
12. PROVIDE ACOUSTICAL PANEL ASSEMBLY FOR ROOF CURB BY TSC ACOUSTICAL PRODUCTS, LLC. (INCLUDES PANELS, SUPPORT CHANNEL, SUPPORT ANGLES, ETC)
13 UNITS TO BE EQUIPPED WITH ENTHALPY WHEEL

AIR COOLED CHILLER SCHEDULE

UNIT NO.	MANUFACTURER	MODEL NO.	LOCATION	AREA SERVED	GLYCOL (%)	TOTAL CAP (TON)	TOTAL # OF MODULES	CHILLER DATA (TOTAL) TOTAL GPM	TEMP ENT.(F)	TEMP LVG.(F)	MAX. PD(FT)	FOULING FACTOR	WORKING PRESS.	COMPRESSOR DATA (PER MODULE) No.	TYPE	STEPS UNLOADING	RLA (PER COMPRESSOR)	MOTOR SPEED	REFRIG.	CONDENSER DATA (PER MODULE) No.OF FANS	H.P. EACH MOTOR	CFM	EFFICIENCY NPLV	EER	COP	ELECTRICAL (TOTAL) MCA	MOP	DATA V/P/HZ	OPERATING WEIGHT (LBS)	REMARKS
CH-1,2	MULTISTACK	(2)ASP020	ROOF(40TH FL)	PENTHOUSE	30	40	2	103	54	44	9.94	0.0001		2	SCROLL		18.8		R-410A	2	2		0.785	15.69	4.601	93	110	460/3/60	3800	NOTES

NOTES:
1) CHILLER TO BE MOUNTED ON STEEL SUPPORTS WITH VIBRATION ISOLATION

• THIS PLAN APPROVED ONLY FOR WORK INDICATED ON THE APPLICATION SPECIFICATION SHEET. ALL OTHER MATTERS SHOWN ARE NOT TO BE RELIED UPON, OR TO BE CONSIDERED AS EITHER BEING APPROVED OR IN ACCORDANCE WITH APPLICABLE CODES. •

Drawing Name: G:\0588\PLANS\PLANS FILING FOR PRINTING\Mechanical\0588-M-501.01 - MECHANICAL SCHEDULES.dwg -Tue, 05 Mar 2019 - 2:30pm

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

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ENTEK ENGINEERING LLC
CONSULTING ENGINEERS

ELEVATOR CONSULTANT:
vda
Delivering Vertical Transportation Solutions... Worldwide

INTERIOR DESIGNER:
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27 West 24th Street, Suite 604
New York, NY 10010
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INTERIOR DESIGNER:
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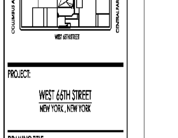
No:	Date:	Revision:
-	08/17/2018	ISSUED TO DOB
1	08/17/2018	80% CD
-	06/04/2018	CD PROGRESS SET
-	06/04/2018	50% CD SET
-	03/19/2018	CD PROGRESS SET
-	11/15/2017	DOB FILING
-	11/14/2017	100% DD
-	06/23/2017	50% DD SET
-	02/14/2017	100% SD DWGS

D.O.B. NUMBER:
NB#121190200

NORTH ARROW
Scale: N.T.S.

KEY PLAN:



PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
MECHANICAL SCHEDULES

SEAL & SIGNATURE:

DATE: 08-17-2018
PROJECT No: 2016-65
DRAWN BY: M.P.
CHECKED BY: V.P.
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71 OF 80

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WATER SOURCE HEAT PUMP SCHEDULE (RESIDENTIAL)

UNIT NO.	UNIT ARRANGEMENT	MANUF.	MODEL	AREA SERVE	CONSTANT /VAV SYSTEM	NOM. COOLING CAP (TONS)	SUPPLY MED SPEED (CFM)	HIGH SPEED (CFM)	COOLING E.W.T. (°F)	L.W.T. (°F)	FLOW RATE GPM	WATER PRESSURE DROP	E.A.T. D.B (°F)	E.A.T. W.B. (°F)	L.A.T. D.B (°F)	L.A.T. W.B. (°F)	TOTAL CAP. (MBH)	SENSIBLE CAP. (MBH)	HEAT REJECTION (MBH)	EER	HEATING E.W.T. (°F)	L.W.T. (°F)	FLOW RATE GPM	WATER PRESSURE DROP	E.A.T. D.B (°F)	L.A.T. D.B (°F)	TOTAL CAP. (MBH)	HEAT ABSORBED (MBH)	COP	FILTERS MERV RATING	REFRIG.	ELECTRICAL VOLT.	FAN MOTOR HP	MCA (A)	MOP (A)	NET INSTALL WT. (LBS)	REMARKS
WSHP-A	VERTICAL STACK	CLIMATEMASTER	TSM09	APT. (2ND TO 14TH)	CONSTANT	0.75	300		87	101.7	1.5	0.7	72	61	50.4	45.3	9.0	7.0	11.0	11.3	70	55.8	1.5	0.9	70	108.5	13	11.0	6.2	MERV-8	R410A	208/1/60	1/8	6.1	15	169	
WSHP-B	VERTICAL STACK	CLIMATEMASTER	TSM12	APT. (2ND TO 14TH)	CONSTANT	1.0	400		87	100.4	2	5.9	72	61	53.8	49.1	10.0	8.0	13.0	12.8	70	57.9	2	6.3	70	103.9	15	12.0	5.4	MERV-8	R410A	208/1/60	1/8	7.4	15	169	
WSHP-C	VERTICAL STACK	CLIMATEMASTER	TSM15	APT. (2ND TO 14TH)	CONSTANT	1.25	500		87	99.7	2.5	5.2	72	61	53.5	48.7	12.0	10.0	16.0	12.2	70	58.3	2.5	5.5	70	101.7	17	15.0	5.8	MERV-8	R410A	208/1/60	1/5	9.6	15	169	
WSHP-D	VERTICAL STACK	CLIMATEMASTER	TSM18	APT. (2ND TO 14TH)	CONSTANT	1.5	600		87	98.6	3.4	2.5	72	61	54.3	49.6	16.0	12.0	20.0	12.2	70	59.1	3.4	3.2	70	104.1	22	19.0	5.9	MERV-8	R410A	208/1/60	1/3	10.9	15	169	
WSHP-E	HORIZONTAL	CLIMATEMASTER	TCH-15	PRIVATE STORAGE (2ND TO 5TH)	CONSTANT	1.1	510		87	102	2.5	1.5	76	63	56.3	50.9	13.0	11.0		12.0	70	58	2.5	1.5	68	101.0	18		4.8	MERV-8	R410A	208/1/60	1/2	8.7		153	
WSHP-17-1	VERTICAL	THERMOPLUS	KHPE-024V	MECHANICAL SPACE	CONSTANT	2.0	800		87	102	6	4.2	80	67	58.3	56.9	25.4	18.5	30.6	14.7	70	64	6	4.2	70	102.8	28.5	23.1	4.5	MERV-8	R410A	460/3/60	1/2	8	15	203	
WSHP-17-2	VERTICAL	THERMOPLUS	KHPE-024V	MECHANICAL SPACE	CONSTANT	2.0	800		87	102	6	4.2	80	67	58.3	56.9	25.4	18.5	30.6	14.7	70	64	6	4.2	70	102.8	28.5	23.1	4.5	MERV-8	R410A	460/3/60	1/2	8	15	203	
WSHP-17-3	VERTICAL	THERMOPLUS	KHPE-024V	MECHANICAL SPACE	CONSTANT	2.0	800		87	102	6	4.2	80	67	58.3	56.9	25.4	18.5	30.6	14.7	70	64	6	4.2	70	102.8	28.5	23.1	4.5	MERV-8	R410A	460/3/60	1/2	8	15	203	
WSHP-17-4	VERTICAL	THERMOPLUS	KHPE-024V	MECHANICAL SPACE	CONSTANT	2.0	800		87	102	6	4.2	80	67	58.3	56.9	25.4	18.5	30.6	14.7	70	64	6	4.2	70	102.8	28.5	23.1	4.5	MERV-8	R410A	460/3/60	1/2	8	15	203	
WSHP-18-1	VERTICAL	THERMOPLUS	KHPE-024V	MECHANICAL SPACE	CONSTANT	2.0	800		87	102	6	4.2	80	67	58.3	56.9	25.4	18.5	30.6	14.7	70	64	6	4.2	70	102.8	28.5	23.1	4.5	MERV-8	R410A	460/3/60	1/2	8	15	203	
WSHP-18-2	VERTICAL	THERMOPLUS	KHPE-024V	MECHANICAL SPACE	CONSTANT	2.0	800		87	102	6	4.2	80	67	58.3	56.9	25.4	18.5	30.6	14.7	70	64	6	4.2	70	102.8	28.5	23.1	4.5	MERV-8	R410A	460/3/60	1/2	8	15	203	
WSHP-18-3	VERTICAL	THERMOPLUS	KHPE-024V	MECHANICAL SPACE	CONSTANT	2.0	800		87	102	6	4.2	80	67	58.3	56.9	25.4	18.5	30.6	14.7	70	64	6	4.2	70	102.8	28.5	23.1	4.5	MERV-8	R410A	460/3/60	1/2	8	15	203	
WSHP18-4	VERTICAL	THERMOPLUS	KHPE-024V	MECHANICAL SPACE	CONSTANT	2.0	800		87	102	6	4.2	80	67	58.3	56.9	25.4	18.5	30.6	14.7	70	64	6	4.2	70	102.8	28.5	23.1	4.5	MERV-8	R410A	460/3/60	1/2	8	15	203	
WSHP-19-1	VERTICAL	THERMOPLUS	KHPE-024V	MECHANICAL SPACE	CONSTANT	2.0	800		87	102	6	4.2	80	67	58.3	56.9	25.4	18.5	30.6	14.7	70	64	6	4.2	70	102.8	28.5	23.1	4.5	MERV-8	R410A	460/3/60	1/2	8	15	203	
WSHP-19-2	VERTICAL	THERMOPLUS	KHPE-024V	MECHANICAL SPACE	CONSTANT	2.0	800		87	102	6	4.2	80	67	58.3	56.9	25.4	18.5	30.6	14.7	70	64	6	4.2	70	102.8	28.5	23.1	4.5	MERV-8	R410A	460/3/60	1/2	8	15	203	
WSHP-19-3	VERTICAL	THERMOPLUS	KHPE-024V	MECHANICAL SPACE	CONSTANT	2.0	800		87	102	6	4.2	80	67	58.3	56.9	25.4	18.5	30.6	14.7	70	64	6	4.2	70	102.8	28.5	23.1	4.5	MERV-8	R410A	460/3/60	1/2	8	15	203	
WSHP-19-4	VERTICAL	THERMOPLUS	KHPE-024V	MECHANICAL SPACE	CONSTANT	2.0	800		87	102	6	4.2	80	67	58.3	56.9	25.4	18.5	30.6	14.7	70	64	6	4.2	70	102.8	28.5	23.1	4.5	MERV-8	R410A	460/3/60	1/2	8	15	203	

NOTES:
1. ALL UNITS SHALL BE SUPPLIED WITH 1/2" INTERNAL PIPING & COMPONENTS.
2.UNITS SUPPLIED PIPING PACKAGES TO INCLUDE 2-WAY CONTROL VALVES, SHUT-OFF/AUTOMATIC BALANCING VALVES AND STAINLESS STEEL BRAIDED HOSES.
(SHIPPED LOOSE AND INSTALLED BY MECHANICAL CONTRACTOR-COORDINATE RUN-OUT CONNECTION WITH TIE-IN CONNECTION AT UNIT)
3. ALL UNITS SHALL BE SUPPLIED WITH 7-DAY PROGRAMMABLE THERMOSTAT AND 25' FT LONG WHIP TO ALLOW REMOTE MOUNTING OF THERMOSTAT.
(SHIPPED LOOSE AND INSTALLED BY MECHANICAL CONTRACTOR-MOUNT T-STAT 58" A.F.F.)
4. CONTROL VALVE ACTUATORS SHALL BE SUPPLIED WITH ISOLATED END SWITCH TIED TO A DRY CONTACT ON UNIT TERMINAL STRIP. (BAS CAN TAP INTO THIS CONTACT TO MONITOR VALVE POSITION/OPERATION)
5. UNITS WITH MULTIPLE SUPPLY AIR OPENINGS TO BE SUPPLIED WITH ACOUSTICALLY WRAPPED LINE OF SIGHT BAFFLES. PROVIDE OBD ON THE GRILLE WITH LOWER AIRFLOW RATE
6. WSHP-A THRU E SHALL BE PROVIDED WITH EXTENDED PLENUMS, 12" HIGH STAND A. ALL UNITS TO BE MOUNTED ON NEOPRENE PAD

WATER-COOLED DX UNIT SCHEDULE

UNIT NO.	UNIT ARRANGEMENT	MANUF.	MODEL	AREA SERVED	CONSTANT /VAV SYSTEM	NOM. COOLING CAP (TONS)	SUPPLY Flow (CFM)	O.A. QUANTITY (CFM)	ESP (IN)	COOLING E.W.T. (°F)	L.W.T. (°F)	FLOW RATE GPM	WATER PRESSURE DROP	E.A.T. D.B (°F)	E.A.T. W.B. (°F)	L.A.T. D.B (°F)	L.A.T. W.B. (°F)	TOTAL CAP. (MBH)	SENSIBLE CAP. (MBH)	HEAT REJECTION (MBH)	EER	WATER SIDE ECONOMIZER COIL E.A.T. D.B (°F)	E.A.T. W.B. (°F)	L.A.T. D.B (°F)	L.A.T. W.B. (°F)	E.W.T. (°F)	L.W.T. (°F)	TOTAL CAP. (MBH)	SEN. CAP. (MBH)	WATER FLOW (GPM)	WPD (FT H2O)	FILTERS MERV RATING	REFRIG.	ELECTRICAL VOLT.	FAN MOTOR HP	MCA	MOP	NET INSTALL WT. (LBS)	REMARKS
AC-C-1	HORIZONTAL	THERMOPLUS	KACE-096H	REFUSE AND RECYCLING	CONSTANT	8.0	3200	1675	0.50	87	102	23	2.0	80	67	58.5	56.7	106.0	74.4	125.7	18.1	80	67	58.3	57	47	55.8	101.5	76.9	23	5.5	MERV 8	R410A	460/3/60	1 1/2	18	25	775	
AC-C-2	HORIZONTAL	THERMOPLUS	KACE-012H	COMPACTOR ROOM	CONSTANT	1.0	400	-	0.30	87	102	4	1.4	80	67	58.4	54.5	15.5	9.4	19.7	12.4	N/A										MERV 8	R410A	208/1/60	1/4	8	15	147	
AC-C-4	HORIZONTAL	THERMOPLUS	KACE-012H	SATELLITE ROOM	CONSTANT	1.0	400	-	0.30	87	102	4	1.4	80	67	58.4	54.5	15.5	9.4	19.7	12.4	N/A										MERV 8.	R410A	208/1/60	1/4	8	15	147	
AC-C-8	HORIZONTAL	THERMOPLUS	KACE-036H	CELLAR CORRIDOR	CONSTANT	3.0	1200	-	0.50	87	102	9	2.1	80	67	58.8	56.8	39.0	27.6	46.6	17.5	N/A										MERV 8	R410A	460/3/60	1	11	15	247	
AC-C-9	HORIZONTAL	THERMOPLUS	KACE-48H	CELLAR EMR	CONSTANT	4.0	1600	-	0.50	87	102	11	1.7	80	67	59.6	57.2	50.5	35.4	60.5	17.0	80	67	59.4	57.8	47	55.5	47	35.5	11	6.8	MERV 6	R410A	460/3/60	1	12	20	316	
AC-C-10	HORIZONTAL	THERMOPLUS	KACE-160H	ELECTRICAL RM	SVAV	15.0	6000	-	0.75	87	102	44	9.0	80	67	58.0	56.5	183.9	130.6	208.6	15.7	80	67			47				44		MERV 8	R410A	460/3/60	5	32	40	1800	
AC-C-11	HORIZONTAL	THERMOPLUS	KACE-180H	ELECTRICAL RM	SVAV	15.0	6000	-	0.75	87	102	44	9.0	80	67	58.0	56.5	183.9	130.5	200.6	15.7	80	67			47				44		MERV 8	R410A	460/3/60	5	32	40	1800	
AC-1-2	HORIZONTAL	THERMOPLUS	KACE-48H	1ST FL HABONIM EMR	CONSTANT	4.0	1600	-	0.50	87	102	11	1.7	80	67	59.6	57.2	50.5	35.4	60.5	17.0	80	67	59.4	57.8	47	55.5	47	35.5	11	6.8	MERV 8	R410A	460/3/60	1	12	20	318	
AC-18-1	HORIZONTAL	THERMOPLUS	KACE-012H	18TH FL ELECTRICAL RM	CONSTANT	1.0	400	-	0.30	87	102	4	1.4	80	67	58.4	54.5	15.5	9.4	19.7	12.4	N/A										MERV 8	R410A	208/1/60	1/4	8	15	147	
AC-19-1	HORIZONTAL	THERMOPLUS	KACE-180H	19TH FL ELECTRICAL RM	CONSTANT	15.0	6000	-	0.75	87	102	44	9.0	80	67	58.0	56.5	183.9	130.5	200.6	15.7	80	67			47				44		MERV 8	R410A	460/3/60	5	32	40	1800	

WATER SOURCE HEAT PUMP SCHEDULE

UNIT NO.	UNIT ARRANGEMENT	MANUF.	MODEL	AREA SERVED	CONSTANT /VAV SYSTEM	NOM. COOLING CAP (TONS)	SUPPLY AIRFLOW (CFM)	ESP (IN.)	OA (CFM)	COOLING E.W.T. (°F)	L.W.T. (°F)	FLOW RATE GPM	WATER PRESSURE DROP	E.A.T. D.B (°F)	E.A.T. W.B. (°F)	L.A.T. D.B (°F)	L.A.T. W.B. (°F)	TOTAL CAP. (MBH)	SENSIBLE CAP. (MBH)	HEAT REJECTION (MBH)	EER	WATERSIDE ECONOMIZER COIL E.W.T. (°F)	L.W.T. (°F)	FLOW RATE GPM	WATER PRESSURE DROP	E.A.T. D.B (°F)	E.A.T. W.B. (°F)	L.A.T. D.B (°F)	L.A.T. W.B. (°F)	TOTAL CAP. (MBH)	SENSIBLE CAP. (MBH)	HEATING E.W.T. (°F)	L.W.T. (°F)	FLOW RATE GPM	WATER PRESSURE DROP	E.A.T. D.B (°F)	L.A.T. D.B (°F)	TOTAL CAP. (MBH)	HEAT ABSORBED (MBH)	COP	FILTERS MERV RATING	REFRIG.	ELECTRICAL VOLT.	FAN MOTOR HP	MCA (A)	MFS (A)	NET INSTALL WT. (LBS)	REMARKS
WSHP-SC-1	HORIZONTAL	CLIMATEMASTER	TCH-012	ELEV. LOBBY B (SUB-CELLAR AND CELLAR)	CONSTANT	1	390	0.5	30	87	102	1.9	2.8	76	64	58.4	53.6	11.0	7.0	14.0	11.3	47		1.9	1.5	76	64	58.0	56.0	8.0	7.1	70	57.6	1.9	3.3	70	106.5	15	12.0	4.3	MERV 8	R410A	208/1/60	1/10	7.3	15	114	
WSHP-C-1	HORIZONTAL	CLIMATEMASTER		SCREENING ROOM	CONSTANT	2	700	0.7	200	87	102	4	4.9	79	66	58.6	53.7	24.0	16.0	30.0	11.4	47		4	1.0	80	67	59.0	58.0	18.0	15.4	70	58.8	4	5.3	70	107.0	29	23.0	4.3	MERV 8	R410A	460/3/60	1/3	5.3	15	174	
WSHP-C-2	HORIZONTAL	CLIMATEMASTER	TCH-012	ELEV. LOBBY A (SUB-CELLAR AND CELLAR)	CONSTANT	1	390	0.5	30	87	102	1.9	2.8	75	64	58.4	53.6	11.0	7.0	14.0	11.3	47		1.9	1.5	76	64	59.0	58.0	8.0	7.1	70	57.6	1.9	3.3	70	106.5	15	12.0	4.3	MERV 8	R410A	208/1/60	1/10	7.3	15	114	
WSHP-C-4	HORIZONTAL	THERMOPLUS	KHPE-144H7AARS	GOLF SIM, GAMING LOUNGE, BOWLING	VAV	15	4400	1.0	1165	87	102	38	2.8	80	67	55.0	53.8	180.1	118.0	217.2	16.4	47	53	38	3.6	80	67	61.0	58.0	119.6	80.8	70	82	38	2.8	70	113.0	205	163.0	4.8	MERV 8	R410A	480/3/60	3	37	50	775	
WSHP-C-5	HORIZONTAL	CLIMATEMASTER	TCH-072	SUPER, SHOP, STAFF, RECEPTION, OFFICE	VAV	6	2700	1.1	450	87	102	12	2.2	78	65	58.0	54.0	66.5	53.0	68.9	10.8	47				78	65					70	56.9	12	2.6	80	93.0	96	76.4	5.5	MERV 8	R410A	480/3/60	3/4	18	20	588	
WSHP-C-6	HORIZONTAL	CLIMATEMASTER	TCH-024	BOWLING ALLEY	CONSTANT	2	840	0.5	100	87	102	4	4.9	80	67	59.9	54.9	23.0	16.0	30.0	11.3	47		4	1.0	80	67	59.0	58.0	18.0	15.4	70	58.8	4	5.3	70	103.1	30	23.0	4.5	MERV 8	R410A	450/3/60	1/4	5.3	15	174	
WSHP-C-8	HORIZONTAL	THERMOPLUS	KHPE-144H7AARS-T816G	HEALTH CLUB, STUDIO, SQUASH CT	VAV	20	5400	1.0	1750	87	102	59	6.3	80	67	54.0	52.7	235.8	152.5	285.1	16.1	47	52	50	6.1	80	67	61.0	58.0	153.3	113.6	70	82	50	6.3	70	116.6	272	216.0	4.7	MERV 8	R410A	480/3/60	5	49	60	775	
WSHP-C-9	VERTICAL	THERMOPLUS	KHPE-144V7AARS	BASKETBALL COURT	SVAV	15	4000	1.0	1650	87	102	39	4.9	82	70	58.9	55.8	185.3	108.9	222.4	16.8	47	53	39	4.2	82	70	62.0	60.0	133.8	86.8	70	82	39	4.2	70	112.8	186	165.4	4.9	MERV 8	R410A	480/3/60	3	37	50	775	
WSHP-C-10	HORIZONTAL	CLIMATEMASTER	TCH-018	RESIDENTIAL STORAGE LOCKERS	CONSTANT	1.5	510	0.5	150	87	102	2.8	3.1	78	65	55.9	50.4	15.0	13.0	21.0	12.1	47		2.8	5.0	78	65	58.4	57.0	13.0	10.5	70	58.5	2.8	3.6	70	107.9	21	16.0	4.4	MERV 8	R410A	208/1/60	1/6	10.2	15	158	
WSHF-C-11	HORIZONTAL	CLIMATEMASTER	TCH-024	LAUNDRY ROOM	CONSTANT	2	840	0.5	50	87	102	4	4.9	80	67	59.9	54.9	23.0	16.0	30.0	11.3	47		4	1.0	80	67	59.0	58.0	18.0	15.4	70	58.8	4	5.3	70	103.1	30	23.0	4.5	MERV 8	R410A	450/3/60	1/4	5.3	15	174	
WSHP-15-1	HORIZONTAL	THERMOPLUS	KHPE-036H	15TH FL ATS RM	CONSTANT	3.0	1200	875	0.50	87	102	9	2.1	80	67	58.8	56.8	39.0	27.6	46.6	17.5	N/A										70	64	9	3.2	70	101.4	40.9	32.8	4.8	MERV 8	R410A	480/3/60	1/2	10	15	247	
WSHP-15-2	HORIZONTAL	THERMOPLUS	KHPE-120H	15TH FL ELECTRICAL RM	CONSTANT	10.0	4000	-	0.50	87	102	30	2.6	80	67	59.2	56.9	127.7	88.7	150.8	16.8	47	53	30	5	80	67	60	59	110	83	70	64	30	2.6	70	103.4	144.9	117.6	4.5	MERV 8	R410A	480/3/60	3	25	30	775	
WSHP-1M-1	HORIZONTAL	CLIMATEMASTER	TCH-024	PACKAGE ROOM AND SERVICE ENTRY	CONSTANT	2	700	0.7	90	87	102	4	4.9	80	67	58.8	53.7	23.0	17.0	30.0	11.4	47		4	1.8	80	67	61.0	60.0	18.0	15.0	70	56.8	4	5.3	70	107.0	29	23.0	4.3	MERV 8	R410A	480/3/60	1/3	5.3	15	174	
WSHP-1M-2	HORIZONTAL	CLIMATEMASTER	TCH-012	ELEVATOR LOBBY	CONSTANT	1	390	0.5	30	87	102	1.9	2.8	76	64	58.4	53.6	11.0	7.0	14.0	11.3	47		1.9	1.5	76	64	58.0	56.0	8.0	7.1	70	57.6	1.9	3.3	70	106.5	15	12.0	4.3	MERV 8	R410A	208/1/60	1/10	7.3	15	114	

FAN SCHEDULE

UNIT NO.	MANUF.	MODEL	LOCATION	SERVICE	CFM MIN.	CFM MAX.	TYPE	DRIVE	STARTER	MOTOR SP (IN)	RPM	HP	BHP	ELECTRICAL V/P/HZ	OPERATIONAL & POWER	REMARKS (NOTES)
DEF-15-1	ENERVEX	BEF500	15TH FL	RESIDENTIAL DRYER EXHAUST		3,300			ECM	1.58		3		460/3/60		9
DEF-16-1	ENERVEX	BEF500	15TH FL	RESIDENTIAL DRYER EXHAUST		4,400			ECM	1.50		5		460/3/60		9
DEF-18-1	ENERVEX	BEF500	15TH FL	RESIDENTIAL DRYER EXHAUST		3,300			ECM	1.58		3		460/3/60		9
DEF-40-1	ENERVEX	BEF500	ROOF(40TH FL)	RESIDENTIAL DRYER EXHAUST		5,000			ECM	1.50	1740	5		460/3/60		9
DRX-C-1	ENERVEX	BEF250	CELLAR	RESIDENTIAL DRYER EXHAUST		460			ECM	1.08		1.00		460/3/60		9
DIF-1	ENERVEX	TDF820	2ND BULKHEAD ROOF(42ND FL)	DRAFT INDUCER FAN		8,033	INLINE		ECM	4.00	1740	10		460/3/60		10
TF-A	GREENHECK	SQ-85-VG	VARIOUS	TELE. CL.		300	INLINE		ECM	0.25	1618	1/10	0.06	115/1/60		1,5,8
TF-B	GREENHECK	SQ-85-VG	VARIOUS	TELE. CL.		400	INLINE		ECM	0.25	1618	1/10	0.06	115/1/60		1,5,8
GEF-C-1	GREENHECK	BSQ-140-15	CELLAR	CELLAR EXHAUST		2,400	INLINE		VFD	1.08	1852	1.5	1.01	460/3/60		1,3,5,7
GEF-C-2	GREENHECK	SQ-85-VG	CELLAR	LSUB-CELLAR --FUEL TANK		300	INLINE		ECM	0.50	1618	0.10	0.06	115/1/60		1,5,8
GEF-C-3	GREENHECK	SQ-95-VG	CELLAR	GENERAL EXHAUST		400	INLINE		ECM	0.50	1586	1/6	0.11	115/1/60		1,5,8
GEF-C-4	GREENHECK	SQ-97-VG	CELLAR	CELLAR EMR		100	INLINE		ECM	0.50	1725	0.23		115/1/60		1,5,8
GEF-C-8	GREENHECK	SQ-80-VG	CELLAR	CELLAR ARCS RM		200	INLINE		ECM	0.30	1725	0.10	0.05	115/1/60		1,5,8
GEF-SC-1	GREENHECK	BSQ-100-5	SUBCELLAR	POOL EQUIPMENT RM		900	INLINE		VFD	1.08	1618	3/4	0.5	460/3/60		1,3,5,7
GEF-1-1	GREENHECK	SQ-85-VG	1ST FL	SE#2 SHAFT		300	INLINE		ECM	0.50	1586	1/6	0.11	115/1/60		1,5,8
GEF-1-2	GREENHECK	SQ-95-VG	1ST FL	PE#5 SHAFT		500	INLINE		ECM	0.50	1586	1/6	0.11	115/1/60		1,5,6
GEF-1-3	GREENHECK	SQ-97-VG	1ST FL	1ST FL EMR		100	INLINE		ECM	0.30	1725	1/10		115/1/60		1,5,8
GX-15-1	GREENHECK	BSQ-80-5	15TH FL			608	INLINE		VFD	0.75		1/2	0.36	460/3/60		1,3,5,7
GX-15-2	GREENHECK	BSQ-100-5	15TH FL			1,000	INLINE		VFD	0.75		3/4	0.5	460/3/60		1,3,5,7
GEF-16-1	GREENHECK	BSQ-70-5	16TH FL	REFUSE		300	INLINE		VFD	0.75	1725	1/2	0.32	460/3/60		1,3,5,7
GEF-17-1	GREENHECK	BSQ-140-20	17TH FL	MECHANICAL ROOM		3,000	INLINE		VFD	1.00		2.00		460/3/60		1,3,5,7
GEF-17-2	GREENHECK	BSQ-140-20	17TH FL	MECHANICAL ROOM		3,000	INLINE		VFD	1.08		2.00		460/3/60		1,3,5,7
GEF-17-3	GREENHECK	BSQ-140-20	17TH FL	MECHANICAL ROOM		3,000	INLINE		VFD	1.00		2.00		460/3/60		1,3,5,7
GEF-18-1	GREENHECK	BSQ-140-20	18TH FL	MECHANICAL ROOM		3,000	INLINE		VFD	1.08		2.00		460/3/60		1,3,5,7
GEF-18-2	GREENHECK	BSQ-130HP-10	18TH FL	REFUSE		1,100	INLINE		VFD	1.08	1830	1.00	0.46	460/3/60		1,3,5,7
GEF-18-3	GREENHECK	BSQ-140-20	18TH FL	MECHANICAL ROOM		3,000	INLINE		VFD	0.75		2.00		460/3/60		1,3,5,7
GEF-39-1	GREENHECK	BSQ-100-7	39TH FL	TRASH EXHAUST		1,050	INLINE		VFD	1.00	1852	3/4	0.44	460/3/60		1,3,5,7
GEF-39-2	GREENHECK	BSQ-100-5	39TH FL	MECHANICAL ROOM		1,600	INLINE		VFD	1.08	2100	3/4	0.5	460/3/60		1,3,5,7
KEF-15-1	GREENHECK	USF-336-BI	15TH FL	RESIDENTIAL KITCHEN EXHAUST		20,008	UTILITY		VFD	1.58	792	15	9.59	460/3/60		1,3,5,7
KEF-19-1	GREENHECK	USF-324-BI	19TH FL			7,000	UTILITY		VFD	1.50	1047	5	2.84	460/3/60		1,3,5,7
KX-39-1	GREENHECK	USF-310-10-BI-5	39TH FL	PENTHOUSE KITCHEN EX.		1,200	UTILITY		VFD	1.00	3371	1/2	0.42	460/3/60		1,3,5,7
KEF-40-1	GREENHECK	USF-320-BI	ROOF(40TH FL)	RESIDENTIAL KITCHEN EXHAUST		4,500	UTILITY		VFD	1.50	1252	3	1.86	460/3/60		2,4,5,7
TEF-C-1	GREENHECK	BSQ-100-10	CELLAR	TOILET EXHAUST		1,450	INLINE		VFD	1.08	2196	1	0.71	460/3/60		1,3,5,7
TEF-1M-1	GREENHECK	SQ-85-VG	1ST MEZZ	TOILET EXHAUST		75	INLINE		ECM	0.50		1/10		115/1/60		1,5,8
TEF-16-1	GREENHECK	SQ-100-VG	15TH FL	AMENITY TOILET EXHAUST		975	INLINE		ECM	0.75	1547	1/4	0.21	115/1/60		1,5,6
SF-1-1	GREENHECK	SQ-95-VG	1ST FL	OUTSIDE AIR		300	INLINE		ECM	0.30	1586	1/6	0.11	115/1/60		1,5,8
SF-1-2	GREENHECK	QEI-15-I-20	L1	OUTSIDE AIR		5,000	INLINE			0.50	2068	2.00	1.56	460/3/60		1,5
SF-15-1	GREENHECK	SQ-99-VG	L15	OUTSIDE AIR		1,000	INLINE		ECM	0.75		1/4	0.19	115/1/60		1,5,8
SF-18-1	GREENHECK	QEI-15-I-20	L18	OUTSIDE AIR		5,000	INLINE		VFD	0.30	2068	2.00	1.56	460/3/60		1,3,5,7
SF-18-2	GREENHECK	QEI-15-I-20	L18	OUTSIDE AIR		5,000	INLINE		VFD	0.50	2068	2.00	1.56	460/3/60		1,3,5,7
SF-40-1	GREENHECK	QEI-15-I-20	ROOF(40TH FL)	OUTSIDE AIR		5,000	INLINE		VFD	0.50	2068	2.00	1.56	460/3/60		1,3,5,7
RF-C-1	GREENHECK	BSQ-140-10	CELLAR	RELIEF AIR		1,800	INLINE		VFD	0.75	1221	1.00	0.41	460/3/60		1,3,5,7
RF-C-2	GREENHECK	BSQ-130-10	CELLAR	RELIEF AIR		1,400	INLINE		VFD	0.75	1505	1.00	0.44	460/3/60		1,3,5,7
RF-17-1	GREENHECK	BSQ-140-10	17TH FL	18TH FLOOR		1,600	INLINE		VFD	0.75	1227	1.00	0.42	460/3/60		1,3,5,7
SMPF-1-1	GREENHECK	AX-80-275-0622-A150	1ST MEZZ	POST FIRE SMOKE PURGE		16,000	INLINE		VFD	1.00		15	9.13	460/5/60		1,3,5,7
SEF-19-1	GREENHECK	QEI-12-II-5	19TH FL	FIRE SUPRESSION PURGE		1,800	INLINE		VFD	0.30	1206	1/2	0.16	460/3/60		1,3,5,7
SEF-19-2	GREENHECK	OSW-80-AF-41-10-II-800	19TH FL	POST FIRE SMOKE PURGE		60,008	UTILITY		VFD	1.25	899	60	53.05	460/3/60		1,3,5,7

NOTES :
1) PROVIDE NEMA 1 DISCONNECT SWITCH. 2) PROVIDE NEMA 3R DISCONNECT SWITCH. 3) PROVIDE NEMA 1 VFD. 4) PROVIDE NEMA 3R VFD. 5) PROVIDE VIBRATION ISOLATION.
6) PROVIDE BACKDRAFT DAMPER. 7) PROVIDE PREMIUM EFFICIENT MOTOR
8) PROVIDE VARI GREEN VARIABLE SPEED 0-10 ODV, REMOTE CONTROLLER AND PRESSURE SENSOR.
9) PROVIDE WITH MDVS MODULATING DRYER EXHAUST SYSTEM
10) PROVIDE WITH GASI620 FAN SYSTEM

ELECTRIC HUMIDIFIER SCHEDULE

No.	MANUF.	MODEL #	LOCATION	SERVICE	FILL RATE (GPM)	DRAIN RATE (GPM)	CONNECTIONS STEAM OUTLET (IN)	DRAIN (IN)	WATER (IN)	COND. RETURN (IN)	CONTROL INPUT	ABSORBTION DISTANCE (FT)	CAPACITY (LBS/HR)	ELECTRICAL CAPACITY (KW)	AMPS	MOOP	V/PH/HZ	DIMENSIONS HxWxD (IN)	WEIGHT (LBS)	REMARKS
SG-C-1	NORTEC	RS 010	CELLAR	WSHP-C-5	3.7	6.7	1-3/4	1.0	0.5	0.3	MODULATING	UNIT MOUNTED	11	3.8	5	10	460/3/60	58.9x16.5x14.6	89	SEE NOTES
SG-15-1	NORTEC	RS 180	15TH FLOOR	MAU-15-2	3.7 (x 2)	6.7 (x 2)	1-3/4	1.0	0.5	0.3	MODULATING	UNIT MOUNTED	189	64.3	77	100	480/3/60	43.2x39.4x16.3	291	SEE NOTES
SG-19-1	NORTEC	RS 130	19TH FLOOR	MAU-19-2	3.7 (x 2)	6.7 (x 2)	1-3/4	1.0	0.5	0.3	MODULATING	UNIT MOUNTED	126	42.8	52	70	480/3/60	43.2x39.4x16.3	291	SEE NOTES
SG-39-1	NORTEC	RS 130	39TH FLOOR	MAU-40-2	3.7 (x 2)	6.7 (x 2)	1-3/4	1.0	0.5	0.3	MODULATING	UNIT MOUNTED	126	42.8	52	70	460/3/60	43.2x39.4x16.3	291	SEE NOTES

NOTES: PROVIDE ALL REQUIRED ELECTRICAL, WATER, AND DRAINAGE CONNECTIONS. PROVIDE REQUIRED CONTROLS AND BMS INTERFACE.
PROVIDE WITH MODULATING HIGH LIMIT, AIR PROVING SWITCH, AND INTERNAL DRAIN WATER COOLER DOWN TO 140F, CONTROL BY BMS VENDOR.

ELECTRIC DUCT HEATER SCHEDULE

UNIT No.	MANUF.	MODEL No.	ASSOCIATED UNIT	LOCATION	TYPE	AIR QTY (CFM)	STATIC PRESS. IN.W.G.	DUCT SIZE	AIR TEMP(F) ENT.	LVG.	CAPACITY (MBH)	KW	V/P/HZ	REMARKS
EDH-15-1	TUTCO	DHC	SF-15-1	15TH FLOOR	SLIP-IN	1000	0.03	26x12	60	100	44	13	460/3/60	SEE BELOW

NOTES:
1. PROVIDE WITH THE FOLLOWING: SCR CONTROL W/ DUCT T-STAT, DIFFERENTIAL PRESSURE AIRFLOW SWITCH, MAGNETIC CONTACTORS, FUSES, CONTROL TRANSFORMER, DISCONNECT SWITCH. INTERLOCK WITH UNIT CONTROLS AND BMS SYSTEM
2. PROVIDE FLANGED CONNECTIONS, GASKETED COVER, RECESSED CONTROL BOX

TRENCH HEATING UNIT SCHEDULE

TAC	BASIS OF DESIGN MAKE	MODEL	FAN SPEED	DIMENSIONS L	H	D	CAPACITY INFORMATION EWT	LWT	EAT	FLOW	OUTPUT	AIRFLOW	PRESSURE DROP	ELECTRICAL VOLTAGE	MAX	SOUND	Notes
				INCHES			F	F	F	GPM	BTU/H	CFM	FT-HD	V	A	dBa	1, 2, 3, 4, 5, 6, 7
TFC-A-1	KAMPMANN	QK207	60%	126	4.4	8.1	180	160	68	1.74	17252	304	3.60	24	0.50	42	1, 2, 3, 4, 5, 6, 7
TFC-A-2	KAMPMANN	QK207S	100%	126	4.4	8.1	180	160	68	1.14	11260	322	0.86	24	0.50	44	1, 2, 3, 4, 5, 6, 7
TFC-A-3	KAMPMANN	QK207	100%	126	4.4	8.1	180	160	68	1.82	18040	323	4.28	24	0.50	44	1, 2, 3, 4, 5, 6, 7
TFC-B-1	KAMPMANN	QK207S	100%	88.6	4.4	8.1	180	160	68	0.69	6851	188	0.25	24	0.50	42	1, 2, 3, 4, 5, 6, 7
TFC-C-1	KAMPMANN	QK207	60%	63	4.4	8.1	180	160	68	0.71	7030	127	0.36	24	0.30	38	1, 2, 3, 4, 5, 6, 7
TFC-C-2	KAMPMANN	QK207S	100%	63	4.4	8.1	180	160	68	0.46	4596	134	0.08	24	0.30	40	1, 2, 3, 4, 5, 6, 7
TFC-D-1	KAMPMANN	QK207S	60%	110	4.4	8.1	180	160	68	0.88	8745	253	0.48	24	0.70	41	1, 2, 3, 4, 5, 6, 7
TFC-D-2	KAMPMANN	QK207S	100%	110	4.4	8.1	180	160	68	0.96	9502	269	0.57	24	0.70	43	1, 2, 3, 4, 5, 6, 7
TFC-D-3	KAMPMANN	QK207	100%	110	4.4	8.1	180	160	68		16075		2.80	24	0.70	43	1, 2, 3, 4, 5, 6, 7
TFC-E-1	KAMPMANN	QK207S	60%	70.9	4.4	8.1	180	160	68	0.50	4986	152	0.11	24	0.40	39	1, 2, 3, 4, 5, 6, 7
TFC-F-1	KAMPMANN	QK207S	100%	94.5	4.4	8.1	180	160	68	0.77	7687	215	0.33	24	0.60	42	1, 2, 3, 4, 5, 6, 7

NOTES:
1. UNIT AND THEIR PERFORMANCE TO BE CERTIFIED TO EN 16430 PARTS 1&2
2. UNITS TO BE DELIVERED PRE-ASSEMBLED WITH MULTI-PASS PRESSURE-TESTED COILS
3. FAN MOTORS TO BE ECM WITH 0-10V BMS INTERFACE FOR FAN SPEED CONTROL
4. UNIT AND COILS TO BE COATED IN GRAPHITE GREY RAL 7024
5. UNITS TO BE PROVIDED WITH HEIGHT ADJUSTABLE MOUNTING BRACKETS WITH SOUND INSULATION
6. UNITS TO BE PROVIDED WITH 1/2" GAME-END CONNECTIONS
7. SOUND POWER LEVELS TO BE MEASURED IN ACCORDANCE WITH ISO 3744
8. INSTALL EACH UNIT IN TRENCH. REFER TO INSTALLATION DETAIL ON ARCHITECTURAL DRAWINGS.
9. COIL OPERATING PRESSURE SHALL BE 200 PSI MIN.

HOT WATER COIL SCHEDULE

UNIT NO.	LOCATION & QTY	MANUF.	MODEL	AIRFLOW (CFM)	APD (IN WC)	TOTAL CAPACITY (MBH)	E.A.T. D.B (°F)	L.A.T. D.B (°F)	EWT (°F)	LWT (°F)	FLOW RATE GPM	WPD (ftHD)	CONN. SIZE SUPPLY (IN)	RETURN (IN)	OPERATING WT. (LBS)
HWC	SEE PLANS (TOTAL 4)	GREENHECK	HW58S02H08-21x34	5000	0.43	278.8	0	51.5	180	160	28.5	4.9	1-1/2	1-1/2	64

NOTES:
1) PROVIDE FREEZE PROTECTION PUMP FOR HOT WATER COIL. 2) TO BE CERTIFIED IN ACCORDANCE WITH AHRI STANDARD-410 (FORCED-CIRCULATION AIR-COOLING AND AIR-HEATING COILS)

STEAM MANIFOLD SCHEDULE

No.	MANUF.	LOCATION	SERVICE	DUCT SIZE (IN)	AIRFLOW RATE (CFM)	ABSORPTION
SM-C-1	NORTEC	IH DUCT	WSHP-C-6	18x10	850	0.2
SM-15-1	NORTEC	IN DUCT	MAU-15-2	30x20	12000	0.4
SM-15-2	NORTEC	IN DUCT	MAU-15-2	44x30	15000	0.5
SM-19-1	NORTEC	IH DUCT	MAU-19-2	48x30	10000	1.1
SM-39-1	NORTEC	IH DUCT	MAU-40-2	48x30	11000	0.9

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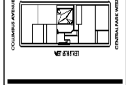
No.	Date:	Revision:
-	08/17/2018	ISSUED TO DOB
1	08/17/2018	80% CD
-	06/04/2018	CD PROGRESS SET
-	05/04/2018	50% CD SET
-	03/19/2018	CD PROGRESS SET
-	11/15/2017	DOB FILING
-	11/14/2017	100% DD
-	06/23/2017	50% DD SET
-	02/14/2017	100% SD DWGS

D.O.B. NUMBER:
NB#121190200

NORTH ARROW
Scale: N.T.S.

KEY PLAN:



PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
MECHANICAL SCHEDULES

SEAL & SIGNATURE:
DATE: 08-17-2019
PROJECT No: 2016-65
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CHECKED BY: V.P.
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72 OF 80

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48 X 36

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POOL SYSTEM EQUIPMENT SCHEDULE – W/SMART SAVER HEAT RECOVERY COILS

UNIT NO.	MANUF.	MODEL	LOCAT.	INDOOR SUPPLY FAN Flow (CFM)	MOTOR HP	MOTOR BHP	ESP (IN)	EXHAUST FAN #1 Flow (CFM)	OA CFM	MOTOR HP	MOTOR BHP	ESP (IN)	STARTER	EXHAUST FAN #2 Flow (CFM)	OA CFM	MOTOR HP	MOTOR BHP	ESP (IN)	COOLING E.A.T. D.B (°F)	E.A.T. W.B. (°F)	L.A.T. D.B (°F)	L.A.T. W.B. (°F)	Flow (GPM)	TOTAL CAP. (MBH)	SENSIBLE CAP. (MBH)	HEATING TYPE	EWT (°F)	LWT (°F)	E.A.T. D.B (°F)	L.A.T. D.B (°F)	Flow (GPM)	WATER PRESSURE DROP	TOTAL CAP. (MBH)	HEAT RECOVERY CAP. (MBH)	FLOW (GPM)	CONN. SIZE (IN.)	P.D. (FT)	ELECTRICAL V/P/HZ	MCA	MAX FUSE	EER	MRE	UNIT SIZE (LxWxH)
AC-C-7	DECTRON	DS-082	CELLAR	6000	7.50	5.55	2.0	2225	2020	1.5	1.1	1.0	VFD	4380	3980	3.0	2.2	1.0	88	73.5	66.2		17.6	208	128	HW	180	180	62.1	92.5	19.8	5.7 PSIG	198	138	19	1-1/2	14	460/3/60	46	60	11.4	5.2	252X72X67

NOTES:
1. UNIT TO BE MOUNTED ON 4" CONCRETE PAD

AIR OUTLET SCHEDULE

MANUF.	MODEL No.	TYPE	UNIT No.	MOUNT	NECK SIZE (DIA.)	FACE SIZE	MAX CFM	NC	REMARKS
TITUS	OMNI	SUPPLY	(CD)	CEILING MOUNT	4	12X12	50	<15	
			(CD)	CEILING MOUNT	6	12X12	120	<15	
			(CD)	CEILING MOUNT	8	12X12	210	<15	
TITUS	OMNI	SUPPLY	(CD)	CEILING MOUNT	6	24X24	120	<15	
			(CD)	CEILING MOUNT	8	24X24	210	<15	
			(CD)	CEILING MOUNT	10	24X24	330	<15	
			(CD)	CEILING MOUNT	12	24X24	470	<15	
			(CD)	CEILING MOUNT	14	24X24	640	<15	
TITUS	SPECTRUM	SUPPLY	(CD-A)	CEILING MOUNT	12	24X24	450	<15	
TITUS	CT-480	SUPPLY	(BG)	WALL/CEILING	12x10		180		
			(BG)	WALL/CEILING	12x12		300		
			(BG)	WALL/CEILING	16x12		330		
TITUS	300RL	SUPPLY	(SG)	WALL/CEILING	12X6	12X6	210	<15	
			(SG)	WALL/CEILING	14X6	14X6	250	<15	
			(SG)	WALL/CEILING	16X6	16X6	285	<15	
			(SG)	WALL/CEILING	18X6	18X6	315	<15	
			(SG)	WALL/CEILING	12X12	12X12	450	<15	
			(SG)	WALL/CEILING	24X12	24X12	900	<17	
			(SG)	WALL/CEILING	24X24	24X24	1500	<18	
TITUS	350RL	RETURN	(RG)	WALL/CEILING	12X12	12X12	450	<15	
			(RG)	WALL/CEILING	24X12	24X12	900	<15	
			(RG)	WALL/CEILING	24X24	24X24	1500	<15	
TITUS	350RL	TRANSFER	(TG-A)	WALL MOUNT	12X6	12X6	200	<15	
			(TG-B)	WALL MOUNT	16X8	16X8	300	<15	
			(TG-C)	WALL MOUNT	24X6	24X6	450	<15	
			(TG-D)	CEILING MOUNT	12X6	12X6	250	<15	
			(TG-E)	CEILING MOUNT	12X12	12X12	530	<20	
			(TG-F)	CEILING MOUNT	14X14	14X14	730	<20	
TITUS	FL-10-HT	SUPPLY	LDS-A	CEILING MOUNT		SEE PLANS	45/LF	<20	1", 1-SLOT, HIGHTHROW
TITUS	FL-10-HT	SUPPLY	LDS-B	CEILING MOUNT		SEE PLANS	85/LF	<20	1", 2-SLOT, HIGHTHROW
TITUS	FL-15-HT	SUPPLY	LDS-C	CEILING MOUNT		SEE PLANS	55/LF	<20	1.5", 1-SLOT, HIGHTHROW
TITUS	FL-15-HT	SUPPLY	LDS-D	CEILING MOUNT		SEE PLANS	100/LF	<20	1.5", 2-SLOT, HIGHTHROW
TITUS	FL-20-HT	SUPPLY	LDS-E	CEILING MOUNT		SEE PLANS	125/LF	<20	2", 2-SLOT, HIGHTHROW
TITUS	FL-10-JT	SUPPLY	LDS-F	WALL MOUNT		SEE PLANS	70/LF	<20	1", 1-SLOT, JETTHROW
TITUS	FL-15-JT	SUPPLY	LDS-G	WALL MOUNT		SEE PLANS	110/LF	<20	1.5", 1-SLOT, JETTHROW
TITUS	FL-15-JT	SUPPLY	LDS-H	WALL MOUNT		SEE PLANS	180/LF	<20	1.5", 2-SLOT, JETTHROW
TITUS	FL-10	RETURN/EXHAUST	LDR-A	CEILING MOUNT		SEE PLANS	30/LF	<20	1", 1-SLOT
TITUS	FL-10	RETURN/EXHAUST	LDR-B	CEILING MOUNT		SEE PLANS	80/LF	<20	1", 2-SLOT
TITUS	FL-15	RETURN/EXHAUST	LDR-C	CEILING MOUNT		SEE PLANS	45/LF	<20	1.5", 1-SLOT
TITUS	FL-15	RETURN/EXHAUST	LDR-D	CEILING MOUNT		SEE PLANS	90/LF	<20	1.5", 2-SLOT
TITUS	FL-20	RETURN/EXHAUST	LDR-E	CEILING MOUNT		SEE PLANS	120/LF	<20	2", 2-SLOT
TITUS	FL-10	RETURN/EXHAUST	LDR-F	WALL MOUHT		SEE PLANS	30/LF	<20	1", 1-SLOT
TITUS	FL-15	RETURN/EXHAUST	LDR-G	WALL MOUNT		SEE PLANS	45/LF	<20	1.5", 1-SLOT
TITUS	FL-15	RETURN/EXHAUST	LDR-H	WALL MOUNT		SEE PLANS	90/LF	<20	1.5", 2-SLOT
TITUS	CT-481	SUPPLY / RETURN	LBG-A	WALL MOUNT		SEE PLANS	60/LF	<20	2-1/2" WIDE
TITUS	CT-481	SUPPLY / RETURN	LBG-B	WALL MOUHT		SEE PLANS	115/LF	<20	4" WIDE
TITUS	CT-481	SUPPLY / RETURN	LBG-C	WALL MOUNT		SEE PLANS	125/LF	<20	5" WIDE
TITUS	CT-481	SUPPLY / RETURN	LBG-D	WALL MOUNT		SEE PLANS	155/LF	<20	6" WIDE
TITUS	CT-481	TRANSFER	LBT-A	WALL/CEILING		SEE PLANS	60/LF	<20	2-1/2" WIDE
TITUS	CT-481	TRANSFER	LBT-B	WALL/CEILING		SEE PLANS	115/LF	<20	4" WIDE
TITUS	CT-481	TRANSFER	LBT-C	WALL/CEILING		SEE PLANS	125/LF	<20	5" WIDE
TITUS	CT-481	TRANSFER	LBT-D	WALL/CEILING		SEE PLANS	155/LF	<20	6" WIDE
TITUS	CT-481	SUPPLY	FSG-A	FLOOR		SEE PLANS	155/LF	<20	6" WIDE
AAG	AAG-400	RETURN	RG-A	CEILING	72x18	74x20	3200	<25	2,4
AAG	AAG-400	RETURN	RG-A	WALL	36x36	38x38	3200	<25	3,4
AAG	AAG-400	RETURN	RG-A	WALL	6X6	8X8	75	<25	2,4

NOTES:
1. ALL RETURN OUTLETS SHALL BE PROVIDED WITH LIGHT SHIELD. 2. PROVIDE WITH WHITE FINISH 3. PROVIDE WITH BRUSHED STAINLESS STEEL FINISH
4. PROVIDE WITH TYPE-B FRAME

BRANCH DUCT SCHEDULE

DUCT SIZE (IN)	MAXIMUM CFM	DUCT SIZE (DIA. IN)	MAXIMUM CFM
10X4	125	4	30
10X6	225	6	95
10X8	350	8	200
10X10	425	10	375
12X6	250	12	600
12X8	400	14	900
12X10	525	16	1,300
14X8	525	18	1,775
14X10	750	20	2,300
14X12	950		
16X10	850		
16X12	1,100		
16X14	1,350		
18X12	1300		
18X14	1,600		
18X16	1,800		

PARALLEL CONSTANT AIRFLOW REGULATOR BOX SCHEDULE

UNIT NO.	MANUF.	MODEL	SERVICE	CFM MIN	CFM MAX	DIMENSIONS LXWLH	DUCT SIZE	NO. OF CARS	CAR DIMENSIONS	DIFFERENTIAL PRESSURE RANGE	REMARKS
ZRT-A	ALDES	ZRT-PDIL	KITCHEN EXHAUST	50	400	26x24x12	24X12	2	4"/10"	0.2" - 0.8"	NOTES
ZRT-B	ALDES	ZRT-PDIL-HP	KITCHEN EXHAUST	60	650	26x24x12	24X12	2	4"/10"	0.6" - 2.4"	NOTES
ZRT-C	ALDES	ZRT-PDIL-HP	MAKE-UP AIR	180	650	26x24x12	24X12	2	6"/10"	0.6" - 2.4"	NOTES
ZRT-D	ALDES	ZRT-PDIL-HP	MAKE-UP AIR	205	650	26x24x12	24X12	2	6"/10"	0.6" - 2.4"	NOTES
ZRT-E	ALDES	ZRT-PDIL-HP	MAKE-UP AIR	235	650	26x24x12	24X12	2	8"/10"	0.6" - 2.4"	NOTES
ZRT-F	ALDES	ZRT-PDIL	MAKE-UP AIR	265	650	26x24x12	24X12	2	8"/10"	0.2" - 0.8"	NOTES
ZRT-G	ALDES	ZRT-PDIL	MAKE-UP AIR	325	650	26x24x12	24X12	2	10"/10"	0.2" - 0.8"	NOTES
ZRT-H	ALDES	ZRT-PDIL	MAKE-UP AIR	410	650	26x24x12	24X12	2	10"/10"	0.2" - 0.8"	NOTES

NOTES :
1) ALL DUCTWORK AND ASSOCIATED RISERS CONTAINING CONSTANT AIR REGULATING DEVICES
SHALL BE CONSTRUCTED AND SEALED TO MINIMIZE LEAKAGE TO NO GREATER THAN 5%.

CONSTANT EXHAUST REGISTER BOX SCHEDULE

UNIT NO.	MANUF.	MODEL	SERVICE	CFM	DIMENSIONS LxWxH	DUCT SIZE	NO. OF CARS	CAR DIMENSIONS	DIFFERENTIAL PRESSURE RANGE	REMARKS
CERB-A	ALDES	CERB-CS-II	TOILET EXHAUST	30	6x6x8	4"	1	4"	0.2-0.8 IN W.C.	NOTES

NOTES :
1) ALL DUCTWORK AND ASSOCIATED RISERS CONTAINING CONSTANT AIR REGULATING DEVICES
SHALL BE CONSTRUCTED AND SEALED TO MINIMIZE LEAKAGE TO NO GREATER THAN 5%.
2) EXHAUST GRILLE TO BE SIMILAR TO TITUS MODEL CT-480 OR APPROVED EQUAL

HEATING AND VENTILATING INDOOR UNIT SCHEDULE

UNIT NO.	MANUF.	MODEL	ORIENT.	SUPPLY Flow (CFM)	ESP (IN)	MOTOR HP	MOTOR RPM	OUTSIDE AIR MIN./MAX.FLOW (CFM)	HYDRONIC HEATING O.A.T. D.B (°F)	L.A.T. D.B (°F)	EWT (°F)	LWT (°F)	TOTAL CAP. (MBH)	FLOW RATE GPM	FILTERS TYPE	QUANTITY	ELECTRICAL VOLTAGE	FLA	MCA	MAX FUSE	NET INSTALL WT. (LBS)	REMARKS
H&V-C-1	TRANE	CSAA	HORIZONTAL	12000	2	15	1800	12000	0	75	180	160	976	97.5	MERV 8		460/3/60	21.65	26.9	45	1750	

NOTES:
1) PROVIDE UNIT WITH BACNET INTERFACE. 2)PROVIDE VFD

VERTICAL STACK WSHP – AIR OUTLET SCHEDULE

MANUF.	MODEL No.	TYPE	CFM	NOM. GRILLE SIZE (In)	REMARKS
TITUS	CT-480	SUPPLY (SG)	100-250	12X6	
			251-600	12x12	

1. PROVIDE WITH OPPOSED BLADE DAMPER AND DOUBLE DEFLECTION GRILLE.
2. ALL BORDER TYPES AND COLORS TO BE REVIEWED AND APPROVED BY ARCHITECT

EXPANSION TANK SCHEDULE

UNIT NO.	MANUFACTURER	MODEL No.	SERVICE	LOCATION	HEIGHT (IN)	DIAM. (IN)	TANK VOLUME GAL	ACCEPTANCE VOLUME GAL	PRECHARGE PRESSURE (PSIG)	MAX. DESIGN PRESSURE (PSIG)	OPERATING WEIGHT (LBS)	REMARKS
ET-1	B&G	B-200	CHW	L38	37	24	53	53	12	125	700	
ET-2	B&G	B-200	CHW	L38	37	24	53	53	12	125	700	
ET-3	B&G	B-400	CW	L18	65-1/8	24	106	106	12	125	1200	
ET-4	B&G	B-1000	CW	L18	73-1/2	36	264	264	12	125	3000	
ET-5	B&G	B-1000	CHW	L18	73-1/2	36	264	264	12	250	3000	
ET-6	B&G	B-1000	HW	L17	73-1/2	36	264	264	12	125	3000	
ET-7	B&G	B-600	HW	L17	65	30	158	158	12	250	2000	
ET-8	B&G	B-200	CW	L18	37	24	53	53	12	125	700	
ET-9	B&G	B-400	CW	L1 MEZZ.	65-1/8	24	80	106	12	125	1200	
ET-10	B&G	B-400	HW	L1 MEZZ.	65-1/8	24	80	106	12	125	1200	

AIR HANDLER EQUIPMENT SCHEDULE

UNIT NO.	MANUF.	MODEL	AIR HANDLER SECTION SUPPLY TOTAL FLOW CFM	MIN. O.A. CFM	ESP (IN)	MOTOR HP	MOTOR BHP	COOLING COIL TOTAL CAP. (MBH)	SENSIBLE CAP. (MBH)	CHILLED WATER TEMP (F)	CHILLED WATER FLOW (GPM)	E.A.T. D.B (°F)	E.A.T. W.B. (°F)	L.A.T. D.B (°F)	L.A.T. W.B. (°F)	HEATING COIL TOTAL CAP. (MBH)	HOT WATER TEMP. (F)	HOT WATER FLOW (GPM)	E.A.T. D.B (°F)	L.A.T. D.B (°F)	FILTER	ELECTRICAL VOLTAGE PHASE HZ	WEIGHT (LBS)	REMARKS
AHU-16-1	TRANE	UCCAG08CO	3,400	450	1.5	1 @ 5 HP	1 @ 3.3	104.2	82.3	45/56.2	18.54	77.0	65.0	55.0	54.8	107.3	180/160	5.36	64	93.1	MERV-8	460/3/60	1222	1,2,3
AHU-16-2	TRANE	UCCAG30CO	17,000	1,800	1.5	2 @ 10 HP	2 @ 9.1	540.0	407.8	45/52.67	140.3	77.0	65.0	55.2	54.5	547.9	180/160	27.39	64	93.72	MERV-8	460/3/60	2986	1,2,3
AHU-18M-1	TRANE	UCCAM08CO	2,000	170	1.5	1-1/2	1 @ 1.2	106.0	68.8	45/56.97	17.7	88.0	71.0	65.0	54.7	121.4	180/160	12.13	26	81.98	MERV-8	460/3/60	1092	1,2,3
AHU-17-1	TRANE	UCCAG08CO	5,000	350	1.5	1 @ 5 HP	1 @ 3.3	168.0	117.6	45/55	34	76.0	64.0	55.0	55.0	175.0	180/160	18	66	98	MERV-8	460/3/60	1400	1,2,3

NOTES:
1) UNITS TO BE MOUNTED ON 4" CONCRETE PAD. 2) ALL FANS TO BE EQUIPPED W/ VFD. 3) CONTROLLER SHALL BE BACNET COMPATIBLE

2-PIPE FAN COIL UNIT SCHEDULE

NO.	MANUF.	MODEL	LOCATION	CFM (MED. SPEED)	ESP (IN)	MOTOR HP	COOLING EWT	LWT	GPM	WPD	(70 DEG EAT) TOTAL MBH	SENS MBH	EDB	EWB	LDB	LWB	(72 DEG EAT) TOTAL MBH	SENS MBH	EDB	EWB	LDB	LWB	FILTER	V/P/HZ	MCA	MOP	WEIGHT (LBS)	REMARKS
FCU-A	WILLIAMS	HH-R - 006	SEE PLANS	450	0.5	1/3	45	55	2.1		10.7	8.5	70	61	52.7	52.6	13.1	9.3	72	63	53.1	53	MERV-8	208/1/60	6	15	148	1,2
FCU-B	WILLIAMS	HH-R - 012	SEE PLANS	900	0.5	1/2	45	55	3.0		15.0	15.0	70	61	54.8	54.8	17.5	15.2	72	63	56.6	56.5	MERV-8	208/1/60	10	15	187	1,2
FCU-C	WILLIAMS	HH-R - 015	SEE PLANS	1,125	0.5	(2) @ 1/3	45	55	3.7		18.4	18.4	70	61	56	56	23.9	19.8	72	63	55.9	55.9	MERV-8	208/1/60	11	15	252	1,2
FCU-D	WILLIAMS	HH-R - 018	SEE PLANS	1,350	0.5	(2) @ 1/3	45	55	5.2		25.9	23.1	70	61	54.4	54.3	34.7	26.1	72	63	54.3	54.2	MERV-8	208/1/60	11	15	297	1,2
FCU-E	WILLIAMS	HH-R - 022	SEE PLANS	1,650	0.5	(2) @ 1/2	45	55	7.3		36.4	30.1	70	61	53.3	53.2	46.0	33.4	72	63	53.5	53.4	MERV-8	208/1/60	17	25	322	1,2
FCU-F	WILLIAMS	AH-B - 020	SEE PLANS	2,000	0.5	1	45	55	11.2		56.1	41.7	70	61	51	51	67.7	45.6	72	63	51.2	51.2	MERV-8	208/1/60	16	25	352	1,2
FCU-G	WILLIAMS	AH-B - 030	SEE PLANS	3,000	0.5	1.5	45	55	13.2		65.9	54.8	70	61	53.3	53.3	80.0	59.4	72	63	55.9	55.9	MERV-8	208/1/60	19	30	640	1,2
FCU-17-1	WILLIAMS	HH-R - 012	17TH FL ELEC. RM	900	0.5	1/2	45	55	3.0		15.0	15.0	70	61	54.8	54.8	17.5	15.2	72	63	56.6	56.5	MERV-8	208/1/60	10	15	187	1,2

NOTES:
1) PROVIDE FAN COIL UNIT VALVE PACKAGE AND COIL END OUTSIDE AIR STREAM.
2) PROVIDE DRIP PAN DRIP PAN TO BE EXTENDED BEYOND VALVE PACKAGE.

4-PIPE FAN COIL UNIT SCHEDULE

NO.	MANUF.	MODEL	LOCATION	CFM (MED. SPEED)	ESP (IN)	MOTOR BHP	HP	COOLING EWT	LWT	GPM	TOTAL MBH	SENS MBH	EDB	EWB	LDB	LWB	WPD	HEATING EWT	LWT	GPM	TOTAL MBH	EDB	LDB	WPD	FILTER	STARTER	V/P/HZ	MCA	MOP	WEIGHT (LBS)	REMARKS
FCU-1M-1	WILLIAMS	HH-R - 006	1ST MEZZ	600	0.5		1/3	NO COOLING										180	180	4	59.7	10.0	100.7	2.3			208/1/60		15.0	127	
FCU-A1	WILLIAMS	HH-R - 006		450	0.5		1/3	45	55	2.1	13.1	9.3	75	63	56	56	1.2	160	160	2	20.3	70.0	111	2.3			208/1/60	6.25	15.0	157	

NOTES:
1) PROVIDE FAN COIL UNIT VALVE PACKAGE AND COIL END OUTSIDE AIR STREAM.
2) PROVIDE DRIP PAN. DRIP PAIN TO BE EXTENDED BEYOND VALVE PACKAGE.

KITCHEN EXHAUST UNIT SCHEDULE (PRECIPITATOR)

UNIT NO.	MANUF.	MODEL	LOCATION	SERVICE	CFM	MOTOR ESP (IN)	RPM	HP	ELECTRICAL V/P/HZ	FLA	MANUF. & MODEL	SERVICE	CFM	FILTER		WASH SYSTEM FLOW (GPM)	PRESSURE (PSI)	TEMP(°F)	ELECTRICAL V/P/HZ	FLA	WEIGHT (LBS)	REMARKS
PCU-1	GREENHECK	CSW-18-BI-41-10-II-100	1ST FLOOR MEZZ.	HABONIM	6000	4.5	2500	10	208/3/60	30.8	SMOG-HOG	KITCHEN EXHAUST	6,000	TYPE-1	PERFORATED BAFFLE	19	40	140	208/3/60	37	6000	
											PSG-16-2			TYPE-2								
														TYPE-3								
														TYPE-4								

NOTES: PROVIDE WITH CLASS II CONTINUOUSLY WELDED HOUSING, BOLTED ACCESS DOOR, DRAIN CONNECTION, OUTLET FLANGE,
UL/cUL-762 OUTDOOR POWER VENT FOR RESTAURANT EXHAUST APPLIANCE RATING, PREMIUM EFFICIENT MOTORS, VARIABLE SPEED MOTOR AND VFD,
UNIT TO BE MOUNTED ON 4" CONCRETE PAD

WATER-COOLED DX W/ HOT WATER COIL UNIT SCHEDULE

UNIT NO.	UNIT ARRANGEMENT	MANUF.	MODEL	AREA SERVED	CONSTANT /VAV SYSTEM	NOM. COOLING CAP (TONS)	SUPPLY Flow (CFM)	O.A. QUANTITY (CFM)	ESP (IN)	COOLING E.W.T. (°F)	L.W.T. (°F)	FLOW RATE GPM	WATER PRESSURE DROP	E.A.T. D.B (°F)	E.A.T. W.B. (°F)	L.A.T. D.B (°F)	L.A.T. W.B. (°F)	TOTAL CAP. (MBH)	SENSIBLE CAP. (MBH)	HEAT REJECTION (MBH)	EER	WATER SIDE ECONOMIZER COIL E.A.T. D.B (°F)	E.A.T. W.B. (°F)	L.A.T. D.B (°F)	L.A.T. W.B. (°F)	E.W.T. (°F)	L.W.T. (°F)	TOTAL CAP. (MBH)	SEN. CAP. (MBH)	WATER FLOW (GPM)	WPD (FT H2O)	HEATING E.W.T. (°F)	L.W.T. (°F)	FLOW RATE GPM	WATER PRESSURE DROP	E.A.T. D.B (°F)	L.A.T. D.B (°F)	CAP. (MBH)	FILTERS MERV RATING	REFRIG.	ELECTRICAL VOLT.	FAN MOTOR HP	MCA	MOP	NET INSTALL WT. (LBS)	REMARKS
AC-1-1	HORIZONTAL	THERMOPLUS	KACE-60H	1ST FLOOR LOBBY	SVAV	5.0	2000	500	0.50	87	102	8		80	67	55.0	54.0	60.0	42.0		16.1	80	67	55	54	45		55.1	40.1	8	0.9	180	160	8.6		55	95.0	86.4	MERV 8	R410A	460/3/60	1	18	25		
AC-C-12	HORIZONTAL	THERMOPLUS	KACE-30H	ENTRY VESTIBULE	SVAV	2.5	1800	0	0.50	87	102	4		80	67	55.0	54.0	30.0	21.0			80	67	55	54	45		28	20	4		180	160	4.5		55	95.0	43.0	MERV 8	R410A	460/3/60	1		25		

NOTES
1) UNIT TO BE PROVIDED WITH BMS INTERFACE CARD FOR BACNET INTERFACE.

• THIS PLAN APPROVED ONLY FOR WORK INDICATED ON THE APPLICATION SPECIFICATION SHEET. ALL OTHER MATTERS SHOWN ARE NOT TO BE RELIED UPON, OR TO BE CONSIDERED AS EITHER BEING APPROVED OR IN ACCORDANCE WITH APPLICABLE CODES. •

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WEST 66TH STREET
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-	06/04/2018	CD PROGRESS SET
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-	11/15/2017	DOB FILING
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-	02/14/2017	100% SD DWGS

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NORTH ARROW
Scale: N.T.S.

KEY PLAN:

PROJECT:
WEST 66TH STREET
NEW YORK, NEW YORK

DRAWING TITLE:
MECHANICAL SCHEDULES

SEAL & SIGNATURE:

DATE: 08-17-2018
PROJECT No: 2016-55
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73 OF 80

NYC Buildings
NYC Development Hub

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VAV BOX SCHEDULE

UNIT NO.	MANUF.	AREA SERVED	MODEL	INLET SIZE	CONTROL TYPE	MAX. (CFM)	MIN (CFM)	HEATING TYPE	E.A.T. (F)	L.A.T. (F)	CAPACITY (KW)	VOLT/PH/Hz	NC LEVELS RAD.	NC LEVELS DIS.
VAV-SC-1	TITUS	HEALTH CLUB	DESV	14	DDC	2100	720	ELECTRIC	55	75	16.0	460/3/60	24	23
VAV-SC-2	TITUS	HEALTH CLUB	DESV	14	DDC	2100	720	ELECTRIC	55	75	16.0	460/3/60	24	23
VAV-SC-3	TITUS	STUDIO	DESV	9	DDC	700	210	ELECTRIC	55	75	5.5	460/3/60	19	25
VAV-SC-4	TITUS	SQUASH COURT	DESV	7	DDC	500	180	ELECTRIC	55	75	4.0	460/3/60	27	28
VAV-SC-5	TITUS	OFFICE	DESV	5	DDC	200	60	ELECTRIC	55	75	1.5	208/3/60	18	29
VAV-SC-6	TITUS	CORRIDOR	DESV	6	DDC	400	120	ELECTRIC	55	75	3.0	460/3/60	24	27
VAV-SC-7	TITUS	CORRIDOR	DESV	9	DDC	700	210	ELECTRIC	55	75	4.5	460/3/60	19	25
VAV-SC-5	TITUS	POOL EQ. ROOM	DESV	9	DDC	900	270					115/1/60	23	27
VAV-SC-10	TITUS	GAMING LOUNGE	DESV	12	DDC	1800	540	ELECTRIC	55	75	11.5	460/3/60	25	28
VAV-SC-11	TITUS	GOLF SIMULATOR	DESV	9	DDC	800	132	ELECTRIC	55	75	5.5	460/3/60	20	25
VAV-SC-12	TITUS	CHILDREN'S PLAYROOM	DESV	9	DDC	800	132	ELECTRIC	55	75	5.5	460/3/60	20	25
VAV-SC-13	TITUS	LOCKER ROOMS	DESV	6	DDC	400	120	ELECTRIC	55	75	3.0	460/3/60	24	27
VAV-SC-14	TITUS	OIL TANK ROOM	DESV	6	DDC	270	90					115/1/60	20	23
VAV-C-1	TITUS	WSHP-C-9	DESV	12	DDC	1650	500					115/1/60	25	28
VAV-C-2	TITUS	AC-C-7	DESV	40	DDC	6000	2020					115/1/60	48	37
VAV-C-3	TITUS	WSHP-C-8	DESV	12	DDC	1750	525					115/1/60	25	28
VAV-C-4	TITUS	WSHP-C-7	DESV	7	DDC	450	135					115/1/60	27	28
VAV-C-6	TITUS	WSHP-C-1	DESV	5	DDC	200	60					115/1/60	18	29
VAV-C-7	TITUS	WSHP-C-4	DESV	10	DDC	1165	350					115/1/60	27	31
VAV-G-8	TITUS	AC-C-1	DESV	12	DDC	1675	500					115/1/60	25	28
VAV-C-10	TITUS	STAFF LOUNGE	DESV	6	DDC	400	120	ELECTRIC	55	75	3.0	460/3/60	24	27
VAV-C-11	TITUS	RES. MANAGER'S OFFICE	DESV	6	DDC	250	75	ELECTRIC	55	75	2.5	460/3/60	19	29
VAV-C-12	TITUS	SUPER'S SHOP	DESV	6	DDC	350	105	ELECTRIC	55	75	2.5	460/3/60	24	27
VAV-C-13	TITUS	LAUNDRY	DESV	6	DDC	460	140					115/1/60	27	28
VAV-G-14	TITUS	WSHP-C-10	DESV	6	DDC	150	45					115/1/60	17	24
VAV-C-16	TITUS	AC-C-8	DESV	6	DDC	200	75					115/1/60	18	29
VAV-C-17	TITUS	WSHP-C-11	DESV	4	DDC	50	30					115/1/60	14	27
VAV-C-18	TITUS	WSHP-C-6	DESV	4	DDC	100	30					115/1/60	14	27
VAV-C-19	TITUS	BIKE STORAGE	DESV	6	DDC	250	75					115/1/60	17	24
VAV-16-1	TITUS	CORRIDOR	DESV	6	DDC	400	120	ELECTRIC	55	75	3.0	208/3/60	24	27
VAV-16-2	TITUS	ELEV. LOBBY B	DESV	4	DDC	100	30	ELECTRIC	55	75	1.0	208/3/60	14	27
VAV-16-3	TITUS	CONF. RM.	DESV	6	DDC	400	120	ELECTRIC	55	75	2.5	208/3/60	24	27
VAV-16-4	TITUS	CONF. RM. LOBBY	DESV	9	DDC	950	285	ELECTRIC	55	76	6.6	208/3/60	23	28
VAV-16-5	TITUS	LOUNGE	DESV	12	DDC	1600	480	ELECTRIC	55	75	10.5	460/3/60	25	27
VAV-16-6	TITUS	PANTRY	DESV	5	DDC	150	45	ELECTRIC	55	75	1.0	208/3/60	14	25
VAV-16-7	TITUS	ELEV. LOBBY A	DESV	4	DDC	100	30	ELECTRIC	55	75	1.0	208/3/60	14	27
VAV-16M-1	TITUS	GREAT ROOM (N)	DESV	16	DDC	3300	990	ELECTRIC	55	75	21.0	460/3/60	24	25
VAV-16M-2	TITUS	GREAT ROOM (W)	DESV	16	DDC	3300	990	ELECTRIC	55	75	21.0	460/3/60	24	25
VAV-16M-3	TITUS	GREAT ROOM (W)	DESV	16	DDC	3300	990	ELECTRIC	55	75	21.0	460/3/60	24	25
VAV-16M-4	TITUS	GREAT ROOM (S)	DESV	16	DDC	3300	990	ELECTRIC	55	75	21.0	460/3/60	24	25

NOTES: 1) PROVIDE ALL VAV BOXES WITH SIDE ACCESS CAPABILITY FOR CONTROL PANEL.
2) PROVIDE WITH 120/24V TRANSFORMER AND DISCONNECT SWITCH

LOUVERED PENTHOUSE SCHEDULE

UNIT NO.	MANUF.	MODEL NO.	SERVICE	LOCATION	AIRFLOW	HOOD VELOCITY	STATIC PRESSURE (IN WG)	THROAT SIZE (IN)	THROAT AREA (SQ.FT.)	OVERALL DIMENSIONS (LxWxH)	OPERATING WEIGHT (LBS)	REMARKS
LPH-1	GREENHECK	WRH	POOL EXHAUST	1ST MEZZ	6000	900	0.124	40X24	6.67	48X32X16	108	1,2

NOTES:
1. GRAVITY VENTILATOR HOODS TO BE SUPPLIED WITH THE FOLLOWING: ROOF CURB W/CANT STRIP, HINGED BASE, INSECT SCREEN.
2. MATERIAL TO BE ALUMINUM

ELECTRIC CABINET UNIT HEATER SCHEDULE

UNIT No.	MANUF.	MODEL No.	TYPE	AIR QTY (CFM)	AIR TEMP(F) ENT.	AIR TEMP(F) LVG.	HEATING KW	FAN MOTOR V/P/HZ	WEIGHT (LBS)	DIMENSIONS (HxWxD)	REMARKS
CUH	MARKEL	633D054833B30D0F	CABINET HEATER	250	60	98	3.0	460/3/60	99	25"x33"x9"	

NOTES:

ELECTRIC BASEBOARD HEATER SCHEDULE

UNIT No.	MANUFACTURER	MODEL No.	ENCLOSURE HEIGHT (IN)	ENCLOSURE DEPTH (IN)	ENCLOSURE LENGTH (IN)	WATTS PER FT.	V/PH/HZ	REMARKS
EBH	BRASCH	DBF	6	3.5	SEE PLANS	250	208//1/60	

ELECTRIC PLENUM HEATER SCHEDULE

UNIT No.	MANUF.	MODEL No.	AREA SERVED	TYPE	AIR QTY (CFM)	AIR TEMP(F) ENT.	AIR TEMP(F) LVG.	HEATING KW	FAN MOTOR V/P/HZ	ELECTRIC WEIGHT (LBS)	DIMENSIONS (HxWxL)	REMARKS
EPH-1&2	QMARK	MSPH134324	1ST FLOOR PLENUM	PLENUM HEATER	400	60	84	3.0	460/3/60	49	12.5"x19.5"x24"	2

NOTES:

ELECTRIC RADIANT HEATER SCHEDULE

UNIT No.	SERVICE	MANUF.	MODEL No.	NUMBER OF LAMPS	HEATING CAP. (KW)	V/PH/HZ	DIMENSIONS (HxWxL)	WEIGHT (LBS)
ERH-A	ENTRYWAY	FOSTORIA	MTM343	3	7.5	460/3/60	10-1/2" x 21-1/2" x 33"	

NOTES:
1. UNIT TO BE PROVIDED WITH TIMER CONTROL SWITCH

DX SPLIT HEAT PUMP SYSTEM EQUIPMENT SCHEDULE

INDOOR UNIT

UNIT NO.	MANUF.	MODEL	ASSOC. COND. UNIT	NOM. COOLING CAP (MBH)	INDOOR SUPPLY FAN Flow (H/M/L) (CFM)	ESP (IN)	MOTOR HP	MOTOR RPM	Filters	COOLING E.A.T. D.B (°F)	E.A.T. W.B. (°F)	L.A.T. D.B (°F)	L.A.T. W.B. (°F)	TOTAL CAP. (MBH)	SENSIBLE CAP. (MBH)	REFRIGERANT	HEATING E.A.T. D.B (°F)	L.A.T. D.B (°F)	TOTAL CAP. (MBH)	ELECTRICAL V/P/HZ	MCA (A)	MAX FUSE (A)	NET INSTALL WT. (LBS)
AC-16M-2	LG	ARNU183TQC4	ACCU-4	18	396/385/353	-				80	67	55	54	18	12	R410A	70		19	208/1/60			
AC-16M-1	LG	ARNU543BRA4	ACCU-4	54	1819/1678/1395					80	67	55	54	54	42	R410A	70		60	208/1/60			
AC-39-1	LG	ARNU183TQC4	ACCU-2	18	396/388/353	-				80	67	55	54	18	12	R410A	70		19	208/1/60			
AC-39-2	LG	ARNU763B8A4	ACCU-2	76	2260/1766					80	67	55	54	76	58	R410A	70		82	208/1/60			
AC-41-1	LG	ARNU363TMA4	ACCU-1	36.2	918/812/706	-	0.139	-	WASHABLE	80	67	55	54	3.5	25.9	R410A	70		40.6	208/1/60			58.4
AC-41-2	LG	ARNU363TMA4	ACCU-1	36.2	918/812/706	-	0.139	-	WASHABLE	80	67	55	54	3.5	25.9	R410A	70		40.6	208/1/60			58.4
AC-41-3	LG	ARNU363TMA4	ACCU-1	36.2	918/812/706	-	0.139	-	WASHABLE	80	67	55	54	3.5	25.9	R410A	70		40.6	208/1/60			58.4
AC-41-4	LG	ARNU363TMA4	ACCU-1	38.2	918/812/706	-	0.139	-	WASHABLE	80	67	55	54	3.5	25.9	R410A	70		40.8	208/1/60			58.4
AC-41-5	LG	ARNU763B8A4	ACCU-3	76	2260/1766					80	67	55	54	76	58	R410A	70		82	208/1/60			

NOTES:
1. PROVIDE DRY CONTACTS
2. PROVIDE FACTORY INSTALLED CONDENSATE PUMP

DX SPLIT HEAT PUMP SYSTEM EQUIPMENT SCHEDULE

OUTDOOR UNIT

UNIT No.	MANUF.	MODEL	REFRIGERANT	LOCATION	COOLING TOTAL CAP. (MBH)	HEATING TOTAL CAP. (MBH)	ELECTRICAL V/P/HZ	MOP (A)	MCA (A)	EER	COP	DIMENSIONS WxHxD (IN.)	NET INSTALL WT. (LBS)	REMARKS
ACCU-1	LG	ARUM144DTE5	R410A	ROOF(40TH FL)	144	162	460/3/60	35	26.4	12.5	3.84	49x67x30	639	
ACCU-2	LG	ARUM96DTE5	R410A	ROOF(40TH FL)	96	108	460/3/60	25	16.4	14.4	2.85	49x67x30	507	
ACCU-3	LG	ARUM72DTE5	R410A	ROOF(40TH FL)	72	81	460/3/60	20	12.8	13.4	2.66	37x67x30	430	
ACCU-4	LG	ARUM72DTE5	R410A	16TH EMR FL ROOF	72	81	460/3/60	20	12.8	13.4	2.66	37x67x30	430	

NOTES:
1. PROVIDE AIR GUIDE -ZAGDKA52A
2. PROVIDE LOW AMBIENT BAFFLE KIT, CONTROL KIT (1 PER SYSTEM)
3. PROVIDE ACCU-4 WITH THE DISCHARGE HOOD
4. PROVIDE 18" HIGH EQUIPMENT RAIL FOR CONDENSING UNITS

ELECTRIC UNIT HEATER SCHEDULE

UNIT No.	MANUF.	MODEL No.	TYPE	AIR QTY (CFM)	AIR TEMP(F) ENT.	AIR TEMP(F) LVG.	HEATING KW	FAN MOTOR V/P/HZ	ELECTRIC WEIGHT (LBS)	DIMENSIONS (HxWxL)	REMARKS
EUH-A	MARKEL	P3P5105CA1N	UNIT HEATER	400	60	100	5.0	460/3/60	27	17-3/4" x 14-15/32" x 6-1/2"	
EUH-B	MARKEL	P3P5103CA1N	UNIT HEATER	400	60	86	3.3	460/3/60	25	17-3/4" x 14-15/32" x 6-1/2"	

NOTES:

CONSTANT EXHAUST REGISTER WITH INTEGRAL FIRE DAMPER SCHEDULE

UNIT NO.	MANUF.	MODEL	SERVICE	CFM	DIMENSIONS LXWLH	DUCT SIZE	NO. OF CARS	CAR DIMENSIONS	DIFFERENTIAL PRESSURE RANGE	REMARKS
CER-A	ALDES	CER-FEA-II	REFUSE	50			1	4"	0.2-0.8 IN W.C.	NOTES

1) ALL DUCTWORK AND ASSOCIATED RISERS CONTAINING CONSTANT AIR REGULATING DEVICES SHALL BE CONSTRUCTED AND SEALED TO MINIMIZE LEAKAGE TO NO GREATER THAN 5%.

DUCT SILENCER SCHEDULE

UNIT NO.	MANUF.	SYSTEM/AREA SERVED	LOCATION	MODEL No.	TYPE	DUCT SIZE (FT)	SILENCER SIZE (In)	MAX.STATIC PRESSURE (IN.W.G.)	FACE VELOCITY (FPM)	MAX CFM
DS-15-1	IAC	GENERATOR - DISCHARGE	15TH FLOOR	7S	RECTANGLE	15x15	18x15	0.1	500	
DS-15-2	IAC	GENERATOR - INTAKE	15TH FLOOR	5S	RECTANGLE	23x15	23x15	0.1	500	

COMPUTER ROOM AIR CONDITONER SCHEDULE

UNIT NO.	SERVICE	TYPE	MODEL NO.	CFM	FAN ESP. (In. WC.)	MOTOR (HP.)	COOLING CAPACITY TOTAL (MBH)	CAPACITY SENSIBLE (MBH)	ENTERING AIR DRY BULB DEG. F	REL. HUMIDITY (%)	GLYCOL FLOW (GFM)	PRESSURE DROP (FT HD)	% GLYCOL PROP	WATER TEMP ENTERING DEG F	LEAVING DEG F	COMPRESSORS QTY.	RLA EACH	FILTER EFFICIENCY (%)	ELECTRICAL V/P/HZ	TOTAL FLA	WIRE SIZE AMPS (WSA)	MAXIMUM OVERCURRENT PROTECTION	WEIGHT LBS.	NOTES OPTIONS	ACCESSORIES
AC-C-5	SERVER ROOM	UPFLOW	VS042KDA00I	6,600	0.5	7.5	135	128	75.00	45%	26.0	12.0	0.0	87.0	102.0	2.0		MERV 8	460/3/60	45	48.5	60	1980	1 THRU 23	1 THRU 19
AC-C-6	IDF ROOM	UPFLOW	FDK029UG1A	4,300	0.5	4.2	107	93.5	75.00	45%	19.0	11.0	0.0	87.0	102.0	1.0		MERV 8	460/3/60	28.2	30.3	45	810	1 THRU 23	1 THRU 4,7- 23

NOTES:
1 ALL UNITS SHALL BE FURNISHED WITH A DISCONNECT MOUNTED IN THE FACE OF THE UNIT RATED AT 65 KAIO SCOR.
2 ALL UNITS SHALL HAVE AN INTERNALLY MOUNTED SMOKE DETECTOR FACTORY WIRED TO SHUT-DOWN THE UNIT IF ACTIVATED. SMOKE DETECTOR SHALL BE RESET MANUALLY AFTER THE ALARM CONDITION CLEARS. ONE "NORMALLY OPEN" CONTACT AND ONE "NORMALLY CLOSED" CONTACT SHALL BE WIRED FROM THE SMOKE DETECTOR TO THE TERMINAL BLOCK IN THE UNIT FOR A REMOTE ALARM FUNCTION.
3 ALL UNITS SHALL BE FURNISHED WITH A CONDENSATE PUMP. THE CONDENSATE PUMP SHALL BE WIRED TO THE ELECTRICAL POWER TERMINAL STRIP LOCATED IN THE AC UNIT. THE PUMP TO BE PROVIDED WITH A HIGH WATER SAFETY FLOAT.
4 ALL UNITS SHALL BE PROVIDED WITH A SET OF COMMON ALARM TERMINALS,& SHUTDOWN TERMINALS
5 ALL UNITS SHALL BE PROVIDED WITH TOP DUCT CONNECTION
6 UNITS TO BE PROVIDED WITH 3 WAY VALVES RATED AT 350 PSI WORKING PRESSURE
7 ALL UNITS SHALL BE PROVIDED WITH EC FANS OR VFD FOR VARIABLE AIRFLOW FROM 70%-100%
8 ECONOCOIL TO BE PRE-PIPED INTERNAL TO UNIT FOR FREE COOLING DURING LOW AMBIENT CONDITIONS
9 UNITS TO BE PROVIDED WITH 3 WAY VALVES RATED AT 350 PSI WORKING PRESSURE
10 ALL UNITS SHALL BE PROVIDED WITH EC FANS OR VFD FOR VARIABLE AIRFLOW FROM 70%-100%
11 UNIT TO BE CERTIFIED IN ACCORDANCE WITH THE AHRI DATACOM COOLING CERTIFICATION PROGRAM AT AHRI STANDARD 1360 AND ASHRAE 127-2007
12 CAPACITY RATINGS MUST BE HET COOLING CAPACITIES PEN ASHRAE 127-2007; GROSS CAPACITIES WILL NOT BE ACCEPTED
13 FRONT ACCESS AND RIGHT SIDE ACCESS UNIT CRAC-2
14 COMPRESSORS TO BE VARIABLE CAPACITY DIGITAL SCROLL COMPRESSOR - COMRESSORS WILL PROVIDE VARIABLE CAPACITY CONTROL FROM 20-100% FOR INCREASED ENERGY SAVINGS AND PRECISE CONTROL AT REDUCED CAPACITIES
15 TOP PIPE CONNECTIONS
16 START UP BY LOCAL MANUFACTURES REPRESENTATIVE
17 INSTALLING CONTRACTOR SHALL SUPPLY EXTERNAL AUXILLIARY DRAIN PAN AND NEOPRENE PAD ISOLATORS.
18 UNIT PROVIDED WITH BMS INTERFACE CARD FOR BACNET INTERFACE
19 CONTRACTOR TO INSTALL WATER LINE FOR HUMIDIFIEP AND COPPER DRAIN LINE FOR THE CONDENSATE PUMP
20 CONTRACTOR TO FIELD WIRE AND INSTALL LEAK DETECTORS IN AUXILLIARY DRAIN PAN AND WIRE BACK TO THE UNIT FOR ALARM AND UNIT SHUTDOWN

ACCESSORIES:
1 UPFLOW UNIT WITH FRONT RETURN GRILLE
2 3 WAY 350 PSI HEAD PRESSURE CONTROL VALVES
3 CONDENSATE PUMP WITH HIGH WATER SAFETY FLOAT
4 LIQUID DETECTORS 2 PER UNIT.
5 COMPRESSOR TO BE VARIABLE CAPACITY DIGITAL SCROLL COMPRESSOR 20%-100% (2)
6 VFD MOTOR TO ALLOW CFM REDUCTION TO 70% FOR ENERGY SAVINGS
7 FOUR YEAR PARTS ONLY EXTENDED COMPRESSOR WARRANTY.
8 COMMON ALARM TERMINALS
9 SMOKE DETECTOR
10 BACNET BMS INTERFACE CARD INTERFACE CARD
11 TOP DUCT CONNECTION
12 DISCONNECT SWITCH RATED FOR 65 KAIC SCCR
13 SHUTDOWN TERMINALS
14 ECONCOOL WITH 3 WAY VALVE (350PSI) PREPIPED INTERNAL TO UNIT
15 1ST YEAR WARRANTY LABOR BY MANUFACTURER
16 INFRARED PAN HUMIDIFIER WITH AUTO FLUSH CYCLE
17 START UP SUPERVISION BY MANUFACTURERS REPRESENTATIVE
18 INFRARED PAN HUMIDIFIER WITH AUTO FLUSH CYCLE
19 START UP SUPERVISION BY MANUFACTURERS REPRESENTATIVE
20 EC FAN TO ALLOW CFM REDUCTION TO 70% FOR ENERGY SAVINGS
21 FRONT AND RIGHT SIDE ACCESS UNIT (CRAC-2)
22 REDUCED DUCT COLLAR PLENUM CRAC-2
23 COMPRESSOR TO BE VARIABLE CAPACITY DIGITAL SCROLL COMPRESSOR 20%-100% (1)

* THIS PLAN APPROVED ONLY FOR WORK INDICATED ON THE APPLICATION SPECIFICATION SHEET. ALL OTHER MATTERS SHOWN ARE NOT TO BE RELIED UPON, OR TO BE CONSIDERED AS EITHER BEING APPROVED OR IN ACCORDANCE WITH APPLICABLE CODES. *

Drawing Name: G:\0558\PLANS\PLANS FILING FOR PRINTING\Mechanical\0558-M-504.00 - MECHANICAL SCHEDULES.dwg -Tue, 05 Mar 2019 - 2:30pm

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

OWNER/DEVELOPER:
West 66th Investor, LLC
c/o Paul Hastings, LLP
75 EAST 55TH STREET
NEW YORK, NY 10022
T. 212.318.6618
F. 212.318.6000

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1359 BROADWAY NEW YORK, NY 10018 TEL: (212) 979-8400 FAX: (212) 979-8387

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Tel (212) 246.9800

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ISELIN, NJ 08830
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FAX: 908.272.4440

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TEL: (212) 652.2966

FACADE MAINTENANCE:
ENTEK ENGINEERING LLC
CONSULTING ENGINEERS
Ph. (201) 880-3801

ELEVATOR CONSULTANT:
vda
Delivering Vertical Transportation Solutions...Worldwide

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SHAMIR SHAH DESIGN
27 West 24th Street, Suite 604
New York, NY 10010
TEL: (212) 274-7376

INTERIOR DESIGNER:
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31/F GLOBAL GATEWAY TOWER,
63 WING HONG STREET,
KOWLOON, HONG KONG
TEL: (852) 2525-2428

POOL CONSULTANT:
TRACE POOL DESIGN
A Division of Lothrop Associates LLP
333 WESTCHESTER AVENUE
WHITE PLANS, NY 10604
TEL: (917) 741-1115

LIGHTING DESIGNER:
FOCUS LIGHTING
221 West 116th Street
New York, NY 10026
TEL: (212) 865-1565

LIGHTING DESIGNER:
FILAMENT33 INC
9190 GERMANTOWN AVE
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TEL: (464) 674-0133

AUDIO VISUAL & TELECOMMUNICATIONS:
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404 FIFTH AVENUE, 8TH FL
NEW YORK, NY 10018
TEL: (212) 370-1776

No.	Date:	Revision:
-	08/17/2018	ISSUED TO DOB
1	08/17/2018	80% CD
-	06/04/2018	CD PROGRESS SET
-	05/04/2018	50% CD SET
-	03/19/2018	CD PROGRESS SET
-	11/15/2017	DOB FILING
-	11/14/2017	100% DD
-	06/23/2017	50% DD SET
-	02/14/2017	100% SD DWGS

D.O.B. NUMBER:
NB#121190200

NORTH ARROW | Scale: N.T.S.

KEY PLAN:

WEST 66TH STREET / COLUMBUS AVENUE / CENTRAL PARK WEST / WEST 65TH STREET

PROJECT:
WEST 66TH STREET
NEW YORK , NEW YORK

DRAWING TITLE:
MECHANICAL SCHEDULES

SEAL & SIGNATURE:
DATE: 08-17-2018
PROJECT No: 2016-55
DRAWN BY: M.P.
CHECKED BY: V.P.
DRAWING No:
M-504.00
74 OF 80

NYC Buildings — NYC Development Hub

24 X 36

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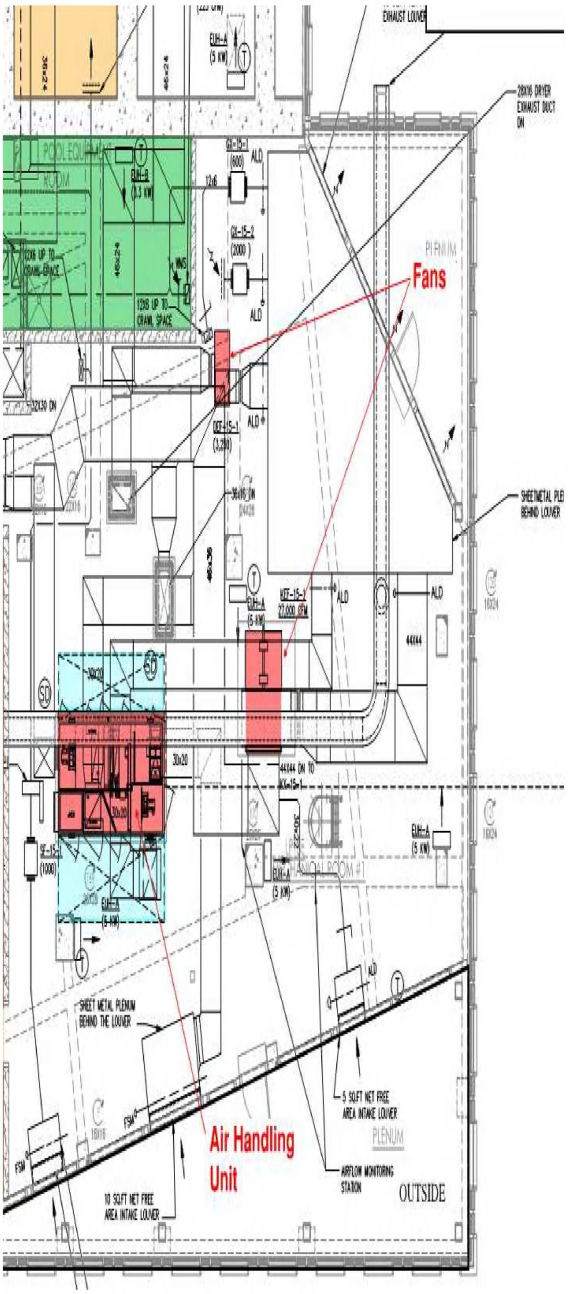
15th floor southeast:

Ambrosino Affidavit (red/blue space deducted):



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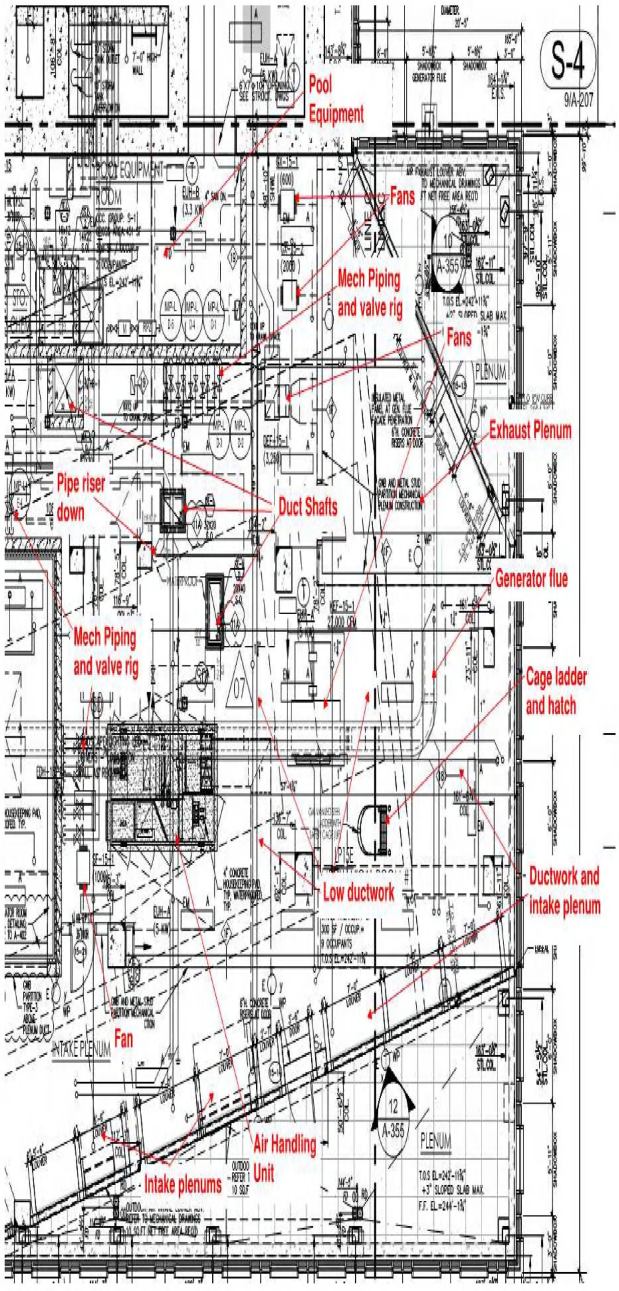

R. 002600

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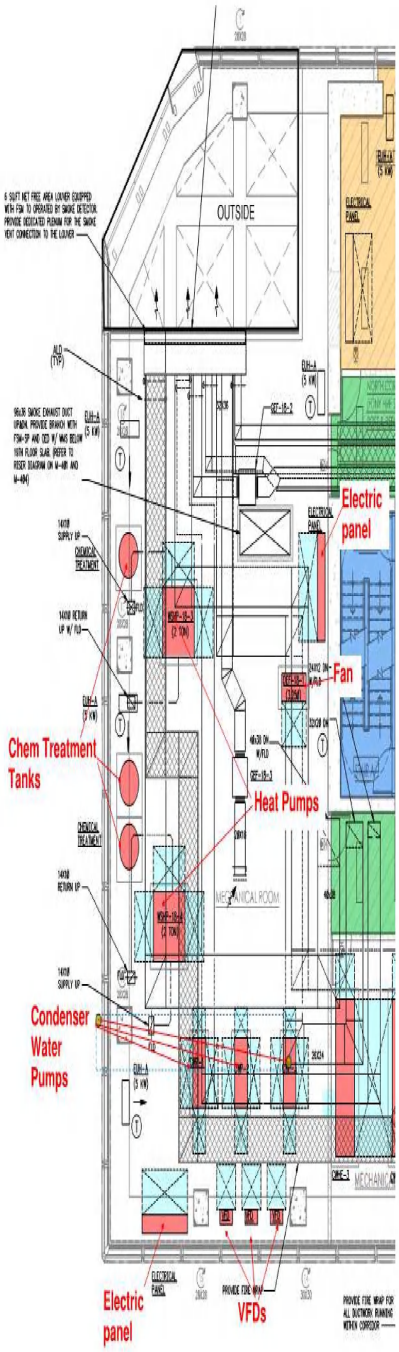
18th floor west:

Ambrosino Affidavit (red/blue space deducted):



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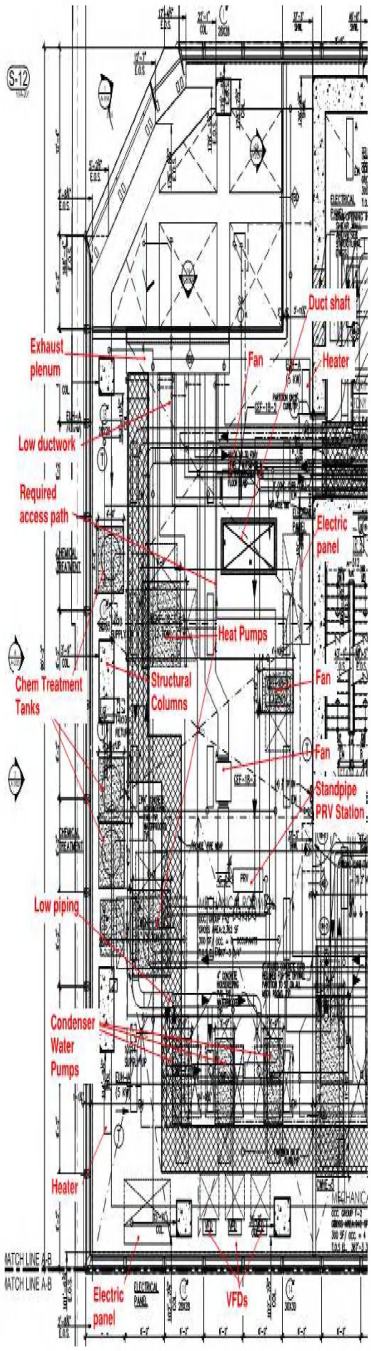

R. 002601

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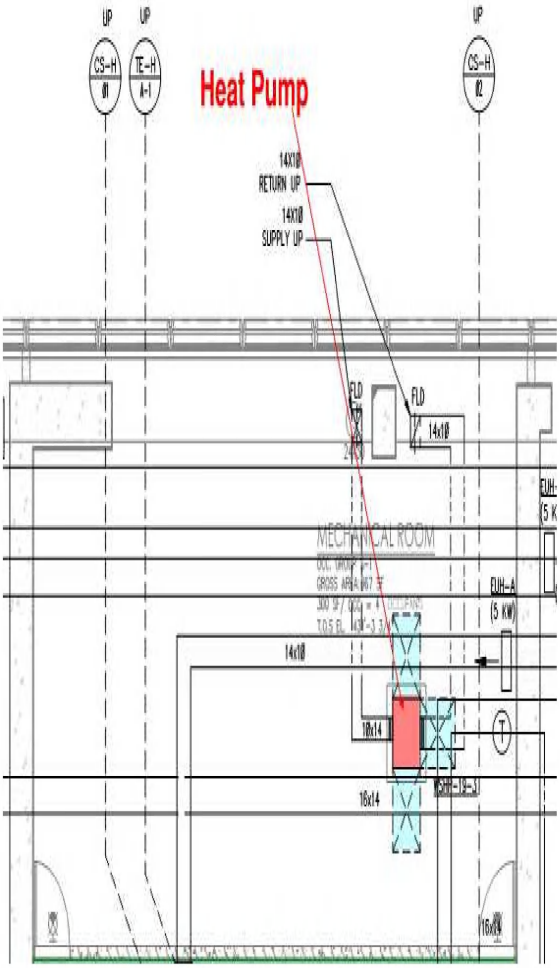
19th Floor north:

Ambrosino Affidavit (red/blue space deducted):



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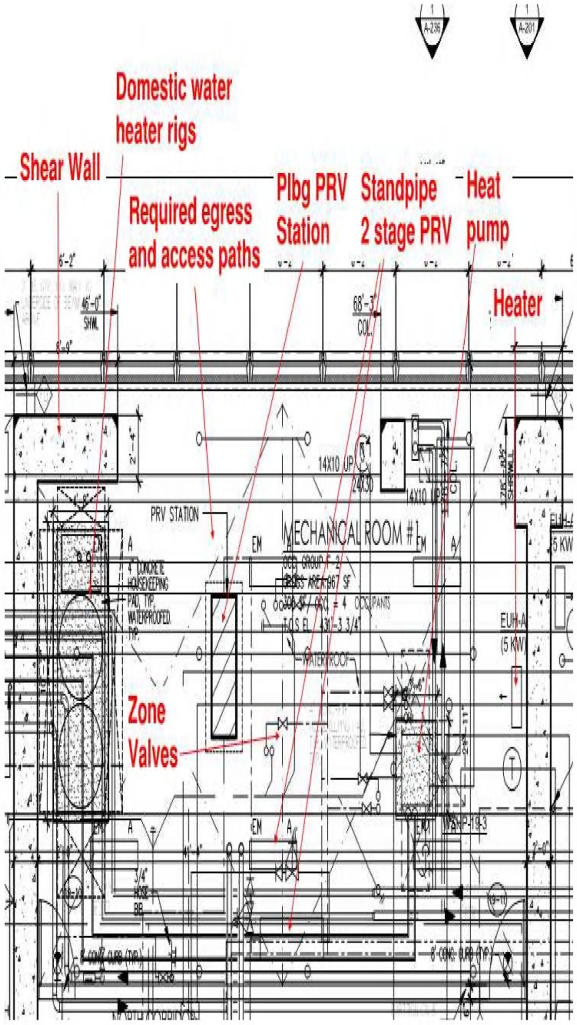

R. 002602

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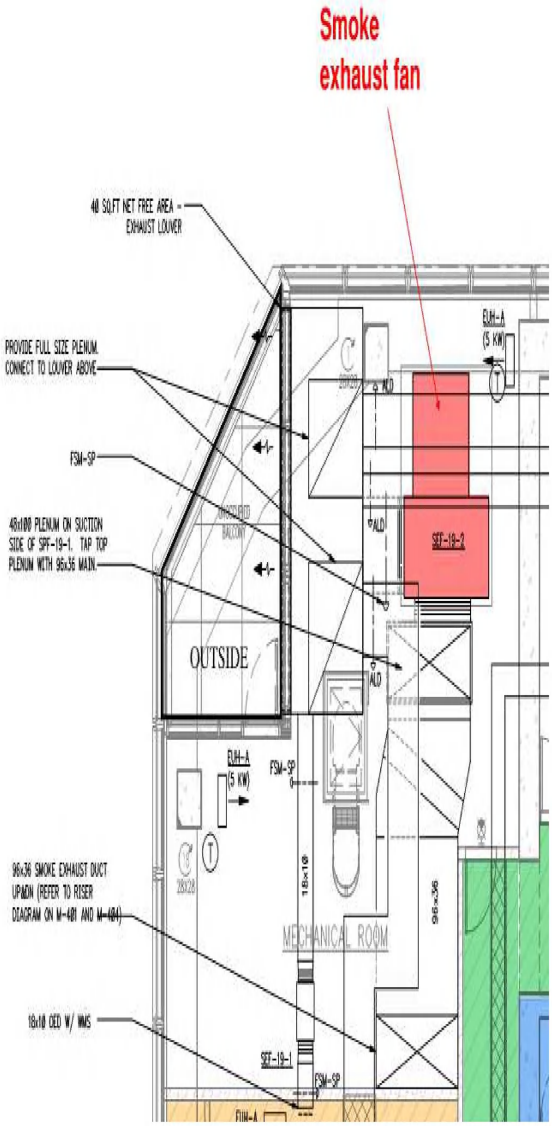
19th Floor northwest:

Ambrosino Affidavit (red space deducted):



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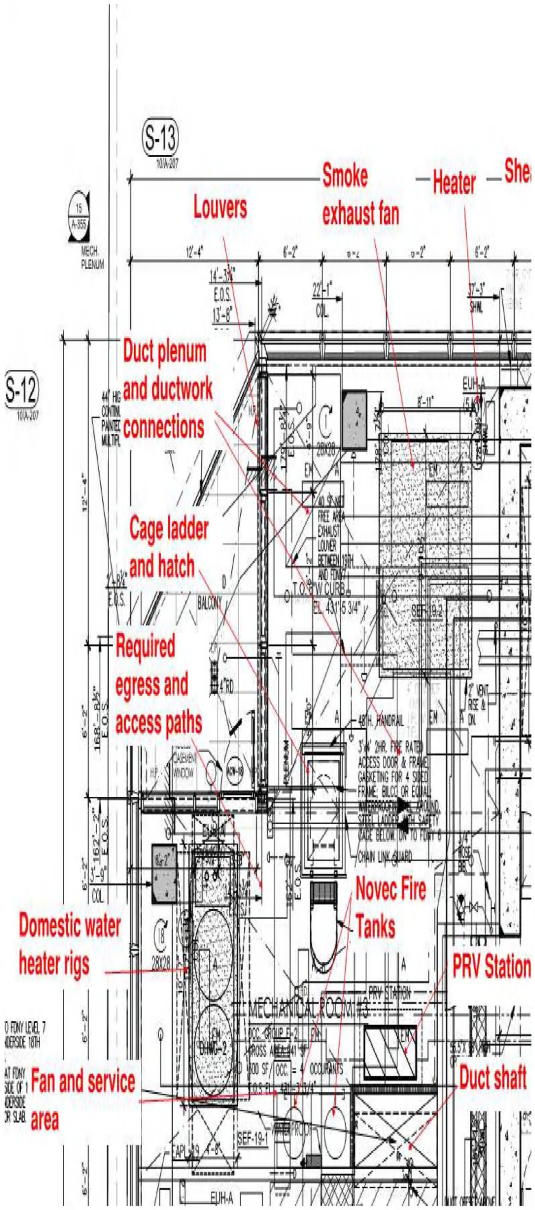

R. 002603

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AFFIDAVIT OF LUIGI RUSSO

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Luigi Russo, being duly sworn, deposes and says:

1. I joined SLCE in 1994 and have been a partner since January 2002. I have extensive expertise in high-rise residential and commercial development along with in-depth knowledge of construction methods. I am involved in all phases of a project and my experience provides a level of comfort for all involved. Some of my most notable projects include VIA 57 West, 220 Central Park, The Bloomberg Building at 731 Lexington Avenue, the Hyatt Andaz, and the current conversion of One Wall Street. I received my Bachelor of Science in Architecture at the City College of New York and my Bachelor of Arts at the College of Staten Island. I am registered in New York, Washington DC, Florida, Massachusetts, New Jersey, and Pennsylvania, and am a registered architect with the AIA.

2. I am the Architect of Record for the proposed development at 36 West 66th Street.

A. Mechanical Review of 36 West 66th Street

3. In my career as an architect in New York City, I have collaborated on approximately 50 new residential buildings. For each building, I oversaw the process of submitting a building permit application and working through plan examination to secure a new building approval from DOB.

4. Based on my professional experience, DOB's review of the mechanical plans for 36 West 66th Street was typical of how DOB reviews mechanical plans in the normal course of plan examination. The plan examiner reviews each floor by examining all of the drawings for a floor relating to each mechanical trade: HVAC mechanical ductwork, HVAC mechanical piping,

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fire protection, and plumbing. These drawings *in combination* provide the plan examiner with an understanding of the overall use of the space. Based on this examination, the plan examiner determines both whether the space is occupied by mechanical equipment and whether the type and amount of equipment is generally consistent with that found in a residential building.

5. In my experience, DOB has not required a calculation of the area of each piece of equipment, and has not applied a fixed ratio of area of equipment to overall floor space in determining whether to allow for deduction of an entire floor. Rather, examiners seek to ensure that the floor will be devoted to housing mechanical equipment and cannot realistically be occupied for other purposes. DOB does not base its determination on whether the mechanical layout is the most efficient for the purpose of conserving floor space nor does it consider alternative layouts; it is the responsibility of the mechanical engineer, in the exercise of his or her professional judgment, to develop a layout that works efficiently to meet the needs of the building.

B. Draft Bulletin

6. I understand Landmark West! has cited to a draft bulletin dated 2013 in support of its arguments that the mechanical layout for 36 West 66th Street is improper. The draft bulletin has not been promulgated and is just that—a draft. It has not been my experience that plan examiners apply the numerical standards set forth in the draft bulletin. The draft bulletin is useful nonetheless insofar as, for example, it contains a list (albeit incomplete) of various types of mechanical equipment for reference.

7. It is my understanding that the draft bulletin has not been promulgated at least in part because it does not fully account for equipment types and the space needs of a mechanical floor. If the DOB bulletin were to be applied as drafted, it would virtually prohibit altogether the mechanical deduction of a full floor.

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8. The draft bulletin is inconsistent with DOB practice, impractical and under-inclusive of what is generally considered to be bona fide mechanical space for at least the following reasons.

9. The list of mechanical equipment under Section A(1) of the draft bulletin does not include certain types of equipment routinely accepted by DOB as mechanical equipment. These include, among others:

- Expansion tanks and air separators
- VFDs and control panels
- Valves
- Gauges
- Fire dampers
- Air plenums
- Cleanouts
- Pool equipment rooms
- HVAC chemical treatment stations
- Humidification systems
- Plumbing zones and rigs
- Smoke purge fans

10. Section A(2) of the draft bulletin establishes a limitation on the amount of deduction allowed for floor space directly adjacent to mechanical equipment used for the purpose of access and servicing. It permits a deduction only for (a) floor space in the amount of a 1:1 ratio of equipment area-to-adjacent service area or (b) floor space in the amount set forth in the manufacturer's specifications for the equipment. Neither standard provides a sufficient amount of

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space to ensure that the ongoing maintenance and repair of each piece of equipment can be conducted safely and efficiently. Manufacturer's specifications typically establish a bare minimum clearance. For example, these specification may define clearance next to a control panel only as the area necessary to swing open the door of the panel and change the settings. Depending on the size, shape and nature of a piece of equipment, a 1:1 ratio is also typically insufficient. In order to make sure there is adequate space for continued maintenance and repair over the lifetime of a piece of equipment, many pieces of equipment require an amount of adjacent service area that allows an individual to walk around the entire piece of equipment, open up the piece of equipment, remove parts from within the equipment and set them down safely on the floor, or temporarily remove the entire piece of equipment or a large component thereof from the floor. The limitations set forth in the draft bulletin do not account for the full range of activity required for maintenance and repair and do not reflect best practice. It is my experience that DOB recognizes this and does not apply the rigid standards of the draft bulletin governing access space.

11. The draft bulletin also expressly does not allow deductions for adjacent service area to access and service horizontal piping and ducts. Piping, ducts and other horizontal connections have gauges and valves attached to them that need to be accessed and inspected by an individual without thereby obstructing an egress path. There also needs to be area provided to safely access fire dampers, valves, cleanouts and pull boxes. It is my experience that DOB understands the limitations of the draft bulletin in this regard and recognizes the need for adjacent service areas to be provided for horizontal piping and ducts.

12. In order to comply with life safety standards, mechanical floors, like any floor, require corridors, vestibules and general access routes that allow an individual to traverse the floor and that meet requirements for evacuation in an emergency. The draft bulletin does not provide

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for circulation space to be counted as mechanical space, except in a residual provision under Section C that allows a maximum 10% of the floor space for circulation space. In the aggregate, however, the amount of circulation space is typically greater than that. It is therefore long-standing DOB practice to permit the deduction of full mechanical floors, inclusive of circulation space, without applying an artificial 10% cap.[1]

13. Overall, the draft bulletin assumes a level of mathematical precision in the calculation of mechanical space which is not achievable in the real world. The assumption that mechanical space can be defined simply as the surface area of an individual piece of equipment and its service area calculated under a 1:1 ratio is a theoretical construct which assumes that a mechanical equipment layout for a large building is a perfect jigsaw puzzle—a collection of equipment spaces that fits perfectly on the floor space it occupies. This is almost never achieved in practice. Mechanical engineers design mechanical floors within a floorplate that has a pre-determined size and shape. They need to incorporate and locate a large number of pieces of equipment that come in a variety of sizes and shapes and that, for a myriad of reasons, need to be located on specific floors or specific portions of floors and/or in proximity to other pieces of equipment. The affidavit of Igor Bienstock from ICOR describes specific examples of these types of factors, which guided the particular layout of the mechanical floors in this building. Laying out a mechanical floor to accommodate these factors inevitably results in the creation of small, irregularly shaped residual areas that cannot practically be put to any use. The draft bulletin fails to account for this, but DOB does so in practice.

[1] The affidavit of George M. Janes argues that the area of FDNY corridors on the mechanical floors—areas that were requested by and designated for the FDNY in the event of an emergency—should not be deducted from floor area because FDNY access corridors are not deducted on other non-mechanical interstitial levels. However, as explained above, the deduction for mechanical space is inclusive of circulation space. On floors that do not contain mechanical equipment, there is no deduction applicable to circulation space.

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14. The draft bulletin further assumes that it is possible to produce a precise calculation of the amount of mechanical equipment and related access space on the basis of MEP drawings. This is a false precision. Quite simply, it is not possible to produce an accurate mathematical calculation from the standard mechanical drawings submitted to DOB during the permit application phase. This is in large part because these mechanical drawings do not fully depict the dimensions of most pipes, ducts and other connections. Instead, these are depicted on the mechanical drawings using a simplified graphic, for example, a line or two lines, as a convention to indicate their location. Following coordination, the locations of these connections are confirmed and their actual width is depicted on shop drawings. For these reasons, the MEP drawings submitted for purposes of permit review will understate the amount of area occupied by mechanical equipment.

15. Finally, the draft bulletin's use of a fixed 90% threshold for determining whether there is a sufficient amount of mechanical equipment and adjacent service area to justify the deduction of a full floor is highly artificial (and for the various reasons outlined above, virtually impossible to achieve under the terms of the draft bulletin). The more realistic approach used in practice by DOB looks to whether the floor is used for mechanical equipment, access space, circulation space, and whether there are any left-over, unused spaces which realistically could be utilized for other use.

16. For all of these reasons, Landmark West!'s reliance on the draft bulletin is misplaced. The draft bulletin has a number of significant omissions that, if applied, would systematically preclude buildings from deducting entire mechanical floors. It does not reflect the reality of how mechanical engineers design mechanical floors and how DOB reviews this work in practice.

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C. Annotated Diagrams of Mechanical Plans

17. A set of color-coded diagrams were included in the Landmark West! submission as an attachment to the affidavit of Michael Ambrosino (the "Ambrosino Diagrams"). Mr. Ambrosino's analysis is based on only the HVAC mechanical ductwork plans and does not reflect the equipment shown on the drawings for other trades—the drawings for HVAC mechanical piping, fire protection, and plumbing. Even with respect to the equipment on the HVAC ductwork plans, certain types of equipment are not identified on the Ambrosino Diagrams. The affidavit of Mr. Bienstock identifies the many pieces of equipment that are missing from the Ambrosino Diagrams, including all horizontal ductwork and piping. Beyond those omissions, the Ambrosino Diagrams also do not accurately *represent the mechanical floors because they purport to apply the methodology described in the* draft bulletin, a methodology that DOB does not perform or apply to deductions. Moreover, in calculating the percentage of a floor used for equipment and service area, Mr. Ambrosino divided that area by the gross floor area of the entire floor, which includes the area of the building core, structure and curtain wall—portions of the floor that cannot be occupied by mechanical equipment or any other use. Because the area of the building core by itself is nearly 10% of the gross floor area, including it in the "denominator" for the percentage calculation would make it impossible to deduct an entire mechanical floor under the draft Bulletin methodology. For this reason, including the building core, structure and curtain wall in the calculation of gross floor area is nonsensical.

18. The composite drawings submitted to the BSA by the owner on October 21, 2019[2] provide a more accurate depiction of the mechanical floors, demonstrating that they are used for the mechanical program and without areas that can realistically be occupied for other uses.

[2] A composite drawing of the fifteenth floor had previously been submitted to the BSA by DOB on October 16, 2019.

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19. The density of the mechanical program at these locations will increase when coordination takes place and shop drawings are prepared. To illustrate this, Exhibit A attached hereto includes examples of MEP design drawings as compared to the shop drawings depicting the same space.

20. As demonstrated above, the Ambrosino Diagrams significantly understate the amount of mechanical programming on the mechanical floors. The composite drawings and the section diagrams attached hereto amply illustrate that the mechanical floors are for mechanical use only and that DOB's determination to allow for the deduction of the full floors was entirely appropriate.

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Luigi Russo

Sworn to before me on
this 27th day of November, 2019

Notary Public

MARICELLE M PILAO
Notary Public, State of New York
No. 01PI6398678
Qualified in Richmond County
Commission Expires October 7, 2023

[Signature Page to Affidavit of Luigi Russo]

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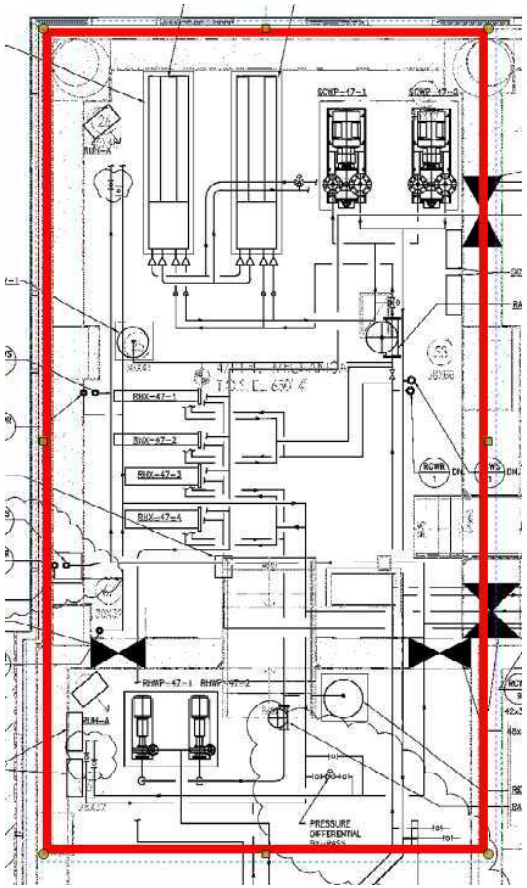
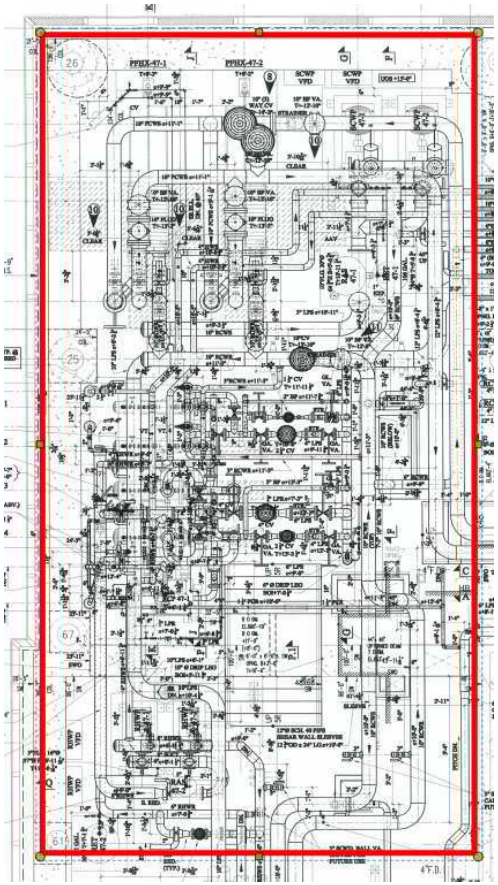
MEP Drawing:

(Mechanical Piping)



Shop Drawing:

(Mechanical Piping)



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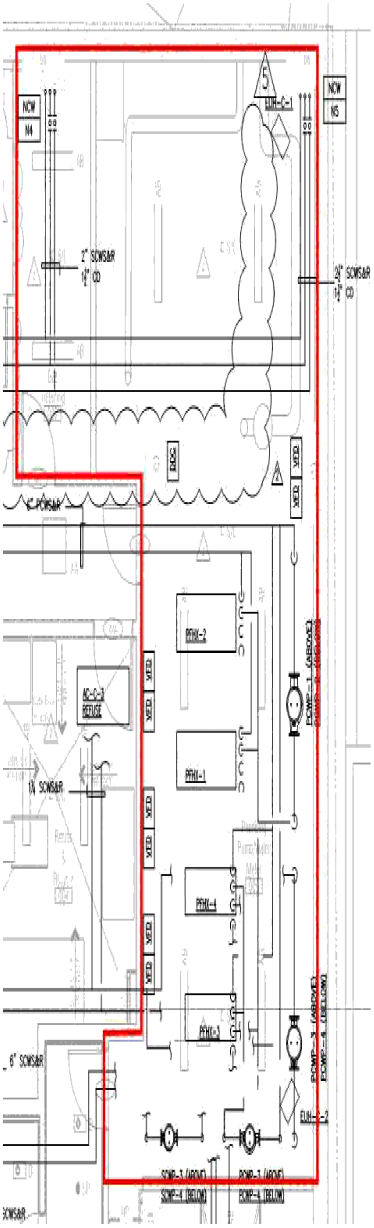
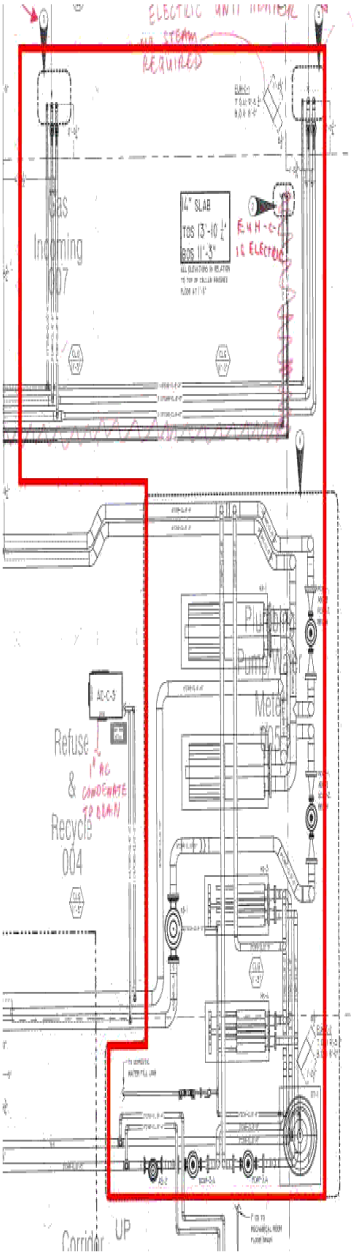
MEP Drawing:

(Mechanical Piping)



Shop Drawing:

(Mechanical Piping)



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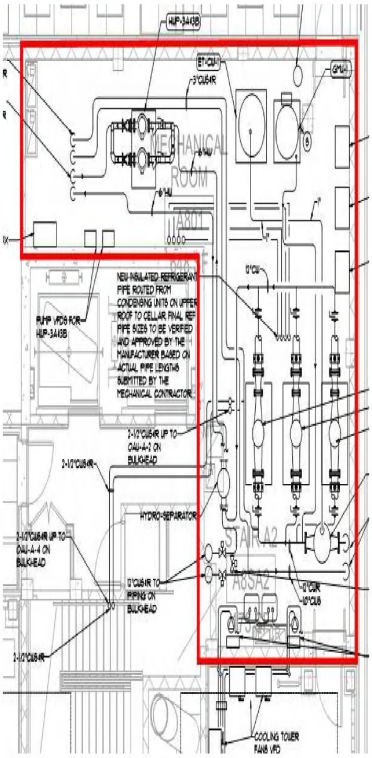
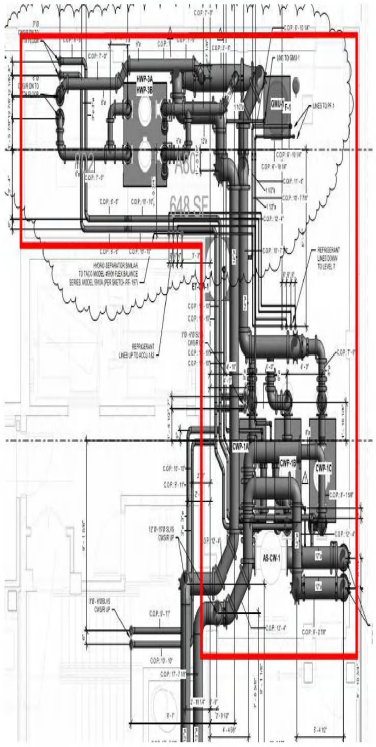
MEP Drawing:

(Mechanical Piping)



Shop Drawing:

(Mechanical Piping)



R. 002615

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AFFIDAVIT OF MICHAEL PARLEY

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Michael Parley, being duly sworn, deposes and says:

1. I am the President of Development Consulting Services, Inc. ("DCS"), a firm which provides zoning consulting services to developers, institutions and architects related to New York City property. Prior to forming DCS in 1984, I held positions as an urban designer and planner at the New York City Department of City Planning (the "DCP"). While at the DCP, I wrote many zoning texts including Midtown zoning, plaza zoning and others. In total, I have over 46 years of concentrated, continuous experience as a zoning specialist.

2. I have worked on behalf of building owners and developers with respect to hundreds of residential and commercial buildings both large and small in New York City. I have extensive knowledge of the Zoning Resolution in its details, conceptual underpinnings and its day to day applications and interpretation by the Department of Buildings (the "DOB") and the DCP. I have acceded to the level of a preeminent expert on the subject within the private sector, attributable to, at least, longevity but I would like to think to acuity also. In addition to providing consulting services, I participate in industry activities, mainly through the professional committees of the Real Estate Board of New York ("REBNY"). I am qualified as an expert by the New York State Supreme Court, as well as by many appraisers who engage me as an expert witness for arbitrations and eminent domain proceedings.

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3. I have acted as zoning consultant to the owners of 36 West 66th Street in connection with the development at that site approved by DOB. I submit this affidavit in opposition to the arguments made by Landmark West! in BSA Cal. No. 2019-94-A that the mechanical deductions from the calculation of floor area for the building are not permitted under the Section 12-10 definition of "Floor Area," as well as in order to address certain questions regarding mechanical space raised by the Chair at the Board's September 17 Public Meeting.

4. More specifically, I address two points below:

First, I submit that there is no standard amount of deduction for mechanical equipment in residential buildings measured as a percentage of gross floor area, nor a typical number of mechanical floors, nor is developing one standard practical. Additionally, I submit and will show that the subject building is within the statistical norm both as to amount of mechanical space and the number of those floors; and

Second, that Landmark West!'s citation to draft Buildings Bulletin 2013-xxx (the "Draft Bulletin") as a source of fixed standards for determining what qualifies as mechanical equipment and how determinations are made whether a full floor may be deducted from the calculation of Floor Area is misleading and ignores the reasons why a final version of this Bulletin has not been promulgated. The Draft Bulletin has no official status, as has been specifically recognized by the DOB itself.

THERE IS NO STANDARD AMOUNT OF DEDUCTION

FOR MECHANICAL EQUIPMENT IN RESIDENTIAL BUILDINGS,

NOR A TYPICAL NUMBER OF MECHANICAL FLOORS

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5. At the Board's September 17 Public Meeting, the Chair posed the following two questions:

First, whether DOB has a method of determining whether the amount of floor space devoted to mechanical space is appropriate, based on a standard formula. The Chair cited what she described as a "5 percent rule" in effect at one time. (September 17 Transcript at 15); and

Second, whether there is a typical number of full interstitial mechanical floors in buildings similar to 36 West 66th Street. The Chair observed in this regard that the tall buildings with mechanical void spaces brought to the Board's attention in Cal. No. 2016-4327-A (Sky House Condominium) had three full interstitial mechanical floors while 36 West 66th Street has four such floors. (September 17 Transcript at 26).

My responses are below.

The Amount of Mechanical Equipment Deduction

6. The first question raised by the Chair was also raised previously by members of the City Planning Commission (the "CPC") during its deliberations over the Mechanical Voids Text Amendment (CPC N190230 ZRY), with Planning Commissioners asking me and others whether provisions of the Zoning Resolution governing residential buildings should be amended to establish a cap upon the maximum amount of gross floor area in and above zoning floor area. My answer to the CPC was, and remains, "no" for reasons explicated herein.

7. The Chair's 5% "rule of thumb" for deductions is correct, but only as far as it goes. It is not complete in consideration for how much mechanical and other deductions are incorporated in a building. In our practice, for bulk studies, we empirically allot a basic 4-

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5% *of the gross floor area on each occupied floor* for mechanical deductions (5% when a heat pump system is used, now more common than the old P-tacs, the latter of the two fit into a sleeve under a window and are not deductible from ZFA.) The 5% rule of thumb is, however, merely a starting point, with other deductible items over and above the 5%, as explained following. Moreover, in further response to the Chair, the DOB has no standard for percentages of mechanical deductions.

8. We have seen that the gross area of residential buildings varies widely by project and by building type. Excluding below grade space, i.e. cellars, from consideration, so that we are considering above grade space only, below are factors which we would expect to see with respect to "deductions" or exclusions in a residential project (of course not all will exist in the same building):
   a. As already mentioned above, for a residential building, we would expect standard mechanical deductions of 4-5% for every occupied floor. This would consist of space for ducts, shafts, plumbing chases, as well as mechanical equipment in each dwelling unit (heat pumps), etc. on each floor, but not other deductible areas, specifically such as full or partial mechanical floors.
   b. Quality Housing deductions for a QH building can be 3-5% additional per occupied floor (range attributable to the disparate amounts of corridor deductions one encounters).
   c. Green zone deductions for exterior wall and extra wide stairs can yield another 2% deduction.
   d. Where there are full interstitial mechanical floors, each of these levels can typically add 2-3% additional, depending on the floor size. In high rise buildings, there may be

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more than one interstitial mechanical floor, which floors which may be grouped together.

e. Mechanical equipment, stair bulkheads and elevator overruns, at the roof level, add 2-5%.

f. Elevator machine rooms of low-rise elevators above the last floor at which they stop, add 1-2% more.

g. Buildings being constructed in flood zones have to take almost all of their mechanical equipment out of the cellars and place them above grade, i.e., boilers, emergency generators, pumps for domestic water and sprinklers, etc. All these are placed above grade when they would otherwise be in the cellar if not in a flood zone. This could add 2-3%.

Thus, there is too wide of a range to establish a uniform standard. A low-rise building could have as low as 6% above grade deductible for various features, while a taller building may have up to 20% deductions or more. For example, a QH building in a flood zone may have 22% deductions, while a standard 32-35 story tower on a base building (w/o QH deductions) outside the flood zone might have only 5% deductions per occupied floor, perhaps overall 7% with Green Zone deductions, and with rooftop mechanical space adding another 2-4% for a total of 9-11%. Some tower on a base buildings are allowed QH deductions and thus might have an overall gross that is 15% higher than their ZFA. Very tall high risers, say 600' tall or higher, could have one, two, or (as the height increases) even three levels of interstitial mechanical floors, with each such level adding at least 2-3% to the gross. Thus the percentage number is highly variable and unpredictable, not supportive of nor conducive of

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establishing overall "rules of thumb." Accordingly, a standard measure of "gross to zoning" does not exist and is not assumed or applied by DOB.

9. In order to provide some specific back-up to the above, I have prepared an analysis, attached as Exhibit 1 hereto, which shows the percentage of gross floor area that does not count towards zoning floor area, i.e., the percentage deducted, for a number of prominent buildings falling into two categories: (a) buildings that are 1000-1500 feet tall; and (b) buildings that are 665-880 feet tall. The analysis is based on my review of filed drawings for each of the buildings. It focuses exclusively on gross floor area above grade and therefore excludes cellar space. It does not distinguish between deductions for mechanical equipment and other deductions, such as Green Zone deductions; in my experience deductions for other than mechanical equipment typically amount to no more than 1-2% of gross floor area.

10. The results of the analysis show a wide variation in the amount of deductions from floor area as a percentage of total gross floor area. Among the buildings which are between 1000 and 1500 feet high, the so-called "Supertalls," the percentages ranges from 9.02% to 22.41%, with an average of 16.24%. These statistics do not include 111 West 57th Street, a statistical anomaly with 49.36% deductions, probably due to stacking of mechanical equipment in multiple floors due to the building's very small floor plates. Among the buildings between 665 and 880 feet high, the percentages range from 13.45% to 21.60%, with an average of 16.87%.

11. As shown in my analysis, the deductions for the building at 36 West 66th Street constitute 13.45% of gross floor area, well within these ranges and less than the averages.

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12. It deserves mention that the building at 15 East 30th Street, which was the subject of Cal No. 2016-4327-A (Sky House Condominium), has deductions that constitute 15.14% of gross floor area, a percentage higher than that for 36 West 66th Street. (I understand that the Owner in that proceeding stated that mechanical deductions in the building constituted 5% of the total above-grade square footage (Cal. No. 2016-4327-A, 3); however, this figure is not supported by the calculations set forth in the ZD-1 for that building, dated October 5, 2017, which I reviewed as part of my analysis.)
In short, the analysis shows that the amount of gross floor area at 36 West 66th Street deducted from the calculation of floor area is not an outlier or in any way atypical.

The Number of Full Mechanical Floors

13. With respect to the second question raised by the Chair, my analysis shows each building the number of full mechanical floors exclusive of the rooftop mechanicals, i.e., so called "interstitial" floors.
14. The results show that there is a wide variation in the number of interstitial floors, ranging from 2 floors (1 building) to 3 floors (3 buildings) to 4 floors (4 buildings) to 5 floors (1 building) to 6 floors (2 buildings) to 12 floors (1 building).
15. At the Board's September 17 Public Meeting of the Board, the Chair noted that the buildings with mechanical voids identified to the Board in the proceedings under Cal. No. 2016-4327-A each had three full floor interstitial mechanical floors. However, my analysis shows that 220 Central Park West, 111 West 57th Street, 217 West 57th Street, and 432 Park Avenue, cited in that proceeding, each have greater numbers of such floors.
16. In short, the analysis shows that the number of full mechanical floors at 36 West 66th Street (four) is not an outlier or in any way atypical.

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THE DRAFT BULLETIN IS NOT OPERATIVE DUE TO SIGNIFICANT DEFICIENCIES AND INDUSTRY CRITIQUES OF ITS METHODOLOGY. AT MOST, IT OCCASIONALLY PROVIDES INFORMAL GUIDANCE IN PLAN EXAMINATION

17. A first version of the Draft Bulletin relied upon by Landmark West! was provided by DOB to the development community for comment in March of 2012, with 5 revisions circulated by DOB for further comment in 2012, 2013 and 2015, for a total of 6 versions of the draft that I know of. (The November 6 Landmarks West! submission to the BSA attaches a 2013 revision which is not the most recent draft. In fact, there were two later drafts with concomitant changes). There have been no further revisions since 2015, and to my knowledge DOB's efforts to promulgate a further Draft Bulletin, or even a final, are no longer on going.

18. The originally stated purposes of the Draft Bulletin were to: (1) stop various abuses of mechanical deductions (such as ne'er-do-well applicants placing an HVAC heat pump in the corner of a bedroom and then deducting the whole bedroom as mechanical, or at least attempting to), (2) "regularize" standards governing the types of mechanical equipment which may be excluded from the calculation of Floor Area, and (3) address the results of BSA Cal. No. 315-08-A. In revisions after the first draft of March 2012, it also sought to establish a methodology for determining the circumstances under which a room or open floor layout may be deducted entirely from the calculation of Floor Area on the basis of the amount of floor space within the room or open space layout that contains qualifying mechanical equipment or is necessary for purposes of access and servicing of the equipment.

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19. I participated in the extensive reviews of successive versions of the Draft Bulletin undertaken by architects, engineers and others under the auspices of a REBNY committee (the "Review Committee"). From the outset, the professionals on the Review Committee had serious concerns about numerous aspects of the Draft Bulletin and its implications.

20. These concerns included, among many others, the following:

- **Incomplete List of Deductible Mechanical Equipment**: The first Draft Bulletin was a sparse 2 pages. The list of mechanical equipment which would have been deducted from Floor Area set forth in the first Draft Bulletin did not include a variety of equipment types that are part of base building systems. For example, it did not include deductions for fuel pumps, elevator machine rooms, water tanks, steam equipment risers, and emergency generators. Over time and in response to comments made by the Review Committee, the list was expanded to include many previously omitted items. The 2015 Draft Bulletin still does not permit, for example, a deduction for building-system wide telecom equipment, which the architects and the building industry believe is an omission still to be corrected.
- **Inadequate Allowance for Deduction of Floor Space for Direct Access to and Servicing of Equipment and Circulation to and around the Equipment**: The Draft Bulletins appeared to the architects, engineers and builders to be unrealistic in what they were allowing for space around mechanical equipment in every Draft of the Bulletin, inclusive of the 2015 Draft. The Second Draft Bulletin provided that floor space directly adjacent to

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mechanical equipment necessary for the purpose of access and servicing of the equipment can be deducted from the calculation of Floor Area based on either of two standards: (a) a 1:1 ratio of equipment area-to-adjacent service area; or (b) the Manufacturer's recommendation for accessing and servicing area for a particular equipment item or clearance specified by NYC construction and electrical codes. (The sixth, 2015 version of the Draft Bulletin adds a 3' X 3' area for each electrical service panel and fire alarm control panel.) From the outset, the Review Committee determined that the 1:1 ratio of equipment area-to-adjacent service area is too limiting and that strict reliance on a Manufacturer's specifications for access and servicing a particular form of equipment is too restrictive since these specifications typically only include the immediately adjacent access requirements (e.g., how much space it takes to open an access panel). They do not typically address the amount of space needed to work efficiently to make repairs or remove and replace equipment.

- **Failure to Account for Circulation Space**: Early versions of the Draft Bulletin did not account for access/egress routes and corridors within an open floor layout providing access to and from mechanical equipment, thereby requiring that this space be counted towards Floor Area. Subsequent versions of the Draft Bulletin allows for circulation space on an open floor to be deducted from "Floor Area," but only under a residual provision that allows a maximum 10% of the floor space to be deducted for additional area not expressly listed thein Section A. This formulation is far too restrictive.

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21. As a result of the above, as well as other limitations and restrictions in the Draft Bulletin, members of the Review Committee determined that the provisions of the Draft Bulletin which allow a full open floor to be deducted from the calculation of Floor Area only when 90% of the floor space is occupied by deductible equipment and floor space required for access and servicing (each as defined under the Draft Bulletin) are unduly restrictive. Test fits showed that under the standards set forth the Bulletin, an overall deduction of approximately 60% only would be more typical. In the absence of any basis in the Zoning Resolution for a 90% threshold, and given the various limitations upon the ability to achieve it under the standards of the Draft Bulletin, the 90% figure was a matter of great concern among the members of the Review Committee. Extensive analyses by the architecture firm of Skidmore Owings and Merrill ("SOM") were especially convincing as to the inadequacy of the Draft Bulletins' proposed standards. Later versions of the Draft Bulletin respond in certain ways to the analytics provided by SOM and other architects, but do so in a limited fashion. For example, "circulation space" can be deducted under later versions, but only to a degree and within narrow limits.

22. The significant problems with the Draft Bulletin raised by the Review Committee are undoubtedly one of the reasons why, almost eight years after the first version was circulated by DOB for comment, it has not been adopted and is not operative as a set of "rules." This does not mean, however, that it has no relevance. In my experience, it is used in the following limited way: I have observed instances where a DOB examiner has issued an objection disallowing the deduction of particular type of equipment, which the applicant feels is unjust or incorrect. In such instances, if the architect can point to the Draft Bulletin as evidence that DOB accepts the equipment as deductible from Floor

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Area, the matter is typically resolved in the applicant's favor. Empirically, and in consultation with architects and expeditors who are constantly in front of DOB, it is rare, at best, and unheard of, at worst, for an examiner to use the Draft Bulletin as a set of rules or a checklist. For example, in DOB plan examination, should there be an instance where there is some question about the amount of deductible area in a mechanical room or area, where the stringent 90% standard set forth in the 2015 Draft Bulletin is met, inclusive of adjoining servicing and circulation space, there is no doubt that DOB will accept a deduction of the entire floor. Satisfaction of its standards thus provides a kind of 'safe harbor' for applicants. Importantly, however, failure to strictly adhere to the Draft Bulletin's standards is not a disqualification. In these ways, the Draft Bulletin operates as guidance only.

23. This is reflected in a ZRD-1 determination issued by the DOB in January 2019 with respect to a building proposed for 1230 Madison Avenue (Manhattan Block 01500, Lot 0055) (Control No. 56035) (the "ZRD-1"). The ZRD-1 determination request in that case sought confirmation that the eighteenth through twentieth floors of that building would not count towards Floor Area, based upon a representation that the eighteenth through twentieth floors would consist "only of mechanical use and containing elevators, elevator vestibules, stairwells & corridors for maintenance access only." (ZRD-1 at 3.) The ZRD-1 request did not include any detailed calculations of the mechanical deductions and other deductions from Floor Area.

24. In support of its request, the applicant cited to the provisions of Section 12-10 of the Zoning Resolution which exclude mechanical equipment from the calculation of Floor Area and stated further: "Additionally, the Department has also used the enclosed draft

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Buildings Bulletin as a guide for establishing mechanical spaces that are excluded from floor area [with two citations to provisions of the Draft Bulletin]." (ZRD-1 at 3.)

25. In its determination, the DOB stated, in relevant part, that:

> The request to review and confirm the proposed mechanical deductions at the 18th through 20th floors of the attached plans is approved and clarified as follows:
>
> 1. The attached 'draft' Bulletin has not been officially issued by the DOB and may not be deemed as such. However, as per DOB policy both items noted by the applicant [floor space and stairwell and elevator shaft space] may be excluded as mechanical deductions from the zoning floor area.
>
> (ZRD-1 at 1 (emphasis added).)

The applicant was directed to submit detailed plans for review by an examiner to verify the deductions.

26. The ZRD-1 demonstrates the present status of the Draft Bulletin. It is not adopted but can serve to provide guidance, mainly for the benefit of applicants. As a practical matter, where its standards are met, an application's mechanical deductions should be unassailable. This does not mean, however, that DOB will even reference the Draft Bulletin in plan review, and it certainly does not apply those standards rigidly, such that, for example, mechanical equipment not found on the list of deductible equipment in the Draft Bulletin is automatically excluded from the calculations of deduction. It also does not mean that DOB applies the Draft Bulletin such that deduction of a full floor from the calculation of Floor Area is disallowed if equipment access clearances exceed a 1.1 ratio or the manufacturer's specifications. Those reference standards and calculations are, to my knowledge, quite frankly, never invoked on a day to day practical level. A fair

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description of the role played by the Draft Bulletin in practice is that, where a concern is raised about a deduction in plans in front of a DOB examiner, it provides some guiding principles regarding deductions for mechanical equipment and related floor space.

27. Landmark West!, I suspect is not aware of the foregoing administrative history and practices. Or maybe it was, but chose to ignore same. The copy of the Draft Bulletin which Landmark West! attaches as an exhibit to its November 7 Supplemental Statement is in fact Attachment 2 to the ZRD1, is included therein as pages 5-7 of the ZRD1 determination, and bears DOB's approval stamp ("Approved With Conditions") for Control No. 50635. Yet Landmark West! has failed to disclose to the Board that the copy of the Draft Bulletin it attaches is part of the ZRD1. More importantly, it has failed to disclose what DOB's ZRD1 determination states: "The attached 'draft' Bulletin has not been officially issued by DOB and may not be deemed as such." (ZRD-1 at 1 (emphasis added).) Moreover, even in 2019, when this ZRD1 was approved, the Draft Bulletin that was supplied to the examiner had already been superseded by later Drafts (the specific one used was #4 of 6 Draft Bulletins); more recent versions of the Draft Bulletin contain some changes from the version cited by Landmarks West!, such as the limited allowance for circulation space on a mechanical floor noted above.

28. In conclusion, I submit that my empirical knowledge, and recent research, of the practice of mechanical deductions yields no possible uniform "standard" for deductions, that the per cent of deductions and number of full mechanical floors are highly varied from building to building, and that the DOB Draft Mechanical Bulletin, never completed nor issued in final form, is referenced only occasionally, and usually only where an applicant for a building permit uses it to correct what they perceive to be a serious misjudgment in

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plan examination. Lastly, my research has shown that the subject building is statistically consistent with other contemporary buildings in both the number of mechanical floors and the percentages of deductions from the gross floor area, and even more modest in these criteria than many of the others.

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Michael Parley

Sworn to before me on
this 27th day of Nov., 2019

Notary Public

MALCOLM A. KAYE
Notary Public, State of New York
No. 01KA6242573
Qualified in New York County
Commission Expires June 6, ~~2015~~ 2023

[Signature Page to Affidavit of Michael Parley]

					Comparable Building GFA/ZFA Percentages			
Building	Gross F.A	ZFA	Deductions	%	Source	Date	DWG#	#Mech. Floors (3)
Subject Building								
44 W 66th St.	584,060	505,489	78,571	13.45%	SLCE Architects LLP	6/13/2018	Z.001	4.5
Buildings 1,000-1500' in height approx.								
53 W 53rd St.	691,454	629,058	62,396	09.02%	SLCE Architects LLP	3/24/2011	Z.6	4
220 CPS Tower	488,656	414,170	74,486	15.24%	SLCE Architects LLP	2/7/2014	Z-001	4
157 W 57th St.	816,183	705,500	110,683	13.56%	SLCE Architects LLP	10/21/2009	Z-1	2
217 W 57th St.	1,097,486	867,374	230,112	20.97%	AAI Architects Inc.	4/27/2015	Z-003	6
111 W 57th St.	563,064	285,108	277,956	49.36%	SHoP Architects, PC	5/1/2014	Z101	6
432 Park Avenue	718,997	557,834	161,163	22.41%	SLCE Architects LLP	10/25/2013	Z.002.04	12
Buildings 665'-880' in height approx.								
45 E 60th/520 Park Ave	227,792	178,579	49,213	21.60%	SLCE Architects LLP	3/6/2016	Z-102	5
252 E. 57th St.	583,729	497,249	86,480	14.82%	SOM/SLCE Architects	10/10/2012	Z-102	3
111 Murray St.	442,591	372,006	70,585	15.95%	Goldstein Hill West Architects	01/23/2015	ZD1	4
22 Thames St.	449,410	358,388	91,022	20.25%	Rafael Vinoly Architects	10/15/2018	ZD1	4
15 East 30th St.	382,643	324,710	57,933	15.14%	Handel Architects, LLP	10/5/2017	ZD1	3
138 East 50th St.	252,391	218,456	33,935	13.45%	Pelli Clarke Pelli/SLCE Architects	7/22/2016	Z-001.01	3
(1) Gross does not include cellars for any building								
(2) % = Deductions/GFA								
(3) Number of mechanical floors excluding rooftop mech.								
								264100419.data

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NYC Board of Standards and Appeals

September 10, 2019

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SEPTEMBER 10_PART 1

CHAIRPERSON MARGERY PERLMUTTER: -- 2019, 89A, 36 West 66th Street. This is the application from City Club and Item Number 4, correct?

WOMAN 1: Yes.

CHAIRPERSON MARGERY PERLMUTTER: This is the application -- 2019 94A, 36 West 66th Street also. This is the application filed by Landmark West. So, yes. Is the appellant just want to get up and [OVERLAPPING SPEAKERS]. Oh, yeah, I'm sorry. Thank you. But this is still open, right?

WOMAN 1: Yes.

JOHN LOW-BEER: Good morning. I have a handout, Judge, that I'll --

CHAIRPERSON MARGERY PERLMUTTER: Can you speak up, please, because?

JOHN LOW-BEER: Yes. I have a --

CHAIRPERSON MARGERY PERLMUTTER: Please identify yourself for the record.

JOHN LOW-BEER: John Low-Beer for appellants, City Club of New York and I'll -- I have something I'd like to give to the members of the board.

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CHAIRPERSON MARGERY PERLMUTTER: You can just hand it over here. It's more effective. Thank you. Yes, thank you.

JOHN LOW-BEER: So, well, I heard from the executive session yesterday that pretty much board is not inclined to grant the appeal, so I'll be brief. I just want to add these things to the record.

I want to say, too, that I hope this decision can be rendered quickly because I think the key thing in this case, as in all cases in which construction is ongoing, is that a Court should -- or Courts should be able to reach the merits before the building is substantially complete because otherwise, I don't think there's really any chance that the decision of the board could be reversed even if the Court were otherwise inclined to do so.

I'd just like to spend a moment --

CHAIRPERSON MARGERY PERLMUTTER: So, then, to that point, so the -- we didn't close the record last time to enable a submission to continue the argument, right? We sometimes close and vote decisions, but only when there's no new material that you want us to consider. So if

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you're interested in closing this hearing and having us come to a decision, I'd recommend that you not introduce new arguments unless they -- you think they're strong ones that we should consider.

Otherwise, it'll put off our ability to decide on this today.

JOHN LOW-BEER: Well, I don't think that this -- I'd just like it to be in the record, but I don't think it will change your mind. I mean, I think this whole post-hearing round of briefing added, as I believe -- I believe somebody said yesterday, it didn't add that much and I would've been more than happy to call the case after the first hearing. So -- but these are just -- they're not new arguments.

They're just in response to things that Mr. Karnovsky said, some of which, since I got the date wrong on the simultaneous briefing, I think he responded to what I had said in my post-hearing submission. So about -- just about the law and how statutory interpretation should work in a case like this, I think it's pretty clear we disagree with Mr. Karnovsky with (indiscernible).

It's true that there's a difference

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between legislative intent or purpose and legislative history, but we're not just relying on legislative history, here. We're looking at the whole picture, at what this statute is intended to do as evidenced by its entire language, not just one or two phrases.

And I think it's obvious that the statute was intended to limit height. We can discuss exactly how precisely city planning commission meant to limit height and whether it did so or not, but I don't think there can really be any dispute that by enacting these provisions, the city planning commission intended to limit height and (indiscernible) hasn't proposed any purpose in a rule that would permit buildings to be much taller just because they straddle two zoning districts, one of which provides for a lower density not a higher density.

And I think this is obvious from the language, not just from legislative history, but both from the formula of the bulk packing rule that 60 percent of the bulk has to be below 150 feet and the tower coverage rule of 30 percent minimum tower coverage. It's also obvious, as I said in my last submission, from the fact that

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what's contemplated is a 60/40 ratio that the 60 and the 40 should add up to 100, not to 130 or whatever it is in this case.

So -- and Mr. Scibetta, Commissioner Scibetta had raised the question about whether the ruler of absurd results applies in case involving zoning and property.

And we cited Stringfellows to address that particularly and I think that case does say that while zoning ordinances must be narrowly interpreted and ambiguities are to be construed against the zoning authority, the fundamental rule in construing any statute or in this case an amendment to zoning resolution is to ascertain and give effect to the intention of the legislative body.

And I don't think that the intention of the legislative body was to allow a much higher building just because part of it was in a lower density zoning district, part of the zoning lot. And I also would disagree with Mr. Karnovsky's interpretation of some of the cases, but perhaps it's a moot point at this point.

But I think it's very clear that although the cases on occasion do say that you

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have to find ambiguity, they find that ambiguity not only in the provision in the narrow -- the words being construed, but they look at the statute as a whole and what it's trying to accomplish and that it's legislative history as well.

For example, in Abood versus Hospital Ambulance Service, the Court of Appeals said that intent is to be gleaned from the entire statute, its legislative history, or the statutes of which it is made a part, and that intent must be followed in construing the statute. There's a lot of bankers association (indiscernible) Albright has a very good explanation of how the Court, or this body for that matter, should approach cases of this kind but --

CHAIRPERSON MARGERY PERLMUTTER: But what you're suggesting is that for every single statute written, every one, the reader, the user of the statute, shouldn't look at the plain meaning where it says to do right in front of you but instead should try to glean from legislative history and other case law and so on, what it really meant as opposed to -- what it really meant as opposed to what it says.

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JOHN LOW-BEER: No.

Well, but that's effectively what you're saying because what we've been saying here is when the bulk packing rule says it applies to the entire special purpose district, that's a direction and that a user of that test should have to look around what is actually meant and the zoning resolution, like ever piece of legislature, has an instruction for buildings located in a certain place.

JOHN LOW-BEER: Right.

CHAIRPERSON MARGERY PERLMUTTER: For schools operating in a certain way. What you're suggesting is that in every single case, you should always look behind the plain language as opposed to, when you don't know what to do because the language isn't clear.

JOHN LOW-BEER: No, it's not in every single case. It's only when the result is absurd or unreasonable or obviously contrary to the purpose, and then of course we get to the next question which is, is this such a case. But --

CHAIRPERSON MARGERY PERLMUTTER: Right.

JOHN LOW-BEER: But, you know --

CHAIRPERSON MARGERY PERLMUTTER: Then I

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go back to the same question. You would say, looking at a very simple statute that says for buildings located in an R-10 district and then you look at should I be unpacking that and seeing whether there's an absurd result here before I move on? You can't expect an architect to look at -- to do that --

JOHN LOW-BEER: Well --

CHAIRPERSON MARGERY PERLMUTTER: And what are the absurd results? How do you analyze them, et cetera, and for two (indiscernible)? Is that what you're supposed to be doing?

JOHN LOW-BEER: But this isn't up to, necessarily, the architect. The architect, of course, will do his best and will try to see what it all means and maybe will even push the envelope and say, well, I think it means this but it's up to the Department of Buildings and to this board to have that view of the zoning resolution that would enable the buildings department or this board to say, well, actually, it's very clear that this statute was intended to do X and --

COMMISIONER SALVATORE SCIBETTA: Does that argument hold up against Raritan?

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JOHN LOW-BEER: Well, I think if you read the dissent in (indiscernible) put the case very well.

COMMISIONER SALVATORE SCIBETTA: -- personally agree with the dissent in Raritan, but Raritan is what's dictating. It's the law that we have to follow. It's our precedent at this moment.

JOHN LOW-BEER: But --

CHAIRPERSON MARGERY PERLMUTTER: Sorry, speak up. I know your voice is hoarse. Speak up right into the mic.

COMMISIONER SALVATORE SCIBETTA: (Indiscernible) Raritan is the controlling precedent.

JOHN LOW-BEER: But, you know, in each one of these cases, you'll find it's all a question of one judge might think this is an absurd result or an unreasonable result. Another judge might not. I mean, that's the nature of the law. In Raritan, the majority thought it was not unreasonable. The dissent thought it was unreasonable.

COMMISIONER SALVATORE SCIBETTA: They kind of -- it was more that the language is so

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clear, not so much that, is this result that absurd or unreasonable. The language is so clear, similar to this case. The language is very clear. Legislative intent is important, but not when it usurps a property owner's right in such a clear text. If there was ambiguity in the text and that ambiguity was substantial, then we can start going into the intent. But pursuant to Raritan, that is our precedent.

JOHN LOW-BEER: Well, I would say that the ambiguity consists in the obvious contrast between the outcome and the purpose of this --

CHAIRPERSON MARGERY PERLMUTTER: No, no --

JOHN LOW-BEER: -- statute.

CHAIRPERSON MARGERY PERLMUTTER: You're jumping to the absurd result --

JOHN LOW-BEER: Right.

CHAIRPERSON MARGERY PERLMUTTER: -- assuming ambiguity.

JOHN LOW-BEER: Right.

CHAIRPERSON MARGERY PERLMUTTER: But when you look at the text --

JOHN LOW-BEER: Right.

CHAIRPERSON MARGERY PERLMUTTER: -- the

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text has no ambiguity.

JOHN LOW-BEER: But in every one of these cases, or anyway -- in every one, really, I think if you read the text, there's no ambiguity. Well, sometimes the Courts come back. Sometimes they say, even though the literal language says X, we won't apply it here. In other cases, they say we see ambiguity not in the literal language of the text, but looking at the statute as a whole.

So they -- the Courts do routinely -- (indiscernible) routinely, in these kinds of case which admittedly are not routine, but they do arise not that infrequently and where that happens, they do look beyond the literal language of the text. I mean, let's take -- water here, didn't we?

CHAIRPERSON MARGERY PERLMUTTER: Sorry.

JOHN LOW-BEER: Oh, well. Let's take Stringfellows. If you look at Stringfellows, the lower Court said it was clear and unambiguous that that club did not fit within the definition of an adult establishment because one of the requirements of the definition is that the club customarily not admit minors.

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Now, the Appellate Division, wanting to look at the statute as a whole and clearly this club was an adult establishment, said well, maybe customarily here could mean what's customary for adult establishments generally.

But basically, in doing that, I mean, when you have a definition, when the statute was written that way, it's just -- the Appellate Division's interpretation of it doesn't make any sense because essentially they're saying well, this was just a statement about adult establishments in general. It didn't mean that you look to each club to see whether it meets the criteria.

Well, if you don't -- if you're not going to look to see if the club meets the criteria, then why is this a part of the test, part of the definition? It has to be that it's applied to each club to see whether it does or does not customarily admit minors.

So they kind of got around it, but I think if you read that language, it's really hard to say that that language means what the Court of Appeals -- what the Appellate Division says it does. And in many other cases, they -- the

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Courts don't even -- and by the way, post-Raritan, because I think Mr. Karnovsky suggested that these cases are all old cases, I mean --

COMMISIONER SALVATORE SCIBETTA: There's good law. There's good law in these cases. I just believe that it's been made abundantly clear to this board through Raritan that when the language -- when an owner is following the language of a test, the result must be extremely absurd. It must be very clear.

The text must show something that is clearly an error or something that any reasonable person would read and say, that's not what this means, even though it's written like that. It think our hands are tied.

CHAIRPERSON MARGERY PERLMUTTER: And, by the way, I don't really see the absurd result as a four-story difference.

JOHN LOW-BEER: No, it's not four stories difference, as we showed in our -- I'm losing track of all the submissions, but I believe it was in my reply possibly that I submitted before the last hearing, that it's actually eight or nine stories. But that's because when I first did this calculation, I was

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assuming that they could put all of the available 60 percent of the bulk on the zoning lot in the C-47 portion.

But I wasn't looking at the reality of this zoning lot and the fact that the landmark on the building is on that zoning lot. And moreover, you're considering a permit that has already been approved that has a certain amount of bulk below 150 feet. If you take that bulk and then say, okay, so if they follow the rules as we believe they should be applied, how much could they build, it would eight-point-something stories less than what they have. So --

CHAIRPERSON MARGERY PERLMUTTER: I'm looking at a diagram right now that's showing if the distribution was in both zones, you get a 39-story tower because that's what we're talking about, both the R and the C. And if there were no bulk packing rules, so in other words, it doesn't apply in the R district which is what's being suggested, then it would be a 43-story tower, so...

JOHN LOW-BEER: Is this the diagram that Mr. Karnovsky submitted?

CHAIRPERSON MARGERY PERLMUTTER: Yeah,

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on 8/27.

JOHN LOW-BEER: Yeah, but as I said in response to that, that's a very -- that's a hypothetical case. It's not this case on this zoning lot.

CHAIRPERSON MARGERY PERLMUTTER: But that's -- you know, when city planning is looking at no builds and builds, which was what the -- what your argument earlier was, that there are these soft sites that were considered in the rezoning in the new zoning district, right? and they looked at those soft sites, but they didn't look at this soft site or they didn't look at this soft site in the same way, right?

So they couldn't have predicted whether you keep a building, you don't keep a building, how many buildings are on a zoning lot. When they look at a soft site, they tear down all the buildings on the lot. So if you're going to compare apples to apples, you have to have a vacant site and -- that straddles the two boundaries.

Otherwise, there's infinite possibilities for every single soft --

JOHN LOW-BEER: Right.

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CHAIRPERSON MARGERY PERLMUTTER: Right? So this one is, for lack of a better word, sort of the done version. They clear the site. What can you build if you have the bulk packing rule that straddles, and what can you do if you don't have it, right? And so there was a four-story difference. It's -- an absurd result would be a 10-story difference or a 20-story difference, maybe.

JOHN LOW-BEER: Well, in addition to the fact that for -- whatever it is, five times 16 is, whatever. I forget how many feet that is, but it's not totally insignificant at all, but it's the logic of the interpretation that is absurd.

In other words, to the extent that you buy this rule that they have, that they would have you accept, to the extent that the bulk is put outside of where the tower coverage rule applies and where there would ordinarily be towers, it leads to a perverse result.

Of course, it's not as perverse as it could be, because they didn't have enough room in the R portion of the lot to move all of that bulk out and to put the building on stilts, as they

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could have done if they had a bigger R -- what is it? R-8 section. But anyhow. It's the logic of it, really, not just the amount by which...

COMMISSIONER SHAMPA CHANDA: So if I were to take that -- take your presentation here where you're saying it's the logic of it, so as you have stated and the city planning commission report started off with the intent to find a bulk form that would be more in keeping with the -- that would not result in talk towers, right? that's what you're arguing.

And they proposed certain amount -- certain texts and the text is what is being contested. Or the interpretation of the text (indiscernible) being -- what I'm trying to understand is how is it failing to meet the goals that the city planning commission started off with? With this text, it does result in a height r3eduction, both in R-8 and C-47. I think everybody's in agreement and the diagrams have been shown -- have shown that.

The fact that the zoning lot has become larger than when it was reviewed then in '96, which nobody could have guess what the zoning lot -- is partially to a large extent is causing a

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larger zoning lot with a larger floor area. I mean, you're getting the floor area from the Landmark building also which is in the C-47 area.

There are a lot of other factors that are also adding to a more buildable floor area which was not anticipated then. If this text was not there, it would have resulted in a taller building. Because of the text, what we see is a shorter building. May not be as short as you want, but it is shorter than what would have been without the text.

So I'm not able to find that connection, so the logical part of the argument seems to work, is that this text does result in a reduction in height.

JOHN LOW-BEER: Right. But the thing is, it's not because the lot is larger, because as I showed in my first submission, this interaction between tower coverage and bulk packing results in the height being kept constant regardless of the lot size and so I do believe that --

CHAIRPERSON MARGERY PERLMUTTER: Sorry, but that's a different provision, which I -- you know, I agree with you that the provision that is

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the tower on a base rule in residence districts is an elegant structure. It's very nice the way it works.

But when we look at the special purpose district where they write it very intentionally, it takes a long time to put together a special purpose district, right? they intentionally kept this section on bulk separate from this section on lot -- on tower coverage. Why? I don't know, but so they may not have been looking at the same kind of result.

We don't know that because it doesn't say that in any of the -- in the report. So that elegant chart that applies to all sizes of zoning lots and all sizes of tower coverage and so on was anticipating great variety throughout the city wherever towers apply, right? In this case, there were only a few sites that they were anticipating and in addition to which, you never know.

But they didn't anticipate or allow for it. That was the other part. They were not allowing for any skinny towers; 40 percent or nothing, right? And so in this district, they decided that a 40 percent coverage is the minimum

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you get.

JOHN LOW-BEER: Thirty, but...

CHAIRPERSON MARGERY PERLMUTTER: And whereas in the other districts, you could go much lower than that. I think 30 percent.

JOHN LOW-BEER: It's 30 here and I think [OVERLAPPING SPEAKERS]. I'm sorry.

CHAIRPERSON MARGERY PERLMUTTER: Forty. No, it's 40 here.

JOHN LOW-BEER: Forty?

CHAIRPERSON MARGERY PERLMUTTER: Forty and 55 percent.

JOHN LOW-BEER: Okay, well anyway --

COMMISSIONER SHAMPA CHANDA: Forty percent (indiscernible).

CHAIRPERSON MARGERY PERLMUTTER: Yeah. Okay, so --

JOHN LOW-BEER: Okay --

CHAIRPERSON MARGERY PERLMUTTER: You want to tell us --

JOHN LOW-BEER: Yeah, just so -- about this -- so I just wanted to address Mr. Karnovsky's argument that our little model, which I sent you in an Excel spreadsheet -- I don't know. It is -- works for this building at 1865

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Broadway and that the prediction is exactly what we say it would be.

So there's something strange in this building and you know, we could go down a whole rabbit hole here which -- but essentially, what is very odd about this building is that if you look at, okay, so on the -- there's a page here which I think is one, two, three, the fifth page. It shows -- it's a blowup from the ZD-1.

It shows special tower coverage under Section 8236 and it says that the lot coverage of the tower is 7,297 square feet, because just below it says 7,298 but we'll let that pass, and that that is 32.32 percent tower coverage that that's compliant.

CHAIRPERSON MARGERY PERLMUTTER: Yeah, I just want to correct my sentence, now that I'm looking at Section 8236.

It says, "At any level at or above a height of 85 feet above curb, a tower shall occupy in the aggregate not more than 40 percent of the lot area of a zoning lot or for a zoning lot of less than 20,000 square feet, the percent set forth in Section 2365 tower regulations and not less than 30 percent of the lot area of the

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zoning lot."

JOHN LOW-BEER: Right, so we're concerned here primarily with the minimum, not the maximum.

CHAIRPERSON MARGERY PERLMUTTER: Right.

JOHN LOW-BEER: The minimum is 30. So the tower -- the supposed tower coverage according to this is 7,298 square feet. But then if you look at the next page where I've blown up the -- there it lists all the floors and their floor area, gross floor area and residential floor area, so if you look at these tower floors, so typically since floor area is defined as being from the outer wall, I mean, the thickness of the outer wall is included in gross floor area.

So it should be pretty much the same as lot coverage, but here, there's an 18 percent difference if you look at this.

CHAIRPERSON MARGERY PERLMUTTER: I'm sorry, where are we going with this? I'm a little confused.

JOHN LOW-BEER: Okay.

CHAIRPERSON MARGERY PERLMUTTER: No, no, I understand your --

JOHN LOW-BEER: Okay, all I'm --

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CHAIRPERSON MARGERY PERLMUTTER: -- apart, but why are we doing it?

JOHN LOW-BEER: Well, why are we doing it is because Mr. Karnovsky said that this building was as tall as it was, that my model of how the bulk packing and tower coverage rules created a precise height limit is wrong because look at this building and this building has some very strange things going on in it.

But if you -- if instead of using that 7,298 square foot number you used gross floor area for tower coverage, then the model exactly predicts --

CHAIRPERSON MARGERY PERLMUTTER: Wait a minute. This is for 1860 Broadway, right?

JOHN LOW-BEER: Right.

CHAIRPERSON MARGERY PERLMUTTER: The site in question is -- sorry, just checking the correct address. Just a second -- is 36 West 66th Street and 50 West 66th Street.

JOHN LOW-BEER: Right. So all I want to say is that Mr. Karnovsky in his last submission used this building as an example of why or how the model that we say that the bulking packing rule and the tower coverage rule when

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working together create a precise or almost exact height limit. And he says no, look at this building. It's way taller than your model predicts.

And so I got the ZD-1 for this building and I looked at it and it has some strange things in it. He then went on to say, well, actually, this building could have been even taller and he presents another model which shows how it could've been even taller but that one has even more strange things going on in it. For example, it has 16 floors below 150 feet. This is his Exhibit D on his last submission.

I don't know how you get 16 floors, especially given the ceiling heights of 15 feet, 10 feet, 10.7 feet, and 12 feet, how all that fits below 150 feet. It just doesn't. And then he has a penthouse where penthouses are required to be 80 percent of the floor area of the immediate -- the floor immediately below.

His first penthouse floor is only 50 percent of floor area of the floor below. So I submit, all I want to say with all this, and I'd just like to put it in the record, is that I think that to the extent that Mr. Karnovsky was

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trying to undermine our contention that these two rules work together to fix a height in the lower 30s, he didn't succeed or he hasn't shown that with these examples.

CHAIRPERSON MARGERY PERLMUTTER: Okay. So, again, you want us to be looking at this and unpacking this --

JOHN LOW-BEER: No, no. I just --

CHAIRPERSON MARGERY PERLMUTTER: Because you're introducing additional information that we --

JOHN LOW-BEER: I don't think it'll -- I mean, since he brought up these examples, I submit it as rebuttal, but I don't think it should delay you one second.

CHAIRPERSON MARGERY PERLMUTTER: Right.

JOHN LOW-BEER: Because --

COMMISSIONER SHAMPA CHANDA: So, if we can ask Mr. Karnovsky to explain --

JOHN LOW-BEER: I'm sorry?

COMMISSIONER SHAMPA CHANDA: -- respond to this.

CHAIRPERSON MARGERY PERLMUTTER: Yeah, [OVERLAPPING SPEAKERS] being even taller, the floor-to-floor heights are quite low here, so

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this actually could've been a much taller building and still comply with the lot coverage and bulk packing rule.

JOHN LOW-BEER: The floor-to-floor heights in which?

CHAIRPERSON MARGERY PERLMUTTER: In the building that you gave to us.

JOHN LOW-BEER: Oh.

CHAIRPERSON MARGERY PERLMUTTER: It's got very low floor-to-floor heights relative to a lot of the projects we see. They have 15-foot floor-to-floor heights in some of our projects.

JOHN LOW-BEER: But I'm not talking about the height. I'm just talking --

CHAIRPERSON MARGERY PERLMUTTER: No, I know --

JOHN LOW-BEER: -- about the number of floors.

CHAIRPERSON MARGERY PERLMUTTER: But maybe that's what Mr. Karnovsky was referring to.

JOHN LOW-BEER: No.

CHAIRPERSON MARGERY PERLMUTTER: I don't know.

JOHN LOW-BEER: I don't believe he was. I mean, this building actually only has 13 floors

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below 150 feet. We, in our model, said you could have 14 floors below 150 feet. This has 13 floors below 150 feet, so I don't think that's the answer. But, you know, if you'd rather just not accept it into the record, that's fine.

CHAIRPERSON MARGERY PERLMUTTER: It's in the record.

JOHN LOW-BEER: I don't want to delay anything, so --

CHAIRPERSON MARGERY PERLMUTTER: -- and you are talking about it, so here we are.

JOHN LOW-BEER: Okay, well, I don't think it'll change anything. I just wanted to defend our little model and to say that the criticism that was made of it doesn't prove that we're wrong on that point, but since your point is that the tower on base -- the bulk packing and tower coverage rules in your view were meant to be separate here, the whole model really doesn't --

CHAIRPERSON MARGERY PERLMUTTER: That's not what I said. I said they are separate. Whether they were meant to be separate, we can't know. There they are --

JOHN LOW-BEER: Right.

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CHAIRPERSON MARGERY PERLMUTTER: -- separately written in the text with an instruction.

JOHN LOW-BEER: Right.

CHAIRPERSON MARGERY PERLMUTTER: Right? And so as opposed to tower on base rules in residence districts.

JOHN LOW-BEER: Well, they are physically --

CHAIRPERSON MARGERY PERLMUTTER: All together.

JOHN LOW-BEER: They are physically separate by one other provision, but nobody has come up with any reason why the city planning commission would have wanted to do this, so you know, or why --

CHAIRPERSON MARGERY PERLMUTTER: Or why they didn't want to do it, so that's part of the point.

JOHN LOW-BEER: Right.

CHAIRPERSON MARGERY PERLMUTTER: We don't have --

JOHN LOW-BEER: Right.

CHAIRPERSON MARGERY PERLMUTTER: As I mentioned yesterday, we have been exposed

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sometimes to provisions of the zoning that were inadvertently missed when city planning did a comprehensive zoning text change and for a while the architectural community was all confused because they know they made a mistake and do they take advantage of the mistake which will be corrected in some -- eventually, maybe or do they not date because they might get stopped in the middle of construction, right?

We've seen a few examples of that. This isn't one of those examples where city planning realized, we made a mistake, in which case they would've corrected it or they might correct it in the future if they determine from our decision that they made a mistake.

JOHN LOW-BEER: Right.

CHAIRPERSON MARGERY PERLMUTTER: But it's not our impression that they think they did.

JOHN LOW-BEER: Right.

CHAIRPERSON MARGERY PERLMUTTER: Okay, so let's hear from DOB.

MICHAEL ZOLTAN: Good morning --

CHAIRPERSON MARGERY PERLMUTTER: Yes.

MICHAEL ZOLTAN: Michael Zoltan on behalf of the Department of Buildings. A lot has

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been spoken about the meeting [OVERLAPPING SPEAKERS].

CHAIRPERSON MARGERY PERLMUTTER: So we're having a lot of trouble with mics. You have to put your, like, mouth really close and speak loudly like you're screaming at somebody.

MICHAEL ZOLTAN: Sure. How's this?

CHAIRPERSON MARGERY PERLMUTTER: yeah, that's good. Excellent.

MICHAEL ZOLTAN: So Michael Zoltan on behalf of the Department of Buildings. A lot has been spoken about the bulk distribution rule and about plain meaning doctrine and I think for the most part the board understands the department's position so I'm not going to expound much on that.

Yesterday, there was a little discussion about the mechanical space regarding the horizontal layout of it as opposed to the height of the floor. This was more in the Landmark West case than the --

CHAIRPERSON MARGERY PERLMUTTER: Right.

MICHAEL ZOLTAN: -- City Club one. So just one clarification to make. The Department has issued final determination in this case in

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the sense of there is a PAA that was filed and that changed the scope of the permit and so that's a final determination and that is before the board today and we have two BSA cases, two calendar numbers, challenging that -- the issuance of that PAA approval and that permit.

So now, if there is a new challenge that comes to the Department about a different issue, the mechanical space on a horizontal analysis, there is no challenge period that is before the Department.

CHAIRPERSON MARGERY PERLMUTTER: Correct.

MICHAEL ZOLTAN: So as with all complaints, the department reviews complaints and will make sure that everything is okay, but that may not lead to a new final determination to come back to the Board in the future.

CHAIRPERSON MARGERY PERLMUTTER: May not --

MICHAEL ZOLTAN: Correct.

CHAIRPERSON MARGERY PERLMUTTER: -- lead to --

MICHAEL ZOLTAN: We'll review it and if we are still convinced that everything is fine,

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there may not be a new final determination before the Board that can lead to --

CHAIRPERSON MARGERY PERLMUTTER: Challenge.

MICHAEL ZOLTAN: -- an appearance before the Board. Yes.

CHAIRPERSON MARGERY PERLMUTTER: So if the appellants are interested in having Department of Buildings take another look at the mechanicals and Department looks at the mechanicals in terms of their layout and plan and determines that it's a reasonable layout or it justifies the amount of floor space occupied by mechanicals, you're saying the Department might not issue another determination?

MICHAEL ZOLTAN: A final determination, one that is appeal --

CHAIRPERSON MARGERY PERLMUTTER: Appealable.

MICHAEL ZOLTAN: Yes.

CHAIRPERSON MARGERY PERLMUTTER: Because?

MICHAEL ZOLTAN: There is no -- public challenge period closed, so the ZV-1 goes up and that's a public challenge period on new building

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or when the permit is issued, that's a public challenge period that they can take to BSA, which they did in this case, but there's no new avenue for a public challenger to request -- that necessitates DOB issuance of a final determination.

CHAIRPERSON MARGERY PERLMUTTER: Unless, for example, the appellant reviewed the materials themselves and found that they were faulty, for example. Would that --

MICHAEL ZOLTAN: The --

CHAIRPERSON MARGERY PERLMUTTER: If the appellant hired an engineer and the engineer said there's too much mechanical equipment in here and contested, would that open a challenge? Not necessarily.

MICHAEL ZOLTAN: It can be a complaint to the Department and we will review it, but it won't necessitate a final determination. That's the distinction.

CHAIRPERSON MARGERY PERLMUTTER: Okay. So this is, again, Department of Buildings practice and I would say counsel of appellants and DOB counsel would talk that out because I don't -- that's not really our domain.

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MICHAEL ZOLTAN: Right.

CHAIRPERSON MARGERY PERLMUTTER: but the question isn't before us because DOB hasn't reviewed it, so -- okay. Thank you very much. Okay -- yeah, Mr. Klein?

STUART KLEIN: Good morning, madam chair, commissioners. My name is Stuart Klein [OVERLAPPING SPEAKERS].

CHAIRPERSON MARGERY PERLMUTTER: Speak really loudly.

STUART KLEIN: Okay, sorry. My name is Stuart Klein --

CHAIRPERSON MARGERY PERLMUTTER: (indiscernible).

STUART KLEIN: Klein Slowik, and --

CHAIRPERSON MARGERY PERLMUTTER: And say who you represent, so everyone can hear.

STUART KLEIN: I represent Landmark West and let me preface what I'm about to say which is that is the most absurd statement I've ever heard in my life, the fact that the buildings department admits it made a mistake in not reviewing the plans because the plans were grossly incomplete and yet there's no review process available to the Board because they will

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not issue a final determination on that.

Aside from being grossly wrong if they took a look at the 4-day challenge rule, and the history of legislation, they're completely misinterpreting it. They're also misinterpreting or misreading our application. The appeal -- our appeal was predicated, not on the zoning document. Our appeal was predicated on the DOB issue -- permit issued on April 11th, 2019 which was based in part on the mechanical space plan submitted by the applicant.

That permit is an appealable, final determination as per the code of the City of New York, 101-15(a)(3). So obviously, it is properly before this forum and for them now to say that we have no appeal rights in this because they're not going to review these and render a final determination, literally takes away our right to appear before the Board.

CHAIRPERSON MARGERY PERLMUTTER: So, they didn't say they wouldn't review it. They said it might not result in a final determination.

STUART KLEIN: Well, that's another way of saying won't result. I have three

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applications in front of BSA now for -- to appeal permits they -- are sitting on their desk for over a year and each of them is a single issue item. And I keep on emailing them and they keep on saying, we're working on it.

COMMISIONER SALVATORE SCIBETTA: It's currently before the board now.

STUART KLEIN: What? Excuse me?

COMMISIONER SALVATORE SCIBETTA: It is currently --

CHAIRPERSON MARGERY PERLMUTTER: No. No, no, no. That's what we don't --

STUART KLEIN: Excuse me, it is before the Board because under the city rules, this is -- the permit is a final determination. Our appeal was not made pursuant to the 45-day rule.

KURT STEINHOUSE: Right. So the issue, though, is that you have to raise the specific issue within 30 days in order for it --

STUART KLEIN: And we did.

KURT STEINHOUSE: -- the Board.

STUART KLEIN: It was -- excuse me --

KURT STEINHOUSE: I believe at the last hearing, it was discussed and this was briefed in the papers that actually the characterization of

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the issue in your papers was as to the sort of horizonal --

STUART KLEIN: No, actually -- absolutely not. It basically --

KURT STEINHOUSE: -- as to the --

CHAIRPERSON MARGERY PERLMUTTER: Don't interrupt.

STUART KLEIN: I'm sorry, I'm sorry.

KURT STEINHOUSE: -- measurements of the mechanical space and since that issue was not presented in a timely manner under the Board's rules of practice and procedure, that is not before the Board but nothing would preclude the Department of Buildings from issuing a final determination as to that matter.

STUART KLEIN: Issue --

KURT STEINHOUSE: It's obviously subject to discretion from what we just heard; although, the public challenge rule also provides for a new public challenge period should a new ZB-1 be uploaded. However, because you did not raise this issue in your papers within 30 days, that is why it is not before the Board.

STUART KLEIN: With all due respect, that is wrong. The permit was issued April 11th.

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We filed within the 30 days on May 13th because there was a Sunday involved, so we submitted it the last day of the 30-day period. That permit is appealable as it is a final determination. So --

KURT STEINHOUSE: That's not --

STUART KLEIN: Excuse me. It is (indiscernible). Let me address your second issue. Your second issue, it wasn't raised. Well, number one, you don't have to raise every single issue in your first application. You always supplement it. So there are issues that are raised subsequent to the initial application which the Board has always engaged and always resolved and always --

CHAIRPERSON MARGERY PERLMUTTER: Sorry --

STUART KLEIN: -- testimony.

CHAIRPERSON MARGERY PERLMUTTER: We don't always engage and always resolve. We have many applications where an appellant brings up -- we have one we're working on now -- brings up hundreds of issues that the Board can't possibly look at, right? One at a time has to be something where DOB is considered the issue

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clearly and the Board has had an opportunity to understand the arguments being made by appellant.

And in this situation, we were never presented with any information about the mechanicals in -- mechanical layout and so all of these papers that have been submitted, not once has there been something actually given to us for us to analyze mechanical and nor has DOB opined on whether they think the mechanical space has been properly laid out.

STUART KLEIN: That -- with all due respect, again, that is not true. In our original application on 5/13, we said the permit, not the zoning, not the ZD-1, the permit should be revoked because the underlying plans contravene the zoning resolution in that the owner's attempts to exempt the voids from floor area should be rejected as the voids are neither used for mechanical equipment nor are they accessory uses for the residential uses in the tower.

CHAIRPERSON MARGERY PERLMUTTER: Sorry, a void is not the same as the mechanical space. Mechanical space is occupy -- and a void is sort of a recent term of art that's been coined by

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challengers to these buildings, right, but void -- by its very word -- implies nothing inside, right?

And when we have a mechanical floor, it's filled with mechanical stuff sitting on the -- in plan on the floor and so the language in your appeal refers to voids. I'm sorry --

STUART KLEIN: I'm sorry --

CHAIRPERSON MARGERY PERLMUTTER: -- it doesn't refer to mechanical space or mechanical equipment being not --

STUART KLEIN: But you [OVERLAPPING PEAKERS] term that is not defined anywhere in the code. I mean, voids mean open space and this space, if you look at the plans, is a unified space with mechanical elements in there and the buildings department in the Sky House case specifically said that it reviews every single case to determine the functionality of the mechanical space and if, in fact, the deductions are merited.

We argue that the mechanicals do not merit those deductions and as a matter of fact we cited to a memo submitted by the buildings department which indicates -- excuse me for a

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second -- that A, the plans will not be reviewed unless there's sufficient detail on all the drawings, that they will not be accepted or approved for review and that in the building code -- or rather in the BIS system it says, "Mechanical drawings show the building systems that provide for the heating, ventilation, air conditioning, plumbing, and fire protection needs for the proposed project.

"They shall include mechanical drawings involving heating systems, ventilation systems, air conditioning systems, exhaust air systems, piping layout, locations of return air plenums, location and heights of exhaust and vents above," and goes on and on and on.

CHAIRPERSON MARGERY PERLMUTTER: What are you --

STUART KLEIN: None of those --

CHAIRPERSON MARGERY PERLMUTTER: -- reading? Sorry, I don't know what you're reading.

STUART KLEIN: I'm reading from a guideline for filing plans issued on the buildings department computer.

CHAIRPERSON MARGERY PERLMUTTER: How is

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that relevant to what we're talking about?

STUART KLEIN: Because the buildings department approved these plans and none of those articles -- none of those items were submitted to the buildings department, despite the fact that in a townhouse case, they said they review each and every building for particularities of the mechanicals submitted.

CHAIRPERSON MARGERY PERLMUTTER: So you're --

STUART KLEIN: (Indiscernible).

CHAIRPERSON MARGERY PERLMUTTER: I'm sorry.

STUART KLEIN: Yes.

CHAIRPERSON MARGERY PERLMUTTER: But you're aware -- because I know you're aware, that -- I don't know actually what the status and Mr. Karnovsky will address this, what the status of the filings are in this building, whether they've already filed full electricals and mechanicals --

STUART KLEIN: (Indiscernible) excuse me. They had to be filed in order to have the permit issued. The permit was issued for this mechanical space and those plans were submitted to you. And the mechanical space was -- I took

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all those plans. It's about 10 in nature. I blew them up and there is absolutely nothing in the plans that comply with the building code directives and the build code law.

So they approved a permit to issue -- for this building and those plans were palpably deficient. So I'm simply asking one of two things, that the permit be revoked as per my request on my May 13th application because it only -- it doesn't deal with height. It deals with spatial realities and the actual descriptions of mechanical space, or that the applicant come forward and submit those documents which should've been submitted in the first hand to the buildings department.

And all I'm asking for the buildings department to do is to do that which it's required to do by law and which they agreed to do and they claim they do in the Sky House case.

CHAIRPERSON MARGERY PERLMUTTER: So --

STUART KLEIN: They didn't do that here.

CHAIRPERSON MARGERY PERLMUTTER: So here's the thing. You are, in fact, if we simply listen to the videos and read your submission,

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you're introducing a whole pile of new things that you want us to --

STUART KLEIN: No, I'm not.

CHAIRPERSON MARGERY PERLMUTTER: Right, yeah. Yes, you are. And so we haven't looked whether or not those questions about buildings department performance are actually properly before us.

We usually do not get involved in whether buildings department properly processed their materials because they handle the construction of these buildings how -- you know, in the way that they do where we've learned that there are series of applications that are filed for all the different trades and that eventually they collect into one complete application but they're not filed all at the same time because that's just not how buildings are designed.

And so -- and the buildings department allows those applications to be filed sequentially. That's why you have a mechanical submission, electrical submission, structural submissions, all of that, the main architectural drawings. So if you're asking us to --

STUART KLEIN: (Indiscernible).

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CHAIRPERSON MARGERY PERLMUTTER: If you're asking us to go through buildings department procedure and question how buildings department processes their applications, it's a completely --

STUART KLEIN: Excuse me.

CHAIRPERSON MARGERY PERLMUTTER: -- different -- stop interrupting. It's a completely different review and then we would need Department of Buildings to get up here and explain to us what's the process that they go through, how does it comply with the building code and the admin code, et cetera, et cetera.

This was not before us and if you think it should be before us, then we have to certainly delay any decision on this part of the case. I don't know what that does to the concern about the other case, the City Club case, and so -- who wants a decision today, right?

STUART KLEIN: I don't care if they want a decision today. That's --

CHAIRPERSON MARGERY PERLMUTTER: They want a decision today.

STUART KLEIN: That's not my concern.

CHAIRPERSON MARGERY PERLMUTTER: It's

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not your --

STUART KLEIN: Absolutely not. I mean, you could bifurcate this, number one, but number two, in the Sky House case, you specifically went through the protocol as to what the buildings department does to review mechanical deductions. You asked them and you agreed with their protocol.

CHAIRPERSON MARGERY PERLMUTTER: If you're --

STUART KLEIN: We raised the fact in our May 13th, which is an appeal of the permit. We raised the fact that this mechanical space was improperly deducted. I do not understand how that's not before the Board.

CHAIRPERSON MARGERY PERLMUTTER: So the Sky House case was the question about the mechanical voids, right, and in the process of reviewing the subject of mechanical voids, we needed to understand what's the mechanical equipment in the space so that we could look at that, right? Because what if the -- we were just talking about, what is a void and whether there's a height limitation.

So we want to also know, what's the

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height of the equipment, et cetera. So show us drawings to show us how those spaces are occupied by mechanical equipment. In the end, of course, the appellants didn't come with an engineer so all we had was pictures of mechanical equipment and no determination from DOB. We didn't get a determination from DOB about whether it was a reasonable amount of mechanical equipment. We just got drawings.

STUART KLEIN: Actually, you did. They stated on multiple occasions in that case that DOB came in and told you that they reviewed them and they are sufficient for the building and the deduction was justified. They did say that. Now, here it is impossible to make an objection to the mechanical space deduction because nothing was included in the plans.

You had 20,000 square foot floors with a little box here that said boiler, a little box here that said something else, and none of the information that is required to be in the plans as per DOB code and DOB protocols was in it. So essentially, the buildings department is saying excuse me, we made a mistake, but it's not appealable.

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COMMISIONER NASR SHETA: Can I --
STUART KLEIN: That's absurd.
COMMISIONER NASR SHETA: Assuming it was -- this issue wasn't properly raised --
CHAIRPERSON MARGERY PERLMUTTER: Yes.
COMMISIONER NASR SHETA: Are we precluded from hearing this?
CHAIRPERSON MARGERY PERLMUTTER: Well, so, it goes more like this. What Mr. Klein is suggesting is that we unpack the entire application --
STUART KLEIN: Actually, I'm just asking --
CHAIRPERSON MARGERY PERLMUTTER: And -- just because that's all your asking -- no, no, no, you did more than that. You said mechanical space --
STUART KLEIN: Right.
CHAIRPERSON MARGERY PERLMUTTER: -- being occupied by mechanical equipment and then you said, oh, but the permit wasn't properly issued because they didn't [OVERLAPPING SPEAKERS] drawings and all that stuff.
STUART KLEIN: And, no. All I'm -- please. Don't conflate the two. I basically

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said --

CHAIRPERSON MARGERY PERLMUTTER: I'm not conflating. I'm saying --

STUART KLEIN: No, I simply said it is your -- it is within your power to either revoke the permit because it was improperly issues because they never received completed plans or, in the alternative, ask the buildings department to secure plans consistent with the building code and come to the Board and show that the deductions were reasonable.

Here, there is nothing on the record or at the buildings department to show that those tens of thousands of square feet which were given to them in deductions is justified, period. There's no justification for a single piece of equipment. As a matter of fact, if you take a look at former Deputy Commissioner Fariello's memo to his own staff, it said you have to include pipes, if it's above 5 feet above grade it doesn't count.

I mean, there's a whole protocol, none of which the buildings department followed and then they come here before and brazenly say well, we're not going to issue a final determination.

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CHAIRPERSON MARGERY PERLMUTTER: Okay, so what I do want to stop right here is, I don't know the status of the current filings with the buildings department and so I don't know whether counsel for the owner actually knows the answer to this, because the only people who would know is the engineer and architect on the job and whether or not those things have been filed --

STUART KLEIN: They haven't been.

CHAIRPERSON MARGERY PERLMUTTER: Sorry --

STUART KLEIN: It'll either be in the BIS system or not. It's not there.

CHAIRPERSON MARGERY PERLMUTTER: I don't know the status of the application. I'm not going to go on your say-so because you're not the --

STUART KLEIN: (Indiscernible).

CHAIRPERSON MARGERY PERLMUTTER: You're not the owner of the building, okay, so I want to hear from the owner of the building.

STUART KLEIN: Thank you.

CHAIRPERSON MARGERY PERLMUTTER: Okay, thank you. [APPLAUSE]. Please refrain from clapping. It takes time; it's not necessary.

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DAVID KARNOVSKY: David Karnovsky, Fried, Frank, Harris, Shriver, and Jacobson for owner. I'll address the City Club first and then Mr. Klein. I'll try to be brief. I do agree with Mr. Low-Beer that this has been fairly substantially briefed and you're aware of just about there is to say.

At the August 6th public hearing, we demonstrated the language of the bulk distribution provision is clear and unambiguous. Within the special district, that is within the Lincoln Square Special District, without exception or limitation, qualification, exclusion of any zoning district.

At least 60 percent of the total floor area permitted on a zoning lot -- that's the total floor area on the zoning lot, without limitation as to the zoning district, shall be within stories located partially or entirely below a height of 150 feet from curb level and that's irrespective of whether development is built under tower regulations or standard height and setback and without any fixed limit on the number of stories either below or above 150 feet and the project complies fully with this

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provision.

In the fact of this clear and unambiguous language, the appellants have made multiple arguments that the plain language does not mean what it says and that it somehow excludes the floor area permitted on the RA portion of the zoning lot from the 60 percent bulk distribution calculation.

And in their most recent submissions, they revert to an argument that Section 8234 mandates a 60/40 ratio between the floor area and the base of the building in the tower portions and what they mean by that is simply none other than that the 60 percent bulk distribution must be calculated on the basis of the C-47 portion of the zoning lot only which is another way of saying what they've said all along in 20 different ways, that 8234 does not apply to the RA portion of the zoning lot despite its plain language.

At the August 6th public hearing, the chair asked City Club's counsel whether it could identify any ambiguity in 8234, whether considered alone or in conjunction with the provisions of the special district with the chair

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noting that the question should be answered by counsel without resort to extrinsic evidence or the provisions of Article 2, meaning without trying to conflate 8234 with the tower on a base regulations of Article 2.

As we understand it, the reason for asking this question was that under New York law where zoning provision is unambiguous, the board must, do use the words of the Court of Appeals in the Zaldin v. Concord case, "do no more and no less than apply the language as it is written." The appellants have failed to identify any such ambiguity and the statute should be applied in accordance with its terms.

Unable to identify an ambiguity, they misstate the law, saying that the principle that where statutory language is clear and unambiguous, a Court must construe it to give effect to the plain language by saying that that is only valid in certain circumstances or in most circumstances, but not in all.

And they misstate Zaldin and they misstate Raritan and they ignore the guidance of those cases that legislative intent is to be ascertained from the language of the statute

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itself and that resort to extrinsic evidence beyond the language of the statute occurs only where the language is ambiguous.

Now, they cite to Stringfellows as an example of a post-Raritan case which they say qualifies Raritan, but what does that decision actually say? It says that legislative intent is ascertained from the words and language used in the statute and if the language thereof is unambiguous and the words plain and clear, there is no occasion to resort to other means of interpretation.

In that case itself, the issue was about what does the word customarily mean in the context of the adult use regulations and there was an ambiguity about it, an identified ambiguity about what that meant. There were two competing interpretations. What did the Court do?

The Court looked to the use of the word customarily under other provisions of the zoning resolution like in the home occupation provision and it looked to the rules of construction of the zoning resolution and it resolved the decision in the City's favor. It is not a support for a

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qualification or diminution of the law stated in Raritan.

The other cases cited by City Club don't support the proposition that resort to extrinsic evidence is appropriate where the language is unambiguous. They either involve situations where the statutory language was ambiguous and the Courts recognized it or where a Court interpreted ambiguous provision by looking to other provisions within the same statute or where a Court was called on to resolve a conflict between provisions of a particular statutory scheme.

Now here, I think as we've demonstrated over and over again, when you read 8234 in relation to the other provisions of the special district, it only reinforces that its plain language means what it says and that's because, as we pointed out, in the context of the other special district provisions, it's clear that 8234 is distinct in applying within the special district without all the various types of exceptions, exclusions, and limitations found in those other provisions.

Regardless, as has been discussed --

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and I'm not going to go over this again -- the result in this case is not absurd, the absurdity doctrine being a very limited exception to the Raritan (indiscernible) and we've demonstrated that.

Most recently, the appellant, City Club, argues and claims that 8234 inexorably dictates an upper limit to the number of occupiable floors which they calculate with exacting precision using an Excel or Excel spreadsheet of 32.4 stories, 14 floors below 150 and 18.4 floors above.

According to them, the parameters set by the statute embody a mathematical limit that not, coincidently, is in the low 30s. Although the statutes does not spell out in words the requirement that the number of stories remain in the low 30s regardless of lot size, it does so in numbers. Its mathematics make it so.

Of course, had the city planning commission wished to establish a fixed limit on the number of permitted stories, it would have done so by codifying the appellant's 32.4 floor limit or some other limit in the statute. It did the opposite. It rejected any absolute height

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limit and it disavowed an interest in producing uniform results by noting that the special district is an area characterized by towers of various heights.

And as discussed on August 6th, the planning commission predicted in a single statement in its report and a statement that was based only study of six soft sites studied as part of its work leading up to the zoning text amendment that its proposal would produce a range of results, not a single fixed maximum from the mid-20 to the low 30s.

And as we also discussed, city planning's proposal was controversial because -- among stakeholders precisely because it didn't produce a predictable result, or so they felt. The exact opposite of what appellants now claim. In fact, Landmarks West was a vocal opponent of the bulk distribution proposal in 1993 and it testified at city planning as follows.

"While we agree with the intention of limiting height expressed by the department, we cannot accept the device of packing the bulk. This device would not, in fact, limit the height of buildings but only makes achieving a tall

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building slightly more difficult than at present."

Moreover, Landmark West stated based on work that was conducted at the Environmental Simulation Center that buildings of 33 to 35 stories, "would not be uncommon on the remaining development sites." This belies appellant's wishful thinking that there is some kind of 32.4 story limit hidden and embedded in this statute. City planning did not intend any such mathematically fixed limit and the stakeholders opposed it precisely for that reason.

Now, with regard to 1865 Broadway, the purpose of our introducing that into the record was simply to illustrate the variability in the application of the rules. 1865 Broadway is a building being built by another developer with 32 stories.

And what we demonstrate is that that 32 stories is a function of the tower coverage which exceeds the minimum required and the fact that they didn't take advantage of the penthouse rule which allows you to have floors at the higher levels which have lower tower coverage.

And what we show is simply that by

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going down to the minimum, the 30 percent and utilizing the penthouse rule, a greater number of floors can be achieved and we calculate that as 35. That's 2.6 floors more than the appellant's supposed 32.4 limit. Either way, it's the number that was cited by Landmark West in 1993 as a possible result and 35 is the number of stories in the project itself, exclusive of the mechanicals.

It's clearly not an absurd result in this case to have the same number of floors as could be available and achievable at 1865 Broadway which is the site wholly in the C-47 district and even assuming arguendo that 8234 uniformly produces 32.4 residential floors on a zoning lot located wholly within the C-47 district, it is clearly not absurd that the project with different conditions resulting from the fact that it is a split lot contains 35 residential floors, a difference 2.6 floors.

So neither the language nor the legislative history nor the modeling by appellant supports their theory that the special district rules embody a fixed limit of 32.4 occupiable floors.

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So for all of the reasons set forth in our papers and discussed on August 6th as well as today, DOB's decision applying the plain language of Section 8234 in accordance with its terms and following the clear direction of the Court of Appeals of this state should be upheld and the appeal denied. Now --

CHAIRPERSON MARGERY PERLMUTTER: I just want to -- just a question on this 1865 --

DAVID KARNOVSKY: Yeah.

CHAIRPERSON MARGERY PERLMUTTER: So what you're saying is, if you use the penthouse rule, you could have smaller tower --

DAVID KARNOVSKY: Yeah.

CHAIRPERSON MARGERY PERLMUTTER: -- which allows more height, but you still have to have the 60 percent or whatever the number is --

DAVID KARNOVSKY: Yeah.

CHAIRPERSON MARGERY PERLMUTTER: -- below the 150 feet, so you need to play around with the floor area. But then, you would just have a smaller floor (indiscernible).

DAVID KARNOVSKY: Yeah --

CHAIRPERSON MARGERY PERLMUTTER: of the tower.

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DAVID KARNOVSKY: Higher levels.

CHAIRPERSON MARGERY PERLMUTTER: You'd have a 30 percent tower and then you'd have whatever the --

DAVID KARNOVSKY: And then below, it can be below 30 percent --

CHAIRPERSON MARGERY PERLMUTTER: yeah.

DAVID KARNOVSKY: -- as long as you've complied with that penthouse rule. That building, for whatever reason, that was their choice, elected not to do that. We were illustrating that if you do it, you can get to the 35 floors --

CHAIRPERSON MARGERY PERLMUTTER: Okay.

DAVID KARNOVSKY: -- in combination with going down to 30 percent. That was the purpose of that; that's its only purpose. With regard to -- should I move on to --

CHAIRPERSON MARGERY PERLMUTTER: Mm hmm. Yeah.

DAVID KARNOVSKY: With regard to Landmark West's argument that the board should address in this proceeding issues regarding the mechanical floor's -- excuse me, regarding the floor area deductions taken for mechanical

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equipment on mechanical floors on the basis that its initial statement of May 13th squarely raised those issues, it did not.

These issues regarding mechanical floor space were first raised at the public hearing on August 6th, more than two-and-a-half months after submission of the statement of facts, well after the 30-day period that Mr. Steinhouse referred to.

The issue relating to mechanical deductions as defined in Landmark West's appeal on May 13th is as follows. "The permit should be revoked because the underlying plans contravene ZR in that the owner's attempts to exempt the voids from floor area should be rejected as the voids are neither used for mechanical equipment nor are they accessory uses to the residential uses in the tower."

There is no question that the term voids as used here refers to the building's tall mechanical spaces as not to issues relating to whether the amount of horizontal floor space used for mechanical equipment in the project is excessive. Landmark West's statement of fact, in fact, defines the term voids. It refers to them

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as vertical space.

It states, "A substantial portion of the tower's height 196 vertical feet, would be comprised of empty spaces (the "voids")." Insofar as Landmark West's question whether the voids are needed for mechanical equipment, it was with respect to the vertical dimension, that is the floor to ceiling heights of the spaces.

Each and every one of the arguments was made to argue that mechanical spaces with tall floor to ceiling heights are unlawful or must be counted towards floor area, precisely the issues which the board addressed in Calendar Number 2016-427A relating to 30th Street.

Landmark West's assertion in its August 21st supplemental statement that the issue presented in its initial May 13th statement of fact, "covers all spatial objections, length, width, and height, to the FAR deductions" is simply wrong. They had the opportunity as early as May to raise issues whether the floor space used for mechanical equipment in excessive, but they chose not to do so until the August 6th hearing.

We believe, as Mr. Steinhouse

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indicated, that this is improper, that that appeal should have been made within the 30-day period, and that the new issues raised by them at this late date should not be heard in this proceeding that that their resort is to the DOB as the DOB counsel explained.

With regard to your question about mechanical drawings, over 150 mechanical drawings were submitted and approved by the DOB in connection with a permit approval. The suggestion that they are incomplete or that they don't exist is specious.

CHAIRPERSON MARGERY PERLMUTTER: Mm hmm. Okay. Do you happen to know when they were approved, just to get that --

DAVID KARNOVSKY: Well, they were approved in -- well, I don't know specifically on the mechanical review, but --

CHAIRPERSON MARGERY PERLMUTTER: right.

DAVID KARNOVSKY: -- April approval of the permit was an approval with respect to everything.

CHAIRPERSON MARGERY PERLMUTTER: Okay.

MAN 1: And do you think we're precluded from hearing this issue on --

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CHAIRPERSON MARGERY PERLMUTTER: Say that again? I can't year you.

COMMISIONER SALVATORE SCIBETTA: Excuse me. Do you believe we're precluded from hearing --

DAVID KARNOVSKY: As I understand it and obviously, you'll be guided by your counsel, the appeal period was a 30-day period during which time they had the opportunity to raise the issues they wanted to raise on appeal. This is not a free-ranging exercise of raising issues continuously unrelated to the issues raised on appeal, so I would say no, they don't have --

CHAIRPERSON MARGERY PERLMUTTER: Right.

DAVID KARNOVSKY: You don't have jurisdiction, but you have to be guided by your counsel, not me.

CHAIRPERSON MARGERY PERLMUTTER: So I want to -- while you've been talking and in response to what Mr. Klein said, I was reviewing all of the submissions for that -- for Mr. Klein's case, right? And I do have to say that up until August 22nd, there were no submissions made on that case that were different from the case that was for city -- by City Club.

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In fact, it was a cut and paste onto new letterhead to the point where we were reading the same thing twice. And so the only time -- and every time that we talked about mechanical equipment in those earlier submissions before August 22nd, the discussion of mechanical equipment always had to do with how tall it is in the space and there is actually a sentence that says if the equipment were 6 inches high, then that would count and therefore you could have a mechanical void that's however many feet high.

Right? And so the focus was always on that, not on the mechanical equipment. It's on August 22nd for the first time that there's a submission that says, should address the issue of the subject FAR deductions for mechanical equipment space without reviewing the mechanical plans, without determining what equipment, if any, the alleged mechanical voids will house and without analyzing the technical manufacturing requirements of the equipment and the spatial parameters necessary.

So that was really, just submitted relative to this current hearing and so really brought up as a new subject and without knowing

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exactly what our purview or let's say limitations are, what I do know is on other cases where we have appellants bring up things as we go, the board can't continuously look at things that come up in the hearings because it would mean that they go on indefinitely.

They need to be raised at the outset so that the board gets the right information and that it's properly before us, according to statutory requirements. So my personal opinion is that this is raised too late.

COMMISSIONER SHAMPA CHANDA: Just a question. If it was raised, it would have been challenging DOB's determination and could have been in those documents, and I don't think that was reflected, either.

CHAIRPERSON MARGERY PERLMUTTER: So that the appellant is arguing on this second case is that the challenge is of the building permit which, therefore, is --

KURT STEINHOUSE: (Indiscernible).

CHAIRPERSON MARGERY PERLMUTTER: -- everything, right? But without directing us to what on the building permit to look at in the initial submission, we can't look at absolutely

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everything, right? And to bring up things on the eve of decision, really, because it was clear that we were going to be deciding this on the next hearing, right, I think for one, I think is improper.

In addition to which, we have no reason to believe because there's been no analysis of the mechanical equipment, there's no reason to believe that it isn't the right amount of mechanical equipment for the space. Right? So according to that, sort of like a red herring, you know? There's lots of things that could be wrong with a building. They could have -- they could say the staircases aren't wide enough, the elevators don't meet code, et cetera, et cetera.

And there's no way -- and we would have look at whether the staircases meet code because they bring it up. And so this is the problem, right, and so I don't think it's properly raised and I'm sorry that, really, this case, that this appellant wasn't submitting their own papers.

Instead, they were submitting City Club's papers on new letterhead, frankly, and we were reading the same arguments on both sides. So --

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KURT STEINHOUSE: And also as we discussed at the last hearing, the vesting issue 11-331 isn't (indiscernible) appears that everybody [OVERLAPPING SPEAKERS]. As we discussed at the last hearing, the issue that was subsequently raised past the 30-day period, with respect to Zoning Resolution Section 11-331 which is statutory vesting, it was undisputed at that point and still is. Nobody's been talking about it today that that issue is not timely and before the board.

CHAIRPERSON MARGERY PERLMUTTER: Right. Okay. Okay, so now if you would just -- so the drawings were -- mechanical drawings were submitted. They're available in the public record because they're submitted. You don't find them on BIS, you have to go actually into the buildings department and pull files and do it with an engineer who can actually review the drawings.

But we have no reason to question that the mechanical equipment is defectively represented on the drawings which is a completely different thing than the other appeal. The other appeal actually sets up the argument. It says,

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we think they're wrong. We think they misinterpreted the statute and this is why.

That's how you bring an appeal, right, with some basis.

COMMISIONER SALVATORE SCIBETTA: Procedurally, we would not -- we wouldn't decide on the merits of this case, then?

CHAIRPERSON MARGERY PERLMUTTER: The merits that were brought to use in the initial --

COMMISIONER SALVATORE SCIBETTA: In the --

CHAIRPERSON MARGERY PERLMUTTER: -- submission were the same ones as on the City Club case.

COMMISIONER SALVATORE SCIBETTA: Okay.

CHAIRPERSON MARGERY PERLMUTTER: The bulk packing rule, basically, and the mechanical voids were brought to us and we decided that's issue precluded because we already decided that on a prior case. And city planning already amended the zoning resolution in response to our decision, so -- okay. All right, thank you very much. Yeah, now public testimony.

WOMAN 1: (Indiscernible) first, please?

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CHAIRPERSON MARGERY PERLMUTTER: And while they're assembling here, one of the speakers brought up the subject of legislation that we weren't -- I wasn't aware of which was introduced in February -- please. Was introduced in February to the state legislature. I think it was introduced by the Assembly and then it was brought to the Senate -- State Senate.

It's an amendment proposed -- introduced in February and it seems to have been introduced to the Senate in May which is an amendment to the multiple dwelling law and Councilmember --

KURT STEINHOUSE: Assembly member --

CHAIRPERSON MARGERY PERLMUTTER: No, no, no. No, no, no. Councilmember Rosen [OVERLAPPING SPEAKERS]. No, no.

COMMISSIONER SHAMPA CHANDA: Councilmember Helen Rosen --

CHAIRPERSON MARGERY PERLMUTTER: No, the other one. [OVERLAPPING SPEAKERS]. See, that's a problem. We have too many Rosenthals, so it's a little confusing. Anyway, so the council member said that she was not able to

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amend the zoning resolution the way they had in mind for the mechanical voids because city planning didn't introduce whatever it was they preferred to see introduced.

But the multiple dwelling law which is a very powerful state law that affects all multiple dwellings which includes hotels, is proposed to be amended and for those of you don't know about it and you should be active in that subject, is proposed to be amended to talk about the maximum height of a floor.

Whether or hit this will go ahead, who knows, but you should be aware that the state legislature is working on that subject with state law, if the city council is unable to accomplish this with local New York City law. Okay? Okay. did you want to add -- and I actually think that Commissioner Chanda should have been doing some research while we talk about the character of the neighborhood and so on.

COMMISSIONER SHAMPA CHANDA: I've been keeping in mind what the intent of the proposed text was. I was looking at the very -- I was looking at various buildings that has been built in this area within the special Lincoln Square

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district and outside the special Lincoln Square district, but are in Zone C-47.

And I was just trying to do a comparison, a quick comparison, and I know I'm not getting into the details of the zoning for each one of the sites. When looking at this information, those developments that were built prior to the adoption of the 1994 zoning text, which is what we are contesting today -- sections of it, that is -- for example, 1 Lincoln Square Plaza.

That was built in 1970 rose to -- had 42 stories and it's built on 59,000 square foot of lot area. A similar comparable lot area that is one block to the south of it is 15 Central Park West which is a similar lot area but the number of stories on that one is 37 and that was built in 2005.

That goes to show that the text that was proposed did have an effect in terms of the comparable lot areas which are resulting in a smaller -- shorting building, so the text did apply.

JOHN LOW-BEER: I'm sorry, that was build in how may stories, was it?

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COMMISSIONER SHAMPA CHANDA: Thirty-seven stories, build in 2005. And if I were to compare that to what the applicant is proposing, keeping the mechanical void out of the question [LAUGHTER]. It's not before us --

CHAIRPERSON MARGERY PERLMUTTER: Ladies and gentlemen.

COMMISSIONER SHAMPA CHANDA: I'm sorry, it's not -- we have dealt with that in a previous action. This proposed project similar lot area as -- actually, less -- similar lot area as Central Park would also result in 35 story building. So I'm just looking at the various numbers.

Another one, 1992 -- actually, 1995, 144 Columbus Avenue. That had a lot smaller lot area but it had a 30-story building. It was an 18,000 square foot of lot area, but had a 30-story building.

MAN 2: (Indiscernible).

CHAIRPERSON MARGERY PERLMUTTER: Please, sir, sir. You'll be removed if you do that, okay.

MAN 2: (Indiscernible) it's totally absurd.

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THE COURT: Please.

COMMISSIONER SHAMPA CHANDA: I'm just kind of laying out the various numbers for me to help understand what the intent of the text was and whether the text did work and when I'm looking at these various developments that have been built prior to the enactment of the text and after that, and during the comparison, I feel that the text has been affected and I just wanted to state that. That's all.

CHAIRPERSON MARGERY PERLMUTTER: And again, we need to repeat again and again for the public, the question of mechanical voids is not before us today. We decided that on another case and city planning reacted by changing the zoning resolution and so we don't look at those cases twice. It's called an issue preclusion. We don't look at cases twice when the same question is presented in another case.

So we're only looking at what's known as bulk packing, bulk distribution rule which is what Commissioner Chanda is referring to right now. Okay.

JOHN LOW-BEER: Okay, just very briefly, you said several times that your hands

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are tied and you interpret the zoning resolution as written and I only bring it up because it's the one case that I'm particularly familiar with, but in the Peyton case, the language of the zoning resolution said that the open space of a zoning lot has to be accessible to and usable by all residents --

CHAIRPERSON MARGERY PERLMUTTER: I can't speak about that case. It's in litigation.

KURT STEINHOUSE: -- a strict policy against discussion pending litigation.

JOHN LOW-BEER: Against what?

KURT STEINHOUSE: Discussing pending litigation.

CHAIRPERSON MARGERY PERLMUTTER: That case is in litigation with the BSA, so --

JOHN LOW-BEER: Well, I know --

CHAIRPERSON MARGERY PERLMUTTER: -- we cannot discuss it, so you can raise it but we can't comment.

JOHN LOW-BEER: Well, okay, I'll just -- I don't expect you to comment. I'd just like to say that you found an ambiguity there; whereas subsequently, at least the Appellate Division said there wasn't one, so I would -- of course,

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as an attorney for the petitioners in that case, I also believe there was no ambiguity.

So I would question whether it's always the case that you -- I believe this was done in good faith but somebody looked at what was happening there and I know you were the only one on the -- well, Commissioner Ottley-Brown but she's not on this case, so in any event, I'm sure that was all done in good faith and you did find an ambiguity and you did not follow the plain language of the statute.

I'm sorry to bring it up if you can't respond to it. I wasn't aware of that, but anyway. Let me also say that in Stringfellows, it's true as Mr. Karnovsky said that the Court said that the intent of the statute is to be ascertained from the words and language used in the statute and if the language thereof is unambiguous and the words plain and clear, there is no occasion to resort to other means of interpretation.

However, a sentence or two later, the Court said, "However, a Court in construing a law will sometimes be guided more by its purpose than its phraseology and in fact, in that case, I

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submit that they were.

I really -- I think that's all I have to say about this. I'm sorry about this rabbit hole of 1865 Broadway, but as I was saying, I think that if you look at the real tower coverage in that case, it was less than 38 -- less than 30 percent. It was 28.9 percent and that building is also taller than it legally should be because of a loophole that was exploited. Thank you very much --

CHAIRPERSON MARGERY PERLMUTTER: Thank you.

JOHN LOW-BEER: -- for your consideration and -- oh, one other thing. I have no objection whatsoever if you decide to sever the City Club case from the Landmark West case, but I do urge you to decide our case as quickly as you can. Thank you.

CHAIRPERSON MARGERY PERLMUTTER: Okay, thank you.

STUART KLEIN: Good afternoon. Again, Stuart Klein on behalf of Landmarks West. Two questions have been raised by you in the course of today's proceedings -- two arguments, rather.

One is the timing of our appeal and the

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second is the substance of our appeal and whether or not you have the jurisdictional right or obligation to review that. To tell you the truth, I'm reminded of a quote from a Court of Appeals case you previously cited to and the question posed to the board then and I pose to the board now is, what are you talking about?

This was filed in a timely fashion. This was filed within the 30 days pursuant to a final determination made by the buildings department which was further defined by a permit. That is a final determination made that is appealable to the Board of Standards and Appeals.

In our application, we specifically said, the owner's attempt to exempt the voids from floor area should be rejected as the voids are neither used for mechanical equipment nor are they accessory (indiscernible) to residential uses in the tower. No mention of height is made in there. You're basically conflating void with heights.

We couldn't even address whether or not a void was involved because the plans don't show the height of the mechanical space. So that was hidden from us. It's been hidden from the

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buildings department. It's been hidden from this board.

COMMISIONER NASR SHETA: Where is that? I'm sorry, what page is that one?

CHAIRPERSON MARGERY PERLMUTTER: That's their initial submission.

STUART KLEIN: That's the initial 5/13/19.

COMMISIONER NASR SHETA: Okay.

STUART KLEIN: So it is a core issue and core issue must be addressed by this board. I'm not talking about the myriad of outlier issues that come before you in something of a staccato fashion over time. This was presented to you in our first application and is clear on the language. There is no ambiguity her, just like you're arguing there's no ambiguity with regard to the bulk resolution.

There is no ambiguity here. We argue that this mechanical space was improper and an improper deduction so therefore, it is before the board.

Now, the buildings department did, as a matter of fact in the Sky House case, say that it was able to approve those mechanical drawings

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because, as proposed, especially in light of composite mechanical plans for the proposed building illustrating the mechanical -- proposed for the second, third, and fourth stories, it found that it conformed to code. Here --

CHAIRPERSON MARGERY PERLMUTTER: What are you reading?

STUART KLEIN: I'm reading from Page 4 of 2016-4327A Resolution.

CHAIRPERSON MARGERY PERLMUTTER: The resolution on that case?

STUART KLEIN: That's correct. So the buildings department said it had complete plans in that case. It also said during the context of that case that it reviewed each and every mechanical plan to determine whether it conforms to the code and whether or not, in this instance, the 5 percent could be reduced.

Here, we're talking about a lot more than 5 percent. I mean, it's off the board, percentage-wise. So when the buildings department now comes to you today and it says, well, we didn't review plans. The plans aren't here. In fact, the fire department has plans that I made up that indicate that not a single

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item that's required in code was contained in those plans. Yet the buildings department passed them anyway.

And now, the buildings department is saying to you, well, if they do apply again based on the illicitly -- or the argued illicitly issued permit, we will not issue a final determination. That is a perversion of law and the judicial process.

It, in effect, is saying that we're not giving you, the board, the power to review and we're not giving the people in the neighborhood or Landmarks West the ability to appeal because we're never giving you a final determination to take to Court. So basically, they didn't follow their protocol as set forth in Sky House. They didn't follow the building code.

They didn't follow the in-house protocol established by Tom Fariello, and on top of that, they're saying ha ha, we're tying your hands. You can't do anything beyond this. Now, in order to do that, the Court of Appeals in the Field case said that if an agency breaks from long established protocol, it has to give a reason why it's doing that.

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CHAIRPERSON MARGERY PERLMUTTER: Can you --

STUART KLEIN: No reason --

CHAIRPERSON MARGERY PERLMUTTER: Can you give us a citation?

STUART KLEIN: Excuse me?

CHAIRPERSON MARGERY PERLMUTTER: What's the Field case?

STUART KLEIN: Field case. I'll give you the cite later.

CHAIRPERSON MARGERY PERLMUTTER: Okay.

STUART KLEIN: It's Court of Appeals case that says, if a governmental agency breaks from protocol, it has to give a good reasoned determination why it broke from protocol. None was given here, so right now, the buildings department didn't look at these plans and if it did look at these plans and didn't see anything because nothing was contained in it, those plans violated the building, violate building standards, violated buildings protocol, and now they're backing out by saying, and oh, by the way, we're not going to give you the right to appeal.

I think it's incumbent upon you to

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demand the buildings department receive those plans so we can determine whether or not the mechanical deductions, not the height, that the mechanical deductions were, in fact, properly taken off and this permit is valid. Thank you.

CHAIRPERSON MARGERY PERLMUTTER: Okay, thank you. Mr. Karnovsky?

DAVID KARNOVSKY: Just two quick points. Stringfellow speaks for itself. That case involved the question of what the terms customarily should be understood to mean and the point is the Court looked at it in the context of the zoning resolution and made its decision based on its understanding of the zoning resolution in context. Here, understanding the special district rules in context inexorably to the conclusion that 8234 means what it says. With respect to Mr. Klein's arguments, the point, again, is whether or not these issues were raised on appeal.

WOMAN 2: Can you speak up a little bit, please?

DAVID KARNOVSKY: The question is whether or not the issue was raised on appeal. It was not and it should not be heard.

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CHAIRPERSON MARGERY PERLMUTTER: Thank you. Okay. Okay, any additional comments from board members? Okay, what I would like to do is close this hearing, close both of these hearings and we will put this on for decision for next week, September 17th, during which time we will look more clearly into this question of whether the mechanical question should be considered by us or whether it is precluded.

MAN 1: You want me to give you (indiscernible)?

WOMAN 1: No, we have it. We have it.

CHAIRPERSON MARGERY PERLMUTTER: Okay. And so we don't need additional submissions because we don't know whether that's something that we're going to be reviewing. We have to see whether it is properly before us or not. Okay? Okay. So motion to close?

CLERK: Chair Perlmutter.

CHAIRPERSON MARGERY PERLMUTTER: Aye.

CLERK: Commissioner Chanda.

COMMISSIONER SHAMPA CHANDA: Aye.

CLERK: Ms. Ottley-Brown is missing. Mr. -- sorry, Commissioner Sheta.

COMMISIONER NASR SHETA: Aye.

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CLERK: Commissioner Scibetta.

COMMISIONER SALVATORE SCIBETTA: Aye.

CHAIRPERSON MARGERY PERLMUTTER: Okay, so the case -- the hearing is closed. No further submissions and we'll have -- make our decision next Tuesday. Okay, and you can hear us comment on next Monday in review session. [OVERLAPPING SPEAKERS]. Yeah, we need a --

COMMISIONER NASR SHETA: You want to do lunch or break?

CHAIRPERSON MARGERY PERLMUTTER: Should we do [AUDIO CUTS OUT].

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certify that the foregoing transcript is a true and accurate record of the proceedings.

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NYC Board of Standards and Appeals

September 17, 2019

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WOMAN 1: Good morning, ladies and gentlemen. This is the Board of Standards and Appeals public hearing for September 17th, 2009 -- 2019, sorry. We'll start with the appeals calendar decision items: item number one, 2019-89A, 36 West 66th Street, Manhattan. It's the appeal filed by the City Club.

CHAIRPERSON MARGERY PERLMUTTER: All right, does anyone from the City Club want to come up?

COMMISSIONER DARA OTTLEY BROWN: I (indiscernible) recused.

CHAIRPERSON MARGERY PERLMUTTER: Oh yeah. Yeah.

WOMAN 1: This matter is on for decision.

CHAIRPERSON MARGERY PERLMUTTER: Yeah, but usually someone gets up and stands there when we vote, so that's -- okay, state your name, please.

CHUCK WEINSTOCK: Chuck Weinstock --

CHAIRPERSON MARGERY PERLMUTTER: Okay.

CHUCK WEINSTOCK: -- representing City Club.

CHAIRPERSON MARGERY PERLMUTTER: City

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Club, okay, so --

CHUCK WEINSTOCK: -- and other appellants.

CHAIRPERSON MARGERY PERLMUTTER: Okay, so for the members of the public who weren't at the review session yesterday, there was a review session, at which time the commissioners spoke at length about their opinions on this. So if you want to hear the lengthy conversations, please listen to the video, which is on our website for yesterday's review session. Okay? Correct, it's on our website?

WOMAN 1: Yep.

CHAIRPERSON MARGERY PERLMUTTER: Okay, so then I would like to bring this -- so what we're bringing to a vote is the questions that were presented by City Club, which were specifically about mechanical space and the bulk distribution, okay? So for a motion to -- we closed the hearing already -- a motion to grant the appeal.

WOMAN 1: Chair Perlmutter?

CHAIRPERSON MARGERY PERLMUTTER: No.

WOMAN 1: Vice Chair Chanda?

VICE CHAIR SHAMPA CHANDA: No.

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WOMAN 1: Commissioner Ottley Brown?
COMMISSIONER NASR SHETA: Recused.
WOMAN 1: Oh, abstained, sorry. Commissioner Sheta?
COMMISSIONER NASR SHETA: No.
WOMAN 1: Commissioner Scibetta?
COMMISSIONER SALVATORE SCIBETTA: No.
WOMAN 1: Application is denied.
CHUCK WEINSTOCK: You're done with us?
WOMAN 1: Yes. Item number two, 2019-94A, 36 West 66th Street, Manhattan. This is the appeal brought by parties of Landmark West, Stuart Klein.
CHAIRPERSON MARGERY PERLMUTTER: Okay, so this -- yes, Mr. Klein (indiscernible).
STUART KLEIN: Stuart Klein, Klein Slowik, on behalf of the appellant.
CHAIRPERSON MARGERY PERLMUTTER: Okay, so we're going to sort of bisect this application into two parts. It was closed, but we will for one part of it reopen, but I don't know that we need to specifically reopen today. It's more instruction. I'm not really sure how we're handling that technically.
WOMAN 1: I thought we should reopen

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(indiscernible) reopen.

CHAIRPERSON MARGERY PERLMUTTER: But we need to vote on the two questions that are identical to the questions for City Club, right? So we're going to bisect the decision.

WOMAN 1: Okay.

CHAIRPERSON MARGERY PERLMUTTER: Okay? So as to the two questions that we just voted on, which are the mechanical space as to the height of the ceiling and the volt distribution, we talked about that at the review session, and so I'd just like to bring that to a vote, okay? And leave out of it the question of the mechanical equipment and whether that's the appropriate amount of mechanical equipment, okay? So on those two questions, a motion to grant the appeal.

WOMAN 1: Chair Perlmutter?

CHAIRPERSON MARGERY PERLMUTTER: No.

WOMAN 1: Vice Chair Chanda?

VICE CHAIR SHAMPA CHANDA: No.

WOMAN 1: Commissioner Sheta?

COMMISSIONER NASR SHETA: No.

WOMAN 1: Commissioner Scibetta?

COMMISSIONER SALVATORE SCIBETTA: No.

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CHAIRPERSON MARGERY PERLMUTTER: Okay, so those two questions are now sort of closed out, right? So what we could open is, for not a lot of discussion because we don't have a lot of information yet, is the question of whether the mechanical floor space is appropriately occupied by mechanical equipment necessary to support this building. And so, what I would ask of appellant, to the extent they're able to get it from public records, to provide the Board with mechanical drawings. The Department of Buildings -- is the Department of Buildings here today?

WOMAN 1: Yes.

CHAIRPERSON MARGERY PERLMUTTER: Okay, the Department of Buildings to supply us with the mechanical drawings, but also to review the mechanical drawings in the same way that the Sky House mechanical drawings were reviewed, with the same depth. And I just want to again point out to the public that we spoke a lot about this subject at yesterday's review session, which is also on the video, and that the owner cooperate by providing drawings that are not available in the public record of the mechanical -- the mechanical file drawings. So it's the -- really,

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it's the M set, and it might be the sprinkler set as well. But there was a request in the papers submitted by appellant for shop drawings. We didn't review shop drawings for Sky House. I think that's taking it much too far. Department of Buildings does not review shop drawings, either. Yes?

COMMISSIONER NASR SHETA: If it's possible, I would like to get the entire set.

CHAIRPERSON MARGERY PERLMUTTER: Yes, the entire mechanical set.

COMMISSIONER NASR SHETA: No, the entire -- the entire structural and architectural plans for the building.

CHAIRPERSON MARGERY PERLMUTTER: We're only being asked to look at the mechanicals, and I don't want to --

COMMISSIONER NASR SHETA: Yeah, I totally understand.

STUART KLEIN: Madame Chair? Madame Chair, may I --

CHAIRPERSON MARGERY PERLMUTTER: We're only looking at mechanicals. We're not looking at the structure of the building and so on. That's the question before us.

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STUART KLEIN: No, no, but with regard to mechanicals under the Sky House case and under --

WOMAN 1: Oh, we have to reopen.

CHAIRPERSON MARGERY PERLMUTTER: We need to reopen in order for you to --

WOMAN 1: I'm sorry, Mr. Klein.

CHAIRPERSON MARGERY PERLMUTTER: Yeah, so we're going to open exclusively as to mechanical equipment, okay? So motion to reopen.

WOMAN 1: Chair Perlmutter?

CHAIRPERSON MARGERY PERLMUTTER: Aye.

WOMAN 1: Vice Chair Chanda?

VICE CHAIR SHAMPA CHANDA: Aye.

WOMAN 1: Commissioner Sheta?

COMMISSIONER NASR SHETA: Aye.

WOMAN 1: Commissioner Scibetta?

COMMISSIONER SALVATORE SCIBETTA: Aye.

STUART KELIN: May I?

CHAIRPERSON MARGERY PERLMUTTER: Yeah.

STUART KELIN: Under the guidelines set in the -- in the (indiscernible) system by the Buildings Department and in memos written by the assistant commissioner and deputy commissioner, it requires that the drawings include all piping

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ancillary to the mechanical system, so they're going to be reasonably complete drawings, almost to the extent of shop drawings. And that guideline sets out approximately 10 different items that is reflected in the Sky House case of what has to be included in the drawings.

With regard to --

CHAIRPERSON MARGERY PERLMUTTER: I just want to interrupt. There's a big difference between shop drawings and mechanical drawings.

STUART KELIN: Oh, no, I appreciate that, yes.

CHAIRPERSON MARGERY PERLMUTTER: So shop drawings are off the table, okay?

STUART KELIN: We're not getting into every screw and everything else.

CHAIRPERSON MARGERY PERLMUTTER: Right, shop drawings probably aren't even produced at this point on this project.

STUART KELIN: Yeah, no I appreciate that.

CHAIRPERSON MARGERY PERLMUTTER: So we're not doing that.

STUART KELIN: And as to what we can supply, the drawings that were submitted to the

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Building Department for review have none of the things that are said in the guidelines, so I won't be handing in anything.

CHAIRPERSON MARGERY PERLMUTTER: Okay, so you're not able to get any further -- any additional information from going to the Department of Buildings?

STUART KELIN: No, it's not on file.

CHAIRPERSON MARGERY PERLMUTTER: Did you go on you -- they're not filed.

STUART KELIN: Correct.

CHAIRPERSON MARGERY PERLMUTTER: As far as you know.

STUART KELIN: Yes, correct.

CHAIRPERSON MARGERY PERLMUTTER: Okay. When was the last time you went to the Department of Buildings to check the file?

STUART KELIN: About a month ago.

CHAIRPERSON MARGERY PERLMUTTER: Okay, so there may be more --

STUART KELIN: Yeah.

CHAIRPERSON MARGERY PERLMUTTER: -- I don't know without checking (indiscernible) what was filed. I see mechanical filings, but we don't know what the level is. Okay, so I would

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ask Department of Buildings and the owner to cooperate the way -- the same way that was done with the Sky House case and provide this board with a clear set of mechanical drawings. I don't want to ask for the electrical and the structural, because now we're going down a wormhole.

The question before us is, when you look at the planning of the floor of each mechanical floor, is the amount of mechanical equipment that's shown on the drawings the amount that is -- that you would normally associate with a building of this size. That's what we're talking about, and that's what we looked at with Sky House. And it was actually not the Board so much that looked at those drawings. We looked at them, but it was the Department of Buildings' engineers who reviewed them and concluded in a letter that the amount of mechanical equipment that was in those spaces was reasonable for a building of that type.

STUART KELIN: Well it's not -- obviously, the size of the building and the requirements of the building are dialed into the equation, but also the equipment itself. Because

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what the Buildings Department refers to is the manufacturing cut slips of the items to determine how much distance around them is necessary for venting and service, and things like that.

CHAIRPERSON MARGERY PERLMUTTER: Right. Mechanical drawings do that, you know. The mechanical engineer knows that the workers have to get around, right? So the workers have to get around to work, and there needs to be room to replace equipment, and that kind of stuff, right? And they show ductwork, they show all of that on mechanical drawings.

STUART KELIN: Yes.

CHAIRPERSON MARGERY PERLMUTTER: So that should be adequate.

COMMISSIONER SALVATORE SCIBETTA: Should we create a deadline for the owner and the Building Department to provide a response by giving the appellant some time to respond to it?

CHAIRPERSON MARGERY PERLMUTTER: Well, we'll have the owner up to talk about when to produce all of this and so on, okay?

WOMAN 1: Mr. Karnovsky?

CHAIRPERSON MARGERY PERLMUTTER: And Buildings Department also, Mr. Karnovsky?

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DAVID KARNOVSKY: David Karnovsky, Fried, Frank, Harris, Shriver & Jacobson for the owner.

CHAIRPERSON MARGERY PERLMUTTER: Morning.

DAVID KARNOVSKY: Morning.

CHAIRPERSON MARGERY PERLMUTTER: So I guess the question is -- I don't actually even know what the status of the mechanical drawings is. Do you have that information?

DAVID KARNOVSKY: The mechanical drawings were filed, and we will provide copies to the Board --

CHAIRPERSON MARGERY PERLMUTTER: Okay.

DAVID KARNOVSKY: -- and to the appellant. If the characterization of the process that was followed is grossly inaccurate, and we'll provide them.

CHAIRPERSON MARGERY PERLMUTTER: Okay, so that -- it would help a lot to clarify when they were filed and make sure that they're complete according to the requirements in the code, and to give us a copy and Buildings Department. We'll speak to Buildings Department, okay? Great, thank you.

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MICHAEL ZOLTAN: Good morning, Michael Zoltan for the Department of Buildings. So just to clarify one or two things, one is the Department did review the mechanical plans and found them sufficient and went through the proposed equipment and have a -- I wrote up -- I have a short synopsis of some of the equipment on the mechanical floors.

So, for instance, the mezzanine above the first floor has an expansion tank, a heat exchanger, a water source for heater pumps. The 15th floor mechanical floor contains storm water detention tank, (indiscernible) equipment room, emergency generator, electrical switchboard. The 16th floor has the HVAC ducts and equipment. It has the air handler units, (indiscernible) units, other equipment. The 17th floor has an electrical room, mechanical and boiler equipment. The 18th floor has HVAC air handler units and fan units. The 19th floor has electrical equipment, fire pump room, fire reserve storage tank. The 39th floor has plumbing, telephone equipment, and a fire pump.

CHAIRPERSON MARGERY PERLMUTTER: Okay.

MICHAEL ZOLTAN: So there was -- the

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department did review these. Now, if the Board wants us to provide more of a synopsis, we can of course.

CHAIRPERSON MARGERY PERLMUTTER: Yes, that -- so what -- to model what happened on Sky House. On Sky House, we had -- the board was provided with a full set of mechanical drawings so that we could kind of read along.

MICHAEL ZOLTAN: Sure.

CHAIRPERSON MARGERY PERLMUTTER: And the Department of Buildings issued, I think it was two, actually, very detailed letters about what it reviewed and why it considered what it reviewed proper for a building of this size. So that's what we're looking at here. And if the -- if DOB can also give us more information on what they typically view for a building of this size. I mean, kind of back in the day, before the buildings were as big as they are, there used to be sort of a 5 percent rule. I don't know what the rule is today, because buildings don't look like those buildings anymore, right? So I don't know if DOB has kind of a standard method of operation to determine whether floor space devoted to mechanical is believable, right?

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COMMISSIONER SALVATORE SCIBETTA: I have a request.

CHAIRPERSON MARGERY PERLMUTTER: Speak up.

COMMISSIONER SALVATORE SCIBETTA: Do you have the original mechanical -- the plans for the mechanical rooms prior to the addition of the new floor?

MICHAEL ZOLTAN: I'm not sure right now. I only looked at the current ones -- or not looked at them, but had them looked at.

COMMISSIONER SALVATORE SCIBETTA: I'd ask for a production of the original that were produced.

MICHAEL ZOLTAN: So one -- if I may, one of the questions that was brought up yesterday was about the number of floors, right?

COMMISSIONER SALVATORE SCIBETTA: That's correct.

CHAIRPERSON MARGERY PERLMUTTER: Yeah.

MICHAEL ZOLTAN: So just looking at the two, the ZB1, it's the zoning diagrams that outline the floor (indiscernible) before it was -- before it was changed from one 160-foot floor-to-ceiling, and then split up into three

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different floors that each -- that were 64, 64, 48. The number of floors containing mechanical equipment were the same. It was the height of the floors was -- so you had two that were -- that had much smaller floor-to-ceiling and one with 160, and then that was -- those three were redistributed into 64, 64, and 48. There was no additional floor containing mechanical equipment.

So to go through them again, you have the mezzanine on the first floor, the 15th floor, the 17th floor, the 18th floor, the 19th floor, and then by the roof. It's the amount of floors, or stories, is the same. That didn't change by the way the before and after. It was just the floor-to-ceiling height of three of them specifically is what changed.

CHAIRPERSON MARGERY PERLMUTTER: Oh, but okay, but I thought one of the ways of solving the problem for fire department was to install these sort of catwalks.

MICHAEL ZOLTAN: Yes.

CHAIRPERSON MARGERY PERLMUTTER: So that meant retaining the floor-to-ceiling height, more or less. Or, I thought they subdivided it into different floors so that they would satisfy

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fire department about the height of firefighting at the top level.

MICHAEL ZOLTAN: The three -- so there were three -- beforehand, there were three stories that all contained mechanical equipment. Two of them had more typical floor-to-ceiling heights, and one of them had 160 -- was 160 feet from floor to ceiling. That was changed. We still retained the same three stories, but now one of them was 64, the next one was 64, and the next one was 48.

CHAIRPERSON MARGERY PERLMUTTER: Oh, I see.

MICHAEL ZOLTAN: So it's the same number of stories, just the height of the ceilings under those three stories were changed, and the fire access levels were added on all three of those stories, but the number of stories remained the same.

CHAIRPERSON MARGERY PERLMUTTER: Okay.

VICE CHAIR SHAMPA CHANDA: I just want to make sure I understand it. So before the zoning (indiscernible) merger --

CHAIRPERSON MARGERY PERLMUTTER: Not the merger. No, no, no, this is before the --

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no, no, no, this is simply the --

VICE CHAIR SHAMPA CHANDA: I'm trying to understand, what is the before that --

CHAIRPERSON MARGERY PERLMUTTER: The before, the building original -- the building, once the zoning lot was merged and they were doing their project, the Buildings Department --

VICE CHAIR SHAMPA CHANDA: Okay.

CHAIRPERSON MARGERY PERLMUTTER: -- there was an objection issued by fire department that said, your floor-to-ceiling height is far too high and we'll not be able to reach the height for firefighting. So the project was at risk or -- you know, there was an issue -- a letter of notice --

MICHAEL ZOLTAN: Intent to revoke.

CHAIRPERSON MARGERY PERLMUTTER: -- intent to revoke, and then they responded by changing the mechanical spacing.

VICE CHAIR SHAMPA CHANDA: Okay, thank you for that clarification.

CHAIRPERSON MARGERY PERLMUTTER: Okay, that's helpful, thank you. I didn't realize that, because I also was under the impression they slipped more floors in there, but -- so and

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as I -- so we're talking about a total of three stories of mechanical space?

MICHAEL ZOLTAN: I believe there are more throughout the building, but only three were reconfigured for that objection.

CHAIRPERSON MARGERY PERLMUTTER: No, but a total of actual -- I know there's mechanical that's spread around a building. That's always the way it is. But in terms of full floors devoted to mechanical space, do you know how many there are?

MICHAEL ZOLTAN: I'm not sure exactly. I don't want to misspeak, so I'll --

CHAIRPERSON MARGERY PERLMUTTER: Okay. Okay, so that's something -- well, it's for one, something we need to know going forward, but we should have a floor plan for all of the floors devoted to mechanical space and a general description if there is mechanical rooms on the other floors. I mean, the tower plate is very small, but to the extent there's mechanical rooms on the other floors to explain what those are for, that's a fairly typical thing that you find, small rooms on each floor, but to understand that as well.

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MICHAEL ZOLTAN: So this is to -- not just to go through -- so your request is not just to go through with the floors that were fully deducted for mechanical floors. It's to go through all the floors of the building.

CHAIRPERSON MARGERY PERLMUTTER: The idea is, because I know the skepticism in the crowd, right? If you're spreading mechanical -- and there was actually a woman who testified last week, I think, who said, I don't understand why there's so much mechanical space in these buildings anymore. I used to put it in cellar. So to respond to those kind of issues that -- and it's easy enough to see from the zoning diagram, right, that certain amount of area on each floor is allocated to mechanical space.

Just a general statement on those residential floors about the however-many-square-feet it is -- do you have that -- that's devoted to mechanical space. I don't know if we have that zoning breakdown. Just to explain like what goes into those typical floors, to the extent there's mechanical deductions there, which is usually chases, actually, right, so therefore not actually equipment. It's the vertical, it's the

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piping, it's the chases, that kind of stuff. Just, I don't know if we have the mechanical deductions on here. No? Yeah, we don't have (indiscernible).

VICE CHAIR SHAMPA CHANDA: I believe (indiscernible) has those --

CHAIRPERSON MARGERY PERLMUTTER: Yeah, okay, we don't have that chart in front of us, so, okay.

COMMISSIONER SALVATORE SCIBETTA: So the recent testimony --

CHAIRPERSON MARGERY PERLMUTTER: Speak up.

COMMISSIONER SALVATORE SCIBETTA: -- the immediate testimony from the Department of Buildings raises a question that I'm not sure whether or not we're procedurally permitted to inquire within, and that is, I'd like to understand, when the reconfiguration, if these heights were entirely arbitrary. When they reconfigured all of these mechanical rooms, did they give any reason or purpose or use as to why they reconfigured it this way?

CHAIRPERSON MARGERY PERLMUTTER: No, but so -- oh, you mean in terms of -- because it

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was fire department telling them it's too high, the ceiling, at 160 feet, or whatever it was. You have to do something so that we, fire department, are comfortable with the ceiling height, that in the event of a fire, we can fight a fire. And so, I'm assuming that there was a fire department conversation where 60-whatever feet was the magic number.

COMMISSIONER NASR SHETA: Oh, but I thought it was another objection from the DOB saying that the (indiscernible) height that's used is kind of like uncommon for that size of building. I didn't read in their submission that they objected to the height, because the height is not common for buildings like that.

CHAIRPERSON MARGERY PERLMUTTER: I'm not sure what you mean. But don't forget, try not to -- we already decided on mechanical space height, right?

COMMISSIONER NASR SHETA: No, no, no, I'm not going there.

CHAIRPERSON MARGERY PERLMUTTER: Right.

COMMISSIONER NASR SHETA: Yes, I understand.

CHAIRPERSON MARGERY PERLMUTTER: Okay.

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Okay, right, so if -- yeah, if you could just give us information. We're talking about mechanical equipment now, right? We've already talked about we closed out the subject of how high the space is and which mechanical equipment fits. We're looking at the floor space now, not the sectional relationship, right? We're looking at the floor space filled with equipment. That's our question now. Okay?

Got it, so okay, so then I would like to hold off on speakers on this question because we don't have any submissions, so there's kind of nothing to talk about, and I wanted to not have a four-hour hearing. And so, let's wait until we actually have some mechanical information and mechanical experts who can actually talk about whether this -- what the situation is here, okay?

So how much time do you need, DOB, to review in detail what you did for Sky House, the equivalent for Sky House? I know you need engineers to do that.

MICHAEL ZOLTAN: Yeah, so we need engineers. The Board is sort of asking for a more detailed report as opposed to just check and make sure everything's okay, which we've done.

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So it will be a few weeks.

CHAIRPERSON MARGERY PERLMUTTER: Okay. Any ideas?

MICHAEL ZOLTAN: And then, unfortunately, you run up into holidays. But at this point, we're not getting any more, from what I understood from appellant, we're not going to get a specific allegation of look at this floor, this is insufficient. It's just the general breakdown of mechanical equipment. So we're not responding to anything (indiscernible). We're responding to the request from the Board to give us --

CHAIRPERSON MARGERY PERLMUTTER: So the thing that we -- you should look at the Sky House letters that you sent again, because that's the model, and that's the basis on which we decided to bifurcate this case, right? So that -- those letters were very clear what the engineers looked at. It explained what equipment was on each floor. It explained -- it was accompanied by drawings so we could follow along, and it justified the existence of that many floors for a building of that type.

So we do want a statement: This much

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equipment is typical of a building of this type and this many floors, right? Because I don't know how many mechanical floors are, but in the Sky House case there were three. Then we looked at the interstitial floors that we were seeing in other buildings. We named about five other buildings recently built, and they all had three interstitial floors plus the rooftop mechanical, right? So, and I'm assuming some cellar mechanical, because utilities are coming in -- unless you're in a flood plain, utilities are coming in at the cellar level, right? So all of those things seem to be typical of all of those buildings, and so a statement about whether or not the number of floors devoted to mechanical is typical of a building of this type.

Fire department is here, and they just wanted to clarify something, and it might be helpful in us understanding what to do moving forward.

SIMON RESSNER: Good morning, Captain Simon Ressner for the fire department operations. So I just wanted to talk to you. You had mentioned that our objection to the configuration of the space had to do with ceiling height, and

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ceiling height was one of many factors. So I, you know, I just wanted to outline, if you want us to --

CHAIRPERSON MARGERY PERLMUTTER: Yes, please.

SIMON RESSNER: -- we can outline other factors that were considered here. We can also wait until the next hearing to do that.

CHAIRPERSON MARGERY PERLMUTTER: No, I think it's useful, because then knowing it, then everyone can respond.

SIMON RESSNER: Okay, so the issue for us with any void space, or with any mechanical space, has to do with a number of features. One is, the way we fight fires in high-rise buildings is very different from the way we fight fires in traditional, lower buildings. We utilize the stairways, both as a point of operation, but we also stage people, we store materials, we have medical staff, we have air cylinders, so we utilize the core of the building for all of these different operational needs. And having the original -- the original configuration left us in a position of having 160 feet to traverse before we could get to a floor where we could have

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available space.

So our discussions with the developer were to try to have accommodations made in the configuration of the floor plates that made up each individual level within the space so that there would be adequate room for all those materials and people. There would be the ability to cross over from stairway to elevator shaft, both for rescue and for egress. There would be the ability to move people out of a contaminated stairway, if that does happen, which it does happen often in residential high rise.

So I don't want it to be that the overall height was the only factor. There were many factors.

CHAIRPERSON MARGERY PERLMUTTER: Okay, that's helpful.

SIMON RESSNER: And I can take any questions you have about that, but I just wanted to make clear that we took our high-rise firefighting operational manual, which does exist, and it calls out a whole bunch of features, including locations of command posts, locations of material, locations of radio operators and so on, and tried to sort of graft

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that into the configuration of the building that was presented to us. That was not -- the solution that we came up with was within the context of the building that we had, okay?

CHAIRPERSON MARGERY PERLMUTTER: Right. Okay, great, thank you very much. Very helpful. Are there any questions for the chief? No? Okay. Captain. Okay, no, thank you.

SIMON RESSNER: No questions?

CHAIRPERSON MARGERY PERLMUTTER: No questions, thank you. Okay, so let's set up a submission schedule. So, DOB, four weeks to submit, is that enough?

MICHAEL ZOLTAN: (indiscernible).

CHAIRPERSON MARGERY PERLMUTTER: Sorry?

MICHAEL ZOLTAN: What date does that get us?

WOMAN 1: October 15th.

CHAIRPERSON MARGERY PERLMUTTER: I don't know when the holidays are falling.

MICHAEL ZOLTAN: (indiscernible) every Tuesday.

CHAIRPERSON MARGERY PERLMUTTER: Every Tuesday. That's so convenient.

WOMAN 1: It's going to be after

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(indiscernible).

CHAIRPERSON MARGERY PERLMUTTER: Fifteenth for submission, does that work?

WOMAN 1: Or 16.

MICHAEL ZOLTAN: (indiscernible) 16 --

CHAIRPERSON MARGERY PERLMUTTER: Sixteen.

MICHAEL ZOLTAN: Yeah, we could try and do that.

CHAIRPERSON MARGERY PERLMUTTER: Okay. Try -- I mean, you need to accomplish it, so is that going to work?

MICHAEL ZOLTAN: Yes.

CHAIRPERSON MARGERY PERLMUTTER: Yeah, okay.

WOMAN 1: October 16th, submission for DOB.

CHAIRPERSON MARGERY PERLMUTTER: Right, and then I don't -- does owner want to respond or participate in that, or --

DAVID KARNOVSKY: Yes.

CHAIRPERSON MARGERY PERLMUTTER: Yes, okay, so do you want to respond to DOB's submission, or do you want to wait until appellant has responded to --

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DAVID KARNOVSKY: I think we (indiscernible).

CHAIRPERSON MARGERY PERLMUTTER: Okay, so then we could have a simultaneous response from both you and appellant, right? Okay, is two weeks enough for that, or --

DAVID KARNOVSKY: Well, appellant is --

WOMAN 1: David, I'm sorry, Mr. Karnovsky --

CHAIRPERSON MARGERY PERLMUTTER: Yeah, you have to come to the --

WOMAN 1: If you're going to start talking, it's got to --

DAVID KARNOVSKY: I think we would like to be able to comment on what's produced, but since appellant is going to take issue with it, no doubt, I think we need that opportunity.

CHAIRPERSON MARGERY PERLMUTTER: So do you want to respond also to DOB, or wait until --

DAVID KARNOVSKY: I think we'll wait until appellant has responded to DOB.

CHAIRPERSON MARGERY PERLMUTTER: Okay. Okay, so then the next question is, is two weeks enough time to respond for appellant, to DOB?

STUART KLEIN: I believe we're going to

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need three weeks, because we're going to have to review everything that they give us in the first -- it's going to be the first instance for us.

CHAIRPERSON MARGERY PERLMUTTER: Right.

STUART KLEIN: Since they're getting three weeks, I think it's appropriate to get three weeks also.

CHAIRPERSON MARGERY PERLMUTTER: Okay, what's three weeks?

WOMAN 1: So November 6th for the appellant.

CHAIRPERSON MARGERY PERLMUTTER: And then for owner to respond to that, three weeks is --

DAVID KARNOVSKY: Three weeks.

CHAIRPERSON MARGERY PERLMUTTER: Three weeks, okay. And then, any kind of -- we're not going to have sur-replies, so your sur-reply will be here, okay? Because otherwise, this goes on ad -- indefinitely.

WOMAN 1: Okay, so the owner will respond by November 27th.

CHAIRPERSON MARGERY PERLMUTTER: Okay, and so for a hearing, that's like the first --

WOMAN 1: December 2nd.

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CHAIRPERSON MARGERY PERLMUTTER: (indiscernible) hearing (indiscernible), yeah, because it's three weeks, right?

WOMAN 1: So for a hearing on December 17th.

CHAIRPERSON MARGERY PERLMUTTER: Okay.

STUART KLEIN: One quick observation: the 5 percent rule was in fact the standard rule of the Buildings Department, but over the last 20 years, because of the -- most of these items have been miniaturized to a great extent, it's now on a case-by-case basis, depending upon the equipment that's being used.

CHAIRPERSON MARGERY PERLMUTTER: Okay, well I would let DOB speak to what their methodology is, so I don't know the answer. That's one of the questions for DOB. On buildings of this type, what's typical? And there may not be a typical, because almost every one of these buildings is kind of inventing something new each time, right? So I don't know if there's a typical, but just to respond to that. Okay.

WOMAN 3: Okay, so just to go through the submissions again, October 16th for DOB,

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November 6th for appellant, November 27th for the owner, and a hearing on December 17th.

STUART KLEIN: Excellent, thank you very much.

CHAIRPERSON MARGERY PERLMUTTER: Thank you very much. Thank you, everyone, and of course you're welcome to look at these submissions at the Board office at 250 Broadway. You need to make an appointment to see them, okay?

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certify that the foregoing transcript is a true and accurate record of the proceedings.

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Date: September 23, 2019

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2016-4327-A

APPLICANT – Sky House Condominium, owner.
SUBJECT – Application November 10, 2016 – Appeal challenging NYC Department of Building's determination that the Tower complies with the New York City Zoning Resolution and the New York City Housing Maintenance Code. C5-2 zoning district.
PREMISES AFFECTED – 15 East 30th Street, Block 860, Lot (s) 12, 69, 63, Borough of Manhattan.
COMMUNITY BOARD #5M
ACTION OF THE BOARD – Appeal denied.
THE VOTE TO GRANT –
Affirmative: ……0
Negative: Chair Perlmutter, Vice-Chair Chanda and Commissioner Ottley-Brown ……3
THE RESOLUTION –

WHEREAS, the determination of the Department of Buildings ("DOB"), dated March 1, 2017, acting on a public challenge to New Building Application No. 122128679, reads in pertinent part:

> The challenger's second zoning challenge pertains to the classification of the Chandler Hotel's existing use as a residential use and not a commercial use (Point II). The Chandler Hotel at 12 East 31st Street is on tax lot No. 74, which is one of six adjoining tax lots, including the subject building's tax lot No. 12, which have been merged into a single zoning lot. Per the latest Certificate of Occupancy (CO) (No. 38263) in the Department's BIS website, dated March 8, 1951, the Chandler Hotel's lawful use is a "hotel." In addition, the CO states that "[t]his building complies with Section 67 of the Multiple Dwelling Law."
> [. . .]
> As per the Chandler Hotel's inspection I-cards, circa 1938, from the Housing Preservation and Development's (HPD) website . . . , the Chandler Hotel is classified as a "Heretofore Erected Existing Class B" (HEXB) multiple dwelling "originally erected as [an] apartment [and] transient hotel." Per the NYS Multiple Dwelling Law's (MDL) definition in MDL § 4(9), "[a] 'class B' multiple dwelling is a multiple dwelling which is occupied, as a rule transiently, as the more or less temporary abode of individuals or families who are lodged with or without meals. This class shall include hotels . . . ." MDL § 4(12) defines hotel as "an inn having thirty or more sleeping rooms." According to the I-card issued contemporaneously with the 1951 CO, none of the units in the Chandler Hotel were identified as residential apartments. Therefore, based on the above DOB and HPD records, this public challenge is hereby denied.
> [. . .]
> The challenger's third zoning challenge pertains to the subject building's mechanical floor spaces' use and "unnecessary height" (Point III). The challenger does not specify which of the subject building's mechanical floor spaces will be constructed with "unnecessary height."
> Per the Zoning Resolution's definition for "floor area" in Section ZR 12-10, "the floor area of a building shall not include . . . (8) floor space used for mechanical equipment . . . ." Per the mechanical plans approved by the Department for the building's second, third, fourth, fiftieth and fifty-first stories, those stories contain mechanical equipment throughout each story, which supports the building's mechanical systems. As such, these stories may be excluded from the building's floor area, as demonstrated on the approved zoning analysis . . . .
> In addition, the Zoning Resolution does not regulate the floor-to-ceiling height of a building's mechanical spaces. The building's bulk, including the building's height, is limited by the applicable height and setback regulations, including the tower regulations, in the Zoning Resolution. The approved zoning analysis . . . demonstrates that the subject building's bulk complies with the tower regulations in ZR 23-65 (Tower Regulations), including ZR 23-652 (Standard Tower). Therefore, this public challenge is hereby denied.
> [. . .]
> The [fifth] zoning challenge pertains to the minimum required distance between the subject building and the Chandler Hotel.
> In response, the challenger states that "I agree that the building space requirements of 23-71 are not applicable 'because the existing and proposed building are abutting on the same zoning lot and therefore considered to be one building.'"
> In addition, the challenger cites to subdivision 2 in MDL § 28 (Two or more buildings on same lot) in the NYS Multiple Dwelling Law . . . . Because the Chandler Hotel on tax lot No. 74 and the subject building on tax lot No. 12 are located on two separate tax lots, MDL 28(2) is not applicable. Therefore, this public challenge is hereby denied; and

WHEREAS, this is an appeal for interpretation under ZR § 72-11 and Charter § 666(6)(a), brought on behalf of Sky House Condominium ("Appellant"), owner in fee of land located in Manhattan known and designated as Block 859, Lot 7501 (11 East 29th Street), alleging errors of law pertaining to floor space

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used for mechanical equipment within a building proposed at 15 East 30th Street (the "Proposed Building") and to the use classification of Hotel Chandler, an existing building located at 12 East 31st Street (the "Hotel"); and

WHEREAS, for the reasons that follow, the Board denies this appeal; and

WHEREAS, a public hearing was held on this appeal on July 25, 2017, after due notice by publication in *The City Record*, with a continued hearing on September 20, 2017, and then to decision on the same date; and

WHEREAS, Vice-Chair Chanda performed an inspection of the site and surrounding neighborhood; and

WHEREAS, the New York City Department of City Planning ("DCP") submitted testimony stating that there are no regulations in the Zoning Resolution controlling the height of stories with floor space used for mechanical equipment, that no inner court regulations apply to commercial hotel uses and that there are no provisions of the Zoning Resolution that would preclude the merger of two or more zoning lots in the event that such a merger would create any non-compliance with the bulk regulations of the Zoning Resolution; and

WHEREAS, New York City Councilmember Daniel R. Garodnick submitted testimony expressing concern that the idea of a "structural void," a shorthand term referring to the second, third and fourth stories of the Proposed Building and identified as mechanical floors, does not exist in the Zoning Resolution, that the DOB determination at issue in this appeal may set precedent for other developments in the City and that the proposed building may adversely affect legally mandated light and air available to Hotel Chandler; and

WHEREAS, Friends of the Upper East Side Historic Districts, The Municipal Art Society of New York and the Greenwich Village Society for Historic Preservation presented written and oral testimony in opposition to the proposed building and in support of this appeal; and

WHEREAS, DOB, Appellant, the owner of the Proposed Building (the "Owner") and the Hotel have been represented by counsel throughout this appeal; and

BACKGROUND

WHEREAS, the subject zoning lot is bounded by East 31st Street to the north, Madison Avenue to the east and East 30th Street to the south, in a C5-2 zoning district, in Manhattan; and

WHEREAS, the zoning lot has approximately 220 feet of frontage along East 31st Street, 143 total feet of non-continuous frontage along Madison Avenue, 118 square feet of frontage along East 30th Street and consists of Tax Lots 10, 12, 16, 63, 64, 67, 69, 71, 74, 1101–1107 and 90671; and

WHEREAS, the Proposed Building is under construction at 15 East 30th Street (Tax Lot 12); and

WHEREAS, 12 East 31st Street (Tax Lot 74) is occupied by the Hotel, a 13-story with cellar and sub-cellar building; and

PROCEDURAL HISTORY

WHEREAS, this appeal concerns the development of the Proposed Building, a 56-story, with cellar, mixed-use residential and commercial building; and

WHEREAS, a construction application for the Proposed Building was filed with DOB on September 11, 2014, and permits were issued in conjunction with New Building Application No. 122128679 (the "NB Application") on July 21, 2016, and subsequently renewed; and

WHEREAS, beginning February 11, 2015, numerous determinations regarding application of the Zoning Resolution to the Proposed Building were posted publicly on DOB's website in accordance with DOB's public-challenge rule, 1 RCNY § 101-15, which affords members of the public an opportunity to learn about proposed buildings early in the construction process; and

WHEREAS, by letter dated April 25, 2016, Appellant submitted a challenge to the Proposed Building, which DOB accepted in part and denied in part on June 29, 2016; and

WHEREAS, by letter dated July 14, 2016, Appellant internally appealed DOB's challenge denial to DOB's Technical Affairs Unit; and

WHEREAS, on June 29, 2016, and July 13, 2016, DOB audited the NB Application, finding open issues, which were resolved by August 4, 2016, when the NB Application passed its third audit; and

WHEREAS, post approval amendments to the NB Application were submitted and subsequently approved by DOB on August 11, 2016, and October 17, 2017; and

WHEREAS, on November 10, 2016, Appellant filed this appeal, contesting DOB's reissuance of Permit No. 122128679-01-NB for the Proposed Building on October 11, 2016; and

WHEREAS, on March 1, 2017, DOB issued the determination cited above (the "Final Determination") and Appellant filed an amendment to this appeal on March 31, 2017; and

WHEREAS, on May 5, 2017, the Board's staff instructed Appellant to notify the Hotel of this appeal because of Appellant's apparent challenge to the Hotel's CO; and

---

1 ZR § 12-10 states that a "zoning lot" "may or may not coincide with a lot as shown on the official tax map of the City of New York." Here, pursuant to subdivision (d) of the "zoning lot" definition, multiple tax lots have been merged into one zoning lot pursuant to a restrictive declaration executed by each party in interest and recorded in the Conveyances Section of the New York City Department of Finance Office of the City Register (Document ID No. 2017041300245001), and the Board credits DOB's testimony that these tax lots constitute one merged zoning lot.

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ISSUES PRESENTED

WHEREAS, the two issues in this appeal are whether (1) DOB appropriately determined that floor space used for mechanical equipment within the Proposed Building could be deducted from floor area under ZR § 12-10 without limitation as to height and (2) DOB properly considered a certificate of occupancy for the Hotel in determining its legal use and occupancy and in applying bulk regulations to the Proposed Building2; and

DISCUSSION

(1) MECHANICAL SPACE

WHEREAS, Appellant, DOB and the Owner dispute whether floor space on the second, third and fourth stories of the Proposed Building may properly be deducted from floor area; and

WHEREAS, ZR § 12-10 reads in pertinent part that "the *floor area* of a *building* shall not include: . . . floor space used for mechanical equipment" and that an "*accessory use* . . . is a *use* which is clearly incidental to, and customarily found in connection with, such principal *use*"; and

WHEREAS, Appellant contends that the spaces on the second, third and fourth stories3 of the Proposed Building used for mechanical equipment are too tall to permit their exemption from floor area and that the height of those floors are too excessive and unrelated to the housing of mechanical equipment that they must be classified as their own use (a "Structural Void" 4) with the primary purpose of increasing the height of the building, which is not a permitted use in the Zoning Resolution; and

WHEREAS, the Board considers Appellant's contentions in turn but ultimately finds them unconvincing; and

(A) Height

WHEREAS, Appellant argues that the Proposed Building will contain Structural Voids rather than bona fide mechanical floor space used for mechanical equipment and that a Structural Void is not a listed—and thereby permitted—floor area deduction under the Zoning Resolution; and

WHEREAS, Appellant states that Structural Voids, masquerading as accessory building mechanicals, are designed to boost building heights, views and sales prices; and

WHEREAS, Appellant states, in a submission dated March 31, 2017, that approximately 172 feet of height, or 24 percent of the Proposed Building's volume, is devoted to accessory building mechanicals, but Appellant also states that the Structural Void proposed is 132 feet in height5; and

WHEREAS, the Owner replies that mechanical deductions constitute approximately five percent of the Proposed Building's above-grade square footage and that Appellant's figures are unsupported by calculations; and

WHEREAS, Appellant cites no provision in the Zoning Resolution restricting the height of floor space used for mechanical equipment as is at issue here,6 and Appellant states that it has found no case law or legal guidance on the topic but contends that, under *New York Botanical Garden v. Bd. of Standards & Appeals of City of New York*, 91 N.Y.2d 413, 423 (1998), the Zoning Resolution's silence as to the height permitted for accessory uses is not determinative; and

WHEREAS, Appellant also cites to *47 East 3rd Street*, BSA Cal. No. 128-14-A (May 12, 2015), where the Board stated that "DOB may take into consideration, with respect to a purported accessory use, the relative size of the purported accessory use where the size of the purported accessory use is indicative of its status as subordinate and minor in significance to said principal use"; and

WHEREAS, DOB replies that the Zoning Resolution does not contain any regulations pertaining to the floor-to-ceiling height of a building's mechanical spaces and, by letter dated July 20, 2017, DCP corroborates that there are no regulations in the Zoning Resolution controlling the height of stories with floor space used for mechanical equipment; and

WHEREAS, the Owner replies that, where the Zoning Resolution restricts floor-to-ceiling heights or overall building heights, it does so explicitly, though no such provision restricts the height of the Proposed Building under ZR § 23-65; and

---

2 Appellant's revised statement of facts, dated March 31, 2017, indicates that these are the two issues on appeal. Subsequent submissions by Appellant attempt to muddy the issues by including, for instance, discussion of provisions of the Housing Maintenance Code without providing a final agency determination from DOB interpreting said provisions. Consistent with the Board's Rules of Practice and Procedure §§ 1-06.1(a) and 1-06.3(a), the Board declines to consider new arguments not presented to—and decided by—DOB in the first instance.

3 Appellant states in a letter dated August 8, 2017, that it does not address whether the fiftieth and fifty-first stories of the Proposed Building are primarily used for accessory building mechanicals in this appeal, but Appellant does not state what differentiates those stories from the second, third and fourth stories contested here.

4 The Board notes that "structural void" is a shorthand term, not one found or defined in the Zoning Resolution.

5 Presumably this discrepancy results from Appellant's inclusion or exclusion of the fiftieth and fifty-first stories from its calculations.

6 The Owner submits that the Zoning Resolution does regulate the height of mechanical equipment in the limited context of height restrictions for permitted obstructions under ZR §§ 23-62(g), 33-42(f) and 43-42(e), but those sections are inapplicable in this appeal.

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WHEREAS, based upon its review of the record, the definition of "floor area" set forth in ZR § 12-10 and the Zoning Resolution as a whole, the Board finds that the Zoning Resolution does not control the floor-to-ceiling height of floor space used for mechanical equipment; and

(B) Accessory Use

WHEREAS, Appellant additionally argues that a Structural Void does not constitute a lawful accessory use and, thus, the excessive heights of the second, third and fourth floors are not permitted by the Zoning Resolution; and

WHEREAS, pursuant to ZR § 12-10, an "accessory use":

> (a) is a *use* conducted on the same *zoning lot* as the principal *use* to which it is related (whether located within the same or an *accessory building or other structure*, or as an *accessory use* of land), except that, where specifically provided in the applicable district regulations or elsewhere in this Resolution, *accessory* docks, off-street parking or off-street loading need not be located on the same *zoning lot*; and
>
> (b) is a *use* which is clearly incidental to, and customarily found in connection with, such principal *use*; and
>
> (c) is either on the same ownership as such principal *use*, or is operated and maintained on the same *zoning lot* substantially for the benefit or convenience of the owners, occupants, employees, customers, or visitors of the principal *use*; and

WHEREAS, Appellant posits that the Structural Void proposed on the second, third and fourth stories of the Proposed Building will hold only limited amounts of mechanical equipment that are not proportional to the size of the space or consistent with current standards for apartment buildings; and

WHEREAS, DOB and the Owner reply that the space at issue will be used for mechanical equipment, which is a lawful accessory use because the mechanical equipment proposed is "clearly incidental to" and "customarily found in connection with" the principal use of the Proposed Building under ZR § 12-10; and

WHEREAS, DCP states that, regardless of floor-to-ceiling height, any space devoted to accessory mechanical equipment is considered a lawful accessory use; and

WHEREAS, the Board notes that, under *New York Botanical Garden*, 91 N.Y.2d 413, 420 (1998):

> Whether a proposed accessory use is clearly incidental to and customarily found in connection with the principal use depends on an analysis of the nature and character of the principal use of the land in question in relation to the accessory use, taking into consideration the over-all character of the particular area in question . . . . This analysis is, to a great extent, fact-based . . . [and] one that will clearly benefit from the expertise of specialists in land use planning; and

WHEREAS, accordingly, the Board considers whether the proposed mechanical equipment is "clearly incidental to" and "customarily found in connection with" the principal use of the Proposed Building under ZR § 12-10; and

(i) Clearly Incidental

WHEREAS, despite the Board's request to do so, Appellant provided no testimony from a mechanical engineer evaluating whether the amount of floor space used for mechanical equipment in the Proposed Building is excessive or irregular, and, in its submission dated August 8, 2017, Appellant states that it "does not intend to hire an engineer or enter into a technical argument about what really constitutes mechanical space"; and

WHEREAS, at hearing, Appellant stated that, after searching, Appellant was unable to find someone willing and qualified to testify on the record evaluating the amount of floor space used for mechanical equipment in the Proposed Building; and

WHEREAS, instead, Appellant urges DOB to employ its discretion, as upheld in *9th & 10th St. L.L.C. v. Bd. of Standards & Appeals of City of New York*, 10 N.Y.3d 264 (2008), to require specific proof that floor space denoted on the approved plans as being used for mechanical equipment could be put to that use; and

WHEREAS, DOB states that, based upon its review, the architectural and mechanical plans for the Proposed Building show mechanical space sufficient to justify its exemption from floor are as follows: the second floor contains an emergency generator and switchboard, cooling towers, primary cold-water pumps, secondary condenser water-loop pumps, an expansion tank, heat exchangers and an air separator; the third floor has a cogeneration power plan, a precipitator, boilers, hot-water pumps, an air separator, an expansion tank, heat exchangers, part of the indoor-cooling towers from the second floor and other equipment; and the fourth floor includes domestic hot-water pumps, domestic-water heat-exchanger units, air-handler units, fan units and other equipment; and

WHEREAS, DOB and the Owner represent that, here, DOB has no reason to doubt that the mechanical space can be used as proposed, especially in light of composite mechanical plans for the Proposed Building illustrating the mechanical equipment proposed for the second, third and fourth stories; and

WHEREAS, the Board credits DOB's review of the proposed plans and finds that, unlike *9th & 10th St. L.L.C.*, there is no reason to suspect that floor spaces designated as being used for mechanical equipment on the approved plans will not be put to such use; and

WHEREAS, the Owner submits sworn affidavits from Fatma M. Amer, former First Deputy Commissioner for DOB with more than 25 years of experience in technical positions, stating that composite mechanical plans for the Proposed Building

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demonstrate that the second, third and fourth stories will be used solely for mechanical equipment with no other uses; and

WHEREAS, the Owner additionally cites *246 Spring Street*, BSA Cal. No. 315-08-A (Oct. 5, 2010), where the Board upheld DOB's determination that the specific floor-area deductions taken for swimming pool service process equipment spaces and electric meter rooms were proper; and

WHEREAS, the Board credits DOB's review of the specific mechanical equipment proposed and, in the absence of contradicting testimony or evidence from a licensed and appropriately experienced engineer, the Board has no basis upon which to question the evidence in the record suggesting that the floor space on the second, third and fourth stories of the Proposed Building is "clearly incidental" to the principal use of the Proposed Building, in satisfaction of subdivision (b) of the "accessory use" definition in ZR § 12-10; and

(ii) Customary Connection

WHEREAS, at hearing, Appellant stated that large spaces used for mechanical equipment are not unique to this building and can be found in dozens of buildings currently planned, under construction and recently built in the City; and

WHEREAS, Appellant further stated that, on 57th Street in Manhattan, there is another building under construction with multiple stories devoted to mechanical equipment, totaling approximately 390 feet or 27 percent of that building's height, though Appellant did not specify how much floor space was used for such mechanical equipment; and

WHEREAS, the Owner states that other buildings within the City have been constructed using similar floor-area deductions for mechanical space, including 220 Central Park South, 520 Park Avenue, 111 West 57th Street, 217 West 57th Street and 432 Park Avenue in Manhattan; and

WHEREAS, at hearing, the Board noted that, on the same street as the Proposed Building, a similar building was completed within the past year that featured four interstitial mechanical floors and also discussed the similarity of the building located at 432 Park Avenue, Manhattan, to the Proposed Building; and

WHEREAS, Friends of the Upper East Side Historic Districts states that a building under construction at 180 East 88th Street, Manhattan, contains a three-story space used for mechanical equipment that is exempt from floor area, though no mention is made of the specific amount of floor space deducted; and

WHEREAS, The Municipal Art Society of New York states that several developments—including 217 West 57th Street, Manhattan, with 350 feet of its height devoted to mechanical space and an unspecified amount of floor space thereby exempted—contain tall mechanical spaces that extend heights, improve views and increase prices; and

WHEREAS, in response to concerns from Appellant and the community regarding the applicability of this appeal to other development within the City, the Board notes that, while it has the power, among other things, "to hear and decide appeals from and to review interpretations of this Resolution" under ZR § 72-01(a), the Board does not have the power to zone, *see* Charter § 666; and

WHEREAS, accordingly, insofar as Appellant or members of the community take issue with provisions of the Zoning Resolution—or absence thereof—as enacted, that grievance falls outside the scope of the Board's authority to review this appeal; and

WHEREAS, the Board notes that whether the amount of mechanical equipment proposed for the Proposed Building is customarily found in connection with mixed-use buildings similar to the Proposed Building is "a fact-based determination," *New York Botanical Garden v. Bd. of Standards & Appeals of City of New York*, 91 N.Y.2d 413, 421 (1998); and

WHEREAS, in response to an inquiry from the Board regarding whether a standard percentage of floor space dedicated to mechanical equipment has been interpreted as reasonable for similar developments and, thus, properly exempt from floor-area calculations, DOB states that mechanical floor space deductions are evaluated on a case-by-case basis and that the deduction of floor space on the second, third and fourth stories of the Proposed Building is consistent with its evaluation of mechanical floor space in comparable mixed-use developments in the City; and

WHEREAS, based upon the foregoing, the Board finds that, in accordance with the "floor area" and "accessory use" definitions of ZR § 12-10, DOB properly classified the floor space identified for the placement of mechanical equipment in the Proposed Building as a permissible accessory use and properly deducted that floor space from the calculation of floor area; and

(2) OCCUPANCY OF THE HOTEL

WHEREAS, Appellant, DOB and the Owner dispute the Hotel's legal occupancy under the Multiple Dwelling Law as of 1951 and today, the Hotel's legal use under the Zoning Resolution and the affect that the Hotel's legal occupancy and use have on the applicability of certain bulk regulations to construction of the Proposed Building, specifically with regards to distance between buildings; and

WHEREAS, the Board considers each contention in turn, but ultimately finds none of Appellant's arguments persuasive; and

(A) Legal Occupancy in 1951

WHEREAS, Appellant states that, according to the CO, the Hotel "is used for hotel rooms"7; and

7 Appellant also argues that the CO is "largely illegible and unconvincing of the [Hotel's] status in 1951." The Board does not find the CO illegible, especially in light of the fact that Appellant, DOB and the Owner have all concluded that the CO permits occupancy for a class B hotel.

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WHEREAS, DOB and the Owner represent that the permissible occupancy of the Hotel is technically as a class B hotel,8 as defined in the Multiple Dwelling Law ("MDL"), and further emphasize that the definition of "class B" multiple dwelling in MDL § 4(9) indicates that such dwelling is occupied "as a rule transiently"; and

WHEREAS, the Board finds that, as authorized under the CO in 1951, the legal occupancy of the Hotel was as a class B hotel—a multiple dwelling designed to be occupied, as a rule transiently, as an inn having more than thirty sleeping rooms; and

(B) Current Legal Occupancy and Use

(i) Legal Occupancy under the Multiple Dwelling Law

WHEREAS, Appellant argues that the legal use of the Hotel in 1951 is irrelevant to this appeal, and that it is its current use, allegedly contrary to the CO, that dictates the applicability of certain bulk regulations to the Proposed Building; and

WHEREAS, in response, DOB directs the Board's attention to Charter § 645(e), which reads in relevant part:

> [E]very certificate of occupancy shall, unless and until set aside, vacated or modified by the board of standards and appeals or a court of competent jurisdiction, be and remain binding and conclusive upon all agencies and officers of the city . . . as to all matters therein set forth, and no order, direction or requirement affecting or at variance with any matter set forth in any certificate of occupancy shall be made or issued by any agency or officer of the city . . . unless and until the certificate is set aside, vacated or modified . . . upon the application of the agency, department, commission, officer or member thereof seeking to make or issue such order, direction or requirement; and

WHEREAS, accordingly, DOB argues that because the CO is binding as to matters set forth therein, it would be improper for DOB to look beyond the CO to determine the Hotel's legal occupancy; and

WHEREAS, the Board notes that DOB has not filed an appeal with the Board to set aside, vacate or modify the CO and that nothing in the record indicates that the CO was temporary, has otherwise expired as a matter of law or been superseded; and

WHEREAS, accordingly, the Board finds that the CO is currently in effect and that the Hotel's current legal occupancy remains class B hotel, as defined in the Multiple Dwelling Law and stated therein; and

(ii) Legal Use under the Zoning Resolution

(a) Apartment Hotel

WHEREAS, Appellant alleges that currently, the legal primary use of the Hotel is residential because the Hotel meets the definition of "apartment hotel" under ZR § 12-109; and

WHEREAS, ZR § 12-10 defines a "residence," in pertinent part, as "one or more *dwelling units* or *rooming units* . . . . A *residence* may, for example, consist of . . . multiple dwellings . . . or *apartment hotels*. However, *residences* do not include: (a) such transient accommodations as *transient hotels*"; and

WHEREAS, ZR § 12-10 defines an "apartment hotel," in pertinent part, as:

> [A] *building* or part of a *building* that is a Class A multiple dwelling as defined in the Multiple Dwelling Law, which:
> (a) has three or more *dwelling units* or *rooming units*;
> (b) has one or more common entrances serving all such units; and
> (c) provides one or more of the following services: housekeeping, telephone, desk, or bellhop service, or the furnishing or laundering of linens; and

WHEREAS, Appellant does not apply the Multiple Dwelling Law's definition of "Class A multiple dwelling"10 and instead presents records from the New York City Department of Finance ("DOF"), argues that they indicate that the Hotel contains rent-regulated residential units11 and cites *Nutter v. W&J Hotel Company*, 171 Misc. 2d 302 (N.Y.C. Civil Ct. 1997) for the proposition that rent-stabilized units in hotels are treated as permanent residences under the New York Rent Stabilization Law ("RSL"); and

---

8 MDL § 4 states in relevant part: "9. A 'class B' multiple dwelling is a multiple dwelling which is occupied, as a rule transiently, as the more or less temporary abode of individuals or families who are lodged with or without meals. This class shall include hotels, lodging houses, rooming houses, boarding houses, boarding schools, furnished room houses, lodgings, club houses, college and school dormitories and dwellings designed as private dwellings but occupied by one or two families with five or more transient boarders, roomers or lodgers in one household. . . . 12. A 'hotel' is an inn having thirty or more sleeping rooms."

9 Contradictorily, Appellant states in its submission dated August 8, 2017, "The Hotel is a transient hotel and a multiple dwelling." The Board notes that apartment hotels and transient hotels are mutually exclusive primary uses but considers Appellant's argument to be that the Hotel is primarily used as an apartment hotel.

10 Nor does Appellant apply the Zoning Resolution's definitions of "dwelling unit" or "rooming unit" under subdivision (a) of the "apartment hotel" definition set forth in ZR § 12-10. However, Appellant does state that the Hotel has a common entrance on 30th Street in response to subdivision (b) of the definition of "apartment hotel" and submitted a printout from the Hotel's website and states that the Hotel provides services listed under subdivision (c).

11 However, under the heading "Annual Property Tax Detail," the DOF property tax statement indicates that the Hotel is "Tax class 4 – Commercial Property."

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WHEREAS, in response, DOB points out that hotels subject to rent regulation include "[a]ny Class A or Class B multiple dwelling" under 9 NYCRR § 2520.6; thus, Appellant's reference to the RSL proves unpersuasive as determinative of the Hotel's proper use classification; and

WHEREAS, both DOB and the Owner submit that the presence of an incidental number of rent-regulated units within the Hotel would not convert the Hotel into a class A multiple dwelling and, thus, residential; and

WHEREAS, the Board notes that, in administering and enforcing the Zoning Resolution, neither DOB nor the Board is "required to blindly import a definition" from other statutes with varying purposes, *see Appelbaum v. Deutsch*, 66 N.Y.2d 975, 977 (1985); and

WHEREAS, the Board does not credit Appellant's suggestion that the Hotel's tax classification or the treatment of rent-stabilized units under the RSL as determinative of the Hotel's legal primary use; and

WHEREAS, rather, the Board looks to the definitions section of the Multiple Dwelling Law, which is directly referenced in the relevant text of the Zoning Resolution, and notes that MDL § 4(8)(a) states in pertinent part:

> A "class A" multiple dwelling is a multiple dwelling that is occupied for permanent residence purposes. This class shall include . . . all other multiple dwellings except class B multiple dwellings. A class A multiple dwelling shall only be used for permanent residence purposes. For the purposes of this definition, "permanent residence purposes" shall consist of occupancy of a dwelling unit by the same natural person or family for thirty consecutive days or more . . . ; and

WHEREAS, the Owner emphasizes that, under MDL § 4(8)(a), a class A multiple dwelling "shall only" be used for permanent residence purposes; and

WHEREAS, the Board notes that, because the Hotel's current legal occupancy is class B multiple dwelling while class A multiple dwellings include "all other multiple dwellings except class B multiple dwellings" under MDL § 4(8)(a), the Hotel cannot be a "Class A multiple dwelling as defined in the Multiple Dwelling Law" in accordance with the "apartment hotel" definition of ZR § 12-10; and

WHEREAS, accordingly, the Board finds that the Hotel is not an apartment hotel under ZR § 12-10; and

(b) Transient Hotel

WHEREAS, DOB and the Owner contend that the Hotel is instead a commercial12 building and classified as a transient hotel under ZR § 12-10; and

WHEREAS, ZR § 12-10 states in relevant part, "A 'transient hotel' is a *building* or part of a *building* in which: (a) living or sleeping accommodations are used primarily for transient occupancy, and may be rented on a daily basis"13; and

WHEREAS, Appellant states in its submission dated July 21, 2017, that the Hotel is primarily used "as a transient Class B multiple dwelling"14; and

WHEREAS, the Board notes that ZR § 12-01(f) states, "The phrase 'used for' includes 'arranged for', 'designed for', 'intended for', 'maintained for', 'or occupied for'"; and

WHEREAS, as stated above, the Board finds that the Hotel's current certificate of occupancy indicates that the Hotel is designed and arranged for occupancy, as a rule transiently, as an inn having more than thirty sleeping rooms; and

WHEREAS, the Board notes that nothing in the record indicates that the Hotel has been unlawfully altered from its legal occupancy as a class B hotel; and

WHEREAS, to the contrary, the Board notes that the Hotel's website indicates that the Hotel is actively being operated and advertising rooms for short-term, transient occupancy; and

WHEREAS, accordingly, the Board finds that the primary use of the Hotel is consistent with the "transient hotel" definition in ZR § 12-10 and that the Hotel is, therefore, a commercial building; and

(C) Applicability of Bulk Regulations

WHEREAS, Appellant argues that certain bulk regulations15 applicable to residential buildings apply to the Hotel and were not properly considered in DOB's evaluation of the NB Application and, thus, the Final Determination was in error; and

WHEREAS, in particular, Appellant argues that MDL § 28 precludes construction of the Proposed Building, and MDL § 28(2) reads in relevant part:

> Except as otherwise provided . . . for dwellings erected, enlarged, converted or altered pursuant to plans filed prior to December fifteenth, nineteen hundred sixty-one in accordance with the provisions of

12 ZR § 12-10 states, "A 'commercial' *use* is any *use* listed in Use Group[] 5." Transient hotels and accessory uses are listed in Use Group 5 under ZR § 32-14 and are, therefore, commercial uses.

13 None of the other elements of the "transient hotel" definition of ZR § 12-10 as they apply to the Hotel are disputed in this appeal.

14 The Board again notes that this statement contradicts Appellant's argument that the Hotel is an apartment hotel.

15 By letter from Appellant to DOB dated July 14, 2016, as referenced in the Final Determination, Appellant states, "I agree that the building space requirements of 23-71 are not applicable 'because the existing and proposed buildings are abutting on the same zoning lot and therefore considered to be one building.'" Accordingly, the Board declines to consider the applicability of ZR § 23-71 in this appeal since Appellant apparently conceded this point before DOB. Appellant has also not challenged any bulk regulations of the Zoning Resolution applied by DOB in the Final Determination, including ZR §§ 23-532 and 23-65.

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subdivision one of section twenty-six, if any building or dwelling is placed on the rear of the same lot with a multiple dwelling or a multiple dwelling is placed anywhere on the same lot with another building, there shall be left between the two buildings an open space unoccupied from the ground up and at least forty feet in depth, measured in the direction from one building to the other for the first one hundred twenty-five feet above the curb level, and eighty feet above that point; and

WHEREAS, both DOB and the Owner state that MDL § 28(2) does not apply because said provision relates to multiple buildings on a single tax lot, not zoning lot, and the Proposed Building and the Hotel are located on two separate tax lots; and

WHEREAS, additionally, the Owner notes that MDL § 4(31) states, "A 'lot' is a parcel or plot of ground which is or may be occupied wholly or in part by a dwelling, including the spaces occupied by accessory or other structures and any open or unoccupied spaces thereon, but not including any part of an abutting public street or thoroughfare"; and

WHEREAS, comparing the "lot" definition in MDL § 4(31) with the "zoning lot" definition in ZR § 12-10, the Board notes that the definitions differ in scope and purposes16; and

WHEREAS, the Board finds Appellant's conclusory conflation of the "lot" definition in MDL § 4(31) with the "zoning lot" definition in ZR § 12-10 unpersuasive; and

WHEREAS, the Board credits DOB's interpretations, especially in light of DOB's extensive experience administering complex zoning lot mergers; and

WHEREAS, based on the above, the Board finds MDL § 28(2) is inapplicable to the Proposed Building; and

CONCLUSION

WHEREAS, the Board has considered all of Appellant's arguments on appeal and finds them to be without merit; and

WHEREAS, for the foregoing reasons, the Board finds that DOB appropriately permitted floor space used for mechanical equipment within the Proposed Building to be deducted from floor area under ZR § 12-10 without limitation as to height and that DOB properly determined that the Hotel constitutes a commercial building occupied as a class B hotel, as defined in MDL § 4, and used as a transient hotel under ZR § 12-10 in applying bulk regulations to the Proposed Building.

Therefore it is Resolved, that the determination of the Department of Buildings, dated March 1, 2017, acting on a public challenge to New Building Application No. 122128679, shall be and hereby is *upheld* and that this appeal shall be and hereby is *denied*.

Adopted by the Board of Standards and Appeals, September 20, 2017.

16 For instance, MDL § 4(31) states that a lot "may be occupied wholly or in part by a dwelling," but ZR § 12-10 contains no reference to residences in the "zoning lot" definition. Likewise, ZR § 12-10 states that a "zoning lot" "may or may not coincide with a lot as shown on the official tax map of the City of New York," but MDL § 4(31) contains no such disclaimer.

A true copy of resolution adopted by the Board of Standards and Appeals, September 20, 2017.
Printed in Bulletin No. 39, Vol. 102.
Copies Sent
To Applicant
Fire Com'r.
Borough Com'r.

R. 002792

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Neutral
As of: November 27, 2019 8:58 PM Z

Matter of New York City Yacht Club v New York City Dept. of Bldgs.

Supreme Court of New York, Appellate Division, First Department

May 28, 2019, Decided; May 28, 2019, Entered

9428, 100643/17

Reporter
172 A.D.3d 606 *; 102 N.Y.S.3d 19 **; 2019 N.Y. App. Div. LEXIS 4117 ***; 2019 NY Slip Op 04097 ****; 2019 WL 2261228

[**1]** In re New York City Yacht Club, Petitioner-Respondent-Appellant, v The New York City Department of Buildings, et al., Respondents-Appellants-Respondents, Sofitel New York Hotel, et al., Intervenors.

Notice: THE LEXIS PAGINATION OF THIS DOCUMENT IS SUBJECT TO CHANGE PENDING RELEASE OF THE FINAL PUBLISHED VERSION. THIS OPINION IS UNCORRECTED AND SUBJECT TO REVISION BEFORE PUBLICATION IN THE OFFICIAL REPORTS.

Subsequent History: Leave to appeal denied by *Matter of N. Y. Yacht Club v. N. Y. City Dept. of Bldgs.*, ***2019*** *N.Y. LEXIS 2616 (N.Y., Sept. 12, **2019**)*

Core Terms

final determination, notice of violation, exercise of discretion, past and present, writ of mandamus

Counsel: **[***1]** Zachary W. Carter, Corporation Counsel, New York (Lorenzo D. Silvio of counsel), for appellants-respondents.

Goetz FitzPatrick LLP, New York (John B. Simoni, Jr. of counsel), for respondent-appellant.

Judges: Friedman, J.P., Gische, Tom, Webber, Gesmer, JJ.

Opinion

[*606] **[**20]** Judgment, Supreme Court, New York County (Charles E. Ramos, J.), entered on May 2, 2018, which granted the petition to compel respondent Department of Buildings (DOB) to issue a notice of violation to the past and present owners of intervenor Sofitel New York Hotel to the extent of directing DOB to issue a final determination as to whether to issue a notice of violation, unanimously modified, on the law, to vacate the direction to issue a final determination, and otherwise affirmed, without costs.

DOB's determination not to issue a notice of violation to the past and present owners of the Sofitel Hotel for failure to comply with *Administrative Code of City of NY § 27-860* following its own inspection involved the exercise of discretion, not the performance of a mandatory, non-discretionary act; a writ of mandamus to compel is therefore not available (*see Alliance to End Chickens as Kaporos v New York City Police Dept., 152 AD3d 113, 117, 55 N.Y.S.3d 31 [**1st** Dept 2017]*, *affd 32 N.Y.3d 1091, 90 N.Y.S.3d 617, 114 N.E.3d 1070 [2018]*; *Matter of James v City of New York, 154 AD3d 424, 425, 60 N.Y.S.3d 810 [**1st** Dept 2017]*, *lv dismissed 32 N.Y.3d 1036, 88 N.Y.S.3d 393, 113 N.E.3d 449 [2018]*; *Mater of Young v Town of Huntington, 121 AD2d 641, 642, 503 N.Y.S.2d 657 [2d Dept 1986])*. Petitioner is also not entitled to a writ of mandamus compelling DOB to issue a final determination on **[***2]** petitioner's request, which would afford petitioner further administrative review by the New York City Board of Standards and Appeals, as it identified **[*607]** no authority establishing that it has a clear legal right to the issuance of such a final determination (*see Matter of Willows Condominium Assn. v Town of Greenburgh, 153 AD3d 535, 536-537, 60 N.Y.S.3d 233 [2d Dept 2017])*.

Assuming that DOB's letter to petitioners was a final determination permitting article 78 review, the fact that the determination involved the exercise of discretion does not mean that it is unreviewable under *CPLR 7803(3)* (*Matter of Anonymous v Commissioner of Health, 21 AD3d 841, 843, 801 N.Y.S.2d 302 [**1st** Dept 2005])*. However, petitioner failed to establish that DOB's determination not to issue a violation was arbitrary and capricious or constituted an abuse of discretion (*see generally Matter of 1234 Broadway, LLC*

*v New York State Div. of Hous. & Community Renewal, 102 AD3d 628, 629, 958 N.Y.S.2d 393 [**1st** Dept 2013])*, given the lapse in time between the completion of construction and petitioner's complaint to DOB (*see New York Yacht Club v Lehodey, 171 AD3d 487, 98 N.Y.S.3d 16, **2019** NY Slip Op 02643 [**1st** Dept **2019**]*; *see also Matter of Franklin St. Realty Corp. v NYC Envtl. Control Bd., 164 AD3d 19, 24, 83 N.Y.S.3d 41 [**1st** Dept 2018])*.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: MAY 28, ***2019***

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Vincent Rivas (DCAS)

From: Stuart A. Klein <SKlein@buildinglawnyc.com>
Sent: Monday, December 2, 2019 7:44 PM
To: Lehman, Ellen; Submit (BSA); Toni Matias (BSA)
Cc: Karnovsky, David; msehgal@buildings.nyc.gov; Michael Zoltan (Buildings); Susan Amron (DCP)
Subject: Re: BSA Cal. No. 2019-94-A - Owner Submission

Never sent the exhibits.

Stu

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Stuart A. Klein, Esq.
sklein@buildinglawnyc.com
90 Broad Street • Suite 602
New York, NY 10004
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From: "Lehman, Ellen" <Ellen.Lehman@friedfrank.com>
Date: Wednesday, November 27, 2019 at 11:25 PM
To: "Submit (BSA)" <submit@bsa.nyc.gov>, "Toni Matias (BSA)" <TMATIAS@bsa.nyc.gov>
Cc: "Karnovsky, David" <David.Karnovsky@friedfrank.com>, "sklein@buildinglawnyc.com" <SKlein@buildinglawnyc.com>, Mona Sehgal <msehgal@buildings.nyc.gov>, "Michael Zoltan (Buildings)" <MZoltan@buildings.nyc.gov>, "SAmron@planning.nyc.gov" <SAmron@planning.nyc.gov>
Subject: BSA Cal. No. 2019-94-A - Owner Submission

Hello,

For BSA Cal. No. 2019-94-A, attached please find a submission notice, cover letter, supplemental statement of law and facts, a table of exhibits, and three accompanying affidavits. This statement is submitted on behalf of West 66th Sponsor LLC.

These materials as well as the accompanying exhibits are available for download at:
https://ssltransfer.friedfrank.com/

Username: West66thSt
Password: BSA1127!

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Please let me know if you have any questions about this submission. Two hard copies will be submitted to the Board office on Friday.

Best,

Ellen V. Lehman
Associate
Ellen.Lehman@friedfrank.com | Tel: **+1 212 859 8436**

Fried, Frank, Harris, Shriver & Jacobson LLP
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Annexed to Foregoing Document-
Appendix: December 16, 2019 Executive Session Transcript
(R. 002797-002817)
[pp. 3623 - 3643]

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NEW YORK CITY BOARD OF STANDARDS & APPEALS

TRANSCRIPTION

Calendar Number: 2019-94-A

36 West 66th Street, Borough of Manhattan

Public Review Session

December 16, 2019

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MR. COSTANZA: We will begin with the appeals calendar, continued hearings. Item number one, calendar number 2019-94-A. 36 West 66th Street, Manhattan.

COMMISSIONER OTTLEY-BROWN: Madame Chair, I must recuse myself.

CHAIR PERLMUTTER: Okay. Before, before we start, I just want to remind everybody if you speak, you must speak into the mic loudly. It's been hard to understand people in the videos, okay. That goes for everyone. Okay. So, I just want to go through the submissions because I, I know that appellant had some concerns about the order of things and I just want the commissioners to be aware of the order of things. So,DOB submitted on October 17th, uh, certain drawings, mechanical drawings and others, which, and accompanied by a letter saying there was enough mechanical equipment to justify the floor area deduction.

The owner then submitted on October 21st, adding drawings to DOB submission, which includes mechanical overlays and the schedule of mechanical equipment, um, for all the floors. So, it completed the review, which I thought was very helpful, because when I was looking at DOB's drawings, I didn't understand how anyone could tell enough about the mechanical. So obviously there was more to it than that.

The DOB submission, uh, submitted then on, which according to schedule, on November 4th, even though when we look at our materials in the folder, it's marked as submitted December 2nd, but the, the actual date on the materials is November 4th and that's actually when it was submitted. And it, the DOB submission acknowledges the additional drawings that were submitted by the owner and agrees that they're the same

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drawings as were approved by DOB.

Then the appellant, according to schedule, submitted on November 7th, providing a color diagram of mechanical plans showing equipment, a certain area around equipment that should be included for mechanical deduction, but showing especially on the15th floor that most of the space is not mechanical. That was the point of their diagrams. They provide also an unreleased technical policy and procedure notice or bulletin from 2013, that's actually as a stamp that says approved from -- but the, it's the standard stamp you get when you're getting an interpretation from a commissioner. So, I was confused while I was seeing that, and that was later explained by the owner.

It's a, it's the technical notice conce- is concerned with how to calculate mechanical deductions and in that notice requires 90 percent of mechanical space in, on the floor in order to allow full floor deduction.

The owner then submitted on December 2nd and argued first that the Board has no authority to consider this aspect of the appeal, which I want to go through. Its, among its arguments, the owner's arguments, are that the Board decided to consider the mechanical equipment issue because the DOB stated in hearing that it would not issue a determination on that question if asked to do so by appellant in a separate action. So originally, we thought we would close and vote the questions of the mechanical void of the height, um, and the lot coverage. And, um, and then, if appellant wanted to pursue the mechanical space, that they would go to DOB and get a new objection. And DOB told us they will not decide on that objection. So, we realized we had to take it on in this kind of separate hearing.

The owner states the DOB has the right to refuse to issue a determination and

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cites to *Matter of New York City Yacht Club* for the proposition that the petitioner could not demonstrate a clear legal right to the determination. However, the facts in that case are, case are inap- inapposite. Um, there petitioner demanded that DOB is- issue a violation and DOB refused after determining upon inspection that none was warranted. It was really a different discretionary action.

In the case of *Willows Condominium v.Town of Greenburgh*, it explains that a mandamus order, and that's a case referred to in *Yacht Club*, it explains that a mandamus order applies not to discretionary acts but to ministerial ones, such as the Buildings Department issuing a permit, right, which are described as "envisioning direct adherence to a governing rule or standard, with a compulsory result". So, the idea of DOB reviewing the mechanicals according to some kind of standard would be a ministerial action.

And so, and there's a, this concept of clear legal right standard, which was established by the Court of Appeals in 1981. It applies to mandamus relief by the court and not to whether appellant has a right to obtain a determination from DOB, which questions and, questions in that, uh, *Matter of Legal Aid v. Sheinman*, it questions whether there is adequate -- oh, I'm sorry. So that was that case that was referred to, uh, about the mandamus relief by the Court.

But here we're asking for the appellant to simply question whether there is adequate mechanical equipment on the floor sufficient to justify the deduction of the entire floor with its more than ample floor-to-ceiling heights from floor area calculations which was relevant in *Sky House*, and I think is relevant in this case.

Then, so having gotten that basic objection out of the way, we may have more to

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say about the, the letter that objects to the Board's authority to review this. I reviewed the drawings that were provided by DOB and the owner and went through the equipment schedule. While I'm not a mechanical engineer, I actually can understand the location of equipment, and where horizontal ductwork and piping travels from the equipment.

To understand better what type of equipment actually would be located on each concrete housekeeping pad, where model numbers matched with online available manufacturers cut sheets for the 18th floor, I, I actually downloaded that information so I have visuals on what those things are that sit on those pads. The appellant's diagram shows that floor, the 18th floor, to be the one with the most qualifying equipment and less so-called white space. So that's one reason I picked the 18th floor because it seemed to be the most crowded.

Given the generous ceiling heights on these floors, I'm assuming, but I don't know, there's ample head clearance under most, if not all of the ductwork, and, and piping, so that -- perhaps that wouldn't count towards a deduction under the draft bulletin that's provided by appellant because arguably the ductwork would be high. Uh, so I actually I would like to hear from a mechanical engineer about where the ductwork is in terms of that height.

Uh, but we also received a report on the history on that bulletin, uh, from owner, and it's -- and the bulletin's progeny and why these bulletins remain unpublished drafts, uh, because it is, in fact, too difficult to articulate exactly how equipment must be laid out on a mechanical floor because every building has different mechanical needs.

So, but nonetheless, I'm curious about, as I just mentioned, whether horizontal ductwork and piping in a space either below or above the plenum is viewed by DOB as

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mechanical equipment occupying a mechanical room. So, for example, we saw, uh, in a prior, a recent hearing, an incredible section taken through a building that is entirely a mechanical building, and it shows all the ductwork and piping going through the building and you can barely stand there. So that's a situation where I wouldn't doubt that none of the building counts as floor area, because there's, you know, the workers are crawling around on ladders and catwalks in order to make their way through the space. And interestingly, that particular building is something like 40 feet high on the interior. So, you've got a 40-foot high gigantic mechanical structure, right.

So, so, it sort of makes sense to me that all that horizontal stuff would count because you can't use the space for anything else. Uh, but I would like to hear from DOB about whether they enforce anything similar to the standard that's stated in the unpublished bulletin or any of the later bulletins. I know the position of the appellant -- of the owner's experts is that it isn't applied, or it use- they use a little bit of it as guidance, but it isn't applied strictly.

And having said that, I'm not surprised to hear the statement of owner's architect and as demonstrated by the owner's engineer, that the drawings as filed will not ultimately represent the actual equipment layout, as it has been my own experience that so much of a project changes between Department of Buildings review, completed construction documents, shop drawings and actual construction.

I'm also not surprised to hear that DOB's examiners look only generally at the occupancy of a mechanical room by equipment. Still, however, you would think they would want to have some standards in place to prevent abuse. There was an example of, you know, putting a mechanical equipment in a bedroom or something like that.

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Obviously, that's an extreme version of the abuse.

I found the study on the range of mechanical space in various building types and sizes very interesting and helpful and with respect to 432 Park, I didn't realize there was actually12 floors of mechanical space in that building because when you're looking at it from a distance, you onl- you see four prominent floors that look like they are the interstitial mechanical floors. And then of course, there's floors on the top, which I wasn't counting, but I had it was so idea it was so many. It's a very small floor plate, that's part of the reason.

The appellant's engineering expert states that the equipment on the 17th floor, for example, is spread out inefficiently on that floor and provides a diagram that shows the area devoted to equipment could be condensed, so assuming that's a correct statement, I would ask the appellant's engineer could the equipment located on the 18th floor fit on the 17th floor also? In other words, combine the two into one, therefore obviating the 18th floor mechanical room.

And then they need to respond to the owner's, what I thought was credible, technical reasons for why the mechanical services need to be split on different floors because it does make sense, as we learned from that other case, that it's great to have adjacency to the floor that you're serving, and more efficient.

And so if we were to accept the appellant's engineer's analysis, because the goal here really in this whole case, is to lower the height of the building, I believe actually it wouldn't affect the ultimate height of the building by much, since there is nowhere in the Zoning Resolution applicable to this site, limiting the floor-to-ceiling heights in any space. So, if you were to count the purported excess floor space on the so named

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mechanical floors as floor area, the amount of usable floor area in the building might be reduced but the height might not, right. If the goal is to get those apartments way up there, I doubt it's going to have an effect on the height, but the floor area might change.

So, my -- to summarize, I think we've dug extremely deeply and perhaps even beyond the usual in receiving and reviewing both the detailed mechanical drawings and schedules and multiple expert reports, along with DOB's own conclusions, and I believe that owner presents a credible argument to justify the presence of the number and distribution of mechanical floors shown.

COMMISSIONER CHANDA: I agree that, uh, the owner has provided all the necessary information, uh, that would enable DOB to do, to conduct its review and I'm going to rely on DOB and its expertise and its consistency in its review of those documents based on their standards. And I agree with you, that even if there was going to be a greater consoli- consolidation of some of the mechanical space, and as we know, that right now, it's in its construction phase, and some of the regulations, some of the technological changes that may result in different layouts, uh, uh, one may be able to shave a few floor- square footage from mechanical, but I agree, it will not result in reduction in the building height. And so, I'm satisfied with all the information that has been provided by all parties.

COMMISSIONER SHETA: Okay. First of all, I am, I want to thank you Chair, for the research that you've, you've done, and, uh, I, I will start with the owner's argument that the Board doesn't have the authority to look at the mechanical floor area deductions.

Actually, I, I believe it's my opinion that the owner contradicts himself in his own

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submission, when he says, uh, that a timely third issue has not been presented by the appellant regarding whether the amount of floor space used for the mechanical equipment in the new building is excessive or regular. And then he continues and, and this is quote, appellant's discussion of mechanical space in the new building in their initial filings, again, in their initial findings, and instead center on the volume of the floor-to-floor ceiling height of the mechanical space. So, if the appellant raised the issue of the volume of the mechanical void at the very beginning of his submission --

CHAIR PERLMUTTER: Oh, I think that's a reference to the **Sky House** case, not to this case. I'm not sure. We should check that.

COMMISSIONER SHETA: This is, this is in the new submission, like --

CHAIR PERLMUTTER: Yeah, in the new submission, I think, but we could check, that what the owner was saying is that in the *Sky House* case, the *Sky House* case raised the subject very clearly in their initial papers. And I think they're quoting from the *Sky House* case, whereas they're saying in this case they didn't raise it in their papers, which appellant in this case argues they think they did raise it.

COMMISSIONER SHETA: In, in the current, the subject case, I believe the appellant did raise the issue --

CHAIR PERLMUTTER: Okay.

COMMISSIONER SHETA: -- of that mechanical floor deductions. The reason for thinking that way is that the appellant, they talk about the, the size of the mechanical void. And the size of the mechanical void -- if you look at the mechanical void, first a void means it's something that's volumetric. It,- ithas in-plane

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dimension, and it has heights. I understand that the height issue was decided upon like in the closed case, so I'm not talking about the height anymore. But the other component of the volume is the area. And, and if somebody is arguing about the volume, he's either arguing about either the height or the area or both.

CHAIR PERLMUTTER: Mm-hmm.

COMMISSIONER SHETA: And we decided the height case. Now we're looking at the area case, which is whether the mechanical floor area was calculated correctly or not, and I believe the Board does have the authority to do so, because it was raised, this issue was raised at the very beginning.

CHAIR PERLMUTTER: Okay.

COMMISSIONER SHETA: So, I just, just wanted to make this clear.

CHAIR PERLMUTTER: That's a very good point, yes.

COMMISSIONER SHETA: The other thing is the DOB submission. I, I did look at the DOB submission, and actually I'm, I'm a bit surprised. I, I believe this submission is, for me, it, it seems to be like much weaker than many other submissions on many other cases from DOB, that DOB again, in their submission, they, they indicate that the Board did ask them to look at the mechanical floor deductions. And what they are coming back with, they are saying that we looked at this, we didn't do any study because studies typically are not done for such situation. They, what they are saying is we don't typically do that, that kind of study. And, I, I'm wondering this is, this is not a typical project, this is not a typical situation. Not every building you look at comes through the BSA, so I believe they should have done some, some research, and I

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appreciate that the owner actually has done a good job looking at this, but I, if, if we got this kind of information from the DOB, I would like give him some, some more credibility because they are coming from a government agency.

They also stated that the mechanical floors will be devoted to be used and me- as mechanical spaces. They are not going to be used for something else. We didn't, nobody actually has raised this question from the Board side at least. We didn't ask the DOB to, like, clarify whether the mechanical space would be used for some -- we know that this is illegal. So, in, in my opinion, they have responded to a question that wasn't raised and on the other hand, they didn't respond to a question that the Board has raised.

I, I agree with the Chair on the issue that when looking at the mechanical space, we can do it either way. We can look at the equipment plus the ductwork. I would do so, I would consider the duc- the ductwork as an element that's occupying floor area, or not floor area, floor space, and, and should be added to the mechanical floor space if the floor, the floor height is kind of -- look, if we're talking about 15 feet, 20 feet and, and, and that existence, the presence of the ductwork would limit the use of that, like the overhead under, under the duct po- the ductwork would, would be very limited. I would include the area occupied by this ductwork in this equation.

CHAIR PERLMUTTER: Mm-hmm.

COMMISSIONER SHETA: But if, if we're talking about a floor height 40 feet, or, or something that order, I don't think the ductwork should be counted against the mechanical floor space that need to be deducted from the floor area. I would like to get clarifications on the 2013 bulletin from, from the DOB. Is this a final, is it still draft, was it ever used in any other project? If, if it was, why wouldn't we apply to

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the subject project.

CHAIR PERLMUTTER: Can I just ask -- I have two questions with respect to wit. The first, to add, for the last one, there were subsequent bulletins since 2013, right?

COMMISSIONER SHETA: Correct.

CHAIR PERLMUTTER: So, that part --

COMMISSIONER SHETA: It was 2015 as well, yeah, yeah.

CHAIR PERLMUTTER: Yeah. And then my other question, in terms of the ductwork. So, ductwork or piping. So let's just say you do have really, really high ceilings and you could arguably have the equipment on the ground, on the ground, and then you, but then you have to have the ductwork travel 40 feet up and travel along the ceiling of the 40-foot high space, right.

COMMISSIONER SHETA: Yes.

CHAIR PERLMUTTER: I know from having worked with engineers, where if I make the ductwork too long or the piping too long or too many bends, they yell at me, and they say it's going to whistle, the pipes won't clear properly, whatever, whatever. So, there must be also some critical distances from the equipment before it goes to the risers that, that should not be exceeded. I think that's part, that's kind of my question.

COMMISSIONER SHETA: To, to, this is to make the system I believe, to make the system from the hydraulics point of view, to make it more efficient. If you lengthen the pipe more than it should, you start, if we're talking about a

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gas pipe, for example, if you lengthen the pipe, you start to implement like head losses, the pressure start to be lost and, and the system becomes inefficient. Same thing if you start, like, implementing many bends, many fittings, it starts to be inefficient when it comes to the, like the pressure and this kind of variables.

CHAIR PERLMUTTER: Right. Mm-hmm. Okay.

COMMISSIONER SHETA: Yeah.

CHAIR PERLMUTTER: Other stuff?

COMMISSIONER SHETA: Yeah, yeah.

CHAIR PERLMUTTER: Okay.

COMMISSIONER SCIBETTA: Okay. I, I don't want to be repetitive, but I do believe that we can hear this matter. I do believe the Board has the authority to revoke the permit if it, if it deems it fit. So, to those arguments, that's something I'd like to state. But also, uh --

CHAIR PERLMUTTER: The Board has the authority or the DOB?

COMMISSIONER SCIBETTA: DOB has the authority. Uh, I do, I did not find the mechanical plans for the original building that I requested on the last hearing, and I'm asking that they be, I think that they'd be helpful to see what, where things were before and compare them to where things are now.

COMMISSIONER SHETA: Can you clarify what you mean by the original building?

COMMISSIONER SCIBETTA: So, they had, they originally had mechanical plans that were originally submitted to the DOB and then they

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changed those mechanical plans to create four floors instead of the three floors that were original.

CHAIR PERLMUTTER: No, no, no. DOB corrected that.

COMMISSIONER SCIBETTA: They did, but --

CHAIR PERLMUTTER: They did, you just want to -- apparently, they didn't create more floors. It's the same number of mechanical floors. That was something that between the --

COMMISSIONER SCIBETTA: What was on the final --

CHAIR PERLMUTTER: -- prior version and this version.

COMMISSIONER SCIBETTA: Right.

CHAIR PERLMUTTER: Right?

COMMISSIONER SCIBETTA: I just want to see where the mechanical, uh, where --

CHAIR PERLMUTTER: Was -- what it was before.

COMMISSIONER CHANDA: And may I ask, I'm still trying to understand what, how would that have, in our ability to---

Chair Perlmutter: You have to speak up.

Commissioner Chanda: I'm trying to understand how that would help us in our ability to make any determination. Is it for the completeness of the record, or is it more to --

COMMISSIONER SCIBETTA: The appellant's argument is, is that this is some sort of charade that these, these mechanical -- these, this mechanical equipment isn't, is not -- these mechanical rooms aren't actually being used

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as mechanical rooms, they're being used as a way to create a higher building. So, if we could then see where the mechanical, where all the mechanical equipment was originally, I think it would at least lend us some, some understanding of whether or not this is some sort of charade, as the appellant says it is.

But, and, and with, with all due respect, we then have another question that what, at the end of the day, if DOB did approve this permit, is it -- they relied on it in good faith in their building. Is it something that we could then say, we could then revoke later on? Because the next application will be is that they've relied on the permit in good faith and they, they started building and like outside of them having -- if there's a -- outside of them not having some bad faith in, in, in, in moving forward, I think the permit does stand.

CHAIR PERLMUTTER: Mm-hmm. Based on the good faith -- the good faith concept of, which is something that the owner referred to in the review versus, uh, what was the other, appeal, right --

COMMISSIONER SCIBETTA: Right.

CHAIR PERLMUTTER: -- in the language of, of relative to the review, right. I mean I understand, I think we, we've been collectively misunderstanding some of the details --

COMMISSIONER SHETA: Right.

CHAIR PERLMUTTER: -- because we don't have the details. We were told at the beginning that there were whatever it is, three mechanical floors and, and now we're kind of understanding that there are four, but apparent- --

COMMISSIONER SCIBETTA: They were at different

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places.

CHAIR PERLMUTTER: Yeah. But apparently, according to DOB, there were always four, but they did something with the floor-to-floor heights to satisfy fire department, and since we never really saw the drawings, we're still a little confused about that. DOB actually got up and said, no, there aren't that many, it was just they retained the same count, they just modified something else for fire department and so it's true that I'm confused about that. Uh, yeah?

COMMISSIONER SHETA: Yeah, I'm not sure if it was any section submitted from, by the owner to the DOB showing the, like the kind of mechanical equipment on specific floor and then what is the clearance from the equipment from the bottom of the ductwork or what is that distance, the clearance from the duct to the floor.

CHAIR PERLMUTTER: No, they don't submit those kind of drawings to DOB. It's always floor plans, not sections through mechanical equipment.

COMMISSIONER SHETA: Mm-hmm.

CHAIR PERLMUTTER: It's just when you're filing, you don't need to do that, you, you know, right, the same. You don't even, you don't even file electrical drawings with DOB, if I remember correctly. So, there's a lot that they don't know the details, but then DOB is not reviewing the mechanicals for the mechanical design, right. I don't actually know what the parameters are when DOB reviews the mechanicals, you know, like --

COMMISSIONER SCIBETTA: I think that's a good question. To that extent, I, I don't believe that -- I wasn't convinced by the owner's

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argument that the walls surrounding mechanical rooms should be counted as floor area or that, uh, the, the circulation, the FDNY circulation should be counted as floor area.

CHAIR PERLMUTTER: The owner or the appellant's argument?

COMMISSIONER SCIBETTA: The appellant's, sorry. I was convinced by the owner's, --

CHAIR PERLMUTTER: Yeah. Okay.

COMMISSIONER SHETA: Yeah, and on that, that memo, the 2013 bulletin and, and the updated one, the 2015. I believe if these two memos are in effect, if they exist, and they are being used, I believe DOB would have something in hand to justify whether or a certain building, the mechanical floor deductions are legit or not. But if they do not, I believe that DOB would have something in hand to replace these two memos, or this -- it should be a procedure in place, should be a protocol in place that tells for this building, the mechanical floor deductions seem to be legit, okay, pass, and for that building, no, we believe they are excessive.

CHAIR PERLMUTTER: Mm-hmm.

COMMISSIONER SHETA: It cannot like that.

CHAIR PERLMUTTER: You mean like check, check, check.

COMMISSIONER SHETA: Yes. If, if this protocol doesn't exist actually, for me, this is like the DOB getting structural drawing from engineer John Smithand he's just rubber stam- stamping them and filing them. Nobody looks at them, and that, for me, this is, this is a scary scenario of if it's done like that.

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CHAIR PERLMUTTER: Well, but I --

COMMISSIONER SCIBETTA: I would agree.

CHAIR PERLMUTTER: -- I don't know what DOB reviews when you submit mechanicals. They're not normally looking at the floor area question, other than when it's pretty obvious that the bedroom shouldn't have a chiller in it or something like that, right. But the, I, I think they're reviewing it for completely other technical purposes, and I just don't know what they are, and that would be helpful if DOB could explain to us when you submit mechanical drawings, HVAC drawings, why are you submitting them, what are they being reviewed for. They go to a different department, you know, it's all of that. I don't, I don't actually know what they're looking at them for. The sprinkler drawings, I know what they're looking at. They want to see adequate number of heads according to code, uh, is it coming off of the main, or off of a standpipe, etc., is it meeting the specifics of what's quite simple, which is the sprinkler code, right. And plumbing drawings, probably is it waste, it is properly vented or something. But I actually don't know what they look at when they, when they look at mechanicals.

COMMISSIONER SHETA: I would be surprised if they're not looking at it from the perspective of the floor area --

CHAIR PERLMUTTER: No, I don't think they, they do very much.

COMMISSIONER SHETA: -- the mechanical performance --

CHAIR PERLMUTTER: Though, though --

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COMMISSIONER SHETA: -- that would be surprising.

COMMISSIONER SCIBETTA: So, what do we do from there?

CHAIR PERLMUTTER: -- I do know -- I do know from my own experience that I've had clients, uh, questioned about the amount of mechanical equipment in a space, and therefore not being allowed to take a deduction on a room. But, but that was like a very small project, you know, the mechanical was sort of laid out kind of all over the place.

COMMISSIONER SHETA: Mm-hmm.

CHAIR PERLMUTTER: Um, and yeah, and so with small projects, it's always easier to figure stuff out on the small projects, right. You see one room, and in it you put one something like and then you call it a mechanical room, that's very easy to point out, but on a building that's so complicated that has all of this storm water retention tanks and like all of this stuff, coje- I don't know if this has a Cogent. But the, but there's so many things that are in this building, I don't know what they look at.

COMMISSIONER CHANDA: Right. And, also the original plan was, did not have, uh, the original plan, the zoning lot was lot smaller than --

CHAIR PERLMUTTER: Oh, no, he's not talking about that one. He's talking about the one that's just before this one.

COMMISSIONER CHANDA: Oh.

COMMISSIONER SCIBETTA: Right before FDNY made the --

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CHAIR PERLMUTTER: Yeah, it's fire department --

COMMISSIONER CHANDA: Okay, okay.

CHAIR PERLMUTTER: -- had concerns about access and so they had to --

COMMISSIONER CHANDA: Let's move one.

CHAIR PERLMUTTER: -- put like catwalks in or something, right. Okay. Done, everybody? Okay. Can somebody get Dara please?

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CERTIFICATE OF ACCURACY

I, Ryan Manaloto, certify that the foregoing transcript of the Public Review Session of New York City Board of Standards & Appeals on December 16, 2019 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By

_____

Date: January 13, 2021

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Annexed to Foregoing Document-
Appendix: December 17, 2019 Public Hearing Transcript (R. 002818-002973)
[pp. 3644 - 3799]

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NEW YORK CITY BOARD OF STANDARDS & APPEALS

TRANSCRIPTION

Calendar Number: 2019-94-A

36 West 66th Street, Borough of Manhattan

Public Hearing

December 17, 2019

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MR. COSTANZA: Good morning. This is a public hearing for the New York City Board of Standards and Appeals, December 17, 2019. We'll begin with the Appeals Calendar, Continued Hearing, item number one, calendar number 2019-94-A, 36 West 66th Street, 50 West 66th Street, Manhattan. Start?

CHAIR PERLMUTTER: Mm-hmm.

COMMISSIONER OTTLEY-BROWN: Madam Chair, I must recuse.

CHAIR PERLMUTTER: Thank you.

MR. KLEIN: Taking the oath?

MR. COSTANZA: No.

CHAIR PERLMUTTER: No, no. For now, appeals, we don't take oaths. Give us a minute.

MR. KLEIN: We're working on the honor system. Good morning. Stuart Klein, Klein Slowik, on behalf of the appellant. Madam Chair and commissioners, my original intent in preparing today was to go over each and every document presented by both DOB and the developer and highlight each, the various and sundry areas that were found in each of their arguments. But my review of the executive session yesterday proved to me that that wasn't important. Uh, rather I would like to reduce my, uh presentation, under the general rule that less of me is actually more than me, more of me, uh, and just discuss one or two of my concerns that were raised at the executive meeting.

First of all, I would like to agree with the developer and with DOB, uh, that when analyzing the floor area of a building and what can and cannot be deducted, uh, you have

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to look at each building and each building must stand on its own merits. As DOB said in the *Sky House* case, in its July 11, 2011 submission, "there is no rule of thumb to determine the maximum mechanical space allowed for a building based upon the percentage of the building, the building's zoning area". It went on further saying "each building is analyzed individually".

In its July 23th submission in this particular case, it said "these cases must be judged on a case by case basis". Now, today, we're going to depart from the, the history or the form of the *Sky House* case in that we have presented to you and will present to you today expert witnesses on this particular matter. One of the major points revealed in the *Sky House* case, which was BSA 2016-4327-A was that there was no information given by the appellant, uh, that would allow the Board to make a determination as to the proper deductions in that particular building.

In fact, it's our belief that the mechanical space in this particular building were highly and grossly over, over estimated and in fact, Mr. Ambrosino, a mechanical engineer, performed a detailed analysis, which you have and which I'll expand on today, showing that probably close to 25 to 30,000 feet were deducted, uh, and there's no justification for that. His analysis was based on both his experience, the items given to the Building Department and sound engineering principles.

In addition, our zoning expert, Mr. James, will tell you that his analysis shows that both the gross floor area and the zoning floor area somehow inexplicably changed between the first and second plan iterations but the building shape and massing somehow remain the same, uh, something of a physical impossibility, but I'll let him go into that in more detail.

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Now, something was raised yesterday at the Board which I, I found a little disturbing and that was the question was posed, well if, even if we reduce some of the, the footage, the square footage, the height of the building is not going to be appreciably changed. That's really not the issue before the Board. I'm not discussing the height of the building. The only issue before this board is if these mechanical reductions were appropriate.

If in fact you determine that they were not appropriate, then the building will self adjust to some extent. I'm not concerned about the massing of the building or the shape of the building in this, in the context of this particular application. I'm only interested in the floor deductions.

Now, my problem here, and I think the Board's problem here is that before the DOB can properly review the proffered plans, it must establish some guiding principles to apply to its review. Now, if you take a look at the building code, more particularly, Section 28-104.7.1, it says under scope, "construction documents shall be complete and of sufficient clarity to indicate the location and entire", let me emphasize, "an entire nature and extent of the work proposed, and shall show in detail that they conform to the provisions of this code and other applicable laws".

Sadly, this was not done. The plans that were given to the Buildings Department were grossly inadequate and despite your importuning and your entreaties to the developer, they still remain incomplete.

In yesterday's review, the Chair said, asked a very poignant question and said I don't know what -- or made a statement -- I don't know what the DOB uses to review these plans. Another member added that we were never given, although it was repeatedly

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requested, the original plans for the mechanical equipment from the 160 foot Ford version of the plans. Also mentioned at the 21, 27 minute mark was that no parameters were ever submitted by DOB to justify its review.

CHAIR PERLMUTTER: I just want to make a correction.

MR. KLEIN: Sure.

CHAIR PERLMUTTER: It wasn't no plans for the mechanical equipment. We didn't see the plans for the prior approved building.

MR. KLEIN: That's what I just said.

CHAIR PERLMUTTER: No, you said, mechanical equipment. It's not, that's not what we were looking at. We were just interested in the number of floors that were mechanical floors in the prior version.

MR. KLEIN: Okay. Well, I'll go over it again, but that was my recollection. If I, if I'm wrong, I apologize. Uh, uh, furthermore, with regard to the missing components and plans, the board asked about the ductwork, its height, its impact on calculating the FAR deductions, no information on that particular matter is in the plans. As a matter of fact, the plans that were submitted, uh, looked, don't look like that as much as they oftentimes like a Rorschach test. It looks like somebody accidently spilt, you know, ink on a page, because they're completely --

CHAIR PERLMUTTER: But that's what -- that's what a mechanical drawing looks like actually.

MR. KLEIN: Well, no, and that, that's why it --

CHAIR PERLMUTTER: That's the beauty of a mechanical drawing.

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MR. KLEIN: -- became -- that's why I became a lawyer I suspect. Uh, um, and, and, so I think it's incumbent upon the Buildings Department before we can go any further to basically describe what they do in analyzing these plans and I think probably the best expert to do that, or the only person that can do that, is the person who in fact reviewed these plans for the Buildings Department. According to the BIS system, that is an architect. Uh, and, uh, this Board has the power, I don't, under the, the rules of the Board, it's in your charter, uh, to bring that person in. Obviously you do, and you could bring it either by request or bring it in by -- bring him or her in by, uh, by subpoena. But, but I think that person should be called to the Board and explain how he or she conducted this review and how is he, he or , how, you know, uh, calculated these particular deductions.

Uh, and, and one final matter I'd like to address, and that was, it was raised at yesterday's hearing, and that was the issue of good faith reliance. In order for good faith reliance to, uh, be pled, uh, there has to be good faith on the part of the developers in the first instance. I don't think that happened here.

And, and furthermore with regard to good faith reliance, which is otherwise known as, uh, equitable estoppel, under the *Park View* case, as you know, equitable estoppel cannot be pled by a, by a building owner or a developer. If it relied in good faith on a Buildings Department error, which is rather obvious here, then they can seek other channels of redress, but certainly it should not be a foundational element of, of any relief given. The only relief that can be given is through the court system. And with that, I'll turn it over to our experts --

COMMISSIONER SCIBETTA: No, I --

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CHAIR PERLMUTTER: Yeah.

MR. KLEIN: -- unless you have any questions.

COMMISSIONER SCIBETTA: Yeah. Do you want to go first?

CHAIR PERLMUTTER: Go ahead. Go ahead.

COMMISSIONER SCIBETTA: My, my question is back to the good faith reliance.

MR. KLEIN: Mm-hmm.

COMMISSIONER SCIBETTA: If the developer relied on something that is, the DOB has been doing for a number of years, as it suggested that it has been relying on submitted plans, just like the ones they've submitted and receiving this approval just like they did here, even though, even though they may have had intentions of, you know, uh, us- using as much space as possible or taken advantage as much space as possible, or getting as much floor area as possible, even if that was their intention, they would still be in a good faith reliance on that because that's what the DOB's been approving.

MR. KLEIN: No.

COMMISSIONER SCIBETTA: And it's not necessarily an error on the part of DOB, it's just that's their practice.

MR. KLEIN: No, actually, let me -- that's a very good question. I'll answer it this way. In 2007, the Board had a case that was brought to the Board by an appellant, uh, let me see if I can get the number. 67-07-A, uh, what was otherwise referred to, looking back is the Penthouse Case. In that situation, the Buildings

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Department did not include the penthouse floor --

COMMISSIONER SCIBETTA: Right.

MR. KLEIN: -- in calculating the height of a building under the sliver rule. Uh, they, the Board decided that, uh, despite the fact that, uh, penthouse was used, I believe it was 73 times in the course of the Zoning Resolution, it did not have a definition. But what happened with that case ultimately was Buildings Department was told A, to look at the -- to, to add the height of the building to the particular building in question and to go over the more than 100 buildings that had previously approved without the penthouse being included. So there is precedent to say --

COMMISSIONER SCIBETTA: That's --

MR. KLEIN: -- you can then reach back in time and you could, you could adjust --

CHAIR PERLMUTTER: No, but isn't that distinguishable -- that was a clear case where the Department of Buildings doing something that wasn't permitted by the zoning? In this situation, you've got mechanical space, which is just described in the Zoning Resolution as mechanical space, right --

MR. KLEIN: Well, yeah.

CHAIR PERLMUTTER: -- and it doesn't tell you what's, what's in it, or how to calculate so then DOB develops its own methodologies. And so the idea that an owner would rely on DOB methodologies that may shift over time, why, would that be detrimental reliance] --

MR. KLEIN: Well, I don't think --

CHAIR PERLMUTTER: -- for an owner?

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MR. KLEIN: I'm sorry, I, I don't think there's as much of a difference. In fact, the penthouse case side in, in pertinent part, the Board further agrees that merely because height is not defined in the ZR does not mean that the word is ambiguous, but rather the height has a commonly accepted meaning and does not require identif- the definition of ZR.

COMMISSIONER SCIBETTA: So your argument is --

MR. KLEIN: In, in like manner, there's no definition for mechanical equipment, or mechanical space, but you have to apply a common sense definition. And the fact that the Buildings Department had never set a standard for this doesn't basically, for lack of a more judicious term, doesn't let them off the hook. We, we have this case in front of us, the building is being built, there is time to repair the situation. And for the Buildings Department to simply say sorry, we have never done this in the past, so we're going to blindly going to go ahead is not appropriate and I don't think conforms to law.

CHAIR PERLMUTTER: I think you need to support that more.

MR. Klein: Well, you have the pent -- well, you have the pent -- I, I'll --

COMMISSIONER SCIBETTA: I think his argument -- I think the argument he's making is basically this is analogous to that because this is such, in common sense, this is how one would define mechanical room, as room space that is used for mechanical purposes.

CHAIR PERLMUTTER: Right.

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MR. KLEIN: Well, well, also, and I would --

CHAIR PERLMUTTER: Right.

MR. KLEIN: -- I would add to that, the Buildings Department on repeated occasions, and the developer in this instance, have all said in, in lockstep that each building has to based on its own merits. Well, there has to be some parameters as to what that it is.

COMMISSIONER SCIBETTA: As a basis--

MR. KLEIN: And to date, despite you, the fact that you've asked them numerous times, they have not supported it. I will refer back two years ago, to a case involving accessory use of antennas on shortwave installations where the Buildings Department consistently refused to give the Board information on what it considers accessory, accessory use for, for shortwave radio operators. And we have the same situation here, you know, stubbornly resisting telling you how it is they look at these plans. They, they came in, they said listen, we reviewed this numerous times and we think deductions are appropriate. And the only question I'm asking is what parameters did they use? If in fact that's your statement, tell us.

CHAIR PERLMUTTER: Mm-hmm. Okay. That, I mean I think that part's fair, but we've also seen the, I thought quite interesting comparison of all of these large buildings and how many of these interstitial floors they have, and so there is obviously quite a lot of precedent for Buildings Department accepting many, many mechanical floors in a building, even where ostensibly the purpose of the mechanical rooms was not to make the building taller but to just supply the floors above and below.

MR. KLEIN: Well let me, let me address that in two ways.

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A, all that means is the Buildings Department has repeated their sta- mistake numerous times and second, the comparative --

CHAIR PERLMUTTER: Why does it, why does that all that mean? Why does it mean that exactly?

MR. KLEIN: Well, it mean -- well, first of all, if you're, if you're arguing, as the Buildings Department, that, that each building is, is judged on its own merits, there are no comparators. I mean if, if you're taking a look at a building and you're saying okay, this building, because of the way it's structured, and the amenities it's giving over to the, the ultimate users is -- requires X amount of space for mechanicals, there are no comparators, because every single building is different. So the, the, to say that well other buildings of this height have similar deductions doesn't mean anything --

CHAIR PERLMUTTER: No --

MR. KLEIN: -- because every building survives on its own merits. And so therefore, the Buildings Department -- the, the two thoughts cannot exist at the same time. You can't say individual merit and comparators. They, they, it just doesn't make sense. It defies logic.

CHAIR PERLMUTTER: Well, it doesn't defy logic because you see all of these buildings built and you see that they require different amounts of mechanical space according to the building and you see that range of three to 12 in one case, numbers of interstitial floors. So when we -- and, and one of the accusations here is that four, four of these mechanical floors is excessive, and, but when you see that there's lots of other buildings that have something in that range, and far more

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of their percentage of floor area devoted to mechanical then it just sort of fits into sort of a range of typical, even if viewed on its own merits because this one has a swimming pool, this one doesn't, this one has --

MR. KLEIN: Well, but --

CHAIR PERLMUTTER: -- some other kind of heat system.

MR. KLEIN: -- we, we made precise calculations and if you take a building, a typical building and atypical building and you break it down and you basically say excuse me, you have deducted 25,000 feet that otherwise should not be deducted. The comparator, the comparison stops there. It is based on its individual merits. So if you're looking at this building and you're sincere about looking at this building and the Buildings Department said it looked at these buildings, then you have to take every single piece of equipment you have to determine how much space it needs and that basically translates into a straight line equation.

And if in fact, it translates into a straight line equation which proves that they, they employed games from sheer fear and they added an additional 20 or 30,000 square feet, then all comparisons stop. I mean under the fire code, historically, air conditioning systems were, were based on machines that had, that generated 50 horsepower or more, and in fact the fired code still speaks about, uh, alcohol driven air conditioners.

But over time, those mechanical, those pieces of mechanical equipment have changed. So a building that took mechanical deductions ten years ago, uh, if it was built today, is going to have much reduced mechanical deductions. That happened at 375 Pearl Street, the famous Verizon building, it happened on the Second Avenue Building with

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Verizon after the fire about 30 years ago, it happened recently within the last 10 years in two high rises that were built in lower Brooklyn, where over time, the equipment had minimized and the top two floors, those buildings now have no occupancy in the top two floors because they're no longer dedicated to mechanical use and they can't be converted over.

So once you establish that the deductions are improper, then all the comparators go out the window. There's no reason for them because we're -- the, that building is standing on its own two feet. Okay. So, if you would allow me --

COMMISSIONER SCIBETTA: I just want to clarify, just --

MR. KLEIN: Sure.

COMMISSIONER SCIBETTA: -- I believe the applicant was speaking about my request for the mechanical plans of the building at--

MR. KLEIN: That's correct.

CHAIR PERLMUTTER: Mm-hmm.

MR. KLEIN: I can give you uh, uhOkay. Thank you very much. Mr. Ambrosino.

MR. AMBROSINO: Good morning.

MR. COSTANZA: Please state your name again and your affiliation.

MR. AMBROSINO: My name is Michael Ambrosino, PE, I'm here on behalf of Landmark West. Can I move this?

MR. KLEIN: We can't hear you.

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CHAIR PERLMUTTER: Yeah.

MR. AMBROSINO: Oh, is it on? How about now?

CHAIR PERLMUTTER: Right.

MR. AMBROSINO: Better?

CHAIR PERLMUTTER: Can you move which?

MR. AMBROSINO: Can I move this, so you can see what I'm going to put up on the wall here?

CHAIR PERLMUTTER: We, we can actually see it, and you don't, trust me, you don't want to move that.

MR. AMBROSINO: Alright. I'm going to just go, I'm going to go behind here for a second.

CHAIR PERLMUTTER: So you --

COMMISSIONER SCIBETTA: You can pick the microphone up.

CHAIR PERLMUTTER: -- can pick up the mic.

MR. AMBROSINO: I'm just going to bring something.

CHAIR PERLMUTTER: Okay.

MR. AMBROSINO: Alright. So Landmark West approached me.

CHAIR PERLMUTTER: You can, if you want to point at things, you can take the mic with you.

MR. AMBROSINO: I will when the time comes.

CHAIR PERLMUTTER: Okay.

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MR. AMBROSINO: And they gave me a very simple task. They basically said please look at the drawings and determine if the layouts of the mechanical electrical systems are reasonable use of the space.

CHAIR PERLMUTTER: Mm-hmm.

MR. AMBROSINO: What we did not do, I did not do, is I didn't look for code conformance of the systems, I didn't look for their, uh, energy efficiency, I didn't look for their performance. Uh, I didn't look at changing the type of systems or the size of the systems. I didn't move equipment from floor to floor to composite mechanical rooms, I left them on the floors they were. I did not in detail review the sprinkler, electrical or plumbing systems. We left those deductions totally intact with no, uh, minimization.

What we did do was just look at the mechanical because that was easier. We did not determine what the deductions for this building should be. That's not our role. Although we came up with some numbers, but not because we think that's the absolute number. What we did come up with is a way for professional reviewers to look at these drawings in a different way to determine what is a reasonable deduction.

How did we do this? We used the original design drawings, which I'll show you in a minute. We color coded them. We then took the exact equipment, its size and service area and repositioned it on the floor and decided whether or not that was a reasonable way to lay out a floor plan and save some floor space. Because of the height of these --

COMMISSIONER SCIBETTA: How did you determine its service area?

MR. AMBROSINO: We took it from the design drawings.

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For instance, this is not our drawing. This is the design drawing. The red is mechanical equipment, the blue was very nicely detailed by the engineer as the service requirements. That's what we used. And we'll go back to this in a second. And because of the height of these mechanical rooms, 48 feet, 60 feet and 60 feet, which is more than I've ever seen in 40 years, we did not concern ourselves with the ductwork and piping that was horizontal because there was plenty of space to run the ductwork and piping. Usually, mechanical room in a building like this is maybe 20 feet tall and you fit the entire boiler plant and chiller plant within that. Here we have 60 feet to do anything horizontal. So let me just go through these --

CHAIR PERLMUTTER: Can, can I ask you a question about that?

MR. AMBROSINO: Sure.

CHAIR PERLMUTTER: So, uh, I think I mentioned this yesterday in the, in the review session. Uh, when I used to work on buildings where I was working with a mechanical engineer, they would yell at me when I would tell them that I wanted to group the HVAC in a different way, or the, or the plumbing in a different way. And they would say if we do that, it's going to whistle, or it's not going to cool properly, or, uh, it won't exhaust properly and so on. So if, if you're saying that you would lift the associated, uh, sheet metal and piping higher than the usual 20 feet to take advantage of the height, wouldn't that have an impact on the efficacy of the connections between the different pieces of equipment?

MR. AMBROSINO: Well, if we look at some of these, we can offer a piece of equipment vertical, let's say we only go 15 feet. We run 100 feet

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horizontal and then we go up 50 feet. If we go up 30 feet and then run horizontal and go up 20 feet, it's the exact same run of ductwork. We didn't add anything.

CHAIR PERLMUTTER: But you have more bends.

MR. AMBROSINO: No, same amount of bends. You make a right turn, and a left turn, except instead of doing it here, you do it up higher.

CHAIR PERLMUTTER: Mm-hmm.

MR. AMBROSINO: All I'm saying is the ductwork and the piping should have no impact on how much space --

CHAIR PERLMUTTER: But aren't you --

MR. AMBROSINO: -- we need.

CHAIR PERLMUTTER: -- connecting pieces of equipment onto the other? They're not just standing there alone.

MR. AMBROSINO: We are. And I think within a room that we've left, there's plenty of height, whatever height they pick, to do that with. We didn't change that. I'm saying when we move equipment out of a space, and the only thing left is horizontal distribution, there's no reason horizontal distribution has to be at six feet or eight feet or ten feet. It could be at 20 feet, which makes the space underneath it very usable.

COMMISSIONER SCIBETTA: And you're also saying that the same problem would, would avail itself wherever they placed the equipment, the mechanical room, the mechanical equipment in that room?

MR. AMBROSINO: Problem?

COMMISSIONER SCIBETTA: The same issue of where

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it's going to be in height and how it's going to turn is going to be the same in both scenarios.

MR. AMBROSINO: Right. Take this room. I mean this is, we have ductwork and we have diffusers and lighting. There's stuff above this ceiling.

CHAIR PERLMUTTER: Right. But the equipment isn't in here. So put the pieces of equipment --

MR. AMBROSINO: And there are rooms here where there's some equipment.

CHAIR PERLMUTTER: No, put the --

MR. AMBROSINO: There are spaces that are just --

CHAIR PERLMUTTER: -- pieces of equipment --

MR. AMBROSINO: -- horizontal.

CHAIR PERLMUTTER: -- where you're standing and now duct it. Right now connect the piping and the ductwork to connect to the other pieces of equipment. Where -- how is that working without filling up the room?

MR. AMBROSINO: I'm going to give you a perfect example of your question right now.

CHAIR PERLMUTTER: Okay. Okay.

MR. AMBROSINO: So make believe this is the piece of equipment.

CHAIR PERLMUTTER: Mm-hmm.

MR. AMBROSINO: So this is the existing design of the 19th floor. There are a series of red pieces of equipment, two large air handlers, there's

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one large fan, which is a post fire smoke purge fan, and there's a series of little red boxes, which are heat pumps, which I believe their purpose is to heat the void because the void the void is so big that somehow it has to be heated and cooled, which are on the floor, but they're really serving the space above. So, if we take that layout, now that's the base -- all I did here is, is take away the service area, left the equipment where it was. This yellow was the electrical plumbing rooms. We left those intact, we said you get all that credit, as, as an exercise. If I look at this room now, it's 800 square feet. It has a heat pump, probably the size of this podium in the middle of the room. Now, it says it's two tons, but really the cooling capacity and not the weight. It's probably 300, 200 pounds.

CHAIR PERLMUTTER: What floor is that one?

MR. AMBROSINO: This is 19.

CHAIR PERLMUTTER: Okay.

MR. AMBROSINO: It's the first sheet, uh, second sheet. So, I have an 800 square foot room holding a piece of equipment that's six square feet, that in theory could also be raised up because it's not a heavy piece of equipment and it's serving the space above.

COMMISSIONER SCIBETTA: So is it, is it part of your testimony that these heating, this heating equipment, would this still be necessary in a smaller, in a smaller room, a room with lower ceilings?

MR. AMBROSINO: You'd still have to heat and cool this room. It would be a smaller piece of equipment where it's really serving 60 foot of height. But it's, you know, you could put it in a closet in the corner if you didn't want to put it up height, but 800 square feet, it's like the size of this area to hold this.

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CHAIR PERLMUTTER: Have you seen the submission by Mr. Bienstock? I don't know if you saw the submission in response to your submission.

MR. AMBROSINO: I did.

CHAIR PERLMUTTER: Okay. So, Mr. Bienstock's submission, that's Exhibit B, which is a comparison between the simple drawing on 19, that one I think that you have and what actually happens once with the shop drawings and so on. Can you talk about that and all of the other stuff that's in that area, uh, independent of the equipment?

MR. AMBROSINO: Well, what's in the area --

CHAIR PERLMUTTER: For instance, I'll just, you know, I think it's the same corner that you're pointing to. It's the heat pump on the 19th floor.

MR. AMBROSINO: Mm-hmm.

CHAIR PERLMUTTER: Right. Some of it is structure, obviously, so structure is in the way. Domestic water heater rigs require egress and access paths of PLBGPRV station, standpipe to stage PRV heat pump heater and then lots and lots of ductwork and piping.

MR. AMBROSINO: Well, all of that plumbing stuff is here, and we've left it.

CHAIR PERLMUTTER: No, no, on the 19th floor.

MR. AMBROSINO: This is 19.

CHAIR PERLMUTTER: Oh, that's also 19?

MR. AMBROSINO: This is the plumbing room and the

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electrical room. We didn't touch it.

CHAIR PERLMUTTER: Oh, okay. No, no.

MR. AMBROSINO: And there are always --

CHAIR PERLMUTTER: In that savings act area, I'm talking about around the heat pump.

MR. AMBROSINO: There are, the ductwork is 14 inches by 12 inches. It's smaller than a ceiling tile. That's on these drawings. And it's got two one-inch pipes going to it. And it's hard to read. But if you look at the bigger drawings, the ducts off this unit are very small. But let me just go one, one thing further. So here is that equipment, stripping away all the colors, where it is designed.

CHAIR PERLMUTTER: Okay.

MR. AMBROSINO: And all we're saying is if you took this piece of equipment, either raised it up or moved it here, you get 800 square foot back. It's one piece of equipment. If you take these two air handlers, and just move them closer. We didn't degrade the service space. Take these three, again, three small eight pumps, they could be up high or they could be here and ducted to where have to go and you get all of this space back. These are big spaces. It's not 10 square feet. It's hundreds, thousands of square feet.

CHAIR PERLMUTTER: Can I ask you a question?

MR. AMBROSINO: Sure.

CHAIR PERLMUTTER: In the buildings that you've worked, where you have uses that either below -- directly above or below the mechanical room, don't you locate the equipment to be convenient to the uses?

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MR. AMBROSINO: And --

CHAIR PERLMUTTER: So that you don't have to do as much ducting or piping or so on?

MR. AMBROSINO: You, yes, you try to do that. And these equipment serves above us. But again, it's 12 X 10 ducts, it's tiny, it's tiny ductwork that's going up to serve the void. The units could be up in the void.

CHAIR PERLMUTTER: Mm-hmm.

MR. AMBROSINO: All I tried to do was get the small stuff out of here to free up big chunks of space. So, 19 is pretty simple. There's one other piece here, which is a smoke fire purge fan, which is in a room, which also could be raised up and put up high. This fan should only be on once in the life of the building. When they balance the fan and never again, unless there's a fire in the building, god forbid. So again, why this has its own room when you could just raise it up would save again another chunk of floor space here.

COMMISSIONER SHETA: So you're saying if, if you lift this equipment up and you believe that the clearance, the head clearance will allow that?

MR. AMBROSINO: I have 60 feet.

COMMISSIONER SHETA: And when you move it up, would, would that impact the efficiency?

MR. AMBROSINO: No.

CHAIR PERLMUTTER: Whoa, whoa, whoa. Now we're losing track of the whole thing. So what we're looking at is not the vertical, right. We go back to the definition of floor area. The definition of --

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COMMISSIONER SCIBETTA: No, no --

CHAIR PERLMUTTER: No, no, let me finish. Definition of floor area talks about floor space, right. Floor space used for mechanical equipment. If we start talking about, because we've said that there's nothing to determine what the height of the space is, that's decided, right. Nothing in the Zoning Resolution regulates the height. So what we're talking about is what goes on the floor, right.

COMMISSIONER SHETA: I'm not talking about the height of the building or even the height of the space. What I'm talking about if he's -- he's claiming that instead of this equipment on the floor, if I just lift them up and what I'm asking is according to the plans submitted -- let's say the floor height is 12 feet. This is the proposal.

CHAIR PERLMUTTER: Mm-hmm.

COMMISSIONER SHETA: And he want to lift this equipment and this equipment is five feet, still even if he lifts up --

CHAIR PERLMUTTER: It has to sit on something.

COMMISSIONER SHETA: -- it's not on the plan, but the head clearance under this equipment is used. So his claim is, is not intact. But if the floor height is 30 feet and he's taking this equipment and the equipment is five feet and lifting up, he's hanging it from let's say the ceiling.

CHAIR PERLMUTTER: Mm-hmm.

COMMISSIONER SHETA: Then he has 30 minus five, he has 25 feet, this is a useable space.

CHAIR PERLMUTTER: But then --

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COMMISSIONER SHETA: Then what's talking about is, makes some sense.

CHAIR PERLMUTTER: Except how do I service the equipment that's up 30 feet in the air?

COMMISSIONER SHETA: Yeah, yeah.

MR. AMBROSINO: Yeah.

CHAIR PERLMUTTER: I need catwalks --

COMMISSIONER SHETA: And --

MR. AMBROSINO: You could do catwalks.

CHAIR PERLMUTTER: -- that's called, or, I mean, right. So now --

MR. AMBROSINO: You could do catwalks. Or you could take that one piece of equipment and put it in the corner.

CHAIR PERLMUTTER: So you're asking now the guys who are working on the equipment who have to replace a pump or something like that to schlep the pump that weigh, I actually have cut sheets on the pump, so I think I know how much it weighs, so to carry the pumps up catwalks is a pract- is a practical solution?

MR. AMBROSINO: It's been done. If you organize it correctly with one catwalk and equipment on both sides.

CHAIR PERLMUTTER: But it, but you have to admit it's not really a practical solution. You want all your equipment --

MR. AMBROSINO: Well, I --

CHAIR PERLMUTTER: -- down below where the guys

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can work and --

MR. AMBROSINO: To me, practical is give me 1,000 square feet that I can sell. That's more practical than putting a catwalk in.

COMMISSIONER SCIBETTA: With this --

COMMISSIONER SHETA: When, when they want to do some maintenance for this equipment, wouldn't they come from the same space that you just presumed that it, it should be a floor area and walk through that space and go up and do the maintenance?

MR. AMBROSINO: Let's go back --

COMMISSIONER SHETA: Wouldn't that render this space unusable?

MR. AMBROSINO: Let's go back to those pieces, which are -- did I take these down. So we have three pieces here, right, which could be lined up here. They could be in a mechanical room here on the floor. They don't have to be up high. I'm saying it's an option to raise them or you could put them in a mechanical room and duct them over. It's small ductwork, it's small systems. To have that guy, six square feet, take up that room because you don't want to do a catwalk, okay, put him in the corner, make it a closet, take back the rest of the space.

COMMISSIONER SHETA: And this wouldn't lengthen like a riser or, or need more, more fittings, wouldn't, wouldn't increase the loses in the system, nothing like that?

MR. AMBROSINO: Not really. It's 12 X 10 ductwork. If you're worried about losses, make it 12 X 12, and you've, you've made up for any

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additional static loss.

COMMISSIONER SHETA: Okay.

COMMISSIONER SCIBETTA: With this equipment --

CHAIR PERLMUTTER: So, one of the pieces of equipment that I found, which is the vertical water source air conditioner, is 4,000 pounds.

MR. AMBROSINO: Where is it?

CHAIR PERLMUTTER: I'm not -- these are all cut sheets that I downloaded --

MR. AMBROSINO: Okay.

CHAIR PERLMUTTER: -- from the schedule, right.

MR. AMBROSINO: There, there is equipment throughout this building.

CHAIR PERLMUTTER: So I don't know exactly where it is, but -- no, no, no, it's inside. It's the schedule -- it's all from the 18th floor actually. I downloaded only the equipment on the 18th floor.

MR. AMBROSINO: Let's go to 18.

COMMISSIONER SCIBETTA: But is there any reason why the mech- could the mechanical equipment on this floor be added to another floor?

MR. AMBROSINO: I, I didn't look at that. I, I started by saying we did not try to take mechanical rooms and put them together. They're on different floors, according to the affidavit because of where they have to serve up and down the building. We accepted the design as it is. We didn't say we're going to change

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the design concept. We're just going to see if we can move it around a little bit to make it more efficient in the use of space.

CHAIR PERLMUTTER: So you're accepting that it's a good idea to be on the 18 with some of the equipment and on --

MR. AMBROSINO: Yeah.

CHAIR PERLMUTTER: -- 17 with another --

MR. AMBROSINO: Absolutely.

CHAIR PERLMUTTER: -- bit of -- okay.

COMMISSIONER SCIBETTA: So this, the mechanical equipment would have to be on separate floors?

MR. AMBROSINO: Does it have to?

COMMISSIONER SCIBETTA: As, as designed.

MR. AMBROSINO: I don't know that it has to. I didn't look at whether it has to or not. I left it where it was. I didn't want to make that -- if, if you give this building to five engineers, you're going to get back five different designs.

CHAIR PERLMUTTER: Mm-hmm.

MR. AMBROSINO: They're all going to be design concept pretty good. But they'll be different. I wasn't looking to make it different. I was only looking to save space.

CHAIR PERLMUTTER: Okay.

MR. AMBROSINO: Alright. This is 18, which we have a chiller plant, we've got equipment in red, service in blue. We have, let me pick one item out here, VFDs. This VFD is literally two feet by about 12 inches. It's two square foot of

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space.

CHAIR PERLMUTTER: Sorry, everyone is going to get some kind of an alert. An Amber?

COMMISSIONER CHANDA: Yes.

CHAIR PERLMUTTER: Amber alert.

MR. AMBROSINO: We're good?

CHAIR PERLMUTTER: Okay. Please go ahead.

MR. AMBROSINO: Okay. I'm going to pick up one piece of equipment, these VFDs, which are about two foot wide, one foot deep and about 18 inches tall. And each one has three foot of clearance in front of it, by code, which is fine. But, they're spread out all over the place so that you see a lot of blue. What we did again, is we took that layout, we stripped away the colors just to show where the equipment is. So this is where all the equipment is located now. Every tank, every VFD, every electric panel, every pump. We then re-laid out the chiller plant. For instance, we took this block, as one drawing block and just slid it over here and put it there. We didn't change a thing. We took this chiller plant and just slid it down a little bit, and all these nine or 11 pumps that are spread out all over the place, we just lined them up for a very efficient pumping plant.

So now we have taken all of this stuff, including, as you can see, all the expansion tanks, all the VFDs we lined up, all the electric panels, everything in red there, is here. So what did we free up? We freed up this entire room, and this entire room, which I don't even know what this -- two, 3,000 square feet, because right now plain just deductable. Could be useable space, could be unusable space, but it doesn't have to be mechanical

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space.

COMMISSIONER SHETA: And again, this is without impacting the efficiency of the system?

MR. AMBROSINO: Correct. As a matter of fact, I think it's more efficient.

COMMISSIONER SCIBETTA: But wouldn't that be --

MR. AMBROSINO: You have the pumps and you have the chillers and you have the heat exchangers, everything is condensed.

COMMISSIONER SCIBETTA: Wouldn't that be a very loud room?

MR. AMBROSINO: It's going to be loud room no matter where you put it. It's the same equipment, all I did was put it over here.

COMMISSIONER SCIBETTA: Right. But if we're going to use the other part as useable space, what use could it have?

MR. AMBROSINO: Well, if I was a developer, I'd put cages in it and sell it as storage to the condo owners. They love storage. You can put a paint shop up here, you could put offices up here. And it's not to me to tell them how to use it, but buildings we've done, storage is gold.

CHAIR PERLMUTTER: So can I ask you a question. Have, have -- I assume that in your work you've submitted mechanical drawings to the Department of Buildings?

MR. AMBROSINO: Many times.

CHAIR PERLMUTTER: Are you the person or, are you or

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were you the person who went to the Department of Buildings when they were reviewing the mechanical drawings?

MR. AMBROSINO: Sometimes, yes.

CHAIR PERLMUTTER: Did they question where you put your equipment?

MR. AMBROSINO: They almost never do.

CHAIR PERLMUTTER: Mm-hmm.

MR. AMBROSINO: In 40 years, I don't think they ever came back and said why is this piece of equipment here. They don't look.

CHAIR PERLMUTTER: Okay. So then, if they're not looking on all of the buildings for 40 years that you've been doing, and that's one layout, and yours is another potential layout without getting more information from the engineer who actually designed it, right. Why would the assumption be that DOB should have allowed -- should have suggested that it should all get gathered there instead of accepting that layout.

MR. AMBROSINO: I'm not saying they should do that.

CHAIR PERLMUTTER: Okay.

MR. AMBROSINO: I don't, I don't know what their charge is. I don't know how they review these.

CHAIR PERLMUTTER: Okay.

MR. AMBROSINO: I don't know what they're supposed to do.

CHAIR PERLMUTTER: Mm-hmm.

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MR. AMBROSINO: All I'm saying is that's the way to lay out a floor --

CHAIR PERLMUTTER: Mm-hmm.

MR. AMBROSINO: -- to get more space when typical projects for us have always been take the least amount of space. Whatever we want, usually someone says you can only have less.

CHAIR PERLMUTTER: Mm-hmm.

MR. AMBROSINO: This is a case where there's plenty of space. So if someone said here's a room, lay it out, and you have all this space, well, you could do it that way.

CHAIR PERLMUTTER: Mm-hmm.

MR. AMBROSINO: And even if they gave me all that space, I don't think I would have, because I don't think it's very efficient. But there could be other reasons it's done that way. I don't know the design principles, which I think I stated in my affidavit.

CHAIR PERLMUTTER: Right.

MR. AMBROSINO: You know, the engineer meets with the developers or the architect and they say this is why we want a design, this is the principle for you to follow. I don't know what the principles were, but for me, the design principle for me is use the least amount of space that's reasonable. Because even doing this, I still have plenty of space to walk around here. There's no shortage of access space, corridors, vestibules, wherever you want to put it.

CHAIR PERLMUTTER: Mm-hmm.

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COMMISSIONER SHETA: I, I'm coming from structural background. Sometimes I design reinforced concrete slabs. In this work, that long direction of the slab should have the lighter reinforcement. That shorter should have the heavier reinforcement. Sometimes, looking at some drawings by others, I can see that, that the engineer put the heavier reinforcement in the long and the lighter in the short. And, and I think about the reason for that and I, I could like guess that it might be this or that. The, if you look at the two concepts that you just put in front of us, do you think it could be a good reason for going that route rather than the other?

MR. AMBROSINO: I, I don't know the reasoning.

COMMISSIONER SHETA: Do, do you -- if you think --

MR. AMBROSINO: But, you know --

COMMISSIONER SHETA: -- [Could you think of something.

MR. AMBROSINO: Of, of why it's like that?

COMMISSIONER SHETA: Yes.

MR. AMBROSINO: I could think of a reason, but I'm not willing to say what it is.

COMMISSIONER SHETA: If, if you think this is, this is much more efficient space wise --

MR. AMBROSINO: Yes.

COMMISSIONER SHETA: -- but could it be much more efficient economy wise, for example? I don't know. Any, any other wise, other than space?

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MR. AMBROSINO: I don't see it.

CHAIR PERLMUTTER: Aren't you getting at structure, that you're fully loading that one side?

COMMISSIONER SHETA: No, I'm talking about -- I'm, I'm trying to use the structural analogy to help him --

CHAIR PERLMUTTER: Oh, oh, I see.

COMMISSIONER SHETA: -- think what -- I'm trying to understand why would somebody go that rather than that.

CHAIR PERLMUTTER: Mm-hmm.

COMMISSIONER SHETA: And if we put the space aside, could it be more hydraulic efficiency? Could it be more electric efficiency?

MR. AMBROSINO: I, I think, you know what, I think you should ask them.

COMMISSIONER SHETA: Could it be anything else?

MR. AMBROSINO: I think you should ask them. They're good engineers. The set of drawings is actually a very nice set of drawings, good details, good information, they're reputable. You may want to ask them why they did it.

COMMISSIONER SHETA: So you're saying if two engineers come up with at least two designs, one is like that, the other is like this. And the two engineers, you -- let's say you're evaluating them in an interview for the job. You would, you would believe that this guy's is more smart, more efficient?

MR. AMBROSINO: Well, I would have to ask the guy why he did that versus that. Because to me --

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COMMISSIONER SHETA: And he doesn't have --

MR. AMBROSINO: -- that saves a lot of money.

COMMISSIONER SHETA: -- he doesn't have a good reason for that?

MR. AMBROSINO: Then I'd hire that guy.

COMMISSIONER SHETA: Okay.

MR. AMBROSINO: Because it costs less to build that than to build that.

COMMISSIONER SHETA: Thank you.

CHAIR PERLMUTTER: Okay.

COMMISSIONER SCIBETTA: And you can't think of any good reason why they would do that outside of the space reason?

MR. AMBROSINO: No.

CHAIR PERLMUTTER: Okay

MR. AMBROSINO: Alright. One more?

CHAIR PERLMUTTER: Mm-hmm.

MR. AMBROSINO: You want to do one more? Okay.

CHAIR PERLMUTTER: Sure. Oops.

MR. AMBROSINO: Reusable. [laughter] Alright. This is the 17th floor. Again, this is as designed by the owner, as presented to DOB. Red is equipment, blue is service, and white is just space. This is that same, exact drawing, stripping away the colors. That's the equipment in red. Now a lot has been said about access to fresh air and exhaust. This is the boiler plant. The boilers are only less than

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seven feet tall, so they're not very big. All we did was take the boilers, condense the access space slightly to something that's more standard, move them up the sheet, so they're still near the fresh air, took all of the pumps, all the VFDs, and we put them in front of the boiler plant as one would typically do a boiler plant. That saved this space and this space, which is now usable for something else. Now, this is the first one we did, so every little round circle, which are expansion tanks, we didn't show here, but we have all of this space left over here. So, all those tanks would fit right in here.

This particular one, which I found interesting because you talked about length of ductwork and efficiency, this air handler, this duct runs here and connects here. The other half of it runs here and connects here. So, here's the two connection points for that air handler which is up here. I don't know why this air handler isn't down here and save all of that duct run. I'm sure there's a reason. But you know, you could look at making things more efficient in many different ways. So efficiency wasn't necessarily how this was laid out. And again, I don't know the meaning. Here again are these VFDs. You see a lot of blue all along here, but you can have them face each other and save -- use common access space for this stuff. It's a small piece of equipment, two feet by one foot, why it needs eight square foot of space every time is kind of -- it's more space use than I think I would ever use.

CHAIR PERLMUTTER: Mm-hmm.

COMMISSIONER SHETA: If, if I'm the mechanical engineer for this, I mean I, I came up with this design, submitted it, approved by the DOB and, and in a year or two with the construction, I want to change, like, like again on the structure, we design things and then we change, we value engineer and put a change

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order through. Do you need to go back to the DOB to change?

MR. AMBROSINO: You're supposed to do a post approval amendment, to show --

COMMISSIONER SHETA: You -- yes, the answer is yes, you need to.

MR. AMBROSINO: Yeah.

CHAIR PERLMUTTER: Is that before you do the -- make the change or after you make the change?

MR. AMBROSINO: It's usually after. It's usually during construction.

CHAIR PERLMUTTER: Right.

MR. AMBROSINO: And if I was the contractor, I would like at that and I would say alright, I'll give you a price to build that but I'd come back and I'll give you a value engineering to save a lot of money and do it different.

CHAIR PERLMUTTER: Right. But then you file them as as builts rather than going to DOB, asking for permission to change, right?

MR. AMBROSINO: You, post approval amendment, you're not necessarily asking for permission to change. You're telling them what the change is.

CHAIR PERLMUTTER: Yes.

MR. AMBROSINO: It's not a request. It's a here's what we did.

CHAIR PERLMUTTER: Right.

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MR. AMBROSINO: You know, field condition is VE, whatever the reason is.

CHAIR PERLMUTTER: Okay

MR. AMBROSINO: I have one, one more, which is the 15th floor, which is a very confusing floor. And I didn't redo the layout. All I did was identify what was equipment, which is red. The mustard and the blue are mechanical and electrical rooms, I mean are plumbing, sprinkler and electrical rooms. We took that entire square footage and said that would be a deductible amount. Adding that to the red and the blue, came up with a total of 4,000 square feet out of 20. Now there's a lot of stuff here. There's ductwork, there's stairs. There's no equipment, but there's a horizontal stuff. I don't remember the floor-to-floor height on 15, that's going to be the one that's 48 feet. And I see a lot of stairs going up the walls, I'm not sure what this is. It may not be usable space structurally the way it is, but I don't -- I'm not familiar architecturally what this is.

CHAIR PERLMUTTER: Mm-hmm.

MR. AMBROSINO: But in terms of the usage of space for mechanical electrical equipment, it's 4,000 square feet.

CHAIR PERLMUTTER: Mm-hmm. Okay.

COMMISSIONER SHETA: Wouldn't, wouldn't that sort of concentration of equipment at a given portion of the building, wouldn't that -- I'm concerned about the vibrations. It could impose vibrations on one side, no vibrations on the other side. Have you ever done something similar to that, and then use them to do the -- let's say the structural engineer, the structural engineer says no, no, no, I can't do that. It'd going to be huge vibrations on this side of the building?

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MR. AMBROSINO: Of course. I mean the whole -- this process probably lasted nine months.

COMMISSIONER SHETA: Of course. Did, did it happen before?

MR. AMBROSINO: To me?

COMMISSIONER SHETA: Yeah.

MR. AMBROSINO: Yeah, of course. You sit down, the structural engineer and the architect. You, you do a layout together, which is more of what I did, which is just sketch layouts, you sit down with the architect and structural engineer and someone says that's good or it's bad for whatever reason and you work together to make it better.

COMMISSIONER SHETA: Let me explain myself.

MR. AMBROSINO: Sure.

COMMISSIONER SHETA: My concern is -- this is their design. This is, this is your suggested design My concern is if I take this and give it to the structural engineer and say here, this is the mechanical design, then he will come back and say, oh, you took all the mechanical equipment and put them in just a limited portion of the floor footprint. You know what these mechanical equipments could produce huge vibrations. I'm not sure if I'm going to be able to design a structurally efficient system to transfer the load and then they will come back to you and say hey, the structural engineer doesn't like the design, spread your equipment. Did this happen to you before?

MR. AMBROSINO: No. We've, we've modified design to move it around over a beam, but never to spread stuff out because the building is so

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poorly struct- unless it's an existing building, where the structure is existing, you can't do much to it. A new building, you can build any structure you want.

CHAIR PERLMUTTER: But, okay. You can build any structure you want, but let's just say there's, uh, some kind of a thinking about what the structure is going to be right. And the building is designed with that structural concept and sort of super loading the equipment in one part of the building wouldn't be consistent with that structural concept. Then the structural engineer might say actually I, I have a really kind of flexible building or resilient building --

MR. AMBROSINO: Mm-hmm.

CHAIR PERLMUTTER: -- I don't actually know what the term is, and therefore, I need you to distribute it more evenly on the floor. Or a building that's subject to enormous wind forces, for example.

MR. AMBROSINO: You wonder if that's possible? Sure it's possible.

CHAIR PERLMUTTER: Mm-hmm. Okay. Mm-hmm.

COMMISSIONER SHETA: What is, what is the total weight rating for, for an equipment, like roughly, to the nearest ten pounds, total weight of this equipment.

MR. AMBROSINO: Oh, I don't know the total weight.

COMMISSIONER SCIBETTA: You got a few boilers there--

COMMISSIONER SHETA: Look --

MR. AMBROSINO: But you know, it's a boiler plant. We

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do boiler plants all the time midrise in a building. It's not unusual to have six boilers lined up on the 15th floor in a building and the 30th floor in a building.

COMMISSIONER SCIBETTA: So you've had designs similar to the one that you're proposing?

MR. AMBROSINO: Yeah.

COMMISSIONER SCIBETTA: And without consequence?

MR. AMBROSINO: Well, you'd work early with the architect and structural engineer to make sure everyone is on the same page, and if it's a problem, they'd let you know and if it's not, everyone designs around it.

CHAIR PERLMUTTER: Mm-hmm. Okay. Thank you.

COMMISSIONER SCIBETTA: Similar height and, and all?

MR. AMBROSINO: Oh, much less height. This is, I've never done 48 feet.

COMMISSIONER SCIBETTA: But a similar height, high up on a building?

MR. AMBROSINO: Oh, yeah. Yeah.

CHAIR PERLMUTTER: Mm-hmm. Okay.

MR. AMBROSINO: We're good?

CHAIR PERLMUTTER: Great, thank you very much. Appreciate it.

MR. AMBROSINO: George, thank you very much, I

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appreciate it.

CHAIR PERLMUTTER: Thank you. You can leave those up if it's okay.

MR. AMBROSINO: I'll leave it.

MR. Daly: Excuse me Madam Chair?

Chair Perlmutter: Mm-hmm

Mr. Daly: Could we just make a comment before they…

CHAIR PERLMUTTER: Sure, sure, it's the fire department. They, they get priority.

Mr. Daly: Thank you.

MR. RESSNER: Hi. I am Battalion Chief Ressner for the fire department and we just have a very quick statement to make. It may not be germane to what you're discussing here, but the drawings that indicate FDNY access, the green color coding, uh, that's, that's not quite accurate. It's corridor -- it's supposed to be corridor, it's supposed to allow us to do operations but it can be used by anyone, and I don't know if that makes any difference in your consideration of the zoning floor area.

CHAIR PERLMUTTER: Mm-hmm.

MR. RESSNER: But the modifications that we had asked for to the plan weren't designated solely for FDNY access.

CHAIR PERLMUTTER: Understood.

MR. RESSNER: Okay.

CHAIR PERLMUTTER: So you just wanted maybe the corridors to be bigger or something like that?

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MR. RESSNER: Well, we went through, I mean we can go through. We went through a whole system of, of changes we needed to do operations, but that was also to allow the public to have additional egress area, sheltering area, and so on. So, I don't know if it makes any difference whatsoever to determining, you know, if they are deductions, but it, calling it FDNY access is not, is not accurate.

CHAIR PERLMUTTER: Okay. Great. Thank you. Okay. Mr. James, please come back.

MR. JAMES: Hi, I'm George James. I filed the initial zoning challenge on the project. Stuart mentioned about the, the tower, uh, the volume of the tower not changing, even though we added 6,000 square feet of zoning floor area because of the FDNY, uh, requirements. That's actually happened because they added balconies, uh, they used to have zoning floor area in these places where they've added balconies. They were less than 67 percent enclosed. It's actually clever. It's not a problem.

Uh, and I think, uh, what I really want to talk about is, we've been talking about the Zoning Resolution and we've been talking about the exemption for mechanical equipment. There's another part of the Zoning Resolution I think is equally important. And it is the reminder that the Zoning Resolution says "floor space that is or becomes unused counts as floor area". So unlike *Sky House*, right, where *Sky House*, we have no direction in the Zoning Resolution about vertical space. But we have direction in the Zoning Resolution about horizontal space. And so therefore, you have this, this conflict between well you can exempt this space but you have to count this space that's unused.

And so it creates, it creates a tension between creating vast amounts of unused

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space in a building that is, that is claimed as being exempt, but which is not exempt, because it's just necessary and not unused. Or that it is unused.

I, I think, yes, we, we -- the department, the Building Department, they evaluate each building individually. But I actually think having some sort of standards or guidelines maybe, let's say guidelines, uh, as the Building Department tried to do with their draft building bulletin, and as Mr. Partley explained in his affidavit, they tried over years to do that. And I think it's actually necessary to have at least some sort of guidelines, because -- because of this conflict between, uh, these two parts of the Zoning Resolution and also because zoning provides predictability, right. It provides predictability not only to developers, but it also provides predictability to the larger community.

And if we have the space, this, this floor area, which can be exe- largely exempted because people say they can exempt it and, and we learn from Mr. Ambrosino that there really isn't this sort of critical look at the mechanical space that's claimed to see if it's, is actually necessary. I think we have to have, I would say, you know, this sort of exercise is really great, but we don't want to have to do this for every building, right. This is, this is not practical.

If we had some sort of guidelines in place that, that, that people can rely on and then there are exceptions. You have, you know, some building that has some sort of, of need, you can go and get an exception to those guidelines. That could be a special case. But I think we have to have some sort of guidelines and I think the DOB agrees, at least they used to agree with that, when they tried to put these, these, uh, this draft building bulletin in place.

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CHAIR PERLMUTTER: I, I have a question about that, though.

MR. JAMES: Sure.

CHAIR PERLMUTTER: As we've seen over the course of a very short period of time where we've had to move mechanical equipment that used to be in the cellar and on the first floor --

MR. JAMES: Yes.

CHAIR PERLMUTTER: -- and even on the second floor -- -

MR. JAMES: Yep.

CHAIR PERLMUTTER: -- up into the building, things change a lot with mechanicals as it does with structure --

MR. JAMES: Absolutely.

CHAIR PERLMUTTER: -- and so on. And the Zoning Resolution needs to be malleable, right. So -- or let's say the interpret- the way the DOB interprets it --

MR. JAMES: Absolutely.

CHAIR PERLMUTTER: -- needs to be malleable. So the-- So, and to respo- be responsive to changing technologies and environmental conditions --

MR. JAMES: Absolutely.

CHAIR PERLMUTTER: -- and so on, right. So you can't be so -- so what the problem with those bulletins, uh, is, are, that there's a specific list of the equipment that you can deduct. And then all of a sudden we learn everyone has to

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have an emergency generator. That's not on the list. And then we learn that, um, the boilers that you used to put in the cellar are now on the fourth floor. That's not on the list, etc., etc., right. So what are --

MR. JAMES: So my response is --

CHAIR PERLMUTTER: -- you going to do about that?

MR. JAMES: Yeah, so my response to that would be is that's exactly why it's not in the Zoning Resolution.

CHAIR PERLMUTTER: Mm-hmm.

MR. JAMES: Because the Zoning Resolution is hard to change.

CHAIR PERLMUTTER: Right.

MR. JAMES: The building bulletins are not hard to change, not compared to the Zoning Resolution. And so, yes, you, you absolutely do not want this in the Zoning Resolution because it is, technology changes, right. And, and demands change and needs change. But, but you need it somewhere. And so where else is it going to go? It has to be in a building bulletin and you should be able to amend the building bulletins as required.

CHAIR PERLMUTTER: But so you see what ended up happening with those bulletins, right? And I have been on the other side of reviewing bulletins as well, where the bulletin goes out to the community and everyone flips out, saying Buildings Department, you don't understand how we do this thing and if you issue that bulletin, banks won't fund or all sorts of things like that. So how do they fix in time for, for the minute the answer, when the community is actually actively building new

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buildings, using new technology constantly that they're learning about as we speak, right, or importing from other countries, etc., etc., etc. How do you do it?

MR. JAMES: Well, I think, you know, there are complicated buildings and there are simple buildings, right.

CHAIR PERLMUTTER: Mm-hmm.

MR. JAMES: And I think actually you, in terms of percentages, complicated buildings are a relatively small percentage.

CHAIR PERLMUTTER: Mm-hmm.

MR. JAMES: And I think you -- I think having some sort of standards in place that are adaptable and that can change over time is a requirement. And, you know, Chair Perlmutter, I would say, yes, people are always going to be upset when you try to regulate them, and, and change what they can do. But, you know, I argue with the Building Department all the time. But, you know, they have more experience than anyone. They -- collectively. They review all of these plans. And so if we can harness -- if they can harness their collective experience to come up with some sort of standards and guidelines, I think that's -- that can be exempted for or have exceptions for the really complicated building that has some sort of special need. I think we -- it would go a long way to making this whole process much more predictable, which is what we all want out of our zoning.

COMMISSIONER SCIBETTA: Do you think the Buildings Department has a, a practice in reviewing these mechanical floors?

MR. JAMES: Well, I think they, I think they review them for health and safety. I think they --

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CHAIR PERLMUTTER: I'm sure of that, yes.

MR. JAMES: -- that, that sort of stuff, I think they actually do really, really well. I think as far as the question of unused space counting as zoning floor area, I don't, I don't think they look at that at all. I, I don't think that's really much of their concern. I think if the engineer says it's mechanical, you know, it's -- unless there's an extreme example --

COMMISSIONER SHETA: We have --

MR. JAMES: -- I think it's going to be mechanical.

COMMISSIONER SHETA: -- we have them here. Let's, let the DOB speak for themselves.

MR. JAMES: Surely.

COMMISSIONER SCIBETTA: That wasn't, uh --

CHAIR PERLMUTTER: Mm-hmm.

COMMISSIONER SCIBETTA: -- but if's been the practice that, that DOB would accept an engineer's statement as to what mechanical space is needed for, and that's been the practice for a number of years, as the, as the owners showed, that that's how they've been doing it, do you think it's bad faith for them to rely on a permit based on that?

MR. JAMES: So I would say that the DOB should be doing their job in terms of enforcing the Zoning Resolution. And I think there are two pieces of the Zoning Resolution that have equal weight. One is exempting the mechanical equipment, one is counting unused floor area. And they should have equal weight, but they don't. And so how do you fix that? How do we ended up fixing that, meaning like

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how do you say if you all agreed and you told the Building Department yes, these parts have equal weight, you need to do something about this, either creating standards or doing this sort of complex review, I, uh, it's something that they need to do. And I think what, what the, what Stu was saying is that if they made a mistake, if they, they can't, you can't rely upon a government mistake in terms of building your building. That's like, that's something that -- I'm not the lawyer here, right. But --

CHAIR PERLMUTTER: Right, you don't have to do that.

MR. JAMES: -- that's something that the lawyers tell me.

CHAIR PERLMUTTER: Right. Right.

COMMISSIONER SHETA: When you raised the initial concerns regarding the size of the medical void--

MR. JAMES: Yeah.

COMMISSIONER SHETA: -- was it height, was it floor area, or was it both?

MR. JAMES: Well, I know it was primarily about height, but I think the, the vast amount of space that is devoted to mechanical in this building, uh, I think I, I said vast and I think it was real- mostly related to height, but also due to also horizontal space. And I think the whole issue of, you know, there is some- a lot of talk in the papers about the, the rule of thumb, right, and how the rule of thumb in terms of mechanical deductions have changed over time and how a lot of buildings, you know, just go way beyond the rule, even the adapted rule of thumb. And, and I think there's an issue, and I think that, that, that's a sign of a problem. It, there -- there is a problem because there are no guidelines, there are no standards. And, and that really hurts the

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predictability of the zoning. And that's what we all want.

CHAIR PERLMUTTER: But I just want to leave -- and then I'd to go -- continue on, but the, I just want to make the analogy, building design has changed a lot in the last, we can just say ten years, right.

MR. JAMES: Yes, it has.

CHAIR PERLMUTTER: Lightweight concretes that we never saw before, or all kinds of use of glass that we've never -- and metals -- that we've never seen before. If, if it was interpreted by the Department of Buildings 15 years ago, or 20 years ago, that there was a bulletin that says you're not allowed to use concrete on the exterior of a building because, you know, the last time it was used, it was really a bad result, then we wouldn't have lightweight concrete without going through who knows what kind of hoops to prove its viability and changing the bulletins and all of that. The reason that I'm saying that is architecture needs to change, right.

MR. JAMES: Absolutely. I agree.

CHAIR PERLMUTTER: And you need to allow for technology to change, right.

MR. JAMES: But, if I may respond.

CHAIR PERLMUTTER: Mm-hmm.

MR. JAMES: Because the building bulletins are slow to change or hard to change doesn't mean that we should -- it's like the, the tail wagging the dog, right.

CHAIR PERLMUTTER: Mm-hmm.

MR. JAMES: We should be able to adapt the building

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bulletins to address the issues of the time.

CHAIR PERLMUTTER: Mm-hmm.

MR. JAMES: And, and to, to say well, we can't change fast enough, that's not a good answer.

CHAIR PERLMUTTER: So I think what you're saying is you want some sort of general guideline without having a list of equipment?

MR. JAMES: I think that's exactly right. And I think that's what, what, at least the building bulletin included had. It, it, it --

CHAIR PERLMUTTER: No.

MR. JAMES: -- it really talked about general guidelines, 10 percent and the amount of space. It deferred to the --

CHAIR PERLMUTTER: No, actually, it had a list of specific equipment and said if your ductwork is lower than X, then you can count it and if it's higher than X, you can't. And so then it precludes all kinds of ducting systems. It precludes lots and lots of equipment. There was a lot not listed.

MR. JAMES: So, so, we may be talking about different versions.

CHAIR PERLMUTTER: Oh.

MR. JAMES: Because I know there were many versions over time, uh, or at least that's what I understand. Uh, but I know that, that, that at least, at least portions of it were talking about like you could, for circulation space, you could take X amount or whatever the specifications say plus 10 percent. Something along those lines I think would be, would be extraordinarily valuable. And again, I think it needs to

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be a guideline as opposed to a zoning, because ultimately you have --

CHAIR PERLMUTTER: Right.

MR. JAMES: -- to be responsive.

CHAIR PERLMUTTER: Mm-hmm. Okay. Understood. Thank you.

MR. JAMES: Thank you.

CHAIR PERLMUTTER: Anyone else for appellant? Right. Okay. So from DOB, please. Did you want to ask a question?

COMMISSIONER CHANDA: I just want to bring up one point is that New York City, uh, being a city of its -- with a lot of history and a lot of building typology, I think the request that has been made while theoretically makes sense, I think it, it, it's a huge honor for DOB to come up with a general guidelines for mechanical space for so many different building typologies over so many years of construction and methodology. So, I just want to put a little bit of a reality check on that.

MS. MILLER: Good morning, commissioners. I am Felicia Miller, on behalf of the Department of Buildings. I am standing in for Michael Zoltan, who became a new dad Sunday afternoon, with the birth of his daughter. Excuse my voice, I have a little laryngitis. I will do my best to address the Board's request at the previous hearing and the Board's comments at yesterday's executive session.

On September 17, 2019, the Board closed this hearing with regards to the two issues raised on appeal. That is the height of the mechanical space and the bulk distribution in a special district. However, the Board reopened the hearing on this third issue, namely whether the mechanical plans show sufficient mechanical equipment in the

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mechanical spaces to justify floor area deductions under the definition in Zoning Resolution 12-10.

Specifically, during the September 17th hearing, the Board requested that the department review the mechanical plans in the same manner as was what was done in the *Sky House* case, a reference to the building at 15 East 30th Street in Manhattan. As articulated in the Department's August 25, 2017 submission to the Board in that case in explaining its determination that floors with mechanical equipment were exempt from floor area calculations, the Department stated, "the Department has reviewed the mechanical space drawings for the space at issue, in including new, more detailed approved drawings for the space at issue and has concluded that the floor space on such floors is devoted to housing the mechanical equipment of the building and it cannot be occupied for purposes other than housing such equipment". As such, the floor space devoted to mechanical equipment, is properly exempt from floor area. And the Department attached the mechanical drawings as an exhibit.

Likewise, as directed by the Board, in our October 16, 2019 submission in the instant matter, we explained that the Department reviewed the approved mechanical drawings, just as it had done in the *Sky House* case, and concluded that the space as shown on the approved mechanical plans cannot realistically be occupied for purposes other than housing such equipment. And as such, is properly exempt from floor area.

In addition, the Department provided in its October 16, 2019 submission, a detailed list of the proposed equipment on each floor and attached copies of approved mechanical plans, so that the Board could read along with the Department's descriptions and its submission.

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Additionally, in an attempt to more clearly illustrate the extent of mechanical equipment housed on the floors, the Department submitted a single page compilation that it, that it received from the owner for each floor displaying all the separate components of the mechanical plans, the HVAC, plumbing, standpipe, etc. onto one single drawing. On October 21st, the owner submitted additional mechanical drawings to the Board to further supplement the Department's submission.

And as explained in the Department's fourth clarification letter, the owner provided the Board with the appropriate sprinkler and standpipe plans for the 15th floor. The one previously submitted by the Department had only a portion of the floor. And the owner provided mechanical piping system plans and other mechanical equipment drawings that were, all had been previously approved by the Department.

Lastly, the owner clarified that some of the compilation drawings submitted by the Department contained architectural features and not mechanical ones. They, therefore, provided the Board with updated compilation drawings showing mechanical equipment.

In response to the Department's October 16th submission, appellants provided an analysis of the mechanical floors by their own engineer, based on his review of the plans. Appellant's engineer's affidavit states that in his expert opinion, the building's mechanical floors containing mechanical equipment covered 18 to 28 percent of the floor space of the mechanical floors.

And based on a draft bulletin circulated by the Department, which states that there must be 90 percent coverage, the appellant's engineer states that the proposed mechanical equipment does not comply with the requirements to afford an entire story deduction.

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However, there are many floors with appellant's analysis. First, the appellant's engineer's affidavit states that his review was based on August 17, 2018 plans on file with the Department and not based on the final April 5, 2019 ones.

Appellant's analysis also leaves out many of the mechanical equipment systems in the building, crucially, the analysis only focused on one set of plans, the HVAC set, and did not show the mechanical piping, plumbing or sprinkler standpipe plans. This was why the Department attempted so- to submit the composite plans to clearly show the actual mechanical completeness of the floors.

And lastly, and most importantly, appellant's critique of the mechanical deductions is based on a draft bulletin circulated by the Department a few years ago. The draft bulletin lays out proposed conditions for full floors mechanical deductions, the -- but the appellants rely on this draft bulletin as if it were finalized, going as far as referring to it as approved on January 14, 2019.

To state as clearly as possible, the draft bulletin is a draft, and it has never been issued. Circulation of draft bulletins is standard department practice to solicit comments and feedback before officially issuing a finalized version. Not all circulated bulletins are finalized and this one certainly was not.

Appellant's reference to the 20- 2019 approval is in fact, was an approval of only a ZRD-1 request by an applicant for a totally separate building seeking confirmation that certain proposed mechanical deductions would be permitted by the Zoning Resolution because it met the threshold of the draft bulletin. The Department approved that request and stated specifically in its response that the attached draft bulletin has not been issued by the Department of Buildings and may not be deemed as such.

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Because the applicant's proposal was permitted by the Department in that request, the plans, the ZRD-1 was stamped approved on all the submitted pages. So that was the misleading approval reference by the appellants. It was not the draft bulletin.

Moreover, the 90 percent coverage standard mentioned in the draft bulletin has not been applied by the Department as a minimum requirement. Rather, the draft bulletin has been referenced at times as a safe harbor, meaning if there's a 90 percent coverage, there's no doubt that the space is devoted to mechanical equipment.

The Department is currently seeking the most optimal solution to standardize the review process and may pursue such goals through the issuance of a finalized bulletin. However, to date, no bulletin has been published because it has been too difficult to articulate how much mechanical equipment is acceptable in all buildings throughout the city, given the differing needs of every building.

In addition, mechanical footprint alone does not equate with how the space is used. The nature of the equipment and the relation between different systems and the space needed to maintain the system must be considered. For example, a large exhaust with intake ducts pull volumes of air and need large space around it, around the ducts to accommodate that.

We, we know for certain that equipment cannot cover 100 percent of the floor space. How much less depends on many different factors. And appellants offer -- they've proffered alternative layouts for the mechanical equipment, which they claim would allow it to occupy less floor space. Besides the fact that the alternative layouts omit proposed equipment in the building, this type of alternative design layout analysis, uh, is not required to be done by the Department, and it is not done. Uh, it's an area that we

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leave to the design applicant and for them to consider together with the owner, the economic impacts of that.

To the extent that the Department does review, you know, we, we are, we will make sure that it's not an -- if we see an utterly empty floor, uh, you know, a single piece of equipment, we will, we will question it, we would reject if it was obvious, we would give pushback and ask for more. Um, if the room contains, uh, so much equipment and associated room to maneuver around it, and to be able to operate equipment such that the uses, other uses can't be occupied in this space, that would be what we're looking for, you know, that would be considered deductable. Thank you.

CHAIR PERLMUTTER: Okay. That's great. Okay. So, when, but one of my questions yesterday was who actually, who actually reviews the mechanical drawings? I know you're required to submit them and you get an approval. And maybe there's an objection, I don't know if there are objections on mechanical equipment. I know they're looking for egress obviously. But, uh, I'm assuming that there's someone who's knowledgeable about mechanicals who would be looking at the mechanicals, otherwise, why submit them.

MS. MILLER: Yeah, we, we are looking at them, plan examiners do look at them. Certainly, we're looking at them for code issues.

CHAIR PERLMUTTER: Do you know what kind -- for egress you mean --

MS. MILLER: Mm-hmm.

CHAIR PERLMUTTER: -- when you say code. Or are you looking at them for some kind, for mechanical codes?

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MS. MILLER: Um, I --

CHAIR PERLMUTTER: Yeah, yeah. That's the, that's I guess the question because there's so much detail that's submitted, I'm pretty sure you don't look at electrical drawings, right. Uh, there's so much detail submitted on mechanicals, and I'm curious why DOB receives them in that level of detail if no one's reviewing them. Unless there's some very obvious calculations, like on the plumbing drawings, there are riser diagrams. I can understand why they take a quick look at a riser diagram to see if it makes sense, or just see that the gas pipe is the right size or something like that.

MS. MILLER: Uh, you know, we do look at them and I could come back with, we could come back with more specifics.

CHAIR PERLMUTTER: Okay. Okay. Thank you. You have a question?

COMMISSIONER SHETA: Yeah, you indicated that if somebody submits plans with equipment that you believe that are scattered or there are, like, too much waste of floor space that's claimed to be for mechanical, but apparently it's not, you would question this, right?

MS. MILLER: Yes. There are times --

COMMISSIONER SHETA: Based on what?

MS. MILLER: -- there are times if we see, you know, an empty room, you know, we're going to question it. I know that --

COMMISSIONER SHETA: Based on, based on what?

MS. MILLER: We want to know that there is mechanical

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equipment in this space.

COMMISSIONER SHETA: So if there is a room that size and I put boiler in it, it's for mechanical space, and if it's one quarter of the size, and I put the same equipment in it, it's for mechanical space?

MS. MILLER: There are a lot of factors that are going to be -- that are involved this. So for the most part, we're leaving it to the design professionals to present us that this is, and they, they're representing that this is the mechanical space.

COMMISSIONER SHETA: But there is no quantitative --

MS. MILLER: There is no --

COMMISSIONER SHETA: -- criteria

MS. MILLER: -- quantitative criteria, correct.

COMMISSIONER SHETA: And the bulletin with all the versions indicated, never been used, never been applied?

MS. MILLER: It's a safe harbor. If somebody presents that, then we, we are comfortable with that, with that, yeah.

COMMISSIONER SHETA: Was it ever applied to any of the projects – or that was something unique--

MS. MILLER: Only as a safe harbor.

COMMISSIONER SCIBETTA: I think she's saying yes.

COMMISSIONER SHETA: I don't understand that. What does that mean?

MS. MILLER: If, if they meet that standard, then, then

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we're not at all -- there's no issue.

COMMISSIONER SHETA: And if they don't meet?

MS. MILLER: If they don't meet it, that doesn't mean that they, they don't otherwise qualify as being acceptable mechanical space.

COMMISSIONER SHETA: What is the benefit of this bulletin?

MS. MILLER: There is no bulletin. It has not been issued. We, we've struggled. We would love to be able to come up with guidelines. We're continuing to struggle. We hope perhaps we'll reach a point where we can come with it. But there are so many factors. There are different kinds of buildings. A hospital versus a commercial office, uh, tall buildings that may have to have different kind of risers and have different, you know, small footprint, be able to accommodate, uh, to be able to cool. There are just too many factors right now that we have not been able to come up with standards.

COMMISSIONER SHETA: What was the reason it was attached to the ZRD-1?

MS. MILLER: I, I believe in that case, they were using it to say we're, that we are, that, that we've met that standard.

COMMISSIONER SHETA: Did they meet the standard?

CHAIR PERLMUTTER: Did they what?

COMMISSIONER SCIBETTA: They met the standard.

COMMISSIONER SHETA: Did they meet the standard? If, if they attached it --

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CHAIR PERLMUTTER: Apparently they met the standards, because they got an approval.

COMMISSIONER SHETA: -- if, if it was attached to indicate that hey, we're good, we meet, we met the standards.

MS. MILLER: Yeah, I don't have specifically about that particular --

COMMISSIONER SHETA: Did somebody say that?

MS. MILLER: -- ZRD-1, but in that case it was approved.

CHAIR PERLMUTTER: Mm-hmm.

COMMISSIONER SCIBETTA: To your knowledge -- may I?

CHAIR PERLMUTTER: Go ahead.

COMMISSIONER SHETA: One, one more. Can we just know an answer to this? Would this project ever checked against this bulletin and was it okay?

CHAIR PERLMUTTER: Say again. Was it checked against the bulletin?

MS. MILLER: No. It would not have been checked against a bulletin that was not issued.

CHAIR PERLMUTTER: Yeah.

MS. MILLER: We would not do that.

CHAIR PERLMUTTER: Right.

MS. MILLER: I don't know whether the applicants

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considered it, looked at it --

COMMISSIONER SHETA: But --

MS. MILLER: -- but we would not.

COMMISSIONER SCIBETTA: But other projects have been checked against this bulletin?

CHAIR PERLMUTTER: No.

MS. MILLER: No, not that we have ever done, no. If an applicant wants to show it to us, look, we meet that --

COMMISSIONER SCIBETTA: Okay.

MS. MILLER: -- that, we'd accept it.

COMMISSIONER SCIBETTA: To your knowledge --

CHAIR PERLMUTTER: So, let me, to put this in perspective, because this is how you, when you file drawings, you -- you're nervous about your floor, right.

COMMISSIONER SCIBETTA: I understand.

CHAIR PERLMUTTER: So architect or engineer recommends to client, I'd really like to go to the Department of Buildings and get a sign-off on this because I'm nervous, right. So you go through the -- you, you have this bulletin, which you don't realize the, the, whatever, the efficacy of, or the reality of, and you say well, I go through all of this and I'm meeting the criteria on the bulletin, so I --

MS. MILLER: There is no bulletin here.

CHAIR PERLMUTTER: -- attached it. Yeah, so no bulletin, I meet the criteria on this draft thing, which I have, because it has DOB

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letterhead on it, right. And I go through the list and I submit that with my ZRD-1 and I say, am I good, and they'll say, well, you know, you went through the checklist so you're good. But it's not like what I think Ms. Miller is saying is it's not the DOB uses, has all their examiners with a checklist on the wall and they go through it. It's more the architect or engineer says this will just make it easier for me if I go through the checklist.

COMMISSIONER SHETA: It's kind of a complimentary analysis. When we, when we submit structural plans to the DOB, if I'm looking at thing which is in the building code, I would cite the building code, provide the article and I'm done.

CHAIR PERLMUTTER: Mm-hmm.

COMMISSIONER SHETA: But if it's not, like, like for example, if I want to put a floating shower, four feet in New York, cross steps, it's not going to fly. So if I come up with some sort of analysis and support this, let's say with a copy from the Bridge Standard, and, and, and I attached it. But my point is if, if somebody attaches something, it should be meaning, since it is attached to the, to the --

CHAIR PERLMUTTER: No.

COMMISSIONER SCIBETTA: But we can't hold the Department of Buildings --

[CROSSTALK]

MS. MILLER: No, there was no bulletin attached here.

COMMISSIONER SCIBETTA: We can't hold the Department of Buildings, uh, to the position of any other -- yeah.

COMMISSIONER SHETA: I got it, I got it.

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COMMISSIONER SCIBETTA: But my, my question, uh, is that you stated that the Department of Buildings will review if they see a one piece of equipment in a large room, and would respond, would, would ask more questions about that.

MS. MILLER: They're looking to see that it can real -- can it, uh, is it, does it look like a mechanical equipment space.

COMMISSIONER SCIBETTA: Do you have any examples of Department of Buildings rejecting a mechanical space like that?

MS. MILLER: Uh, I'm not aware.

COMMISSIONER SCIBETTA: Do you have any examples of the Department of Buildings requesting information about a mechanical space after such a space -- not, not with concern to safety but with a concern to is this actual mechanical -- is this excluded as mechanical space.

MS. MILLER: I don't have the benefit of that knowledge.

COMMISSIONER SCIBETTA: So counsel, where would you come, how did you come to the statement that this is something that happens?

MS. MILLER: Oh, the, the, the, the examiners that review this have said that they, they do look at, we, we've spoken with, uh, the, uh, borough commissioners and they, uh, they will look at it very much to know that can you realistically, can this floor be realistically used for, is it going to become some other use, or is this a mechanical space. They will look at it to determine that.

COMMISSIONER SCIBETTA: That's what they told you but we --

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MS. MILLER: Mm-hmm.

COMMISSIONER SCIBETTA: -- you don't know if that's happened?

MS. MILLER: Whether we have rejected spaces specifically because --

COMMISSIONER SCIBETTA: Yes.

MS. MILLER: -- um, I, I would imagine colloquially, they would tell me that they have if they're telling me that they look at that, but I don't have the specifics.

COMMISSIONER SCIBETTA: Thank you, counsel.

COMMISSIONER CHANDA: And I'm assuming if they did find a situation where space was being used technically for mechanical, but upon review they felt it was not fully utilized accordingly, the drawings would have been revised.

MS. MILLER: Sure, that's right.

COMMISSIONER CHANDA: So you may not have that review process of that document where that decision may have been made.

MS. MILLER: Of course.

COMMISSIONER CHANDA: But what you have is the end result --

MS. MILLER: The, the end result.

COMMISSIONER CHANDA: -- of that review --

MS. MILLER: Correct.

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COMMISSIONER CHANDA: -- which may not help answer your question.

MS. MILLER: It could have been happening in a meeting, where they're talking and looking at the plans together.

CHAIR PERLMUTTER: Mm-hmm. And, and also we actually see sometimes, in this context of houses, it's actually one of my favorite, where a house will use part of it as the attic deduction and then other part of it is the impossible to believe mechanical deduction where it's a house, how much mechanical would a house really need, and they're creating an entire attic that they're saying is deducted. That's when DOB would more likely, because DOB has a lot of experience with those kind of things, more likely say seriously, you already have your boiler in the cellar, what else do you have in the attic that would need mechanicals for, right, those kinds of things. I think that's more typical of the way DOB looks at it. We do it here. If it looks like it's for something else, it's probably for something else and it's just labeled mechanical right, as opposed to a set of drawings that's got all of this equipment in it, which on those situations, you never see. You know.

COMMISSIONER SHETA: If, let's -- I'm not a mechanical engineer. Let's say I have the two designs presented, one by the owner, one by the appellant engineer. And, and let's say in, in a month from now, in a year, in ten years, the owner comes back and files a PEA.

MS. MILLER: P?

CHAIR PERLMUTTER: PAA.

COMMISSIONER SHETA: What gets post approval --

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MS. MILLER: PAA?

COMMISSIONER SHETA: -- and -- yes.

CHAIR PERLMUTTER: Mm-hmm.

COMMISSIONER SHETA: And, and let's say he goes with, with a scenario like that. He, did it happen before? Did the DOB check before when somebody is filing PEA for --

CHAIR PERLMUTTER: A PAA.

MS. MILLER: PAA.

CHAIR PERLMUTTER: Post approval amendment.

COMMISSIONER SHETA: -- a PAA for mechanical drawings, did you go back and check the deductions. This is the first part of my question. And if it happens on this specific project, would you have in place a procedure to say okay, you got this amount of deduction, now you do not deserve it, you need to change something.

CHAIR PERLMUTTER: What? The building is built. It happens all the time.

Mr. Steinhouse: No, but I think the question is that you're converting the building to a use later, the zoning calculations would be taken into account for whether you're allowed to proceed with the conversion, such as for instance, where a community facility has a higher FAR and it's being proposed to be converted to a residential use, which has a lower FAR, if DOB would consider the zoning calculations for the proposed conversion in determining whether to allow that to happen. Is that similar to the question?

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COMMISSIONER SHETA: Sort of.

Mr. Steinhouse: My understanding is yes, but--

Ms. Miller: The Department is going to look at what the applicant presents and we're going to know that it meets for the current proposed use.

CHAIR PERLMUTTER: Right.

Mr. Steinhouse: And to the extent that floor area is no longer -- or floor space is no longer being used for mechanical equipment, the, uh, plan examination process would take that into account, um, for whether to --

Ms. Miller: Correct.

Mr. Steinhouse: -- approve those construction documents later on.

CHAIR PERLMUTTER: Mm-hmm. Right. But it's very common that in the older buildings, mechanical penthouses became no longer necessary, right. They got converted to some other use. But the Zoning Resolution actually permits that in those buildings. Those are 361 buildings I believe, so. Okay. Any other questions here. Thank you very much. Thank you. You want to take the boards --

MR. KARNOVSKY: Yeah.

CHAIR PERLMUTTER: The boards are away, in front of your projector actually. You need to move the board from your projector.

MR. KARNOVSKY: Okay, not too big? Yeah, thank you. Madam Chair, members of the Board, David Karnovsky, Fried Frank, land use counsel to owner. Uh, I'd like to first address briefly, the threshold question from our perspective, at least, of whether the Board has jurisdiction to consider the mechanical space issues,

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particularly in light of comments that were made at yesterday's meeting.

We believe that the board does not and that the, the proceedings should therefore be dismissed. Of course, should the Board continue to disagree, we'll go on to demonstrate why we believe that Landmark West's arguments fail on the merits, while reserving our rights with respect to the jurisdictional issue. Now to- --

COMMISSIONER SHETA: Can, can, can you please explain again why you believe that?

MR. KARNOVSKY: I, I'm about --

CHAIR PERLMUTTER: That's what he's about to.

MR. KARNOVSKY: -- to -- I'm about to explain --

CHAIR PERLMUTTER: He's introducing --

MR. KARNOVSKY: -- and clarify, uh --

CHAIR PERLMUTTER: -- what he's going to say.

COMMISSIONER SHETA: Oh, I'm sorry.

MR. KARNOVSKY: No, that's okay.

COMMISSIONER SHETA: Go ahead.

MR. KARNOVSKY: Now, today's proceeding has been described as a continued, or reopened hearing on appellant's appeal. But it is not, because Landmark West did not raise the issue of mechanical deductions in its appeal filed in May of last year. The Board's October 15th resolution in this matter expressly recognizes that Landmark West failed to raise a timely challenge to the mechanical deductions. And this is what the Board's decision says, and Commissioner Sheta, you read this language yesterday as if it was ours. It is not ours. It is yours. It is the Board's language from its

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resolution in this matter.

And it reads, "a timely third issue has not been presented by appellants regarding whether the amount of floor space used for mechanical equipment in the new building is excessive or irregular. And appellant's discussion of mechanical equipment space in the new building in their initial filings instead center on the volume and floor-to-ceiling heights of mechanical spaces." So there was some confusion on this point yesterday.

COMMISSIONER SHETA: There was not.

MR. KARNOVSKY: But it is not our statement. It is your statement. It is the Board's. And it makes clear that the Board has determined that Landmark West did not base its appeal on the mechanical floor space issue. So, rather than a continuation of Landmark West's appeal, today's hearing is the product of the Board acting sua sponte, of its own initiative, to expand the scope of the appeal beyond what Landmark West properly identified in its appeal. But the City Charter does not give the Board this authority and for that reason, this proceeding should be discontinued. And I'll explain why.

Now, the Board's October 15th decision, the written decision that I quoted from cites section 72-11 of the Zoning Resolution as legal authority for the decision to reopen the hearing and it cites the language of that provision, which states in relevant part that quote, the Board of Standards & Appeals shall hear and decide appeals from, or may, on its own initiative, review any rule, regulation, order, requirement, decision or determination of the Commissioner of Buildings. But the Board's appeals jurisdiction is not defined by the City Charter -- by the Zoning Resolution. It is defined by the City Charter. And there is no basis to conclude that the Zoning Resolution can modify or

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augment the powers and duties of the Board under the City Charter, including the scope of its appellant jurisdiction. Section 72-11 of the Zoning Resolution cited by the Board in its October 15th determination is simply a paraphrase, and an incomplete one at that, and as I'll explain, of what the City Charter in fact says. And it is the City Charter that governs, not the Zoning Resolution.

So what does the Charter say? Section 666.6(a) states that the Board shall have the power to hear and decide appeals from decisions of the BOD, and Section 669 says who may file, that the people who may file an appeal are aggrieved persons.

Now, let's turn to this language in question. Section 666.8 of the Charter, which is a provision that is separate and apart from the appeals provision that I just read, states in part, that the Board shall have the power to review, upon motion of any member of the Board, a rule, regulation, amendment, etc. decision of the, of the, of, of an agency from which an appeal may be taken.

Accordingly, the Charter distinguishes very carefully between the Board's role in hearing appeals and its role in conducting a review. These are separate sections of the Charter. It is only in connection with a review, that the Board, acting in its own initiative, can consider an issue, including a decision or determination by the DOB commissioner.

But there's a critical difference here. The critical difference between an appeal and a review lies in this. 666.8 states with respect to any review undertaken upon the motion of a commissioner, that no such review shall prejudice the rights of any person who has in good faith acted thereon before it is reversed or modified. This critical phrase is missing from the Zoning Resolution, from the paraphrase in the Zoning Resolution cited in the October 5th decision.

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If then the board overturns a rule or a regulation or a determination or a decision of the DOB Commissioner pursuant to a review, it cannot do so in a way that would prejudice a party who has relied upon the DOB action at issue. That would mean that as to that party, as to that party, the Board action has prospective application only. Now, it follows from this that the Board cannot graft a review onto an appeal as a means of expanding the scope of the appeal, yet that is exactly what's happened here with respect to the expansion of Landmark West's appeal beyond what Landmark West timely presented in its appeal as determined by the Board.

Said differently, under the Charter, the Board cannot, by means of a review, grant the relief that Landmark West seek. It cannot vacate the building permit, nor can it grant relief that would prejudice the rights of owner acting in reliance on that permit.

COMMISSIONER SCIBETTA: In good faith?

MR. KARNOVSKY: Yes.

COMMISSIONER SCIBETTA: Okay.

MR. KARNOVSKY: For these reasons, and good faith I think in the sense that you've been describing. For those reasons, the Board should vacate its September 17th determination, and it should not consider an issue which the Board itself has expressly determined, on October 15th that Landmark West failed to properly raise in its appeal. Any decision in favor of Landmark West in this reopened appeal would be contrary to the language of the City Charter. And that's our presentation on this issue.

I think yesterday, Madam Chair, there was a discussion as well about whether DOB was correct in its assertion that should Landmark West come before it with a

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request for a final determination with respect to this issue be -- and that should the Board decline -- excuse me, that if DOB declined, that that would be appropriate. If DOB is correct, uh, and we think it is, then they are correct. If they're not correct, Mr. Klein's remedy would be to seek mandamus or other judicial relief. The remedy was not for the Board we think, to expand the scope of the proceeding beyond its jurisdiction. So, I, I'm not going to address that, other than to say that the remedy lied elsewhere, if there was a remedy, and if DOB was incorrect. So that's our point on this jurisdictional matter. I'm glad to take any questions on this first, but if not, I'll move on.

CHAIR PERLMUTTER: Let's move on.

MR. KARNOVSKY: Okay.

COMMISSIONER SCIBETTA: You don't want -- we don't want to address that at all?

CHAIR PERLMUTTER: If, if you want to, be my guest, but I think we can move on to the meat of the issue since we're here for the meat, right.

COMMISSIONER SCIBETTA: Well.

COMMISSIONER SHETA: Yes, but didn't, didn't the Board indicate, even if this language is coming from our resolution, in, in the language, it says that instead it centered around the volume of the space.

MR. KARNOVSKY: The --

COMMISSIONER SHETA: In my opinion, the language here indicated that maybe, like a separate issue regarding the floor space deducted as mechanical wasn't explicit. But it was implicit by raising the issue of the volume. The volume means area and height. And, and when they started an issue in talking about the

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volume, I believe it could be -- if, if I'm saying the volume of this is ten, and you're questioning that, saying not, it's 20, that means that the height could be double, or the area could be double or it could be both. So you're, you're either questioning the height or the area of both. And, and that's what I, what I said yesterday.

MR. KARNOVSKY: Well, I think this particular point was discussed at length on September 10th. Uh, the counsel to the Board and the Chair expressed the view that it was a different issue, that it was not timely raised, and that's what's reflected in the Board's decision. So, uh, I understand your, your opinion there, but that is not the Board's opinion as expressed in its October 15th decision.

COMMISSIONER SHETA: That was my understanding. I, I'm a member of the Board and that was my understanding --

CHAIR PERLMUTTER: Yeah.

COMMISSIONER SHETA: -- for that --

CHAIR PERLMUTTER: Right.

COMMISSIONER SHETA: -- issue.

CHAIR PERLMUTTER: So what I do want to say is --

COMMISSIONER SCIBETTA: I think I could say we share that.

CHAIR PERLMUTTER: -- I think we would have stood on that resolution had we not gotten the reaction that we did from the Department of Buildings because our direction was to the appellant, go back to DOB, and have them review the mechanicals and then come back to us with, uh, if necessary, with a challenge to DOB's determination. But DOB said we will not issue a determination. So we were

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concerned in light of the *Sky House* decision, that the Court, and we assume this is going to court, right, uh, that the Court would, uh, have trouble with our not treating this case in the same way as we treated *Sky House*, which was to invite the mechanical drawings and a mechanical engineer to look at them, right. So, so we just, we decided in fairness to the appellant, that we would allow the mechanicals to be considered in a second hearing. Uh, and closed out the other issues. That's actually procedurally what we did. And whether it's an appeal or a review, we can get into in, in the resolution itself and how, how we justify either it being an appeal or either it being a review.

COMMISSIONER SCIBETTA: Okay. I was there for the decision, for the resolution then.

CHAIR PERLMUTTER: Sorry?

COMMISSIONER SCIBETTA: I was there for the resolution then.

CHAIR PERLMUTTER: Mm-hmm.

MR. KARNOVSKY: Okay. So turning to the merits, uh, I wanted to start by addressing two very specific questions that the Chair posed at the September 17th meeting. Uh, first whether there's a standard or typical amount of floor space devoted to mechanical space in buildings and you referred, Madam Chair to a rule of thumb of five percent that had been used in the past, and second, whether there's a typical number of interstitial full mechanical floors in tall buildings. And you noted at that time that there are, that several tall buildings with mechanical void spaces that were brought to the Board's attention in the *Sky House Condominium* matter, had three interstitial full floors, uh, mechanical floors, while the 66th Street building has four, 15,

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17, 18 and 19. Uh, and we've included in our papers an affidavit, an analysis from Michael Parley, a preeminent zoning expert who reaches two basic conclusions.

First, that there isn't a standard amount of deduction. You've heard that today as well from everyone, in residential buildings measured as a percentage of gross floor area, and second that there's no typical number of interstitial full mechanical floors in tall buildings including those, including those with so-called mechanical voids. The five percent rule, of course, refers essentially to the amount of deduction on an occupied floor as a percentage of that particular floor.

But beyond that, there's a widespread variation in buildings in terms of the totals and Mr. Parley's affidavit discusses all of the variables in detail and explains why variations can occur based on building type size, location and other factors, which I won't go into detail on.

But his assessment, his overall assessment, that there's no standard amount of mechanical deduction and that DOB doesn't assume one and doesn't apply one when it reviews mechanical drawings is actually fully consistent with the explanation that DOB itself gave to the board in the *Sky House* matter. And in a letter dated July 11, 2017, which is attached to our papers, the Department stated to the Board question is there a rule of thumb to determine the maximum mechanical space allowed for a building based on the percentage of the building zoning floor area, answer, there is no such rule of thumb.

The Parley analysis goes further, however, and examines how the 66th Street building compares to other tall buildings and it looks at the total percentage of gross that doesn't count towards floor area for a number of buildings that fall into two categories,

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buildings between 1,000 and 1,500 feet tall, the so-called super talls, and buildings between 665 and 880 feet, which is the classification that this building falls into. He focuses on gross floor area above grade and therefore excludes below grade and the results show a widespread variation in the percentage of total gross.

In the first class, the taller buildings, the so-called super talls, the percentages range from nine percent to, about nine percent to a much larger number, 22 percent. Where buildings between 665 feet and 880 feet, the category we're in the percentages range from about 13 percent to 21 percent. The deductions for the 66th Street building constitute 13.45 percent of total gross floor area, which is well within the range.

I want to mention that the building at 15 East 30th Street that was at issue in the *Sky House* case shows deductions, um, according to Mr. Parley's analysis that are 15.14 percent of total gross. Now, we understand in that case that the record may have indicated that it was just five percent. That is not borne out by our own examination of the drawings, 15.14.

Then we looked, uh, to see how many interstitial full mechanical floors there were in these buildings, that's exclusive of below grade and rooftop mechanicals in these buildings. And there's also a widespread variation ranging from two, to three, to four, to five, to six, and in one case, to 12. I think you alluded to that. Four buildings on the chart, other than 66th Street have four interstitial full mechanical floors.

Uh, at the September 17th meeting, uh, you recall Madam Chair, that existing buildings with mechanical voids identified in that proceeding in *Sky House*, uh, each had three and we have four. Uh, however, 220 Central Park West, uh, 111 West 57th Street, 217 West 57th Street and 432 Park, all buildings cited to the Board in the 30th Street

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proceeding, each have more than three interstitial full mechanical floors.

So what this analysis demonstrates in response to the questions raised by you on September 17th is that there's no standard amount of mechanical space in tall buildings and not a standard either, with respect to the number of interstitial full mechanical floors. And that the amounts in this building, amounts of space, number of floors are similar, comparable to that found in similar tall buildings. And this belies I think any claim that the amount and the number of floors in the building are improper or excessive.

And I want to note that Mr. Parley is here today if you have questions for him and he's available to answer them at the end of my presentation.

CHAIR PERLMUTTER: Thank you.

MR. KARNOVSKY: And I have to have a drink of water or I will not be able to continue.

COMMISSIONER SCIBETTA: Just a question on that point then.

MR. KARNOVSKY: Sure.

COMMISSIONER SCIBETTA: How do you respond to the applicant's statement that this case should be held analogous to the Penthouse matters, the Penthouse case, I think it's 6707-A, where there, there were plenty of history of this being approved, but it was improper?

MR. KARNOVSKY: Uh, first of all, there was no evidence that it's improper. Uh, and what we're just, what we're simply illustrating is that to the extent that there's a claim here, that there's something very atypical and out of line, uh, in terms of the amount mechanical deduction, in terms of the number of

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interstitial floors, that it not the case. This particular analysis doesn't address the practice.

Mr. Constanza: Can you speak to the mic, please.

MR. KARNOVSKY: This, this analysis of Mr. Parley's doesn't address the DOB practice. It's about comparison of other buildings to a similar type. Uh, now, uh, I'm not going to address now, because I think we heard a very good, uh, and complete presentation from the DOB, the status of the bulletin. But our papers do detail --

CHAIR PERLMUTTER: Yes.

MR. KARNOVSKY: -- uh, all of the reasons why the bulletin has not actually been implemented in terms of various things such as the fact as its list of mechanical equipment isn't complete, uh, that it's approach towards the calculation of the permitted amount of area allowed for access and repair of mechanical equipment is not, is overly rigid and unrealistic in a number of cases and so on and so forth. So I would refer you to that. There's a laundry list of things that the industry has presented the DOB over the years, over the course of these five versions of the, of the bulletin and why it simply doesn't work.

CHAIR PERLMUTTER: Mm-hmm.

MR. KARNOVSKY: It's impractical and, and, and it is, uh, one of the reasons we believe that, as you heard, it is not actually, uh, in effect. Uh, but I do want to note two things. One is that Mr. Ambrosino, uh, says that his analysis was guided by that bulletin. And further, he says, in his affidavit, that the bulletin has been approved, which is flatly incorrect.

MR. AMBROSINO: I didn't say that.

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CHAIR PERLMUTTER: Okay.

MR. KARNOVSKY: Excuse me, I'll quote --

CHAIR PERLMUTTER: Please --

MR. KARNOVSKY: -- from his --

CHAIR PERLMUTTER: -- don't, uh --

MR. KARNOVSKY: -- I'll quote from his affidavit if you'd like.

CHAIR PERLMUTTER: Please don't banter back and forth.

MR. KARNOVSKY: Okay. Uh, no interruptions, thank you.

CHAIR PERLMUTTER: Yeah.

MR. KARNOVSKY: That's what he says. It is not correct, and, uh, the reality is exactly what Felicia Miller said, which is that the ZRD-1 cited in his affidavit for that.

CHAIR PERLMUTTER: Mm-hmm.

MR. KARNOVSKY: It says precisely the contrary. It says the attached bulletin has not been officially issued by DOB and may not be deemed as such. Uh, I also want to just, since it relates to the bulletin in some respects, uh, address something that Mr. James said. Uh, you know, Mr. James, uh, talked about this theoretical, uh, tension between two provisions of the Zoning Resolution. Um, and I want to just talk a little bit about what he actually said in his affidavit, uh, because what he said in his affidavit was that the fact that the mechanical floors have these fire department

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refuge areas marked on them means that they must count as floor area and therefore, there's an exceedance of space on the floors that is not mechanical space, therefore, the, uh, stairwell and elevator shafts, uh, cannot be deducted either. Therefore, they cannot be treated as mechanical floors and so on and so forth, sort of the cascade, cascading effect.

So I'm very glad the fire department was here today to clarify that the space is shown that way and it's denominated that way, but in fact, it is corridor space, we've always understood it as corridor space, circulation space that, uh, any reasonable person would say is necessary on a mechanical floor for purposes of access and circulation, egress, etc.

COMMISSIONER SCIBETTA: I believe the fire department said that it, it's not exclusively, it, it --

CHAIR PERLMUTTER: For fire department use.

COMMISSIONER SHETA: For fire department.

MR. KARNOVSKY: That is correct. And it's, it functions as corridor space, access space.

CHAIR PERLMUTTER: Mm-hmm.

MR. KARNOVSKY: As, uh, Felicia Miller said, the Department of Buildings confirmed in response to the request made by the Chair on September, September 17th, that a full deduction of the floors was warranted. And in support of that determination, the Board has been provided with these composite drawings, which overlay on a single drawing for each floor all of the separate mechanical drawings approved for that floor. These illustrate the full range, the full range of mechanical equipment for a floor reviewed by DOB through examination of all the

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separate drawings and I'll just put up the one for the 18th floor just for reference. And these drawings illustrate the basis of DOB's review and determination.

Now the Ambrosino analysis argues that the floors are largely empty, but his analysis understates the size and scope of the mechanical program. First, the analysis is based, as Felicia Miller said, on only one drawing from the mechanical drawing set only, the mechanical ductwork plans alone. It doesn't show any of the mechanicals shown on the other three mechanical plans prepared for each floor, HVAC mechanical piping, fire protection and plumbing.

Second, even with respect to the HVAC mechanical ductwork plans, the analysis does not account for mechanical fans, heaters, shafts, chasers, horizontal ductwork distribution and plenums shown on those plans.

Now, Mr. Ambrosino today, for the first time acknowledges that he didn't look at these and says it doesn't matter essentially, that they're irrelevant. Well, they're not. This is what they show in total. The full range is shown on these composite drawings, which the Ambrosino analysis ignores. These accurately reflect that each floor is devoted to multiple systems of mechanical equipment. Next slide, please.

Here is a comparison of the northwester portion of the 19th floor, showing on the left in red what the Ambrosino analysis deducts based on its incomplete methodology, the area of a single smoke exhaust fan. And on the right, you see the same area as shown on the composite drawing with labels added identifying the various forms of equipment that were not identified on the Ambrosino diagram. And, Patel, sorry, Vivek Patel from ICOR, engineering firm that was responsible for the mechanical layout will be glad to explain this in more detail.

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But I simply wanted to illustrate to you the effect, the effect of the undercounting that Mr. Ambrosino's analysis, uh, did. For all these reasons, what he calls his method one, his analysis of the amount of space occupied by mechanical equipment should be disregarded.

Now, I'm going to turn to his method two, his proposed alternative layout for certain equipment located on the 17th floor, which was prepared in an attempt to show how less floor space could be used for mechanical equipment than under the mechanical floor layouts designed by ICOR. Igor Bienstock and Vivek Patel were the project mechanical engineers.

This alternative layout is flar- flawed, excuse me, for multiple reasons, uh, that are outlined in the Bienstock affidavit and will also be outlined in some detail today by Mr. Patel. But, most importantly, the Ambrosino alternative layout is flawed because it's based on one design principal only, one design principle only, occupy the minimum amount of floor area space as possible.

But Mr. Ambrosino himself acknowledges that there are hosts of design criteria for mechanical program, quote, this is from his affidavit. The design criteria can range from most sustainable, least capital cost and best counter performance to a host of other criteria which can vary, depending on the size, layout and budget of the project, end quote. And he admits, quote, I am not privy to the original design principles for the HVAC systems for this building, end quote.

Despite this, he prepared an alternative layout based on one design criterion alone, minimize the use of space. Now, in a further leap, Landmark West states in its supplemental submission that Ambrosino demonstrates that under this alternative plan,

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the equipment, quote, can be more efficiently positioned without negatively impacting on its operability. In fact, Mr. Ambrosino's affidavit says nothing of the sort, although he tried to say it today. He says only that his plan maximizing the efficient use of space under one design criterion, as he says, the alternative layout was prepared, quote, as if the design principle was to be a more efficient use of the floor area. That's it.

The alternative layout is based on a false premise, that the exclusive design criteria that guides preparation of a mechanical layout is to occupy the minimum amount of space on the floor. Now, that may produce an efficient use of the space. But it does not equate to mechanical efficiency.

As Mr. Bienstock states in his affidavit and Mr. Patel will discuss further, there are a host of considerations an engineer must take into account in designing a mechanical floor, including constructability, accessibility, proximity of equipment to the occupied spaces they serve, required separation between systems under code, proximity to exterior walls for air intake and exhaust, etc.

In short, the alternative layout for the 17th floor is not an engineering plan based on criteria of the kind outlined by Mr. Bienstock and used by mechanical engineers. It is a cartoon.

In his affidavit, Mr. Bienstock describes in detail the systems designed for each of the four interstitial floors, with a detailed explanation of what types of equipment are located on each floor, why they are located on a particular floor, why they are located in a particular location within a floor and the like. The Bienstock affidavit fully refutes the arguments made by Landmark West and Ambrosino that the mechanical layouts at 66th Street are simply random arrangements of equipment made in an attempt to spread it

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throughout the space.

The layouts reflect a carefully considered plan developed and based on a set of engineering criteria and designed to meet the needs of the building. Mr. Patel will illustrate this further by discussing the 18th floor. But all the floors are discussed in detail in Mr. Bienstocks' affidavit.

Now, uh, I wanted to address one other issue, uh, which has to do with I think, and the question that the members of the Board may have that somehow, along the way, uh, the number of interstitial mechanical floors was increased from three to four. And as I will explain, after I have another drink of water, there have always been four such floors, 15, 17, 18 and 19.

Now, next slide, please. Okay. So Landmark West has of course suggested otherwise. Here claiming earlier in the year, on its website that the 15th floor was added as an additional mechanical floor at the last minute. That's what this is getting at. So let's look at what the records show and let's set it straight.

Okay. Go back one. Uh, this is the ZD1. These are documents taken from the ZD1 for July 26, 2018, at the time foundation approval. Alright. Here are the four floors, 15th floor is here. It is labeled as residential. Okay. And as I'll show you, it is mislabeled as residential. This is an error. But let's go on to the next one. And this is a blowup. Residential, mislabeled. But let's go on.

CHAIR PERLMUTTER: Mm-hmm.

MR. KARNOVSKY: Here is 15 as shown on the proposed floor area table for the ZD1, 15 building gross, residential zero, okay.

CHAIR PERLMUTTER: Mm-hmm.

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MR. KARNOVSKY: A count for the floor. Next.

MR. COSTANZA: Mr. Karnovsky, could you take the, the microphone?

CHAIR PERLMUTTER: Yeah, yeah.

MR. KARNOVSKY: Oh. Okay, we'll do an Elvis. Okay.

CHAIR PERLMUTTER: Is there any way to blow that up? I don't know --

MR. KARNOVSKY: We tried, uh, we tried. But it --

CHAIR PERLMUTTER: You tried that, okay.

MR. KARNOVSKY: Yeah, it is, it's, it's mechanical.

CHAIR PERLMUTTER: Okay.

MR. KARNOVSKY: We can provide a blowup if you like, but it's correctly identified, properly labeled as mechanical on this table here. And then let's go to the next one, which is the schedule A, as of July, which shows for 15 storm water detention tank, boo, bah, bah, bah, mechanical equipment.

CHAIR PERLMUTTER: Mm-hmm.

MR. KARNOVSKY: So there is an error in the labeling of the floor on the elevation.

CHAIR PERLMUTTER: On the section.

MR. KARNOVSKY: The section, sorry. The section. Now, let's turn to the ZD1 as of April 4th, at the time of the PAA approval. Uh, mechanical, mechanical, mechanical, mechanical.

CHAIR PERLMUTTER: So it, it really was a --

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MR. KARNOVSKY: Mechanical --

CHAIR PERLMUTTER: -- redistribution of the floor-to-floor heights over the four floors --

MR. KARNOVSKY: Of the -- that changed.

CHAIR PERLMUTTER: -- that was done. Yeah.

MR. KARNOVSKY: We all know that that changed.

CHAIR PERLMUTTER: Yeah.

MR. KARNOVSKY: But 15 has always been a mechanical floor. There was a mislabeling in the July ZD1, which is shown correctly in the tables, uh, which show that it has no floor area. So I wanted to clarify that, uh, for once and for all.

CHAIR PERLMUTTER: So what's on 16?

MR. KARNOVSKY: Sixteen is an amenity floor.

CHAIR PERLMUTTER: Oh, okay, 16, 17, okay.

MR. KARNOVSKY: Yeah. Okay.

COMMISSIONER SCIBETTA: Was it the same mechanical plan?

MR. KARNOVSKY: Between the --

COMMISSIONER SCIBETTA: In, in your first --

MR. KARNOVSKY: To my understanding, the mechanicals were the same, yes.

COMMISSIONER SCIBETTA: Can we have a submission of the mechanical plans? Or the prior mechanical plans?

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MR. KARNOVSKY: Well, direct your request to the Chair, please, because, uh, at this point, you know, we have been here since May, and now --

CHAIR PERLMUTTER: Yeah.

MR. KARNOVSKY: -- we're asking for another set of plans, another review. I --

CHAIR PERLMUTTER: Right. I'm not really sure what the relevance is, whether it's the same layout. Why, are we going to start studying mechanical drawings for the other building, you know, for this version? I'm not even sure there were mechanical drawings ready by that time.

COMMISSIONER SCIBETTA: But if they weren't, then, uh --

CHAIR PERLMUTTER: No, no. But, but the point is are we going to be now comparing whether they put the pump over here or over here because that's what you're saying we need to do.

COMMISSIONER CHANDA: But I think more to the point, is that the zoning calculation, the zoning calculation did not count 15th floor as a residential floor. It, it counted as a mechanical floor. And, and the fact that that was corrected in the 19th and more documents and information also is what we should -- we are focusing on and that makes sense. Because that's the most current mechanical drawings which DOB has reviewed.

COMMISSIONER SCIBETTA: Right. But I think that --

CHAIR PERLMUTTER: Well, maybe not. Maybe it's the

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same mechanical drawings, like we need to look at the drawing date.

COMMISSIONER CHANDA: But it's, but based on DOB's last submission, they have looked at the latest submission, right?

CHAIR PERLMUTTER: Mm-hmm.

COMMISSIONER CHANDA: So, I, I don't see the relevance of looking at an older one.

COMMISSIONER SCIBETTA: We do have a host of experts.

COMMISSIONER SHETA: It just verifies the, the alternative approach from the appellant expert indicating that he just followed one criteria, which is efficient usage of floor space.

CHAIR PERLMUTTER: So I, so when was this? This was a July, uh, ZR- ZD1 right? The first one?

MR. KARNOVSKY: No, this, the first one is July of 2018.

CHAIR PERLMUTTER: Okay. July of 2018. So, there is design development drawings on the mechanicals of November 2017. November 2017, they filed with DOB, uh, March of 2018, there was a construction document progress set. It's all -- it's the revision dates that you're seeing on the set of mechanicals that we received, right. So these were in play at the time. Though, you'd be asking to see all the revisions and how the mechanicals might have changed over the time period.

COMMISSIONER SCIBETTA: There are experts on this, there are experts who are reviewing whether or not the space is, the, the criteria of how this space is being used. I think it would be helpful to the experts to review what the

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original plans were.

COMMISSIONER CHANDA: But, but what will that get us? I mean it was still a mechanical space and the number of mechanical equipments and everything did not change. The only thing that changed --

COMMISSIONER SCIBETTA: We don't know that.

CHAIR PERLMUTTER: No, so what I just want to say is the floor plates are the same, right?

COMMISSIONER CHANDA: Yeah.

COMMISSIONER SCIBETTA: The floor plates are the same.

COMMISSIONER CHANDA: The floor plates are the same.

CHAIR PERLMUTTER: Number one is the same floor plate.

COMMISSIONER CHANDA: Yeah.

CHAIR PERLMUTTER: Number two, three, four, it's just a different distribution in ceiling height.

COMMISSIONER SCIBETTA: Yeah.

CHAIR PERLMUTTER: So, what you're asking -- you are actually suggesting that we would look at where the equip-, no matter what, they designated it as a mechanical floor, right?

COMMISSIONER SCIBETTA: Mm-hmm.

CHAIR PERLMUTTER: And at some point, filed in

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whatever I just said, uh, they filed at DOB and at some point, I don't know when DOB ultimately approved the, the actual set. What's the date on this ZD1?

MR. KARNOVSKY: Uh, April 4th.

CHAIR PERLMUTTER: April 4th of this year?

MR. KARNOVSKY: This year, correct.

CHAIR PERLMUTTER: Oh, so, the last version of the mechanicals that we have here are from August of 2018.

COMMISSIONER SCIBETTA: Right.

CHAIR PERLMUTTER: So it predates and that's what -- so effectively, we're looking at the mechanical set before the ZD1 changed.

COMMISSIONER SCIBETTA: Okay.

CHAIR PERLMUTTER: Okay. So.

MR. KARNOVSKY: Okay. Uh, uh, let me just close and then Mr. Patel will speak and address some of the points, uh, given over to you --

CHAIR PERLMUTTER: Okay.

MR. KARNOVSKY: -- but also address some of the points that, uh, Mr. Abrosino made. I think, you know, in particular, uh, he talked about hanging equipment up in the sky. Uh, and why that didn't effect, how there was no reason not to do that, and Mr. Patel will address, uh, that question. Uh, and, uh, there was a particular discussion about the 19th floor. That will be addressed as well. Um, and so we'll go from there.

Uh, but to sum up this presentation, what I'd like to say is that at the September 17th meeting, uh, the Chair posed the question to be answered as whether the mechanical

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floor space is appropriately occupied by mechanical equipment necessary to support the building. And in that regard, the Chair asked for the MEP drawings, an explanation, explanation of what is on each floor, and a justification for the number of, of mechanical floors. Uh, and further, the Chair asked whether the amount of mechanical space overall and the number of mechanical floors are typical of a building, uh, of this kind, in this class.

Um, we have provided all that information. And the answers to the Chair's questions are decidedly yes. The mechanical floor space is appropriately occupied by mechanical equipment necessary to support the building as best illustrated on the composites. And both the amount of the floor space and the number of floors are comparable to found, what's found in other buildings.

The Chair also rightly pointed out yesterday that Landmark West's objection has always been to the building height, but that none of these arguments with respect to the amount of the mechanical deductions or the floors being improper in some way have anything to do with height. Um, and the Board decided in September and October, that the floor-to-ceiling heights of the mechanical spaces are unregulated at that time. They are regulated today. And their contribution towards the building height is not affected by the number of mechanical floors.

The professionals have stated in their affidavits that the mechanicals for this building were developed based on bona fide engineering criteria, and multiple criteria, and not a single criterion. And were reviewed and approved in the normal course. The claim that somehow a mechanical floor was added at the last minute is incorrect, as I've just shown you, and in any event, there's no plausible reason why that would be done,

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since it wouldn't achieve an advantage with respect to height, given the fact that the voids were lawful.

The Board should dismiss the proceeding, and if you do not dismiss the proceeding, you should reject Landmark West's arguments, and I thank you.

CHAIR PERLMUTTER: Thank you. Any other questions for Mr. Karnovsky? Okay. Great. You wanted to bring another expert.

MR. RESSNER: Madam Chair?

CHAIR PERLMUTTER: Oh, the fire department again.

MR. COSTANZA: Chief, just please restate your name.

MR. RESSNER: Battalion Chief Ressner for the fire department. Madam Chair, uh, the approval of the building was based in part on receiving a letter of no objection from the fire department after review of their plans. So since I've been seeing that there's been a number of revisions that have taken place and I'm not sure when they were relative to our letter, we'd ask that the, uh, the owner or the applicant submit a full set of plans to us electronically, just so we make sure that the accommodations that were made for fire department operations have, have remained in that base plan.

CHAIR PERLMUTTER: Mm-hmm. Okay.

MR. RESSNER: Thank you.

CHAIR PERLMUTTER: I, I actually think if I'm looking, that the drawings that we have predate your agreement about the modification in the floor-to-floor heights. Maybe they're -- the drawings that we have, the most recent is dated 2018.

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MR. RESSNER: Okay.

CHAIR PERLMUTTER: And my understanding, this happened 2019, right --

MR. RESSNER: Right. Well, we would still like to have --

CHAIR PERLMUTTER: -- relative to the mechanical drawings. Okay.

MR. RESSNER: -- the set that's approved by the Department of Buildings in our records to make sure that we have the accommodations that were agreed to.

CHAIR PERLMUTTER: Okay.

MR. PATEL: Good afternoon, commissioners. My name is Vivek Patel, and I'm an engineer with ICOR Associates, the MEP engineer who desi- engineering firm for this project. I'm the senior mechanical engineer and project manager for the MEP design of 36 West 66th Street project. My colleague Mr. Igor Bienstock, the engineer of record for the project could not attend today's hearing he's out of -- out, uh, he is traveling overseas.

So, my primary goal today is to describe how the mechanical floors at 36 West 66th were developed and designed. This process was typical of the way in my experience mechanical programs are designed in residential buildings in New York City. I would like to cover four items. First, I'll describe in general terms the process we went through to design mechanical floors at 36 West 66th, 66th Street and the factors that were considered. Second, to help illustrate this process, I'll discuss the 18th floor as an example, and described how we prepared the layout for that floor. This process was

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applied to each of the mechanical floors. Third, I would like to speak to diagrams that Landmark West entered showing an alternate layout of 17th floor, which are inaccurate and misleading. I'll describe the inaccuracies and omissions and also explain how like the 18th floor, the 17th floor was designed based on number of parameters which are ignored in these diagrams. Fourth and last, I would like to respond to a question brought up in the review session yesterday about the height of ductwork and piping.

So, to begin with, I would say there is no standard mechanical program for any building. Each building has individually tailored mechanical, electrical, fire protection and plumbing system the engineer must design based on the pro- program of the building, architectural elements and the constraints, the end use equipment, energy efficiency concentration and other goals and standards.

The engineer identifies the array of equipment to implement this program. The engineer then establishes a schematic design to locate the equipment throughout the building and within each floor, taking into account a host of factors. Typically, in the design process of the new building, such as this one, the mechanical engineer coordinates with the architect and other design consultants to identify the needs of the building, type of system that'll be provided, loads imposed and capacity requirements.

In the early schematic level of design, the engineer will size the equipment that will be necessary to satisfy this building demands and will begin to locate the equipment within the stack, or MERs, mechanical equipment rooms, sorry, in a way that is efficient. A number of considerations come into play when, excuse me, come into play when determining the placement of specific equipment, such as proximity to the occupied space, the area it serves, optimizing distribution for manageable shaft sizing and location,

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limiting operating pressures, uh, wattage drop on the electrical system as much as possible, as well as constructive ready and cost concentration. The engineer must also consider the future operation and serviceability of the system and equipment once a building is complete.

Within each mechanical floor, the engineer designs a floor layout that can be effectively and affordably constructed by the contractors. Certain systems are requirements under building code to isolated or separated from other systems. Certain pieces of equipment require proximity to exterior walls for connection to the louvers for air intake and exhaust requirements.

Other factor is that placing equipment near to the corresponding risers that they connect to decrease the amount of horizontal distribution, which limits the cost and spatial requirement. And each floor needs to provide space for personnel to safely move around and access the equipment for maintenance and replacement purpose.

So, the process for designing the mechanical floors at 36 West 66th Street, was no different from any other project I have worked on. Based on the desired mechanical program, and with the systems and parameters, we developed schematics aimed at satisfying the building demands while optimizing operational and energy efficiency and creating a safe, accessible and constructible floor.

To illustrate how an individual floor plan is created with attention to these multiple factors, I would like to quickly walk through the design program of one of the mechanical floors at 36 West 66th Street. I have taken an example of the 18th floor.

Mr. Constanza: Take the microphone.

MR. PATEL: So basically 18th floor is our main chiller

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plant, which houses all the primary cooling, primary and secondary cooling equipment, which includes pumps, primary pumps, secondary pumps, all the heat exchangers, water cooler chillers that support the entire cooling demand of the building. And the reason we decided to place this cooling equi- this cooling plant on this floor is because it is closely, uh, to our residential floor, which is the maximum cooling demand of the building. And from here, it distributes to the other systems, uh, where it requires the cooling as well. And if you can see, this is a composite drawing, this is chiller banks, these are a set of pri- secondary pumps, plate and frame heat exchanger, there are plate and frame heat exchangers here for the main building isolation, primary condenser water pumps are located here and overall distribution, piping distribution, ductwork distribution, sprinkler and plumbing distribution on this floor. So basically, this is what I described. I was going to go through the testimony, but I just explained it through this diagram.

CHAIR PERLMUTTER: Can you explain why you have that little section A there that's -- gives the ceiling height for fire department access? Is that the access? Is that the -- that's lower than the actual ceiling height, right, in this space? That little diagram on the right, section A.

MR. PATEL: This one?

CHAIR PERLMUTTER: Yeah.

MR. PATEL: This is --

CHAIR PERLMUTTER: It's indicating the floor-to-ceiling height for --

MR. PATEL: This is slab-to-slab height.

CHAIR PERLMUTTER: That's slab-to-slab height?

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MR. PATEL: Yes.

CHAIR PERLMUTTER: It's like 30 feet? What does it say?

MR. PATEL: No, it reads 16.

CHAIR PERLMUTTER: Sixteen feet? Slab-to-slab just where the fire department access is?

MR. PATEL: No, these are the floor levels.

CHAIR PERLMUTTER: So the 18th floor is a 16 foot high floor? Slab-to-slab? Really?

MR. KARNOVSKY: Sixteen.

CHAIR PERLMUTTER: Hmm. Confusing. Okay. Go ahead.

Commissioner Sheta: Top slab, top slab is say 16 feet.

CHAIR PERLMUTTER: Yeah, but --

COMMISSIONER SCIBETTA: But that can't be.

CHAIR PERLMUTTER: That's --

COMMISSIONER SCIBETTA: I don't seem, it doesn't seem to coincide with --

CHAIR PERLMUTTER: It may not matter to this drawing here, but I don't understand it, actually. Uh, yeah, maybe someone can probably explain that.

MR. RUSSO: This is the FDNY access.

CHAIR PERLMUTTER: Yeah, yeah, so that's what I'm

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trying to understand. So that's just the slab-to-slab height in the corridor? For some reason.

COMMISSIONER SCIBETTA: Is the corridor lower than --

CHAIR PERLMUTTER: Yeah, so the corridor must be lower. If you, if you made a section through, you'd have multiple slab-to-slab heights I guess, even though it says 16th floor. The gentleman who just seems to be the one who actually did the drawing? No?

MR. KARNOVSKY: Do you want him to clarify?

CHAIR PERLMUTTER: Yeah, please. Yeah.

MR. COSTANZA: Mr. Patel? Sign right there. I didn't get your name. Just --

MR. RUSSO: Good afternoon, everybody. My name is Luigi Russo. I'm the architect of record for project.

CHAIR PERLMUTTER: Oh, okay.

MR. RUSSO: How are you? Uh, the 16 foot is really the floor-to-floor to the actual FDNY access. So it's an interstitial floor that basically requires access. So it's certainly not a true section of the overall floor. The plan, if I may point --

CHAIR PERLMUTTER: Take the --

MR. RUSSO: The FDN- the FDNY floor above basically incorporates two elevators, the stairs, the service elevator and the actual corridor above. So this section reflects really a section at this point.

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CHAIR PERLMUTTER: Oh, okay. And so above, so there are several floors above --

MR. RUSSO: Several floors, yeah.

CHAIR PERLMUTTER: -- that?

MR. RUSSO: In, in the overall section, I think, do we have the overall section? We can show that. Even the ZD1, that's fine too. Yeah.

CHAIR PERLMUTTER: Yeah, that's what it is.

MR. RUSSO: Right. Exactly. So, these are 16 foot intervals.

CHAIR PERLMUTTER: Mm-hmm. I see.

MR. RUSSO: That, that section is taken right there.

CHAIR PERLMUTTER: Okay. That was the discussion you had with the fire department about --

MR. RUSSO: Indeed.

CHAIR PERLMUTTER: -- access. Okay. I get it. Alright. Thank you very much.

MR. RUSSO: Come there?

MR. COSTANZA: Yes, please.

COMMISSIONER SCIBETTA: So there, there are four sections and two?

CHAIR PERLMUTTER: So there are four slabs within the full height of the mechanical floor. So fire department, because we learned that the fire department wanted more easier access as you proceed up the height of the space. Right.

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Okay, now I get it.

MR. PATEL: So, I'll just explain in detail the other layouts, the mechanical room, mechanical room number one on the east portion of the floor houses 18 water cooler chillers as well as primary standby chill water and condensed water pump. They are large and associated with the chillers and the pumps, the large header pipes for the system as well as associated air separators and accessories, expansion tanks, etc.

This, this mechanical room also houses BFDs, air conditioning units and fan are in the room and also located in this mechanical room. Together, the systems in this room circulates secondary condensive water to the biggest loops throughout the building as well as produce and chill, circulate chilled water for the tower residential units above. The system is located here, as I mentioned, because of the floor's proximity to the residential floor above and limits the pipe, dry runs, risers, etc.

Mechanical room number two, which is in the middle, middle of the floor area here. It contains primary plate and heat frame exchangers. So basically these heat exchangers are located on this level to provide necessary pressure break from the primary condenser water system and the secondary distribution system. They are located in this location on the floor as a midpoint between the primary condenser water pumps and secondary condenser water pumps, thereby minimizing piping distribution.

So basically, this is our primary condenser water pump system. It goes through here, heat exchanges, comes back, returns back to the tower, and from here, the secondary distribution happens. And these are the pumps that distribute water through the chillers as well as the entire building.

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Mechanical room number three, on the western portion, as I just explained, these are the primary pumps, uh, for the condenser water system. The electrical room on the northern portion, uh, of the floor, houses transformers, electrical distribution panel and AC unit which serves, which is serving the electrical room. This room provides power to all the mechanical equipment on this floor. So in this way, basically what I was trying to explain that this is the way we lay out the system in the most efficient way then coordinate of the structural engineer and that's how we come up with this most effective distribution for the equipment layout.

And Landmark West's argument ignores all this factors in their presentation. Now, I would like to comment on the submission by Landmark West. Landmark West submitted an alternate layout of the 17th floor. So to respond to that submission, I will shift focus from 18th floor to the 17th floor. Landmark West submitted the diagram shown here, which is --

COMMISSIONER SHETA: Can you, can you address the 18th floor as well, because I see that they moved some equipment around. Can you,like, explain it to us briefly?

MR. PATEL: Sure.

COMMISSIONER SHETA: Why do you think that the kind of redistribution that they've done is, is not appropriate.

MR. PATEL: Right. So basically, with every --

COMMISSIONER CHANDA: Well, did you have a chance to review their submission? The complete submission for all the floors?

MR. PATEL: Yes.

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COMMISSIONER SCIBETTA: If you want a copy of it.

MR. PATEL: Yes. So basically, the way this whole floor is laid out, first of all, there's a structural constraint. We don't want to park all the equipment on one side of the floor areaeven though we understand that this is a new building but then they would have to reinforce it further to support all these heavy pieces of equipment. So that's one of the considerations. Now, second consideration is all these pieces of equipment have piping connection to that, right. So it's not just putting everything in front of each other. It requires access, proper movement around it for maintenance purpose, so that, those are the factors that we considered. And on top of that, there's a distribution that comes out of this equipment which goes above the, to the floors above and equipments are located below.

COMMISSIONER SHETA: So the structural, the structural, the structure perspective was in play.

MR. PATEL: Exactly.

COMMISSIONER SHETA: From the beginning?

MR. PATEL: So we -- once we start, once we started the schematic progress, we start coordinating with the architect, okay, this is how we're going to start, and there are structural implications. Not only the floor, uh, equipment concentration on one side of the floor, but there are certain components which all these are shear walls. And unlike the other standard walls, it's tough to penetrate the shear wall in certain location. So by distributing the equipment, we can reduce the amount of penetration to the shear from one side of the room and distribute throughout the floor.

COMMISSIONER SHETA: Have you as a mechanical

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engineer conveyed this to the structural engineer --

MR. PATEL: Yes.

COMMISSIONER SHETA: -- and he said no, we don't like that?

MR. PATEL: Yeah, so we, this is not only for the entire -- all this mechanical, but the entire building, all other mechanical floors we do the same way. We provide our equipment weight and then what we do is we prepare composite drawing showing all the distribution of ductwork, mechanical piping, sprinkler, plumbing, everything. And then they will tell us whether, at certain location, whether we can penetrate those areas or not. If they allow, then they will tell us okay, you have certain amount of opening that you can penetrate or read out your distribution at another location.

COMMISSIONER SHETA: And you're saying you've communicated this --

MR. PATEL: Yes, yes.

COMMISSIONER SHETA: -- to the structural?

MR. PATEL: Yes.

COMMISSIONER SHETA: And he got back to you --

MR. PATEL: Yes.

COMMISSIONER SHETA: -- saying it's not desirable?

MR. PATEL: Yes.

COMMISSIONER SHETA: Is there any concern with the, like, hydraulic efficiency of the system if you redistribute the equipment the way that

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they've done in their submission? I'm talking about appellant of course.

MR. PATEL: I'm sorry, what type of efficiency?

COMMISSIONER SHETA: If, if --

CHAIR PERLMUTTER: Can you speak into the mic please? Directly into the mic.

COMMISSIONER SHETA: Yeah, sure, sure. Is there any other concern, other than the structural concern when you redistribute the equipment --

MR. PATEL: Mm-hmm.

COMMISSIONER SHETA: -- the way the appellant --

MR. PATEL: You mean the way we have arranged?

COMMISSIONER SHETA: Yes, the way the appellant has done them. Is there --

CHAIR PERLMUTTER: The way that's recommended, Landmark West is recommending?

COMMISSIONER SHETA: Mm-hmm. Yes. Is there like any other concern, other than the structural?

MR. PATEL: Oh, yeah.

COMMISSIONER SHETA: Was there any mechanical?

MR. PATEL: Right. Absolutely. So --

COMMISSIONER SHETA: Hydraulic?

MR. PATEL: -- basically, as I was trying to explain that all these pieces have piping connected to them. It's not that we have a, a square or rectangular piece on the floor and then we come drop the piping on it. There are certain

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constructability, with the, the elbows, bands, valves, sensors, gauges, there are lot of other factors that go into when a piece of equipment is connected to -- oh, sorry, piping is connected to a piece of equipment. So if you place everything in front of each other the way it was demonstrated, by the time we do the distribution, just the mechanical piping distribution, then comes ductwork, plumbing. Now we are running out of space. Not only elevation wise but horizontally as well. So it's better to keep everything cleaner this way, it's accessible, easy to maintain and structurally, it also helps.

CHAIR PERLMUTTER: Okay, continue.

MR. PATEL: So do we want to go on --

CHAIR PERLMUTTER: I mean I think we get the gist, right?

COMMISSIONER SCIBETTA: Yeah.

CHAIR PERLMUTTER: But is there something specific you want to add, yeah.

MR. PATEL: I mean those were the items.

CHAIR PERLMUTTER: Okay.

MR. PATEL: Distribution, efficient distribution.

CHAIR PERLMUTTER: Mm-hmm.

MR. PATEL: Constructability and maintenance, and again, it's not, it's not a good practice to put everything, jam the equipment together because it's a big concern about moving, replacing.

CHAIR PERLMUTTER: Have you personally ever gone to DOB to, to show them, to work on the mechanicals with them?

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MR. PATEL: No, we don't interact with DOB directly.

CHAIR PERLMUTTER: You don't?

MR. PATEL: We file our drawings through expeditor.

CHAIR PERLMUTTER: Through expeditor, so, okay. Do you know if what, your expeditor has ever, sort of called you up while they're at DOB in the middle of a meeting and said, and asked a question about, you know, whether you can justify the layout or anything like that?

MR. PATEL: No. Typically, we get comments or objections back through the expeditor. They're like DOB has reviewed your set of documents and here is a list of comments. So that's what they review.

CHAIR PERLMUTTER: Do you have -- like, can you give an example of the --

MR. PATEL: Yeah.

CHAIR PERLMUTTER: -- the type of comment you might get on, on the mechanicals?

MR. PATEL: Yes, certainly. So one of the examples would be provide a break glass station, uh, at the boiler entry, uh, provide smoke perch, or your documents are missing smoke perch, or your documents are missing or confront where there are sprinkler coverages required in a certain area or not. So those are basic examples.

CHAIR PERLMUTTER: So then --

MR. PATEL: Whether your louver, your exhaust and ventilation, intake louvers are a certain code required separation between them or not. So

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this would be some examples.

CHAIR PERLMUTTER: So would you say what they're doing is they're looking at the mechanical codes and sprinkler codes and checking that you comply?

MR. PATEL: Yes. Every one of the review, right.

CHAIR PERLMUTTER: So, so they're not looking at the kind of my -- what I'm -- this is a question.

MR. PATEL: Mm-hmm.

CHAIR PERLMUTTER: Are they looking at how you design the system in terms of your design criteria or they're looking to see whether your system just complies with the mechanical, plumbing, sprinkler code?

MR. PATEL: Right. What, most important thing is code compliance as well. But then as an example, you see here just large floor with just one piece of equipment and they will obviously comment on that. But we can see here, it's not one piece of equipment, it's several pieces of equipment, including the distribution and everything.

CHAIR PERLMUTTER: Have you ever had them comment that you know of? That, what's going on here, you only have one piece of equipment?

MR. PATEL: No.

CHAIR PERLMUTTER: No?

MR. PATEL: Not that I know of.

CHAIR PERLMUTTER: Okay. Alright. Thank you very

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much.

COMMISSIONER SHETA: If, if I ask you what is the total weight of the equipment on, on let's say the 18th floor?

MR. PATEL: It would be very tough to give a lump amount because --

COMMISSIONER SHETA: Even roughly?

MR. PATEL: As an example, a boiler alone could be 10,000 pounds, 5,000 pounds, depending, just one piece of boiler.

CHAIR PERLMUTTER: No, I found one that's 4,000 pounds, it says right here.

MR. PATEL: Right. So as I said, 5,000, 10,000 depending on --

CHAIR PERLMUTTER: Yeah, yeah.

MR. PATEL: -- what manufacturer, what capacity.

CHAIR PERLMUTTER: Right.

MR. PATEL: Same thing goes with pumps, expansion tanks.

COMMISSIONER SHETA: You didn't, you didn't answer the question about the height of the ductwork.

MR. PATEL: I'm sorry, say that again.

CHAIR PERLMUTTER: Height of the ductwork.

COMMISSIONER SHETA: You didn't ans-, the height of the ductwork.

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MR. PATEL: What?

CHAIR PERLMUTTER: You were going to go over the height of the ductwork.

MR. PATEL: Yeah, so basically, we don't establish, we don't indicate elevation of the ductwork or the piping system on our drawing. However, it's very important to maintain ductwork at certain -- ductwork and piping in certain elevation, which is clearing the path of egress, not coinciding with other, conflicting with other piece of equipment at certain level, which maintains the required egress path, plus it's, uh, all the accessories, like valves, if there's insulation that needs to be -- it's easily accessible. So, and this whole process goes through the whole construction document process goes through shop drawing, when contractors get together, they prepare all the shop drawings and they start setting up the elevations of all the distribution. Then they get --

COMMISSIONER SHETA: I believe you misunderstood me. I'm not talking about from the floor.

MR. PATEL: Mm-hmm.

COMMISSIONER SHETA: To the --

CHAIR PERLMUTTER: Oh, you're not?

COMMISSIONER SHETA: -- invert of the pipe. I'm talking about the height of the system itself. The, the duct system.

CHAIR PERLMUTTER: That's what he's talking about. He's talking about the heights of the sys- of --

COMMISSIONER SHETA: No, no, the size of the

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ductwork itself.

CHAIR PERLMUTTER: Oh.

COMMISSIONER SHETA: Not from the floor --

MR. PATEL: Mm-hmm.

COMMISSIONER SHETA: -- to the invert.

MR. PATEL: Mm-hmm.

COMMISSIONER SHETA: The pipe size itself.

MR. PATEL: Okay.

COMMISSIONER SHETA: What is the maximum pipe size on that floor?

MR. PATEL: Oh,okay--

CHAIR PERLMUTTER: Oh.

MR. PATEL: This one, uh, 12-inch is the, on 18th floor, 12 inch is the, my largest pipe size. Accounting for insulation, it will be, uh, 18 inches.

COMMISSIONER SHETA: In the building, what is the, like the largest?

COMMISSIONER SHETA: Again, I'm talking about the duct, the circulation pipes.

MR. PATEL: The pipe, as I said, the largest with insulation will be, uh, 16 to 18 inches. And the largest ductwork, there are bigger sizes, but there are sizes from 36-inch wide by 24-inch deep. The small perch shaft alone, which is the fan on the 19th floor, that is the larger. Probably that is like 60 by 48.

COMMISSIONER SHETA: No, I'm talking about the

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horizontal piping.

MR. PATEL: Horizontal, so 36 by 24.

COMMISSIONER SHETA: So it's fair to say two feet is, is like the maximum?

MR. PATEL: Two feet drop.

COMMISSIONER SHETA: Thank you.

CHAIR PERLMUTTER: Mm-hmm. And I think in, in terms of what DOB reviews, I think it's important to remember that all this is figured out more in detail on the shop drawing level, which DOB never sees, right?

MR. PATEL: Right, yeah.

CHAIR PERLMUTTER: So, so this is still schematic until they actually draw it up in shop drawings.

MR. PATEL: Right. So most of the accessories like valves and certain accessories --

CHAIR PERLMUTTER: Mm-hmm.

MR. PATEL: -- are not indicated on design drawings. Once they prepare the shop drawings, then we start looking at all those details.

COMMISSIONER SHETA: What is the tallest height of, of one of these equipments? The tallest equipment in this is, is how tall?

MR. PATEL: Uh, in this particular boiler, uh is the tallest one. It's roughly 72 or 78 inches high. And then on the 19th, on the other floor, the air handling units, uh, they are even taller than that.

COMMISSIONER SHETA: Okay.

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CHAIR PERLMUTTER: Yeah. So, this same air conditioning that they spec'ed is 85 inches high on the 18th floor.

MR. PATEL: Eighteen?

CHAIR PERLMUTTER: Yes.

COMMISSIONER SHETA: So you could say duct plus equipment is roughly 12 feet?

MR. PATEL: Roughly 12 feet but again, simply if it's a piece of equipment and ductwork, yes, 12 feet. But now we are going through other distribution. Now we have piping and there, there are situations where we are crossing piping with the ductwork. There's an example here. This is a boiler flume, from the boiler going to the shaft here, and we can see it's crossing the pipe, it's crossing the ductwork here. And by the time you go through all those crossovers, the height actually is much more there.

CHAIR PERLMUTTER: Mm-hmm. Plus the pipes have to take a certain slope, right?

MR. PATEL: Yes, if there are gravity fed pipes, then it has to be at a certain pitch from starting point to where it's getting discharged.

COMMISSIONER SHETA: Is it better to put the duct higher or lower? My understanding is the lower the duct -- the closer the ductwork to the equipment is, the less pipe length and the less hydraulic losses.

MR. PATEL: Absolutely. So, it's hard --

COMMISSIONER SHETA: Is that --

MR. PATEL: Yeah, so it's not practical to have let's say

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you, in our case, if you have 40 feet tall mechanical room as an example. It's not practical to go up at that level, that high and then go distribute and if you are going down. It makes sense to keep everything at a lower level, or reachable level and let's say if there is an insulation which is damaged, if there's a damper which needs to be accessed, it's easy for somebody to get on a ladder and easily access, uh, those services.

COMMISSIONER SHETA: Thank you.

CHAIR PERLMUTTER: Okay. Thank you very much, very helpful.

MR. PATEL: Do I continue?

CHAIR PERLMUTTER: Uh, I think we, we got the gist unless there's something -- a different subject that you wanted to go into.

MR. PATEL: Um, I just wanted to go through just the floors.

CHAIR PERLMUTTER: No, that -- I think we, I think we've got the general concept, right.

MR. PATEL: Okay.

CHAIR PERLMUTTER: Is everybody okay with that?

COMMISSIONER SCIBETTA: Yeah.

CHAIR PERLMUTTER: Because it's already 12:30 and we have, uh, 30 more cases I think. Uh, okay, I -- Mr. Karnovsky, did you have other --

MR. KARNOVSKY: No.

CHAIR PERLMUTTER: -- things that you wanted to add? I do have a question for Mr. Parley, one short question if he's still here.

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MR. KARNOVSKY: For Mr. Parley?

CHAIR PERLMUTTER: Yeah.

MR. PARLEY: Good afternoon, I'm Michael Parley.

CHAIR PERLMUTTER: Hi, thank you for coming. I have a, a kind of question and a half for you. The first is have you ever had to go to DOB to talk about the mechanical spaces being not -- being not counted as zoning floor area to argue on behalf of a client? That you remember.

MR. PARLEY: No, but let me, uh, it might prove instructive for me to tell you how the, that draft bulletin started. The, the first meeting that we had with the Department of Buildings about the draft bulletin, they said the necessity for it was that there were problematic practitioners who were doing really bizarre things, uh, and Deputy Commissioner Fariello actually said in Brooklyn, where they would put a heat pump in the corner of a room, which would be a bedroom that had a closet and there was a, a toilet right -- a bathroom right outside, and they would call the whole room mechanical. This kind of abuse was the kind of thing that they needed to, uh, address and in some way give their examiners guidelines so that they didn't have that kind of egregious, uh, uh, evasions of the law. But for, generally for regular, more modest, uh, uh, clearly, uh, are clearly acceptable mechanical spaces, we've never had a question about it.

CHAIR PERLMUTTER: So the next question is you've already been asked this by DOB, but I'm just, you know, you've heard all of this discussion and you hear all the angst on the part of the community about mechanical floors. Do, do you have any suggestions that -- you don't have to give us right now, but

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do you have suggestions for how, uh, DOB might set up some kind of criteria that makes it easier for practitioners to know what's a mechanical space versus what's not a mechanical space without listing all the equipment? Have you --

MR. PARLEY: No, not --

CHAIR PERLMUTTER: No?

MR. PARLEY: The, when the Department bulletin was, the last draft and that was dropped, I was under the impression that the industry and the Department were not too far apart --

CHAIR PERLMUTTER: Oh.

MR. PARLEY: -- in the list and the stumbling block was the amount of space that could be used by equipment, the latter part of the DOB bulletin which addresses how much can be deducted, the 90 percent, that the industry was pushing back very hard because they still felt it was extraordinarily inadequate.

CHAIR PERLMUTTER: Oh.

MR. PARLEY: The front -- the, the former part of the, of the list where specific equipment was listed was gone over by industry experts and the architects and, uh, it had been changed over time and was gaining some very good acceptance as a list that could be worked with and could prove useful.

CHAIR PERLMUTTER: Okay. Thank you very much. I appreciate it. Any other questions for Mr. Parley? No.

COMMISSIONER SCIBETTA: Thank you.

MR. PARLEY: Thank you.

CHAIR PERLMUTTER: Okay. Thank you very much.

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Okay. I think we're moving on to the public. Is anyone here --

MR. COSTANZA: Elected officials?

CHAIR PERLMUTTER: Electeds, electeds to speak? Yes, please.

MR. BRANDER: We come up there?

CHAIR PERLMUTTER: Yeah, so please state your name, and eventually, you'll sign in with Mr. Costanza in the corner.

MR. COSTANZA: Yeah, so please, for everyone, uh, you're, you're with the elected official?

MR. BRANDER: Yes, I'm with Richard Gottfried.

MR. COSTANZA: Okay. But for everyone else, just when you come up, I will set a timer for three minutes, when you're done with your testimony, please come to me so you can print your name. Thank you. You may begin.

MR. BRANDER: Okay. Hi, my name is Richard Brander and I'm policy associate for Assembly Member Richard Gottfried, who is sorry he won't be able to attend today. He's at a conference out of town. But I'm here, and we're going to submit written testimony later. And, uh, basically, if you know Assemblyman Gottfried's district, the 75th District, includes many, many very tall, very dense buildings. He represents the Upper West Side, Hell's Kitchen, Chelsea, the Midtown area, and, uh, it's a pressing concern to use over here. And basically, we agree -- I think we all agree that buildings should have just enough space exempted from their FAR for mechanical, for, uh, real mechanical equipment.

And what we're hearing today is that a lot of this space, a lot of the FAR that's

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exempted, is in excess of it. And we find Landmark West's argument largely convincing, uh, and, uh, we feel that, uh, it's of concern to us because not only do we want in this one case to prevent having a huge building casting all sorts of shadows into Central Park, but we're afraid of establishing a precedent without any sort of requirements as to how you define excess space over here, that we may be risking to have a whole bunch of super dense buildings in the future because of this exemption.

So basically, that's our argument. We're trying to protect not only Central Park but the whole future of the streetscape in our district and in other districts throughout the city. So that's under three minutes.

CHAIR PERLMUTTER: Thank you very much. Next speaker please.

MR. COSTANZA: Print your name here, please.

CHAIR PERLMUTTER: So, if, if there are a lot of speakers, please stand ready to speak so we can save some time and you're --

MR. COSTANZA: Thank you.

CHAIR PERLMUTTER: -- you're not an elected official rep are you?

MS. CHAPARRO: I am.

CHAIR PERLMUTTER: You are?

MS. CHAPARRO: Yes.

CHAIR PERLMUTTER: Okay.

MS. CHAPARRO: Good afternoon, Chair Perlmutter and commissioners. My name is Lizette Chaparro and I'm an urban --

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MR. COSTANZA: No, [unintelligible] [02:36:29].

CHAIR PERLMUTTER: Sh, sh, Sh.

MS. CHAPARRO: And I'm an urban planner from Manhattan Borough President Gale Brewer and I'm here to deliver a statement on her behalf regarding 36 West 66th Street.

When the developer filed plans for the 775-foot building, a primary issue became the abuse of the mechanical floor deductions that he was claiming. Neighbors, advocates and elected officials pointed out that the floors were excessively tall and had no practical or safety justification. In fact, the DOB issued a notice of its intent to revoke the building's permit based on the concerns, uh, regarding their access to these excessively tall mechanical floors.

The DOB's concerns were addressed by the developer, who allowed -- who was allowed to proceed with construction and eventually, the question of whether the mechanical floors were impermissibly tall was dismissed by this Board. However, at the September 17, 2019 hearing, this Board decided to reopen the issue of the mechanical floors, this time to argue whether the lateral use of the floors is justified.

Now this Board is faced with a more nuanced question, whether or not the deducted floor area is truly being used for mechanical purposes. I believe that the analysis presented here today demonstrates that this is not the case. Uh, the four floors analyzed by the MEP engineer have on average 23 percent of their floor area dedicated to mechanical uses. This figure takes into account not only the mechanical equipment, but also the necessary clearances that each piece of equipment requires for operational and safety reasons. The developer simply cannot be allowed to deduct these entire floors from

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its FAR calculation when such a significant portion is not being utilized.

What we are seeing once again is the use of a loophole that serves to boost the building's height beyond what is allowed by our city's zoning and building code regulations. These mechanical floors are not being occupied by their purported use. They are more than half filler space that will go unused.

To permit this development to move forward as proposed sends a dangerous message to the develop- to other developers who will surely seek similarly unjustified mechanical deductions for their buildings. I urge you to require that the floor area on these mechanical floors be counted toward, uh, the allowed height of the building only if they are fully, uh, used for mechanical space. Thank you for your time and consideration.

CHAIR PERLMUTTER: Thank you.

COMMISSIONER SCIBETTA: Thank you.

MR. COSTANZA: Yeah, just print your name, please.

MR. DILLER: I guess it's now good afternoon, members of the commission.

CHAIR PERLMUTTER: It is.

MR. DILLER: My name is Mark Diller. I'm the chair of Community Board 7 and our, our resolutions on this issue are already before you. I'm mostly here to support the members of my community who, from whom you're going to hear and who will have much more detailed and much more erudite testimony than I can provide. I do want to make sure that my support for my community is on record, and my one observation to you is that reverse design is something I would encourage you to take into account in your decision making. And by that, I mean, uh, the adage that my mother

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taught me, which is that work expands to fill all available time. If you give a designer an amount of space, you can always justify some way to use it. The question before you is what is the appropriate amount of space, not what one can manufacture in order to meet a predetermined designation. So with that, I will leave you with the much more intelligent and erudite, uh, testimony of my neighbors, which I hope will be taken into account.

CHAIR PERLMUTTER: I, I just want to clarify, you're with Community Board 7?

MR. DILLER: I'm the chair.

CHAIR PERLMUTTER: You're the chair. So are you speaking on behalf of the board, or on your own?

MR. DILLER: I am because we have previous resolutions before you which speak to these issues.

CHAIR PERLMUTTER: Okay.

MR. DILLER: Thank you very much.

CHAIR PERLMUTTER: Thank you.

COMMISSIONER SHETA: Thank you.

MR. COSTANZA: Just print your name please, right here.

MR. DILLER: Thank you.

MS. FREUD: My name is Olive Freud. I am president for the Committee for Environmentally Sound Development.

CHAIR PERLMUTTER: Could you say your last name again, please? Olive?

MS. FREUD: I can't hear. Olive Freud.

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CHAIR PERLMUTTER: Freud.

MS. FREUD: Yeah. Just a few years ago, or even now, for honest developers, 35 stories means a 350-foot high building. This is 775-foot, 400 feet we have to explain. Mostly, because the developer would like to have a tall building, 400 feet, higher apartments, more money. But how did this come about? Basically, we were talking about mechanical equipment. Mechanical equipment belongs in the basement. In the basement, it was free. Uh, after Superstorm Sandy and low lying areas kept, had difficulty with the mechanical equipment, they wanted to put it up higher. But the buildings that we're talking about are not in low lying area. There's no excuse for this.

Uh, the 400 feet, someone was asking that before, why, why they're there. They're there so the developers -- why is it laid out the way it is, uh, because they wanted a taller building, it's financially better. It's 400 feet of empty space. It's not providing housing for anybody. And I want to say this. Government is supposed to protect people from, from developers like Gary Barnett. Their, their aim is to make more money. But the government's aim is to protect the tens of thousands of people that are going to have to live with the shadow of this building falling on Central Park. They're going to space -- they're taking away space, light, sun from about tens of thousands of people just to satisfy one developer who would like to make more money.

Uh, I, I know we were talking about the details, but developers can think of all kinds of ways, of loopholes of whatever you want. But the only thing that I want to say to you people is that your decisions should be made on not whether you can put the space here or the space there, but what is it better for the people who live in the area. This is all

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new, this business of, uh, voids, mechanical equipment higher up. And I think, I think it's the wrong thing and your decision should be made considering those of us, the tens of thousands of us who live in the neighborhood.

CHAIR PERLMUTTER: Thank you very much.

COMMISSIONER SHETA: Thank you.

MR. COSTANZA: Please print your name.

MR. GIORDANO: I'm here again with this model to remind you of the neighborhood we're actually talking about. Hi. I'm Chris Giordano. I'm the president of the 64 to East 67th Street Block Association My kitchen window looks out at a empty hole in the ground presently. We're now in the fifth month that Extell's 36 West 66th Street Construction site has been quiet. Extell has not answered requests for information from the community.

Word on the street and in the media is the glut in the real estate -- the luxury real estate market, as well as legal challenges, has created uncertainty for developers and their investors. It appears that Extell has overreached, leaving our neighborhood with a large hole in the middle of it, displacing Congregation Habonim all because of their extraordinary and contentious exploitation of zoning regulations.

As you know, our community came together in 1993 to create the Lincoln Square Special District Zoning Resolution. At that time, City Planning stated the controls in place should predictably regulate the heights of new development and that these controls would sufficiently regulate the resultant building form and scale, even in the case of development including zoning lot mergers. City Planning stated the intention of the Zoning Resolution included limited buildings to mid-20 to 30 stories tall, which would

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complement the district's existing neighborhood character.

And in a September 4th meeting last year, City Planning told us they find this proposed building egregious and even obscene. We don't take City Planning's words lightly. They promised predictability in zoning, which the community relies on.

At the August 6th BSA hearing, Extell's lawyers argued that the proposed 775-foot mid-block tower would not be an absurd result based on the intention of our special district's Zoning Resolution. This is that tower.

At the September 10th BSA hearing, we brought this model to illustrate how absurd the result could be. Whether looking at excessive voids vertically or laterally, we believe it's clear, Extell's proposed development violates both the letter and the intention of the Special District Zoning Resolution and we ask that you not allow the use of this void space, which contributes to the unpredictability otherwise expected in the Zoning Resolution and as a result of which could establish new precedent. Thank you.

CHAIR PERLMUTTER: Thank you.

MR. COSTANZA: Mr. Giordano. Please print your name.

CHAIR PERLMUTTER: Just a reminder to speakers, the subject here is the mechanical space. The subject of the void has already been decided in a prior decision. Please.

MS. KENDRICK: I am Sheila Kendrick with Save Central Park NYC. This weekend, I saw a movie, "Dark Waters". I'm not spoiling it for anybody by what I'm going to say next. At the climax, Mark Ruffalo yelled in frustration that DuPont could never be beaten, that the system is rigged in favor of titans of the industry. I couldn't help but see the parallels to what we're doing here today. We, all of us, are just

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looking for a fair outcome.

We all know that no count space allotted to mechanicals is meant to be consistent with manufacturers specifications and the necessary servicing of equipment. As we've heard here today even, adding too much space can reduce the efficiency and ultimately increase the carbon footprint. Spreading the mechanicals to buy more space is a parlor trick and it's an obvious one at that.

Our right to air and light, which was enacted as part of the 1916 zoning law is very much threatened. These tricks of the trade need to be stopped. And you can do it here today. This is about our neighborhoods, it's about Central Park. It's about the livability of our neighborhoods in New York City. Most importantly, it's about the New York that we're leaving behind for future generations. Thank you.

CHAIR PERLMUTTER: Thank you. [applause] Next speaker. Please, please, please. You have to refrain from applause. We ask you please not to do that. One recommendation is clicking. It's much quieter and shorter.

MS. DAY: I'm speaking for John Valdez, an engineer and Ph.D. physicist who chairs the 10 West 66th Street Co-Op board. I'm his neighbor, an art dealer, and a great, a great-great auntie. We live right next to the pending Extell building and we're worried about our safety. I want to show you a map where we've drawn a 500 foot circle in red, showing the possible damage area where Extell -- were the Extell building to fall down. It's possible that debris from such a catastrophe may fall even farther away.

Now, why are we concerned about the safety of the building? Its design follows all the rules of building code, so where's the issue? Briefly, the issue is the mechanical

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floors. The super tall mechanical floors create conditions that building codes never con-
contemplated. Why not? Because building codes are modified after a catastrophe, not
before.

Historically, this made sense. There was no way to predict failure modes of buildings and structures before they failed. Think about the Tacoma Narrows Bridge. But today we have many advanced methods for simulating all sorts of conditions that could impact the safety of a new type of building.

Remember New York is the major place in the world where super tall buildings with super voids are being built. This is due to the New York City zoning rules which can be finessed with new building techniques. But finessing the rules does not a safe building make. Building to code is no guarantee of safety if the code has not been updated to the engineering and design techniques used to build the structure.

Let's move on to fire propagation, another critical aspect of building safety. One of the major advances in fire understanding is the use of models to simulate the propagation of fire in various structures. Much work has been done in this field, but we have not found any papers discussing results of the propagation in large buildings with super voids. Whether the voids are linked 40 -- are linked 40 foot ones, are a single 160 foot void, there seem to be no studies which have looked at the fire failure modes of these buildings. Of course, we have the example of 9/11 to show what happens when fire propagates in a tall building. The World Trade Center fell vertically. It still spread damage beyond the building's footprints.

Why is our damage zone so different? Because the Extell building does not ensure symmetric structural failure as did the World Trade Center. So the Extell building could

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collapse in any direction from its base.

CHAIR PERLMUTTER: Please wrap up your comments. Your time is up.

MS. DAY: Okay. Let's use the tools we have to make the Extell building next to where we live safe and not be the next catastrophe.

CHAIR PERLMUTTER: Thank you.

MR. COSTANZA: Ma'am.

CHAIR PERLMUTTER: Thank you. Ma'am, please, uh, bring it over here, and sign, and sign in.

MR. DAY: I'm going to continue with the person.

CHAIR PERLMUTTER: Okay. Fine.

MR. COSTANZA: Here, ma'am.

CHAIR PERLMUTTER: Ma'am, please sign in.

MR. DAY: You have to sign over there.

MR. COSTANZA: I'm sorry. Thank you.

MR. DAY: Very quickly, Judy's my wife and she wanted to end --

CHAIR PERLMUTTER: What's your name?

MR. DAY: John Day.

CHAIR PERLMUTTER: Okay. Uh, wanted to say look at her, and look at her husband. That's me. Our friends, our neighbors, who I'm asking to please stand -- would our friends and neighbors all please stand. They've been waiting here all morning.

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Now, you won't die when that building falls, but all of us might. So take a good look because blood will be on your hands if it does. Thank you. And I'll leave this here.And this is for all of you.

CHAIR PERLMUTTER: Thank you.

MR. COSTANZA: Mr. Day.

MR. DAY: I'm not done.

CHAIR PERLMUTTER: Can, oh, sorry. Can --

MR. COSTANZA: Oh, you're not? Sorry.

MR. DAY: So, as I said, I'm John Day, I spoke for Central Park NYC about our safety fears at your earlier hearing. We now address a specialized vital challenge to the floor area used to justify mechanical void loopholes. I'll talk about that, fairness and our communities.

At the earlier hearing, after listening to three plus hours of testimony from our neighbors and elected representatives, we were shocked to hear a commissioner favorably compare this 775-foot middle finger stuck in our community's face to other 30 plus story buildings in the area. What? Had you not heard us? That 775-feet is the equivalent of a 75-story building, three times taller than any in the area, not 300 feet.

New York has the savvy folks. Vast numbers love Lincoln Center, 50 million visit Central Park yearly. This venile 775- foot building will cast shadows shrouding play areas from the Amsterdam homes to the Hudson and to Bethesda Fountain, potentially increasing crime and health risks, and will endanger our beloved parks.

So, in fairness, we suspect most of its 200 or so apartments, and I think it's a lot less, will prove unoccupied. Many may be bought with foreign money seeking safe

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deposit boxes in the sky. Plus, there's no affordable housing offset on this project.

Last week, I joined a New York League of Conservation Breakfast, hosted by the Durst Organization for the DOB commissioner Melanie LaRocca. Her Queens upbringing and Fordham education impress, as do the DOB's sustainability efforts to address New York City's carbon neutral goals. We can't imagine this building meeting those goals. Or that Commissioner LaRocca would allow DOB staff to get away, as they did in the last hearing, with saying they checked detail drawings they didn't even have.

Who elects the mayor who appoints you? We do. The Upper West Side has the highest voter turnout in the state, knows the ropes and has allies across the globe. Yes, we heard and respect the New York Fire Department say their concerns are addressed, but the uniformed fire fighter's statement still, quote, strongly opposes construction methods that are inherently dangerous, increase the threat to the public and their members.

Our heroic Jackie Kennedy Onassis, decades back led an umbrella brigade with -- and that with market recessions, which we're going through now, forced reconfiguring the Columbus Circle buildings to a more community friendly status. We're facing a similar situation. The mid-block building broaches community and zoning standards. It must be restrained.

So bless the mechanical engineers, inquiring minds, New York's tenacity and to be frank, the BSA's technical expertise. We look to you to alter this project and protect the health, safety and life quality of all New Yorkers, and that's a quote from you, commissioner, thank you. [applause]

CHAIR PERLMUTTER: Mm-hmm. Please.

MR. COSTANZA: Just print your name there.

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MS. LENKE: This says good morning, but good afternoon. My name is Beth Lenke and I live at 1965 Broadway, located on Broadway, between West 66th and West 67th Street. On be- behalf of myself and my neighbor and fellow member of Save Central Park NYC, Robert Gottlieb, who lives at 10 West 66th Street, we are submitting this joint statement in support of Landmark West's application to revoke the permit issued by the New York City Department of Buildings, DOB, for the construction of the 775-foot building at 36 West 66th Street.

The height of this building is exaggerated because approximately 200 feet of that space is being used for mechanical equipment. If construction is permitted, the building will result in a mid-block tower, which is completely out of context with the surrounding neighborhood. The commissioners must remember the fact that the project is located within the special Lincoln Ce- Lincoln Square District.

Although the DOB does not regulate the design or height of the buildings within the special Lincoln Square District, it certainly has a duty to ensure the developers comply with zoning regulations. The zoning regulations provide that areas within the building, which are devoted to mechanical equipment, are not included in the calculation of the permitted floor area of the building.

Therefore, the DOB examiners had the obligation to carefully evaluate the plans submitted by the developer to ensure that the areas alc- allocated for mechanical equipment were not unnecessarily expanded for the purpose of improperly increasing the size of the building. As demonstrated by the submissions of Landmark West, the DOB in this instance, did not properly evaluate the usage of the floors devoted to mechanical space.

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The DOB apparently de- determined that as long as a floor contained mechanical equipment, the entire floor should be excluded from the total gross area of the building. As a result, the developer was able to increase the size and height of the building.

Landmark West submitted diagrams prepared by Michael Ambrosino, a professional engineer, who we heard earlier, demonstrating that, demonstrating that on the plans, the me- the mechanical equipment on the floors were placed as far apart as possible. The diagrams show that if the equipment were more efficiently positioned, there would be substantial empty space on these floors.

If that empty space on the mechanical floors is counted towards the building's FAR, the building as proposed will exceed the maximum allowable FAR for the site. Consequently, this Board should make the determination that the permit issued by the Department of Buildings should be denied. Thank you.

CHAIR PERLMUTTER: Thank you. Please sign in over there. Next speaker, please.

MS. SIMON: Good afternoon, commissioners.

CHAIR PERLMUTTER: State your name, please.

MS. SIMON: My name is Susan Simon. I'm a member of this Upper West Side community, although 30 blocks north, but I'm, I'm, uh, very aware that what happens here is precedent setting and that we may very well soon see more Extell towers lining our communities up and around Central Park to 110th Street. I'm a member of Landmark West and I'm the founder of the Central Park West Neighbors Association, and I come here again to oppose this plan.

No matter how fancy the legal footwork of Extell,a Goliath of the New York

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development world, this is still an obfuscation and violation of the zoning law, which gives maximum heights for this special district, which this plan greatly exceeds. It is well known throughout the city, no matter what's been said, that this is a very excessive amount of void space and a really dazzling display of footwork, an abuse so egregious that it has brought City Planning to regulate the allowable height of mechanical space. More legislation is pending from the state to assure developers don't play with pushing up height with empty voids to make more and more money.

It's very sad that developers can come into a residential community to build monoliths that are marketed to foreign investors who will visit two weeks a year and subsequently rob the real taxpaying residents of light, air and space. It's sad that they have no concern that their buildings are throwing Central Park into permanent shadow, even while they market those views.

I understand that this doesn't matter to Gary Barnett or his lawyers. But it does matter to the ecosystem of the park, the city and the community. This building must not be given special dispensation to manipulate and circumvent the zoning law, especially for the construction of somewhere just over 100 apartments and 800 feet of height. I call that a height of arrogance. Thank you.

CHAIR PERLMUTTER: Thank you. Next, please. Next speaker, please.

MR. SAMTON: good afternoon, Madam Chairman and members of the Board. My name is, sorry, my name is Peter Samton. Uh, I'm an architect.

CHAIR PERLMUTTER: Do you want to get some water?

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There's a water fountain out there, you can come back.

MR. SAMTON: I can come back?

CHAIR PERLMUTTER: Yeah, just go right through this door and there's a water fountain and we can get the next speaker. Next speaker, please. Yeah, go through that door. Carlo, can you show him where the water fountain?

COMMISSIONER SCIBETTA: Is there a next speaker?

CHAIR PERLMUTTER: Oh, there are no more members of the public to speak? Okay. Let's just give Mr. Samton a second and then we'll hear him speak.

MR. SAMTON: Thank you very much. I apologize. Uh, uh, I'm an architect, I'm an Upper West Sider for 50 years, having moved there, uh, because of the great, uh, Sam Ratensky, who, uh, helped, uh, develop the Upper West Side urban renewal area.

As an architect, my firm, uh, Gruzen Samton has worked in this area and in the city. Uh, I designed the police headquarters. I also designed, with another firm Stuyvesant High School and I never thought I would be coming before you to talk against a large building, many of which I have done also. But, also, one of my other credentials is my three sons all were bar mitzvah by Congregation Habonim, so I'm a big supporter of Habonim. But I'm not a supporter of this building.

This is a huge building. You've heard from other people, um, not only is it, uh, the equivalent of 70 stories high, but different from the buildings on 57th Street, uh, many of which we see as super talls, this building is west of Central Park, not south. And the shadow it will cast is huge. It will go, uh, in fact, this time of year, when the sun is

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down, the shadow will produce a shadow that goes almost to 5th Avenue. Imagine that. And I just would like you to go on a nice day, go there and think about that.

But the other thing I want to say is that I also worked with Mike Ambrosino and he is one of the most conservative engineers I ever worked with. So his, uh, consideration, which was before you earlier, uh, about the mechanical space needed for this building, uh, is in itself very conservative. But he ended up, as he mentioned to you, saying that there's far too much space being designated for mechanical, and I know this, because I was on the opposite position, I was trying to get him to, uh, put more in and so forth on mechanical floors. So you should consider what he said and that the developer coming before you with all of this, uh, needs for open space, for space for mechanical, is asking for much too much. Thank you very much.

CHAIR PERLMUTTER: Thank you. Thanks for coming.

MR. COSTANZA: Please sign here.

CHAIR PERLMUTTER: Okay. Is that is? Are there any other speakers from the public?

MR. COSTANZA: Print your name.

CHAIR PERLMUTTER: We asked before.

UNIDENTIED MALE: Just a point of decorum.

CHAIR PERLMUTTER: No, we, we don't --

UNIDENTIFIED MALE: I want to point out the three thugs that were there --

CHAIR PERLMUTTER: Sorry, sir. You're out of order. We'll ask you to be removed.

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UNIDENTIFIED MALE: [unintelligible] [03:07:36].

CHAIR PERLMUTTER: You're going to be removed. I need for him to be removed from the hearing room.

UNIDENTIFIED MALE: And for [unintelligible] [03:07:40] --

CHAIR PERLMUTTER: [gavel banging] I'm sorry, sir, you need to leave.

UNIDENTIFIED MALE: [unintelligible] [03:07:42]

Mr. Constanza: Sir, please.

CHAIR PERLMUTTER: You need to leave.

UNIDENTIFIED MALE: Then help me. They're thugs.

CHAIR PERLMUTTER: Okay.

UNIDENTIFIED MALE: They're lying.

CHAIR PERLMUTTER: Alright. Please sir, otherwise, we'll ask the police outside to remove you, we've done it before.

UNIDENTIFIED MALE: Thank you.

MR. COSTANZA: Please restate your name for the record.

MR. KLEIN: Sure. Stuart Klein, Klein Slowik, on behalf of the appellant. Uh, there are a number of things to unpack here. I'll try and be as succinct as possible. Uh, I'll start out with some, a personal request and observations. Number one, uh --

CHAIR PERLMUTTER: And if you wouldn't mind,

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speaking really fast.

MR. KLEIN: Okay. Well, you know how fast I can speak, so I don't know if you really want that. But, uh, number one, I don't know how germane any of this testimony is, because apparently everybody is working with different plans. You're talking about plans from 2018, they're talking about plans from 2019. We're talking about some other plans. So I really would like to get a handle on, on what plans we're talking about and what plans you're taking, you're, you're looking at. That's the first observation.

The second is a request. And I'd like whatever plans they send over to the fire department, uh, to be copied to me. I'd like to take a look at them. Uh, the third observation is that while it's not contained in the build- in, in the Zoning Resolution, I think it's fair to say that mechanical space is that space required by mechanical equipment. And that is three dimensional. And you, on the record, said that you downloaded the manufacturing specs on these items. Apparently the Buildings Department did not do that. Uh, and as one of the commissioners noted, there's certain height requirements for these things. So if a particular piece of equipment requires five feet of ac-, of head space, access space above it, and you have four or five, feet above that for, for other mechanical ancillary equipment, why are we putting an additional 50 feet above that? That is not mechanical space.

CHAIR PERLMUTTER: You're going into a place we've already discussed.

MR. KLEIN: Excuse me. I'm not addressing voids. I'm saying mechanical space is that space required to accommodate mechanical equipment.

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Anything beyond that envelope is not mechanical space, so therefore, it, it should not be involved in the building envelope. Uh, the opposing counsel described this space in his first submission as not having any particular use, apparently, it's somehow rendered invisible, uh, through, through the eyes of his lens. But, but let's go into another subject for a second.

MR. STEINHOUSE: Oh, I actually have a question about that.

MR. KLEIN: Okay.

MR. STEINHOUSE: Where are you getting the language required?

CHAIR PERLMUTTER: Mm-hmm.

MR. KLEIN: I, I think, I think it's a fair statement to say.

MR. STEINHOUSE: Doesn't it state on this--

MR. KLEIN: It's not -- excuse me. How else would you define mechanical space? Is it, is it space required by mechanical equipment?

CHAIR PERLMUTTER: No, it's --

MR. KLEIN: Because if it's not, please tell me.

CHAIR PERLMUTTER: -- space, it says it's space occupied by mechanical equipment, right.

MR. STEINHOUSE: Used for.

MR. KLEIN: Well, that --

CHAIR PERLMUTTER: -- used for.

MR. KLEIN: Well that, excuse me, but, but assuming

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that's the standard, that would allow me to put in a 5,000 BTU Friedrich air conditioner on grade in a 10,000 square feet space and build a 500 foot glass tower above it capped by a one bedroom apartment and it'll be perfectly legal. That's absurd.

CHAIR PERLMUTTER: No, so that's not what we're saying and the Department of Buildings has already explained that that's not something that they would have allowed and I think Mr. Parley also --

MR. KLEIN: But excuse me.

CHAIR PERLMUTTER: -- explained that that was something they -- something like that they were struggling with when they created this variety of bulletins.

MR. KLEIN: Well, the problem with that is the Buildings Department hasn't said much of anything. The Buildings Department has not done its job here. There is not one piece of evidence that presen-, that has been presented to you that indicates the -- how much space, even two dimensionally, how much space is required by this equipment.

COMMISSIONER CHANDA: Of course --

MR. KLEIN: Dismiss the verticality for a second.

COMMISSIONER CHANDA: I understand.

MR. KLEIN: How much space is required by a, by a five by five boiler?

CHAIR PERLMUTTER: So, wait, wait, wait. So --

MR. KLEIN: Yeah.

CHAIR PERLMUTTER: -- I just want to, because I don't

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want this to go on indefinitely.

MR. KLEIN: Mm-hmm.

CHAIR PERLMUTTER: We can't afford for it to be. Uh, it was, it was clarified that the Department of Buildings doesn't, doesn't look at the sort of tiny areas around a piece of equipment. The bulletin is not a bulletin, right. It's not, it's not requiring, that is simply the, the number that your, that the engineer Ambrosino, Mr. Ambrosino used as a factor. It made very clear that there's a dispute about that. And Mr. Parley clarified that there is a dispute about how much area you need to have around a piece of mechanical equipment in order to be able to install, service, etc.

So that hasn't been, uh, codified. And so to say that DOB measures that -- what we did learn from the engineer for the project is that DOB looks at the code compliance of the mechanical equipment, does it have the right number of dampers, does it have -- is the exhaust located in the right location relative to the intake according to code. It's not designing the mechanical system. That's very clear.

MR. KLEIN: Nobody's asking you to design the mechanical equipment.

CHAIR PERLMUTTER: Well then --

MR. KLEIN: But, excuse me. I'm not responsible for the Buildings Department not doing its job. The fact --

CHAIR PERLMUTTER: But, but you're saying it has a -- what's its job?

MR. KLEIN: Its job is to determine whether or not the space taken off for mechanical equipment is appropriate. In two of the examples, our

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engineer cited, we have a room that is, that's occupied by a very, very small piece of equipment and yet they took off the entire room or 1,000 feet in incid- in each incidence, 800 to 1,000 feet as total mechanical space, space.

Now let's address the, the 800-pound gorilla that's only been alluded to. Under the recent sales, uh, statistics presented in "Real Deal" ultra modern luxury space, which is what we're talking about here, is selling between five and $10,000 a square foot. So those two areas alone, if we take it out of the deduction side is, or rather if we put it into the deduction side, which is what they did, is going to generate anywhere from ten to $30 million in additional sales for this building. I think that is wrong. And I think everybody in the room thinks that's wrong.

And I think you should believe it's wrong. So, the, the fact of the matter is, the Buildings Department and I will disagree with our own certain expert here. There apparently is a criteria, because the Buildings Department has repeatedly said today and in its prior submissions, that it reviewed the plans. Implicit in that statement is that there is some standards that they applied. They have yet to describe what those standards are. Dimensionally.

CHAIR PERLMUTTER: We already talked about this, right?

MR. KLEIN: Dimensionally.

CHAIR PERLMUTTER: Right. But we already talked about this. We learned from the engineer for the project that DOB looks at whether or not the sprinkler system and so on complies with code.

MR. KLEIN: That's right.

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CHAIR PERLMUTTER: Whether or not the mechani- the HVAC, whether the ductwork complies with code, the intakes, the exhausts and so on complies with code and there's adequate egress. They do not look at -- they told us.

MR. KLEIN: Fine, so they --

CHAIR PERLMUTTER: They don't at the layout.

MR. KLEIN: -- they're not doing their job. They're basically allowing them to take 54,000 square feet of deductions when in fact they can only justify approximately 25 to 30,000 feet.

CHAIR PERLMUTTER: Mm-hmm.

MR. KLEIN: The Buildings Department is simply not doing its job.

CHAIR PERLMUTTER: Okay.

MR. KLEIN: And to basically --

CHAIR PERLMUTTER: Okay. [unintelligible] [03:14:59].

MR. KLEIN: -- and to basically say, because the Buildings Department historically has not done the proper thing, this building should suddenly get a pass is ridiculous on its face. In fact, you in the 2007 case on Penthouses, said, excuse me Buildings Department, you are wrong, and you've been defining this improperly for the last ten years. We want you to go back and look at those, those buildings and readjust the height. What, what is wrong in, in asking the same thing of this applicant?

CHAIR PERLMUTTER: Because I don't think they're --

MR. KLEIN: Or the Buildings Department

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CHAIR PERLMUTTER: -- analogous. I, I actually don't think the cases are analogous. But I do also have to say and you can make sort of --

MR. KLEIN: Mm-hmm.

CHAIR PERLMUTTER: -- stot-, startled looks, but we don't, I don't think they're analogous. And you would need to show me why those cases are analogous,but I don't see it.

MR. KLEIN: Well, they're analogous because in that instance, the Board said that the Buildings Department wasn't properly applying the law.

CHAIR PERLMUTTER: Yes.

MR. KLEIN: And in this situation, they're not properly applying the law because they're not --

CHAIR PERLMUTTER: No. No, no, no --

MR. KLEIN: -- looking at the dimensions.

CHAIR PERLMUTTER: -- because --

COMMISSIONER SCIBETTA: Can I ask a question?

CHAIR PERLMUTTER: -- in the, in the Penthouse case, those penthouses were taller than what's permitted in whatever it was, the zoning district, the limited height district, and often they exceeded the amount of allowable floor area and DOB gave them sort of this 33 percent pass generally. And that was clearly not permitted by any of the language --

MR. KLEIN: Well, I'll respectfully --

CHAIR PERLMUTTER: -- in the Zoning Resolution. The Zoning Resolution here just says floor space devoted or used by mechanical equipment.

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That's it. So everything else is a DOB interpretation, and you see how much DOB struggles with trying to figure out on this building, it's this much mechanical space, on this building, it's another amount and on this building, it's another. And for us to look at it and to say, uh, was DOB reasonable in coming to the conclusion that the mechanical space, that mechanical equipment w- is being used in that area, that the area is occupied by mechanical equipment sufficient to justify the floor area deduction. I, that's the question before us. And it's not at all the same as a clear, uh, noncompliance with the Zoning Resolution.

MR. KLEIN: No, I actually -- the 277 case was, the Buildings Department's position was that since it was mounted in the back of the building and that particular law was supposed to deal only with aesthetics, it shouldn't be included in the height. You're, you're -- with all due respect, you're misquoting the, the underpinning of that case. But --

COMMISSIONER SCIBETTA: I do have a question for you. Just for a moment.

MR. KLEIN: Sure.

COMMISSIONER SCIBETTA: You started off, uh, stating that it's about, uh, the, it's about what, what space is used by mechanical equipment.

MR. KLEIN: That's correct.

COMMISSIONER SCIBETTA: And, and I'm, my co- -- and you included height into this, but I don't see how we can differen- how we can separate the, the decision in *Sky House* with the void, how do you differentiate as these

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two arguments?

MR. KLEIN: Well, it -- I think that they're two entirely different arguments. One, the *Sky House* case was predicated on the fact that A, you didn't have experts quantifying the space and saying that the voids, you know, should not be used because they weren't appropriate and B --

COMMISSIONER SCIBETTA: They were --

MR. KLEIN: -- it was only speaking about a deficiency in the Zoning Resolution. What I'm talking about is the actual use of the space. And use is the controlling definition here. The Zoning Resolution, as it was amended in '61, went from with the streets to an FAR based determinant. And what I'm saying is that there has to be justification and proof that the mechanical space in this building actually merits the 50,000 square foot deduction. And I'm saying there's nothing on the record whatsoever that indicates, that justifies that much deduction. And Mr. Ambrosino specifically cited two examples where there's at least 2,000 square feet that is not being used in any way for mechanical space and yet it's deducted. So I think what should happen here, as an attorney, is I think you should basically ask the Buildings Department to define what standards it applied in its review because they still haven't done that.

CHAIR PERLMUTTER: We, we already did that.

MR. KLEIN: No, no. Excuse me.

CHAIR PERLMUTTER: And I, and I --

MR. KLEIN: They're talking about --

CHAIR PERLMUTTER: -- don't want to keep going around.

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MR. KLEIN: -- technical connections or valves. That --

CHAIR PERLMUTTER: No.

MR. KLEIN: -- has nothing to do with FAR.

CHAIR PERLMUTTER: No, we asked them what standards do you use.

MR. KLEIN: Right.

CHAIR PERLMUTTER: We've asked them several times. And we've give- been given the answer. And the --

MR. KLEIN: Well, yeah.

CHAIR PERLMUTTER: -- answer was --

MR. KLEIN: Yes?

CHAIR PERLMUTTER: -- each building is viewed on a case by case basis, it really depends, there's so many different variables, etc. etc. That's what they said. And there is this bulletin that they have been working on --

MR. KLEIN: Yes.

CHAIR PERLMUTTER: -- and the industry, of which you are a part --

MR. KLEIN: Right.

CHAIR PERLMUTTER: -- right, the industry has not come, come to an agreement about how you deal with the amount of access needed for the equipment. And that seems to be the open question because they seem to be close to an agreement about the type of equipment, right. So, so Department of Buildings answered the question, and please, I don't want to keep going around in circles.

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MR. KLEIN: Well --

CHAIR PERLMUTTER: So I'd like to move on.

MR. KLEIN: Okay.

CHAIR PERLMUTTER: If you -- so what I would like to suggest now --

MR. KLEIN: Mm-hmm.

CHAIR PERLMUTTER: -- because we've been at this for, uh, I think it's three and a half hours --

MR. KLEIN: Three and a half hours, yeah.

CHAIR PERLMUTTER: -- uh, we, we need to move on to other cases.

MR. KLEIN: Sure.

CHAIR PERLMUTTER: I would like you now to, uh, make a submission of not more than ten pages, including exhibits.

MR. KLEIN: Mm-hmm.

CHAIR PERLMUTTER: Because I don't think there's more than two pages to say, and, uh, and also for the owner and we're going to, we're going to close this hearing and base the decision on, on that, okay.

MR. KLEIN: Uh, could I at least find what plans have been submitted to you and what plans you used as --

CHAIR PERLMUTTER: We have the same plans as --

MR. KLEIN: No, you said you had 2018 plans and they're referring to 2019 plans.

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COMMISSIONER CHANDA: No, no, no.

CHAIR PERLMUTTER: No.

COMMISSIONER CHANDA: The same set of plans that Mr. Karnovsky was referring to that --

MR. KLEIN: Right.

COMMISSIONER CHANDA: -- the engineer spoke to are all in the submission package. I don't think any of us are reviewing different sets of plans.

MR. KLEIN: Well then I misheard, because before I heard --

CHAIR PERLMUTTER: I --

COMMISSIONER CHANDA: No.

MR. KLEIN: Specifically --

CHAIR PERLMUTTER: -- because you're not reading --

MR. KLEIN: Yeah.

CHAIR PERLMUTTER: -- the revision dates on the, in the revision panel of the drawings. I'm looking at the revision dates, and I'm just saying Mr. -- they actually were Exhibit A to Mr. Bienstock's, uh, affidavit, um, and I'm referring to the revision dates that are listed in the, in the title block.

MR. KLEIN: Do you -- okay.

CHAIR PERLMUTTER: That's where I'm getting those.

MR. KLEIN: Would you like me to take two minutes and address the jurisdiction issue?

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CHAIR PERLMUTTER: In your papers, please.

MR. KLEIN: Sure.

CHAIR PERLMUTTER: We, we, we just can't go on with this for four hours.

MR. KLEIN: Mm-hmm.

COMMISSIONER SCIBETTA: And if you could explain more about how the void and it's not analogous to the height of the 3D, so --

MR. KLEIN: Sure, absolutely.

CHAIR PERLMUTTER: Okay.

MR. KLEIN: I'll compare the two.

COMMISSIONER SCIBETTA: Yeah.

CHAIR PERLMUTTER: Okay. So I, I'm serious, ten pages, including exhibits. So because really --

MR. KLEIN: I, I will try.

CHAIR PERLMUTTER: -- in terms of talk --

MR. KLEIN: But there's just so much here to --

CHAIR PERLMUTTER: -- no, no --

MR. KLEIN: -- unpack.

CHAIR PERLMUTTER: -- you're -- I'm going to reject the submission if it's more than ten pages including exhibits.

MR. KLEIN: Well, I will do my best, but, uh.

CHAIR PERLMUTTER: No, you're not going to do your best. You're either doing it or I'll reject the submission.

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MR. KLEIN: Well, it, to --

CHAIR PERLMUTTER: Do you understand my statement?

MR. KLEIN: I, I understand your statement and you have to understand --

CHAIR PERLMUTTER: I will reject it --

MR. KLEIN: -- that, that my warrant is to represent my clients --

CHAIR PERLMUTTER: No, I know, but okay, so --

MR. KLEIN: -- and if my clients believe --

CHAIR PERLMUTTER: So let me just ask you a question.

MR. KLEIN: Yeah.

CHAIR PERLMUTTER: If you were in a court and, and the judge tells you ten pages or you're defaulting, will you give him 10 pages or will you give him 20?

MR. KLEIN: Luckily, we're not in court.

CHAIR PERLMUTTER: Right, luckily we're not in court. However, ten pages or I reject your submission, including exhibits. And, and no follow-ups or anything. It's a one submission chance. That's it. Okay. And I, and I don't want any excuses about the owner X,Y, Z or anything like that. You submit on your submission date, alright. Otherwise, we just won't have anything to read from you. And then we'll make a decision based on what we've heard here today. Alright.

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MR. KLEIN: Well, what you've heard here today is, it's nothing to support the position of this deduction, but that's -- I'll go into the papers.

CHAIR PERLMUTTER: Okay. We're --

COMMISSIONER SCIBETTA: Will his submission --

CHAIR PERLMUTTER: -- I think we're -- what?

COMMISSIONER SCIBETTA: Will his submission be after the owner's submission or is the owner --

CHAIR PERLMUTTER: No, the owner will be -- the owner always has the last word. So this submission first, and then if owner wants to come up --

MR. KLEIN: What, what about my suggestion that we, that we ask that the person who actually examined these plans come before the Board and say what they looked at?

CHAIR PERLMUTTER: We've had enough testimony, okay. We have heard --

MR. KLEIN: Wouldn't that be the primary source --

CHAIR PERLMUTTER: -- a lot from lots of --

MR. KLEIN: -- of all this stuff?

CHAIR PERLMUTTER: Excuse me, Mr. Klein. We're done here.

MR. KLEIN: Okay.

CHAIR PERLMUTTER: Okay. So I would like to then make a submission schedule--

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MR. KLEIN: Mm-hmm.

CHAIR PERLMUTTER: -- as fast as possible, so, uh, so Mr. Klein, ten pages, including exhibits, and if it's 11 pages, we won't accept it, in which case, owner has less to do. And owner, the same limitation, ten pages including exhibits, okay.

MR. KLEIN: Well, the, the exhibits alone right off the bat it's five to ten pages mechanical space.

CHAIR PERLMUTTER: Figure out how to do it.

MR. KLEIN: So you're limiting me to five pages of, of narrative.

CHAIR PERLMUTTER: I'm, I'm limiting you to ten pages including exhibits. You do it however you see fit.

MR. KLEIN: And if I have five pages of mechanical space, you're now talking about five pages of narrative. I won't be able to do that. I can't --

CHAIR PERLMUTTER: Then don't, then don't do it.

MR. KLEIN: I have never in 40 years submitted --

CHAIR PERLMUTTER: This is your option.

MR. KLEIN: -- a brief that's five pages long.

CHAIR PERLMUTTER: Sorry, sir. We've heard lots, we've heard three and a half hours of testimony, we have plenty of other exhibits to look at. If you have something new to add that we haven't heard today, add it in your ten limited pages.

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MR. KLEIN: Okay.

CHAIR PERLMUTTER: Basta. Okay.

MR. KLEIN: Six type.

COMMISSIONER SCIBETTA: Yeah, I think that's not the way to do it.

CHAIR PERLMUTTER: What?

COMMISSIONER SCIBETTA: I was waiting for the font size.

MR. KLEIN: But yeah, six font, yeah.

CHAIR PERLMUTTER: Okay.

MR. KLEIN: I'll just sent it alongto Microsoft.

COMMISSIONER SCIBETTA: Yeah, just put all the plans on one page.

CHAIR PERLMUTTER: I don't want this to go on much longer, so, uh, no, no don't do it for so long---

[CROSSTALK]

CHAIR PERLMUTTER: Okay. So we're going to close the hearing -- uh, well, everyone's leaving, but we're actually going to -- I'm making a motion to close the hearing. So, uh --

[CROSSTALK]

CHAIR PERLMUTTER: -- yeah, please, everyone, we're still in, we're still in hearing. Okay, I'm going to make a motion to close the hearing.

MR. COSTANZA: Okay. On a motion to close, Chair

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Perlmutter?

CHAIR PERLMUTTER: Aye.

MR. COSTANZA: Vice Chair Chanda?

COMMISSIONER CHANDA: Aye.

MR. COSTANZA: Commissioner Sheta?

COMMISSIONER SHETA: Aye.

MR. COSTANZA: Commissioner Scibetta?

COMMISSIONER SCIBETTA: Aye.

MR. STEINHOUSE: Okay. Submission date of January 8th --

CHAIR PERLMUTTER: Mm-hmm. No, so --

MR. KLEIN: I'll need more time than that because when, when are they going to submit --

CHAIR PERLMUTTER: We're coming back here on -- please, Mr. Klein.

MR. KLEIN: Oh, sure, sure.

CHAIR PERLMUTTER: We're coming back here on January, what is it?

MR. STEINHOUSE: 28th.

CHAIR PERLMUTTER: 28th.

MR. STEINHOUSE: Okay. So --

CHAIR PERLMUTTER: So everyone gets maybe two weeks?

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MR. STEINHOUSE: So submission date December 24th.

MR. KLEIN: That's next week.

MR. STEINHOUSE: Mm-hmm.

CHAIR PERLMUTTER: Think fast. And then another --

MR. STEINHOUSE: And a reply on January --

MR. KLEIN: I'm sorry. The 24th for me? That's a week from today.

CHAIR PERLMUTTER: Alright. So give him two weeks, but then it's going to two weeks.

MR. KLEIN: When are they submitting the plans to the fire department?

CHAIR PERLMUTTER: Hello.

MR. KLEIN: I need those.

CHAIR PERLMUTTER: Hello. I just told you what the parameters are. I didn't say that the fire department needs to give you a copy or any, or anything like that.

MR. KLEIN: Well, how am I supposed to intelligently address this issue?

CHAIR PERLMUTTER: We're working off the plans we have. We're working off the plans we have, not fire department set or anything. We need to bring this to a close and we gave you --

MR. KLEIN: By tying my hands effectively.

COMMISSIONER CHANDA: Sorry, Mr. Klein, I think

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that was improper for you to say that.

MR. KLEIN: Excuse me, this has been going on --

CHAIR PERLMUTTER: Stop it.

COMMISSIONER CHANDA: This has --

CHAIR PERLMUTTER: Stop or I will send you right out and you won't get to discuss the date. So 17, two weeks is the 31st and then two weeks is the 14th and then that's perfect, okay. Two weeks is the -- you get two weeks until the 31st and two weeks for Mr. Karnovsky is the 14th for a hearing on the -- for a decision on the 28th.

MR. KLEIN: Well, can I then have an additional week?

CHAIR PERLMUTTER: No. Two weeks and two weeks. That's how it works.

MR. KLEIN: It's going, it's going --

CHAIR PERLMUTTER: And -- alright, Mr. Klein, we're --

MR. KLEIN: -- to take two, it's going to take three --

CHAIR PERLMUTTER: -- done now.

MR. KLEIN: -- full days to review the hearing minutes.

CHAIR PERLMUTTER: Did, did you understand what I just said?

MR. KLEIN: I understand that I'm not being allowed to --

MR. STEINHOUSE: Okay. Well, okay --

MR. KLEIN: -- represent my clients.

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MR. STEINHOUSE: -- so as a reminder, the dates --

MR. KLEIN: Right.

MR. STEINHOUSE: -- are January, uh, December 31st, January 14th and the decision is January 28th.

CHAIR PERLMUTTER: And I, and I'm serious.

MR. KLEIN: Will I be given -- will I be receiving a copy of the plans they submit to the fire department?

CHAIR PERLMUTTER: No.

MR. KLEIN: Only because --

CHAIR PERLMUTTER: You will not.

MR. KLEIN: -- my clients are kind of concerned about fire issues here.

CHAIR PERLMUTTER: You will not. You will not receive any other plans --

MR. KLEIN: I'll put in a FOIL request to the fire department.

CHAIR PERLMUTTER: -- that we've seen.

MR. KLEIN: Battalion chief, expect that. Thank you.

CHAIR PERLMUTTER: Thank you. Alright.

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CERTIFICATE OF ACCURACY

I, Ryan Manaloto, certify that the foregoing transcript of the Public Hearing of New York City Board of Standards & Appeals on December 17, 2019 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By

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Date: January 13, 2021

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