



OFFICE OF DEVELOPMENT  
DIVISION OF HOUSING INCENTIVES  
100 GOLD STREET  
NEW YORK, NY 10038

**421-a Partial Tax Exemption Program**

**FINAL APPLICATION CHECKLIST**

SEIDEN & SCHEIN, P.C.  
570 LEXINGTON AVENUE  
NEW YORK, NY 10022

March 24, 2014

Docket #: TEO8773

<u>Borough</u>	<u>Address</u>	<u>Block</u>	<u>Lot</u>
Manhattan	534 West 42 Street	01070	0049

Dear 421-a Applicant/Applicant Representative:

The above referenced application for 421-a Partial Tax Exemption benefits has been reviewed. Your application is incomplete or contains inconsistencies, as set forth in this checklist letter.

**CPA Certification of Actual Development Costs**

**Cooperative or Condominium Offering Plan**

Comments: 1. PLEASE HAVE THE CPA CERTIFICATION DULY RE-EXECUTED TO INCLUDE ALL COSTS. 2. SUBMIT THE CONDOMINIUM OFFERING PLAN. 3. ALL DOCUMENTS THAT REQUIRE A SIGNATURE MUST BE ORIGINAL. SEND REPLY TO THIS CHECKLIST ATTENTION JOANNE T. DOLMAN

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Should you have any questions, please contact the 421-a Unit at 212-863-8640. Please indicate the docket number on all correspondence and documents and make all submissions at one time to the following address:

421-a Partial Tax Exemption Program  
New York City Department of Housing Preservation and Development  
Office of Tax Incentive Programs  
100 Gold Street (Room 8-C09)  
New York, NY 10038



nyc.gov/hpd

## Jason Hershkowitz

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**From:** Jason Hershkowitz  
**Sent:** Friday, April 05, 2013 5:28 PM  
**To:** Louison, Pramila (HPD)  
**Cc:** Jay G. Seiden; Daniel M. Bernstein  
**Subject:** 534 W. 42nd Street - 421a TEO 8773  
**Attachments:** 534 West 42nd Street FA.PDF

Dear Ms. Louison,

Attached please find a copy of the Final Application completion documents for the above-referenced property. The originals will be filed with HPD on Monday.

Regards,

Jason

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Jason C. Hershkowitz | Attorney at Law

SEIDEN & SCHEIN, P.C.  
570 Lexington Avenue, 14th floor  
New York, New York 10022  
Tel: 212.935.1400 x 219 | Fax: 212.593.4545  
E-mail: [jhershkowitz@seidenschein.com](mailto:jhershkowitz@seidenschein.com)  
Web: <http://www.seidenschein.com/>

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SEIDEN & SCHEIN, P.C.  
ATTORNEYS AT LAW

JAY G. SEIDEN  
ALVIN SCHEIN  
ADAM A. LEVENSON  
DANIEL M. BERNSTEIN  
ELISE J. KESSLER  
CHRISTOPHER A. NICOSIA

570 LEXINGTON AVENUE, 14<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10022

TELEPHONE: (212) 935-1400  
FACSIMILE: (212) 593-4545

ELENA BAIER  
JASON C. HERSHKOWITZ  
DEIRDRE M. HEFFERNAN  
ERIN S. GOODMAN

OF COUNSEL:  
DAVID F. YAHNER

April 5, 2013

**By Hand**

Pramila Louison  
421-a Tax Exemption Unit  
The City of New York Department of  
Housing Preservation and Development  
100 Gold Street, 3<sup>rd</sup> Floor  
New York, New York 10038

Re: 534 West 42<sup>nd</sup> Street  
New York, NY  
Block: 1070, Lots: 1101-1108 (f/k/a Lot 49)  
TEO# 8773

RECEIVED  
421 AED PART 1  
TAX EXEMPTION  
2013 APR 10 PM 2:30

Dear Ms. Louison:

This firm represents 534 West 42nd Street LLC, the Sponsor of the Condominium Offering Plan for the above listed property. Enclosed herewith, please find the following additional documents to complete the Final Application.

1. Revised Final Application
2. Completion of Construction Affidavit
3. Copy of the Final Certificate of Occupancy
4. CPA Certification of the actual development costs

Thank you for your attention to this matter. If you require additional information or documentation, please do not hesitate to contact the undersigned.

Yours truly,  
SEIDEN & SCHEIN, P.C.

Jay G. Seiden

Enc.



**Department of  
Housing Preservation  
& Development**

Office of Development  
DIVISION OF HOUSING INCENTIVES  
100 GOLD STREET, NEW YORK, N.Y. 10038  
(212) 863-8540

**FINAL APPLICATION FOR CERTIFICATION OF ELIGIBILITY FOR 421-a PARTIAL TAX EXEMPTION**

Property address: 534 West 42nd Street  
New York, NY

Docket #: 8773  
Date rec'd by HPD: \_\_\_\_\_  
Block: 1070 Lot: 1101-1108 (E/k/a Lot 49)

To the Commissioner:

The undersigned affirms that: (Place an "X" where applicable)

- ☒ All information previously submitted in the Preliminary Application for a Certification of Eligibility for partial tax exemption remains true and accurate.
- ☐ Documentation is attached advising you of all physical changes made in this project since the submission of the Preliminary Application; and the need, if any, to revise initial rents or selling prices.
- ☐ Documentation is attached advising you of increased development and/or maintenance and operating costs and the need for revised initial rents or selling prices.
- ☐ Each year the owner shall make available to HPD's Tax Incentives Unit a schedule of rents for each unit in the building. An annual rent schedule must be mailed to HPD.
- ☐ All units have been registered with the New York State Division of Housing and Community Renewal.  
Date: \_\_\_\_\_
- ☐ All units in the above building/s will be registered with the NYS Division of Housing and Community Renewal as they become occupied.
- ☒ If the project is owned and operated as a co-op or condominium and if the co-op or condo plan has not been declared effective 15 months after the issuance of a Final Certificate of Eligibility, the owner will register the rental units with the NYS Division of Housing & Community Renewal no later than 15 days after such 15 month period.

The approximate date of completion of this project is: 08/26/2010

Applicant understands that pursuant to Sec. 6-05 (2) of the 421-a Rules that:

- A. The application for a Final Certificate of Eligibility must be filed as follows:
  1. For a multiple dwelling owned as a rental and containing more than six units, the application must be filed prior to occupancy of the building, but no earlier than the date of application for a preliminary certificate of eligibility.
  2. For a multiple dwelling to be owned as a condominium or co-op, the application must be filed prior to the first taxable status date following the completion of construction.
- B. The application process for a Final Certificate of Eligibility must be completed within 90 days following the issuance of a permanent certificate of occupancy or a temporary certificate of occupancy covering all residential space. In the event that all the required documents are not timely filed, benefits of the Act may be revoked pursuant to Sec. 6-07 (c) (5) of the 421-a Rules.

Applicant understands and agrees that, if tax exemption is granted as a result of this application and there is failure to complete said structure within the time limit set forth in the 421-a Statute and Rules, or if any other breach of the Rules is committed without curing said breach within 90 days after notice of same is given, the Commissioner shall revoke the Certificate of Eligibility for said premises. In the event of Revocation for failure to timely complete, the owner shall pay the City, with interest, the amount of exempted taxes. Such unpaid taxes and the interest thereon shall become a lien against said property.

Affidavit is herewith submitted for the issuance of a final certification of eligibility for partial tax exemption for the structure herein mentioned.

STATE OF NEW YORK )  
CITY OF NEW YORK )  
COUNTY OF )

Brian Shatz, being duly sworn, deposes and says, that, he/she is the applicant or officer of  
applicant Corp. or Condominium of Manager of 534 West 42nd Street LLC  
making application for a Certification of Eligibility for Partial Tax Exemption; he/she has read and agrees to abide by the Regulations for 421-a partial tax exemption, and he/she understands that the City of New York will rely on the statements contained herein in acting upon this application.

Sworn to before me this

25 day of March, 2013  
Shoshana T. Carmel

Notary Public

**SHOSHANA T. CARMEL**  
Notary Public, State of New York  
No. 01CA6153596  
Qualified in New York County  
Commission Expires October 10, 2014

[Signature]  
Signature  
3/25/13  
Date

(November 2010)





Department of  
Housing Preservation  
& Development

Office of Development  
DIVISION OF HOUSING INCENTIVES  
100 GOLD STREET, NEW YORK, N.Y. 10038  
(212) 863-8540

### COMPLETION OF CONSTRUCTION AFFIDAVIT

The date of "completion of construction" of the project is a very important date for the implementation of 421-a benefits. It confirms that the project completed construction and is eligible for the 10, 15, 20, or 25 years of post-construction partial tax exemption benefits. This affidavit must be completed by the project architect or engineer and submitted to HPD with the application for a final certificate of eligibility.

A separate affidavit must be filed for each building included in the project.

Docket # 8773

Building Address: 534 West 42nd Street Block: 1070 Lot: 1101-1108 (E/W/a 12, 49)

Borough: Manhattan X Bronx Brooklyn Queens Staten Island

Certificate of Occupancy #	Date Issued	Date Expired	Indicate Temporary CO or Permanent CO
1. 104929482T001	08/26/2010	11/24/2010	Full TCO
2. 104929482T002	11/19/2010	02/17/2011	Full TCO
3. 104929482T003	02/15/2011	05/16/2011	Full TCO
4. 104929482T004	05/10/2011	08/08/2011	Full TCO
5. 104929482F	05/10/2011		Final
6.			

I, the undersigned architect or engineer for the project, hereby certify that this is a complete and accurate list of all temporary and, if any, permanent certificates of occupancy issued for the building from the commencement of construction to date. I make this affidavit in support of the application submitted to the Department of Housing Preservation and Development for a final certificate of eligibility for 421-a Partial Tax Exemption Benefits.

Based on the attached documentation, the construction was completed on 08/26/2010, the earlier of the date of issuance of the first temporary certificate of occupancy issued for all residential areas of the building or the permanent certificate of occupancy for the entire building.

Notary or Seal



Brian E. Boyle  
Signature of Architect or Engineer

Brian E. Boyle, R.A.

Print Name

75 Spring Street, 6th Floor  
Address

New York, New York 10012

City, State, Zip

(212) 334-7402

Telephone Number

ONLY ORIGINAL AFFIDAVITS WILL BE ACCEPTED BY HPD  
THEY MAY NOT BE ALTERED IN ANY WAY

(November 2010)

# Certificate of Occupancy

CO Number: **104929482F**

This certifies that the premises described herein conforms substantially to the approved plans and specifications and to the requirements of all applicable laws, rules and regulations for the uses and occupancies specified. No change of use or occupancy shall be made unless a new Certificate of Occupancy is issued. *This document or a copy shall be available for inspection at the building at all reasonable times.*

**A. Borough:** Manhattan **Block Number:** 01070 **Certificate Type:** Final  
**Address:** 534 WEST 42 STREET **Lot Number(s):** 49 **Effective Date:** 06/10/2011  
**Building Identification Number (BIN):** 1026910  
**Building Type:** New

*For zoning lot metes & bounds, please see BISWeb.*

**B. Construction classification:** 2 (Prior to 1968 Code)  
**Building Occupancy Group classification:** J2 (Prior to 1968 Code)  
**Multiple Dwelling Law Classification:** HACA  
**No. of stories:** 9 **Height in feet:** 96 **No. of dwelling units:** 7

**C. Fire Protection Equipment:**  
Standpipe system, Fire alarm system, Sprinkler system

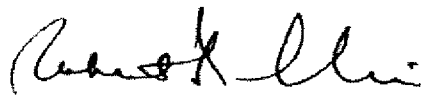
**D. Type and number of open spaces:**  
None associated with this filing.

**E. This Certificate is issued with the following legal limitations:**  
None

**Borough Comments:** None



Borough Commissioner



Commissioner

DOCUMENT CONTINUES ON NEXT PAGE

# Certificate of Occupancy

CO Number: 104929482F

## Permissible Use and Occupancy

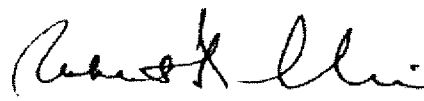
All Building Code occupancy group designations are 1968 designations, except RES, COM, or PUB which are 1938 Building Code occupancy group designations.

Floor From To	Maximum persons permitted	Live load lbs per sq. ft.	Building Code occupancy group	Dwelling or Rooming Units	Zoning use group	Description of use
CEL		OG			2	STORAGE ROOM, MECHANICAL, LAUNDRY, ELEV. MACHINE ROOM, BOILER, FIRE PUMP RMREFUSE ROOM
001		100	D-1 D-2 J-2		2	LOBBY
001	12	100	C		6A	RETAIL
002		40	J-2	1	2	ONE (1) APARTMENT
003		40	J-2	1	2	ONE (1) APARTMENT
004 007		40	J-2	1	2	ONE (1) APARTMENT PER FLOOR
008		40	J-2	0.5	2	ONE-HALF (1/2) APARTMENT
009		40	J-2	0.5	2	ONE-HALF (1/2) APARTMENT
ROF		100	D-2 J-2			MECH. EQUIP. ROOM, TERRACE

END OF SECTION



Borough Commissioner



Commissioner

END OF DOCUMENT

104929482/000 6/10/2011 12:46:01 PM

**Steven J. Mauceri**  
Certified Public Accountant  
Tel. 718-934-4324  
Fax: 718-373-1672  
E-mail: Stevemauceri@aol.com

Mailing Address:  
31 Amherst Street  
Brooklyn, NY 11235-4101

Office Address:  
229 Ave. W, Suite # 1B  
Brooklyn, NY 11223-4602

HPD Docket:	926331
PROPERTY ADDRESS:	534 West 42nd Street New York, NY 10036
BOROUGH:	Manhattan
BLOCK: 1070	LOT: 7502

TO: The Office of Development  
Tax Incentives - 421 (a) and (b) Programs

I am an independent certified public accountant, registered as such by and in good standing with the New York State Education Department. My number is 73294.

I have examined the books and records of 534 West 42<sup>nd</sup> Street LLC, the builder/developer of the above building, and have determined from my examinations that the actual development costs were \$ 110,876.52.

My examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as I considered necessary under the circumstances. In my opinion, the above mentioned costs were expended for the construction of the premises described above.

As an independent certified public accountant, I declare that I am in no way connected with the applicant, financially or otherwise.

I have read this certification and I hereby affirm under the penalties provided by law that the contents thereof are true of my own knowledge.

STEVEN J. MAUCERI, CPA



April 5, 2013

---

**SEIDEN & SCHEIN, P.C.**  
ATTORNEYS AT LAW

JAY G. SEIDEN  
ALVIN SCHEIN  
ADAM A. LEVENSON  
DANIEL M. BERNSTEIN  
ELISE J. KESSLER  
CHRISTOPHER A. NICOSIA

570 LEXINGTON AVENUE, 14TH FLOOR  
NEW YORK, NEW YORK 10022

TELEPHONE: (212) 935-1400  
FACSIMILE: (212) 593-4545

JASON C. HERSHKOWITZ  
DEIRDRE M. HEFFERNAN  
ERIN S. GOODMAN  
JAMES A. PATALANO

OF COUNSEL:  
DAVID F. YAHNER

March 3, 2014

**By Hand**

Pramila Louison  
421-a Tax Exemption Unit  
The City of New York Department of  
Housing Preservation and Development  
100 Gold Street, 3<sup>rd</sup> Floor  
New York, New York 10038

Re: 534 West 42<sup>nd</sup> Street  
New York, NY  
Block: 1070, Lots: 1101-1108 (f/k/a Lot 49)  
TEO# 8773

2014 MAR -3 PM 3:49

Dear Ms. Louison:

This firm represents 534 West 42nd Street LLC, the Sponsor of the Condominium Offering Plan for the above listed property. Enclosed herewith, please find a check for \$100 and the following additional documents in support of the online application re-filing for Preliminary Certification of Eligibility under section 421-a of the Real Property Tax Law:

1. RP-602C
2. Survey
3. Architect's Certification
4. Opinion of Counsel
5. Owner's Affidavit
6. Architect's Certification regarding Alteration Permit
7. Owner's Affidavit regarding Land Acquisition Costs (included in the previous submission on January 30, 2014 that was not accepted by HPD)
8. Additional Owner's Affidavit regarding Land Acquisition Costs and Transfer Taxes (as requested per your telephone conversation with Jason Hershkowitz on February 3, 2014)
9. Copy of the Negotiable Certificate

Thank you for your attention to this matter. If you require additional information or documentation, please do not hesitate to contact the undersigned.

Yours truly,  
SEIDEN & SCHEIN, P.C.

Jay G. Seiden

OFFICIAL CHECK

0511 006132

*Signature*  
SIGNATURE BANK  
565 Fifth Avenue  
New York, NY 10017

1-1357/260

January 13, 2014

PAY TO THE  
ORDER OF NYC DEPARTMENT OF FINANCE\*\*\*\*\*

\$100.00

ONE HUNDRED DOLLARS AND 00/100

to: 534 W. 42<sup>nd</sup> St. - 421A

*Chase*

⑈0511006132⑈ ⑆026013576⑆ 211010002⑈

Two signatures required if over \$50,000.00

Security Features Included Details on back



NYC Department of Housing Preservation and Development

Division of Housing Incentives

**Application for Preliminary Certificate of Eligibility  
for Partial Tax Exemption**Mail to: NYC Department of Housing Preservation and Development 421-a Partial Tax Exemption  
Program, 100 Gold Street, Room 8-C09, New York, NY 10038 (212) 863-8540 Fax (212) 863-5899

**Instructions:** Once you have completed filling out the application and have submitted it electronically to HPD, you must also print, sign and send a hard-copy to the 421-a Partial Tax Exemption Program at HPD along with all required documents and documentation. If construction commenced on or after December 28, 2007, each multiple dwelling must contain two (2) dwelling units or more (unless it is built with substantial government assistance). If construction commenced before December 28, 2007, three (3) or more dwelling units is sufficient.

**Section 1B: Entity Owner Information**Entity Type **Limited Liability Company (LLC)**Entity Name **534 West 42nd Street LLC**Name **Brian Shatz**Title **Manager**House No **825**Street Name **Third Avenue**PO Box/Suite/Floor **37th Floor**City **New York**State **NY**Country **USA**Zip code **10022**Phone **(646) 442-4202**

Fax

Email

2014 MAR -3 PM 3:49

**Section 2: Filing Representative Information**Filing Representative Type **Entity**Company Name **Seiden & Schein, P.C.**

Name of Contact Person

Name **Jay Seiden**House No **570**Street Name **Lexington Avenue**PO Box/Suite/Floor **14th Floor**City **New York**State **NY**Country **USA**Zip code **10022**Phone **(212) 935-1400**Fax **(212) 593-4545**Email **jayseiden@seidenschein.com****Section 3A: Project Location Information** Project Type : **CONDO**Commencement of construction date **06/07/2007**Estimated Year of Construction Completion **08/26/2010**Borough **MANHATTAN**Block **01070**Lot **0049**Tax Class **4**Base Year AV **\$213,750.00**GEA **Y**REMIC **N**NPP **N**Will the project involve any subdivision or merger of current lot(s)? **Y****Section 3B: Building Location Information**House Number **534**Street Name **West 42 Street**

Zip Code

Tentative Lot **49****Section 3C: Other Standards for Review**

Are negotiable certificates being used to qualify a project located in a 421-a geographic exclusion area?

**Y**



Please enter the date on which the 421-a Written Agreement was executed.

05/11/2007

Will this project or any part of this project be receiving tax exemption or tax abatement under any other provision of state or local law? N

Was this project site mapped as a public park or utilized for 10 or more consecutive years as a private park immediately prior to October 1, 1971? N

Will any part of this project be used as a hotel or for single room occupancy? N

Does this project contain more than 20 dwelling units? N

Were there Class A residential units on the site one month prior to the start of construction? N/A

Does the new project contain at least 5 dwelling units for each Class A dwelling unit on the site one month prior to the new construction? N/A

### Section 3D: Substantial Government Assistance and Affordability Restrictions

Is the project being constructed with Substantial Governmental Assistance? N

Is the Substantial Governmental Assistance pursuant to a program for the development of affordable housing? N/A

Are at least 20% of the project's units subject to affordability restrictions? N

There is a requirement that at least 20% of the onsite units be affordable to Low and Moderate Income households, as defined in 28 RCNY § 6-01 (c). N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 80% of Area Median Income(AMI). N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 60% of AMI. N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 120% of AMI, and the average AMI does not exceed 90%. N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 120% of AMI. N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 125% of AMI. N/A

### Section 4A: Building Cost Information Lot No 0049

Did you purchase the lot within two (2) years prior to the start of construction? Y

Please enter purchase price: \$7,980,461.46

Did you purchase the lot more than two (2) years prior to the start of construction?

Please enter appraised value at the start of construction: N/A

Is the lot being performed under a ground lease? N

Please indicate monthly rent payable during period of construction: N/A

Please indicate length of a ground lease in months: N/A

### Section 4B: Project Cost Information

Total Construction Costs: \$189,915.34

Total Builder's Fee/Developer's Profit: \$0.00

Total Professional and Other Fees: \$138,406.71

Total Marketing Expenses: \$64,348.79

Total Financing and Other Charges: \$58,237.34

Total Project Cost:

\$8,431,369.64

**Section 6A: Building Specifications****534 West 42 Street****Tentative Lot: 49**

Did any portion of the building apply for the Industrial and Commercial Incentive Program (ICIP)?  
 Does the building include new residential construction and the concurrent conversion, alteration or improvement of a pre-existing building or structure?

**N****Y**

Upon completion of the building, aggregate square feet consisting of the pre-existing building

**0**

Commencement of construction date

**06/07/2007**

DOB/BIS Job Number

**104032949**

Building Permit Type

**Alteration Permit**

Floor	Residential A.F.A.	#0 BR	#1 BR	#2 BR	#3 BR	#4 BR	#5 BR	#6 BR	#7 BR	#8 BR	# of Dwelling Units	# Rooms	Non-Residential A.F.A. and Ineligible Residential A.F.A.
R	0.00	0	0	0	0	0	0	0	0	0	0.00	0.00	266.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description Bulkhead to terrace													
9	1,285.00	0	0	0	0	0	0	0	0	0	0.00	0.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
8	1,285.00	0	0	1	0	0	0	0	0	0	1.00	4.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
7	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
6	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
5	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
4	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
3	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
2	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
1	893.00	0	0	0	0	0	0	0	0	0	0.00	0.00	199.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description Retail													

**Parking Questions**

1. Will there be parking associated with this building?
2. Is the parking applying for 421-a benefits?
3. Is the parking applying for 421-a benefits accessory to the residential portion of the building?
4. Is the parking applying for 421-a benefits inside the subject building?
5. Is the parking applying for 421-a benefits located off-street?
6. Is the parking applying for 421-a benefits accessory to the commercial portion of the building?
7. Will this project contain parking or other spaces that will be subdivided into individual tax lots?

**N****N/A****N/A****N/A****N/A****N/A****Y**

7a. Please provide tax lot numbers and their use(e.g. Retail, lot 1001; Commercial Parking, lot 1002; Roof Cabanas, lots 1003 - 1012; Residential, lots 1013 – 1020; Storage, 1021 -1025, etc.).

Retail, Lot 1101; Residential, Lots 1102-1108

## Section 6B: Project Summary

Address: 534 West 42 Street

Tentative Lot: 49

Floor	#0 BR	#1 BR	#2 BR	#3 BR	#4 BR	#5 BR	#6 BR	#7 BR	#8 BR	#Rooms	Residential A.F.A.	Non-Residential A.F.A. and Ineligible Residential A.F.A.
1	0	0	0	0	0	0	0	0	0	0.00	893.00	199.00
2	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
3	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
4	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
5	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
6	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
7	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
8	0	0	1	0	0	0	0	0	0	4.50	1,285.00	0.00
9	0	0	0	0	0	0	0	0	0	0.00	1,285.00	0.00
R	0	0	0	0	0	0	0	0	0	0.00	0.00	266.00
Totals:	10	0	6	1	0	0	0	0	0	25.50	11,779.00	465.00

# Dwelling Units: 7

# Rooms: 25.50

Commercial, etc. area in excess of 12%: 0.00%

## Section 6C: Project Specifications

Total Square Feet of Finished Space	12,407.00
Total Square Feet of Balcony Space	1,269.00
Total Square Feet of Unfinished Space	1,384.00
Average Square Feet Per Dwelling Unit	1,308.57
Total Net SF of Dwelling Units	9,160.00

## Section 7: Site Eligibility Lot No 0049

To qualify for 421-a benefits, a site must have been vacant, predominantly vacant, underutilized, or improved with a non-conforming use three years prior to the start of construction (i.e. "Operative Date"). In order to determine if your project qualifies for 421-a benefits, this section of the application will take you through a number of questions which will determine your site eligibility. You must complete this section for each of the lots for which you are applying for 421-a benefits. Please enter the information as of the Operative Date.

Commencement of Construction Date:	6/7/2007
Operative Date:	06/07/2004
Total land area of lot (Square Feet):	1,933.53
Square footage of site:	1,933.53

### Test 1: The question below will test your site's eligibility based on vacant lot.

Actual Assessed Valuation of improvements on the lot in the Fiscal Year in which the Operative Date falls :	\$72,000.00
---	-------------

This site is ineligible based on this test because the actual assessed valuation of the improvements on the lot was not less than or equal to \$2,000. Please move on to the next site eligibility test.

### Test 2: The questions below will test your site's eligibility based on a vacant portion of the former lot as of the Operative Date.

Is there an existing building that will not be demolished and will remain on the lot?	N
---	---

Is the new multiple dwelling being constructed on a vacant portion of the lot as of the Operative Date?

This site is ineligible based on this test because the land that you are building on is not vacant. Please move on to the next site eligibility test.

### Test 3: The questions below will test your site's eligibility based on predominantly vacant land as of the Operative Date.

Length of footprint of improvement (sq ft):	98.67	Width of footprint of improvement (sq ft):	19.58
Total area of footprint of improvement on lot (sq ft):	1,931.96	Total land area of lot (sq ft):	1,933.53

This site is ineligible based on this test because the area of the footprint of the improvement is not less than or equal to 15% of the land area of the lot. Please move on to the next site eligibility test.

### Test 4: The questions below will test your site's eligibility based on underutilized buildings as of the Operative Date.

Was there a building(s) on the lot on the Operative Date?	Y
---	---

What was the tax class of the lot on the Operative Date?	4
--	---

**Test 7: The questions below will test your site's eligibility based on underutilized former non-residential building.**

Did work commence on or after May 12, 2000? Y

Is lot located in the Borough of Manhattan on either side or south of 110th Street? Y

Is lot located in the outer boroughs or in Manhattan north of 110th Street? N

**Test 8: The questions below will test your site's eligibility based on underutilized former non-residential building in Manhattan on either side or south of 110th Street (assessed valuation test).**

Actual assessed valuation of building in the Fiscal Year in which the Operative Date falls: \$72,000.00

Actual assessed valuation of land in the Fiscal Year in which the Operative Date falls: \$130,500.00

50% of the assessed valuation of the land on the Operative Date is: \$65,250.00

This site is ineligible based on this test because the actual assessed valuation of the building is not less than or equal to 50% of the actual assessed valuation of the land. Please move on to the next site eligibility test.

**Test 10: The questions below will test your site's eligibility based on underutilized former non-residential building in Manhattan on either side or south of 110th Street (Floor Area Ratio test).**

Zoning district of lot: C6-4

Zoning map number: 8d

Maximum residential F.A.R. in this zoning district: 10

Identify Zoning Resolution section which confirms maximum residential F.A.R. above: 23-145

Maximum non-residential F.A.R. in this zoning district: 10.00

Identify Zoning Resolution section which confirms maximum non-residential F.A.R. above: 33-122

Floor Area of former non-residential building: 5,461.00

Total lot area (sq ft): 1,933.53

This site has passed this 421-a eligibility test.

**Section 7: Site Eligibility Summary**

Lot	Square Feet	421-a Eligible
0049	1933.53	Pass

**Section 8: Addendum**

Part A: Contact Information for Certifying Professionals

Architect's/Engineer's Certification to be provided by:

Name **Brian E. Boyle**  
 Business Name **Brian E. Boyle, AIA**  
 House No **75**  
 Street **Spring Street, 6th Floor**  
 City **New York**  
 State **NY**  
 Phone Number **(212) 334-7402**

Opinion of Counsel to be provided by:

Name **Jay G. Seiden**  
 Business Name **Seiden & Schein, PC**  
 House No **570**  
 Street **Lexington Avenue**  
 City **New York**  
 State **NY**  
 Phone Number **(212) 935-1400**

**Checklist**

- RP604 Form

☒
- Submit the most recent approved building plans. However, if the most recent approved building plans were already submitted to HPD as part of an earlier Architect's/Engineer's Certification, you do not need to re-submit the building plans.

☒
- Surveys

☒
- Copy of 421-a negotiable certificates or 421-a Affordable Housing Written Agreement and contract to purchase certificates.

☒
- Architect's/Engineer's Certification

☒
- Opinion of Counsel

☒

Please Keep a Copy of this Application for Your Records.

[Search](#) | [Email Updates](#) | [Contact Us](#)[Residents](#) | [Business](#) | [Visitors](#) | [Government](#) | [Office of the Mayor](#)**NYC**  
Finance[FAQs](#)[Glossary](#)

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Welcome, ebrteger. Your role(s) are: ExternalUser

[Logout](#)

## New Condo Apportionment Request

Online Form RP 602-C

**APPLICATION STATUS: Approved/Unpaid****CASE NUMBER: 20120517000002****COMMENTS: Ready for payment. Please print invoice. Pay, then present paid receipt along with your printed application with architect diagram to receive Condo # and lot #s.**[Print Application](#)**Basic Property Information**

Condo Name The 534 West 42nd Street Condominium

Borough Manhattan

Block	Lot	House #	Street Name
1070	49	534	WEST 42nd STREET

How many lots requested? 16

New Lot(s) Usage Residential

**Sponsor(s) / Declarant Information**

Finance will use this mailing address for all real estate bills until the sponsor/declarant transfers each individual condominium unit

Sponsor is a(n): LLC

Business Name:

534 West 42nd street, LLC

House #: Street Name: Apt #:

825 3rd Avenue 37th floor

City: State / Province / Region: Country:

New York NY USA

Zip Code: Email:

10022 elib@completeccm.com 347-638-4090

**Applicant Information**

Applicant is a(n): Attorney

First Name: Middle Initial: Last Name:

Eli Brieger

House #: Street Name: Apt #:

1303 53rd Street 282

City: State / Province / Region: Country:  
 Brooklyn NY USA  
 Zip Code: Email: Phone:  
 11219 elib@completeccm.com 347-638-4090

### Certification

The applicant hereby certifies that in making this application for condo apportionment, s/he is acting as the owner, or under the direction of and for the owner.

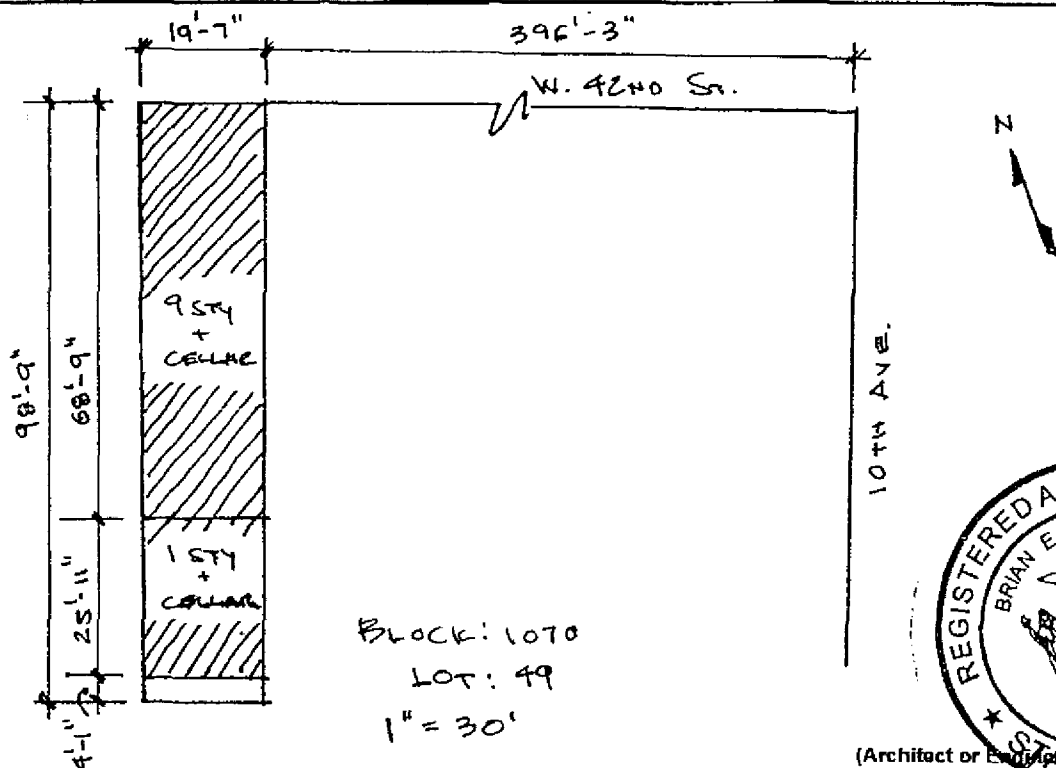
Applicant Name Eli Brieger

Applicant Signature

Date: 5/17/2012 12:00:00 AM

TAX MAP CHANGE WILL NOT BE MADE UNTIL PRESENTATION OF REQUIRED DOCUMENTS  
 (please refer to the instruction section for required documents)

DRAW SKETCH TO SCALE 1" = 50', IF POSSIBLE INDICATE NORTH ARROW



Tax Map Unit Staff:

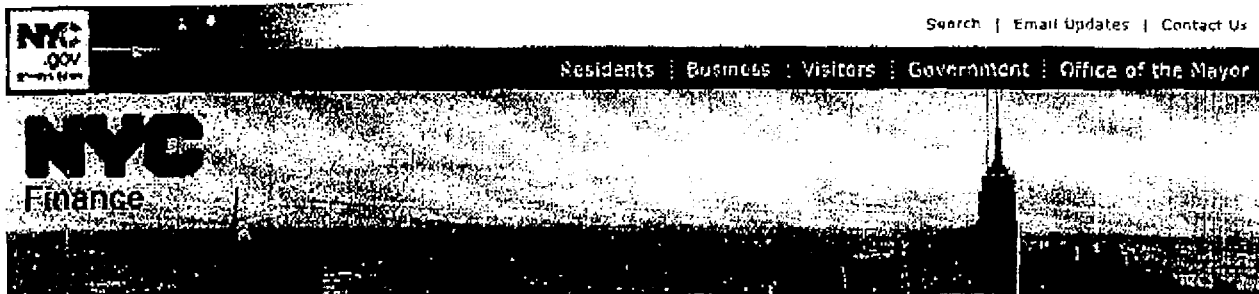
Date:

Back

Division of Land Records 66 John Street, 13th Floor New York, NY 10038

BUILD DATE: 12/02/2011 11:14:16AM Version: 2.2.0





[FAQs](#)   [Glossary](#)   Change text size:   A A A   Change color:   ☐   ☐   ☐   Welcome, ebrieger. Your role(s) are: ExternalUser   [Logout](#)

<b>Tax Map Unit</b>
New Lot (s) Request for Application of Condominium Apportionment and Approval (RP-602c)

Date: 5/24/2012

Borough: Manhattan

Case number: 20120517000002

Block	Lot	Address
1070	49	534 WEST 42nd STREET

Cost (per lot)	Number of Lots Requested	Total Amount to be Paid
\$73.00	16	\$1,168.00

Your lots have been approved.  
 Please print out this payment invoice, and bring it to the borough business center to make a payment.  
 After paying, please submit in person your completed application along with proof of payment to the borough tax map office.

Division of Land Records 66 John Street, 13th Floor New York, NY 10038

BUILD DATE: 12/02/2011 11:14:16 AM Version: 2.2.0

RECEIPT : MP030055924

DEPARTMENT OF FINANCE  
MANHATTAN PAYMENT CENTER  
66 JOHN STREET  
NEW YORK  
2ND FLOOR

CASHIER: NYC1792

5/31/2012 1:50:25 PM

1 SALE ITEM

TOTAL DUE: \$1,168.00

ITEM DESCRIPTION

3501 PTX-FEES Miscellaneous Fees

BBL ACT, TYP IN DT PD BEG DT

TOTAL

\$1,168.00

PTX SUBTOTAL: \$1,168.00

SUBTOTAL: \$1,168.00

TAX: \$0.00

TOTAL DUE: \$1,168.00

1 PAYMENT ITEM

Business Check 423

TOTAL DUE: \$1,168.00

AMOUNT RECEIVED: 1101-1116

THANK YOU

Don't wait in line.

Visit [www.nyc.gov/finance](http://www.nyc.gov/finance) and click PAY ONLINE.

5/24/2012



City of New York  
Department of Housing Preservation and Development  
Office of Development  
Division of Housing Incentives  
Tax Incentive Programs Unit  
421-a Partial Tax Exemption Program  
100 Gold Street, Room 8-C09  
New York, NY 10038

**Architect's / Engineer's Certification**  
**In Support of Preliminary Application for 421-a Partial Tax Exemption**

Re: Online Application Submission Confirmation # **50312**

Docket # **TEO8773**

Address(es) / Tentative Lot (s)

**Building 1: 534, West 42 Street, 49**

Borough **MANHATTAN** Block **01070**

Lot(s) **0049.**

Total Number of Buildings **1**

**Brian E. Boyle** , being duly sworn, under penalty of perjury, deposes and says:

1. I am a Registered Architect or Professional Engineer licensed to practice by and in good standing with the New York State Department of Education. As such, I certify to the truth of the matters set forth below in connection with the above pending application (the "Application") for 421-a Partial Tax Exemption.
2. The Building plans accompanying the Architect's/Engineer's Certification signed by me on 04/09/08 and previously submitted to HPD, each page of which was initialed and dated by me, are a true copy of the most recent plans approved by the New York City Department of Buildings (hereinafter, "Plans").
3. The calculations in Section 6 of the Application are a true and accurate reflection of the layout and dimensions of the Plans, and the room count and dwelling unit count as shown in Section 6 of the Application are in compliance with Section 6-01(c) of Chapter 6 of Title 28 of the Rules of the City of New York (the "421-a Rules").
4. The calculations of Aggregate Floor Area and Floor Area of Commercial Community Facilities and Accessory Use Space of the building(s) applying for 421-a Partial Tax Exemption in Section 6 of the Application are in compliance with Sections 6-01(c) and 6-06(b) of the 421-a Rules and the guidance provided in the latest edition of Department of Housing Preservation and Development's Frequently Asked Questions, dated 06/17/04.

The annexed survey, dated 06/24/05, as prepared by Thomas Picciocco, a licensed land surveyor of \_\_\_\_\_\* (name of company, if applicable) is a true copy of the survey used to determine the eligibility of the site for 421-a Partial Tax Exemption.\*\*The site eligibility statements and/or calculations stated in Section 7 of the Application accurately represent the conditions at the site on the Operative Date (i.e. 36 months prior to the commencement of construction) and the current lot or lots indicated on the Application are eligible for 421-a Partial Tax Exemption.

The attached RP-604 executed and approved by the New York City Department of Finance Property Division - Survey Unit, dated May 31, 2012, accurately reflects the Project's tentative lot changes to the current New York City Tax Map.

5. I have read the specific sections of the 421-a Rules applicable to this Project and understand them. I have relied upon this understanding for purposes of the representations I am making in this affidavit. 6/7/2007 is the accurate date of "commencement of construction," (i.e., the date upon which excavation and construction of initial footings and foundations commenced in good faith), for the above-referenced project and is consistent with the definitions of "commencement of construction" in Section 6-01(c) and "commence" in Section 6-09(a) of the 421-a Rules, as applicable.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.

\*Earl B. Lovell-S.P. Belcher, Inc.

\*\* And is confirmed by Certificate of Occupancy No. 102511783, dated May 21, 2002 (attached)

I understand that if the Department of Housing Preservation and Development finds that any of the statements are incorrect, I may, in HPD's sole discretion, be prevented from certifying any future projects with HPD. Furthermore, I understand that submission of a false certification shall be deemed to be professional misconduct pursuant to Section 6509 of the Education Law.

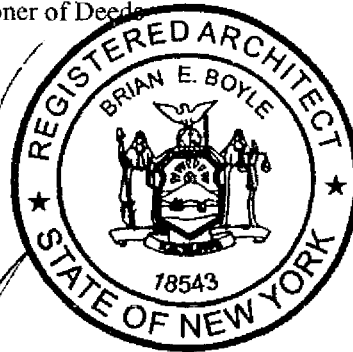
Sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public or Commissioner of Deeds

[OR

Dated: DEC. 12, 20 13

Seal of RA or PE]



Brian E. Boyle  
Architect / Engineer Signature

Brian E. Boyle  
Architect / Engineer Name

Brian E. Boyle, AIA  
Business Name

75 Spring Street, 6th Floor New York, NY  
Business Address

(212) 334-7402  
Phone Number



# CERTIFICATE OF OCCUPANCY

BOROUGH MANHATTAN

DATE: MAY 21 2002

NO. 102511783

This certificate supersedes C.O. NO.

ZONING DISTRICT C6-4

THIS CERTIFIES that the new—altered—existing—building—premises located at  
534 WEST 42ND STREET

Block 1070 Lot 49

CONFORMS SUBSTANTIALLY TO THE APPROVED PLANS AND SPECIFICATIONS AND TO THE REQUIREMENTS OF ALL APPLICABLE LAWS,  
RULES, AND REGULATIONS FOR THE USES AND OCCUPANCIES SPECIFIED HEREIN.

## PERMISSIBLE USE AND OCCUPANCY

STORY	LIVE LOAD LBS. PER SQ. FT.	MAXIMUM NO. OF PERSONS PERMITTED	FORMS DWELLING OCCUPANCY TYPE	BURDEN CORE HABITABLE ROOMS	ZONING USE GROUP	BUILDING CODE OCCUPANCY GROUP	DESCRIPTION OF USE
CELLAR	O.G.						STORAGE
BASEMENT	O.G.	48			8	F-3	THEATRE ACCESSORY SPACES & RESTROOMS
1ST FLOOR	100	103			8	F-1A	THEATRE
2ND FLOOR	60	7			8, 6		OFFICES AND RESTROOMS
3RD FLOOR	60	7			8, 6	E	OFFICES AND RESTROOMS

THIS CERTIFICATE IS VALID FOR THE PERIOD OF 10 YEARS FROM THE DATE OF ISSUANCE. IF THE BUILDING IS TO BE USED FOR A DIFFERENT PURPOSE THAN THAT SPECIFIED IN THIS CERTIFICATE, THE OWNER MUST OBTAIN A NEW CERTIFICATE OF OCCUPANCY.

OPEN SPACE USES

(SPECIFY—PARKING SPACES, LOADING DOCKS, OTHER USES, NONE)

M.G.

NO CHANGES OF USE OR OCCUPANCY SHALL BE MADE UNLESS  
A NEW AMENDED CERTIFICATE OF OCCUPANCY IS OBTAINED

THIS CERTIFICATE OF OCCUPANCY IS ISSUED SUBJECT TO FURTHER LIMITATIONS, CONDITIONS AND  
SPECIFICATIONS NOTED ON THE REVERSE SIDE.

COMMISSIONER

BOROUGH SUPERINTENDENT

COMMISSIONER

MAN 11

COMMISSIONER

☐ ORIGINAL

☒ OFFICE COPY - DEPARTMENT OF BUILDINGS

☐ COPY

THAT THE ZONING LOT ON WHICH THE PREMISES IS LOCATED IS BOUNDED AS FOLLOWS:

BEGINNING at a point on the SOUTH side of WEST 42ND STREET  
distant 384'-2" WEST feet from the corner formed by the intersection of  
11TH AVENUE and WEST 42ND STREET  
running thence EAST 19'-7" feet; thence SOUTH 98'-9" feet;  
thence WEST 19'-7" feet; thence NORTH 98'-9" feet;  
thence to the point or place of beginning.

102511783

XINWAL ALT. No. DATE OF COMPLETION 5/2/02 CONSTRUCTION CLASSIFICATION CLASS 3NON-FIRE-  
BUILDING OCCUPANCY GROUP CLASSIFICATION HEIGHT 2 STORIES, 30' FEET PROOF  
COMMERCIAL

THE FOLLOWING FIRE DETECTION AND EXTINGUISHING SYSTEMS ARE REQUIRED AND WERE INSTALLED IN COMPLIANCE WITH APPLICABLE LAWS.

	YES	NO		YES	NO
STANDPIPE SYSTEM			AUTOMATIC SPRINKLER SYSTEM		
YARD HYDRANT SYSTEM					
STANDPIPE FIRE TELEPHONE AND SIGNALLING SYSTEM					
SMOKE DETECTION					
FIRE ALARM AND SIGNAL SYSTEM					

STORM DRAINAGE DISCHARGES INTO:

A) STORM SEWER ☐ B) COMBINED SEWER ☐ C) PRIVATE SEWAGE DISPOSAL SYSTEM ☐

SANITARY DRAINAGE DISCHARGES INTO:

A) SANITARY SEWER ☐ B) COMBINED SEWER ☐ C) PRIVATE SEWAGE DISPOSAL SYSTEM ☐

LIMITATIONS OR RESTRICTIONS:

BOARD OF STANDARDS AND APPEALS CAL. NO. \_\_\_\_\_

CITY PLANNING COMMISSION CAL. NO. \_\_\_\_\_

OTHERS: \_\_\_\_\_

**SEIDEN & SCHEIN, P.C.**  
ATTORNEYS AT LAW

JAY G. SEIDEN  
ALVIN SCHEIN  
ADAM A. LEVENSON  
DANIEL M. BERNSTEIN  
ELISE J. KESSLER  
CHRISTOPHER A. NICOSIA

570 LEXINGTON AVENUE, 14TH FLOOR  
NEW YORK, NEW YORK 10022

TELEPHONE: (212) 935-1400  
FACSIMILE: (212) 593-4545

JASON C. HERSHKOWITZ  
DEIRDRE M. HEFFERNAN  
ERIN S. GOODMAN  
JAMES A. PATALANO

OF COUNSEL:  
DAVID F. YAHNER

Date: 12/10/2013

Director, 421-a Programs  
The City of New York  
Department of Housing Preservation and Development  
100 Gold Street Room 8-C09

Re: Online Application Submission Confirmation # 50312

Docket # TEO8773

Address(es) / Tentative Lot (s)

Building 1: 534, West 42 Street, 49

Borough MANHATTAN Block 01070

Lot(s) 0049.

Total Number of Buildings 1

Jay G. Seiden, an attorney admitted to practice in the Courts of the State of New York, affirms the following to be true under the penalties of perjury pursuant to Civil Practice Law and Rules 2106:

1. I have acted as legal counsel to 534 West 42nd Street LLC ("Owner") in connection with its above referenced application for a partial real property tax exemption pursuant to Section 421-a of the Real Property Tax Law (the "Application").

2. I have reviewed all of the organizational documents of the Owner and such other certificates and instruments as necessary for the purpose of this opinion.

3. Owner is a Limited Liability Company (LLC), which is duly formed and validly existing under the laws of the State of New York.

4. Brian Shatz is duly authorized to execute and deliver the Application to the City of New York Department of Housing Preservation and Development on behalf of the Owner and to make the representations and warranties contained in the Application.



\_\_\_\_ 5a. Owner holds fee title to the real property identified in the Application.

\_\_\_\_ 5b. I have attached a title report from \_\_\_\_\_, dated \_\_\_\_\_, which indicates that Owner holds fee title to the real property identified in the Application.

  X   5c. Owner held fee title to the real property identified in the Application at the time of the original filing.\*

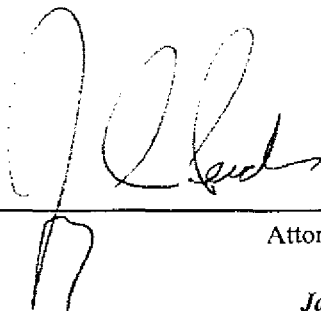
\_\_\_\_ 5d. I have attached a title report from \_\_\_\_\_, dated \_\_\_\_\_, which indicates that Owner held fee title to the real property identified in the Application at the time of the original filing.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.

I understand that if the Department of Housing Preservation and Development finds that any of the statements herein are incorrect, I may, at HPD's sole discretion, be prevented from delivering any certification or legal opinion to HPD in connection with any future project. Furthermore, I understand that any false statement may be deemed to be professional misconduct pursuant to Section 90 of the Judiciary Law.

Sincerely,



\_\_\_\_\_  
Attorney's Signature

Jay G. Seiden

\_\_\_\_\_  
Attorney's Name

\*Owner acquired the real property from the original Applicant as per the attached Owner letter regarding the purchase price. The property has since been converted to condominium ownership.



## Special Instructions Regarding Owner's Affidavit and Opinion of Counsel

### Owner's Affidavit:

If you are re-filing a 421-a application and no longer hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application, you must also check box 1b in the Owner Affidavit to certify that you have been authorized to make the Application on behalf of all current owners or lessees.

### Opinion of Counsel

#### Individual Owner:

If you are not attaching a title report and currently hold fee title to or a leasehold interest under a ground lease of the real property identified in the Application, your attorney must check box 2a in the Opinion of Counsel (not box 2b). If you are not attaching a title report, are re-filing a 421-a application and no longer hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application, your attorney must check box 2c in the Opinion of Counsel (not box 2d) to indicate that you held fee title to or the leasehold interest under a ground lease of the real property identified in the Application at the time of the original filing.

#### Entity Owner:

If you are not attaching a title report and currently hold fee title to or a leasehold interest under a ground lease of the real property identified in the Application, your attorney must check box 5a in the Opinion of Counsel (not box 5b). If you are not attaching a title report, are re-filing a 421-a application and no longer hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application, your attorney must check box 5c in the Opinion of Counsel (not box 5d) to indicate that you held fee title to or the leasehold interest under a ground lease of the real property identified in the Application at the time of the original filing.

\*Owner acquired the real property from the original Applicant as per the attached mid-construction purchase affidavit. The property has since been converted to condominium ownership.

State of New York )

) ss.:

County of New York)

**Brian Shatz**, being duly sworn, under penalty of perjury, deposes and says:

1. a. I, **Brian Shatz, Manager, 534 West 42nd Street LLC**, am making this application for a Preliminary Certificate of Eligibility for 421-a Partial Tax Exemption (the "Application").

[If applicable:]

X 1.b. I held fee title or the leasehold interest under a ground lease of the real property identified in the Application at the time of the original filing\*, and I am authorized to make the Application on behalf of all persons or entities that currently hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application.

2. I have read and understand the requirements for 421-a Partial Tax Exemption.

3. I have reviewed the Application and I swear that all information set forth in the Application is true and correct and I submit the Application to induce the City of New York to grant 421-a Partial Tax Exemption.

4. The multiple dwelling will be owned as a cooperative or condominium, and is not required to be registered with the State of New York Department of Housing and Community Renewal. However, if the prospective cooperative or condominium plan has not been declared effective for filing at a time fifteen months after issuance of a Final Certificate of Eligibility for 421-a Partial Tax Exemption, these rental units must be registered with the New York State Division of Housing and Community Renewal no later than fifteen calendar days after such fifteen month period or, if the building is not occupied, such units must be registered prior to initial occupancy, and proof of registration submitted.

5. As required pursuant to §11-245.8 of the Administrative Code of the City of New York and §6-05(d)(1) of Chapter 6, Title 28 of the Rules of the City of New York, whenever any household appliance in any dwelling unit, or any household appliance that provides heat or hot water for any dwelling unit in the multiple dwelling, is installed or replaced with a new household appliance on or after December 19, 2006, such new appliance shall be certified as Energy Star, unless either (A) an appropriately-sized Energy Star certified household appliance is not manufactured, such that movement of walls or fixtures would be necessary to create sufficient space for such appliance, and/or (B) an Energy Star certified boiler or furnace of sufficient capacity is not manufactured.

[For purposes of this paragraph, (A) "household appliance" shall mean any refrigerator, room air conditioner, dishwasher or clothes washer, within a dwelling unit in the multiple dwelling that is provided by the owner, and any boiler or furnace that provides heat or hot water for any dwelling unit in the multiple dwelling, and (B) "Energy Star" shall mean a designation from the United States Environmental Protection Agency or Department of Energy indicating that a product meets the energy efficiency standards set forth by the agency for compliance with the Energy Star program.]

I understand that if the City of New York finds that the Application and/or supporting documents, including but not limited to, the most recent Department of Buildings approved building plans; the survey; and the RP-604 approved and executed by the Department of Finance contain incorrect or misleading information of a substantial nature, or have omitted information of a material nature, and in the event that such breach or omission is not cured within ninety (90) days of notice thereof, the Department of Housing Preservation and Development shall advise the Department of Finance that the 421-a Certificate of Eligibility has been revoked or that the amount of 421-a Partial Tax Exemption has been reduced, and the Department of Finance shall retroactively or prospectively withdraw or reduce 421-a Partial Tax Exemption and reinstate the amount of taxes which would have been exempted and charge interest at the rate prescribed by the New York City Administrative Code to be calculated from the day on which such taxes would have been payable but for the 421-a Partial Tax Exemption.

I understand that in order to qualify for 421-a benefits, a site must have been vacant, predominantly vacant, underutilized, or improved with a non-conforming use three years prior to the commencement of construction (i.e., "Operative Date"). The site eligibility statements and/or calculations stated in Section 7 of the Application accurately reflect the conditions at the site on the Operative Date and confirm that the real property identified in the Application meets the site

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.

  
Owner's Signature

*Brian Shatz*

Owner's Name

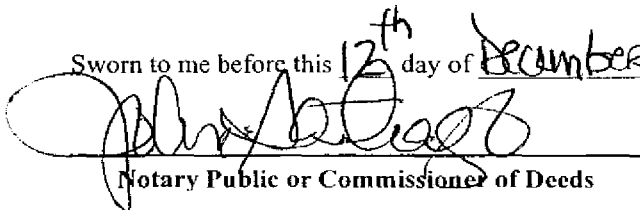
*Manager*

Owner's Title

*534 West 42nd Street LLC*

Owner's Affiliation

Sworn to me before this *12<sup>th</sup>* day of *December*, 20 *13*

  
Notary Public or Commissioner of Deeds

JOAN SANTIAGO  
NOTARY PUBLIC  
STATE OF NEW YORK  
#01SA6099098  
MY COMMISSION EXP. 9-22-20 *15*

## CERTIFICATION OF BRIAN E. BOYLE, R.A.

Brian E. Boyle, R.A. certifies the accuracy of the information set forth below:

1. I am a Registered Architect licensed by the State of New York under license number 18543. I make this Certification in support of the 421-a application for 534 West 42nd Street, Manhattan Block 1070, Lot 49.
2. The developer of the project located at 534 West 42<sup>nd</sup> Street (M/1070/49), retained me and my firm to design a new nine (9) story primarily residential structure.
3. An alteration permit was initially utilized to commence construction, because a small portion of the exterior wall of the pre-existing structure was retained. It was only after construction commenced pursuant to the Alteration Permit, that the Department of Buildings required the issuance of a New Building Permit.
4. The site was previously improved with a three (3) story, basement and cellar commercial structure with a one story and cellar extension that was formerly utilized as a theater and was classified in tax class 4. The floor area of the demolished structure was 5,461 sf <sup>1</sup> and the dimensions of each floor of the former structure are set forth in the footnote below. <sup>2</sup>See also attached survey. The parts of the former structure that were retained included 668 sf of the pre-existing perimeter wall out of the total 7,356 sf that was located in the rear addition and a small part of the old foundation supporting the section of the retained perimeter walls. The floor area of the new building is 11,730 sf and the dimensions of the new structure are set forth below. <sup>3</sup>All of the floor area of the former structure was demolished or removed so that there was no floor area remaining after demolition. As all of the floor area, or 100% of the new building is new, and thus more than 51% of the new building is new compared to the former structure.
5. There will be a total of 8 units in the condominium includes one commercial condominium unit and seven individual residential units.
6. Due to the narrow nature of the site, the small section of the rear perimeter wall was retained because the existing walls were used as shoring and removed in stages, facilitating the building of the new foundation of the new building. This allowed selective removal of the old foundation walls to perform the new foundation work in sections and this was more manageable, allowing phasing of the work and allowing work inside the small footprint of the building.
7. The building is new in all material respects. There is newly designed framework, new enhanced foundation system integrated into the small portion of the remaining foundation and there is all new building systems in compliance with the current code requirements at the time of construction, including structural, MEP, Life Safety, Egress, waste management, telecommunications, finishes, and Energy Code Compliance.

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<sup>1</sup> The vast majority of the existing building, including all floor framing, stairs, mechanical, electrical and plumbing systems, windows, doors, appliances and finishes were removed and demolished. All demolition work was performed pursuant to permit (Alt-2 type permit #104241562) and in accordance with filed plans, showing the extent of the demolition.

All of the pre-existing structure was demolished except for approximately 9% of the pre-existing perimeter walls (only part of rear wall) and a small part of the old foundation supporting this retained perimeter wall. The building that was demolished contained 7,356 sf of exterior wall area and only 668 sf of the former building's wall surface remains. Attached hereto is a massing model graphically illustrating the pre-existing structure and the minor portion of that structure that was retained and that was integrated into the new building that has been constructed on the site.

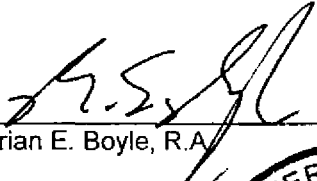
<sup>2</sup> Cellar dimensions: 20.73 x 44.33 ft; Basement dimensions: 20.73 x 89.1 ft; 1st floor dimensions: 20.73 x 92.82 ft; 2nd & 3rd floor dimension: 20.73 x 44.25 ft.

<sup>3</sup> Cellar dimensions: 20.16 x 18.75 ft; Basement dimension: 20.16 x 94.86 ft; 1st floor dimensions: 20.16 x 64.07 ft; 2nd thru 7th floors: 20.16 x 68.75 ft; 8th & 9th floors 20.16 x 63.75 ft.

8. The NYC Department of Buildings issued a Certificate of Occupancy for the New Building on 6/10/11 number 104929482F.
9. The plans previously submitted that were initialed and dated by me on April 9, 2008, a copy of which are annexed, represent what was built on the site and a copy of the demolition plans are annexed as well.
10. There is a laundry area in the cellar, and residential storage units accessory to the individual condominium units are located at the rear portion of the cellar.
11. A breakdown of condo units showing tax lot numbers and use, new vs. old is set forth below:

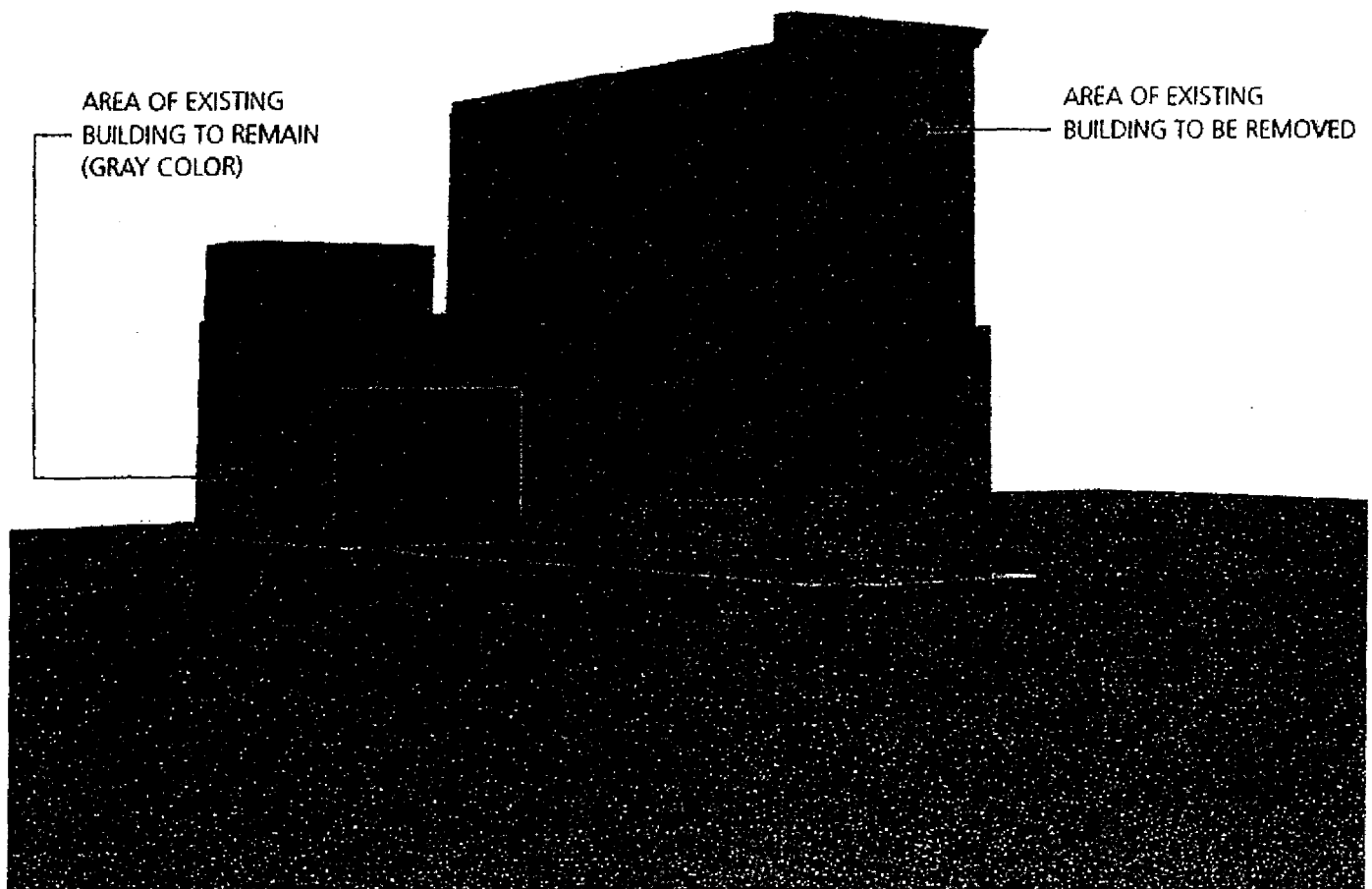
Tax Lot	Use	New or Old
1101	Commercial	New
1102	Residential Apt	New
1103	Residential Apt	New
1104	Residential Apt	New
1105	Residential Apt	New
1106	Residential Apt	New
1107	Residential Apt	New
1108	Residential Apt	New

Dated: October 22, 2013

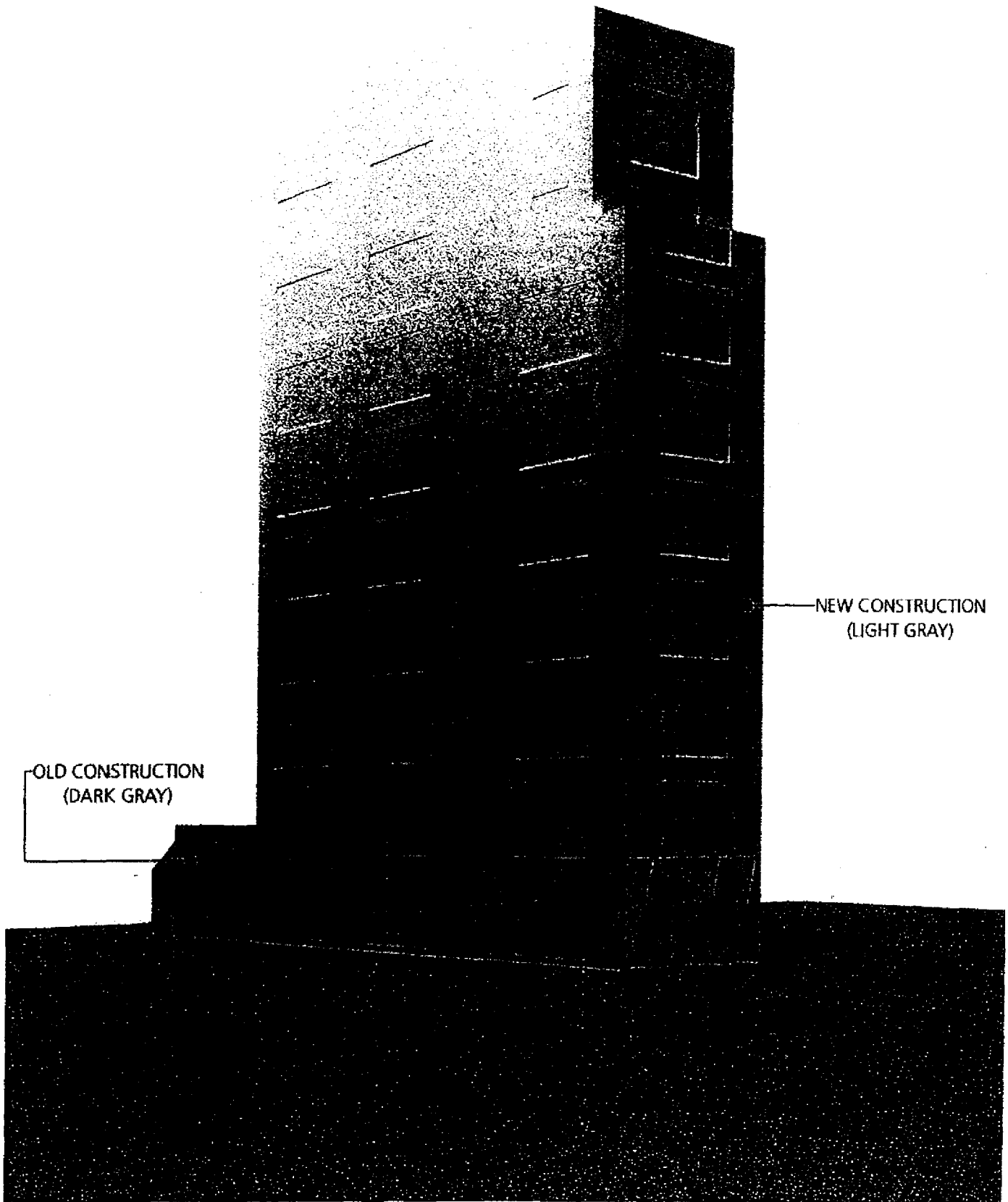
  
Brian E. Boyle, R.A.



THE DEUCE CONDOMINIUM  
534 W. 42nd ST. NY, NY  
BRIAN E. BOYLE, AIA



THE DEUCE CONDOMINIUM  
534 W. 42nd ST. NY, NY  
BRIAN E. BOYLE, AIA



OLD CONSTRUCTION  
(DARK GRAY)

NEW CONSTRUCTION  
(LIGHT GRAY)



[illegible]

~~SECRET~~

REVIEW FOR DOE REVIEW  
 REQUEST FOR PERMIT  
 REQUEST FOR DOE REVIEW  
 REQUEST TO CDR & DOE REVIEW  
 REQUEST FOR PLANS REVIEW  
 REQUEST FOR DOE REVIEW

**The Deuce**  
 204 W. 42nd Street  
 New York, NY 10018

10403254  
PLOT PLAN  
PLUMBING RISER  
ADA DETAILS

**A-001**

3

100

27-0000  
2007  
12/00

1. 1000  
 2. 1000  
 3. 1000

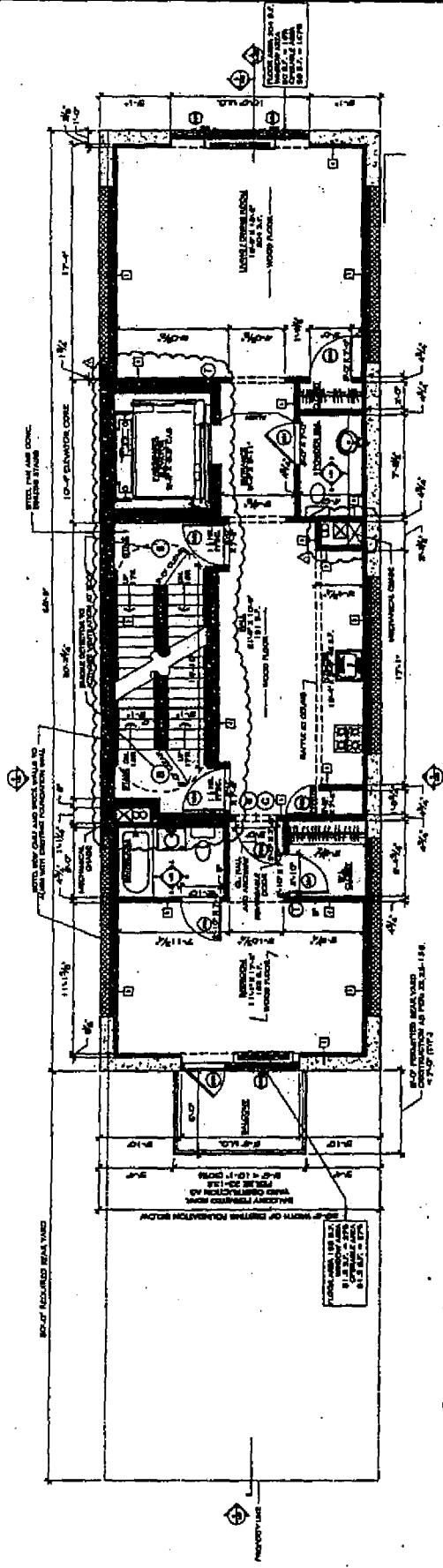
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1

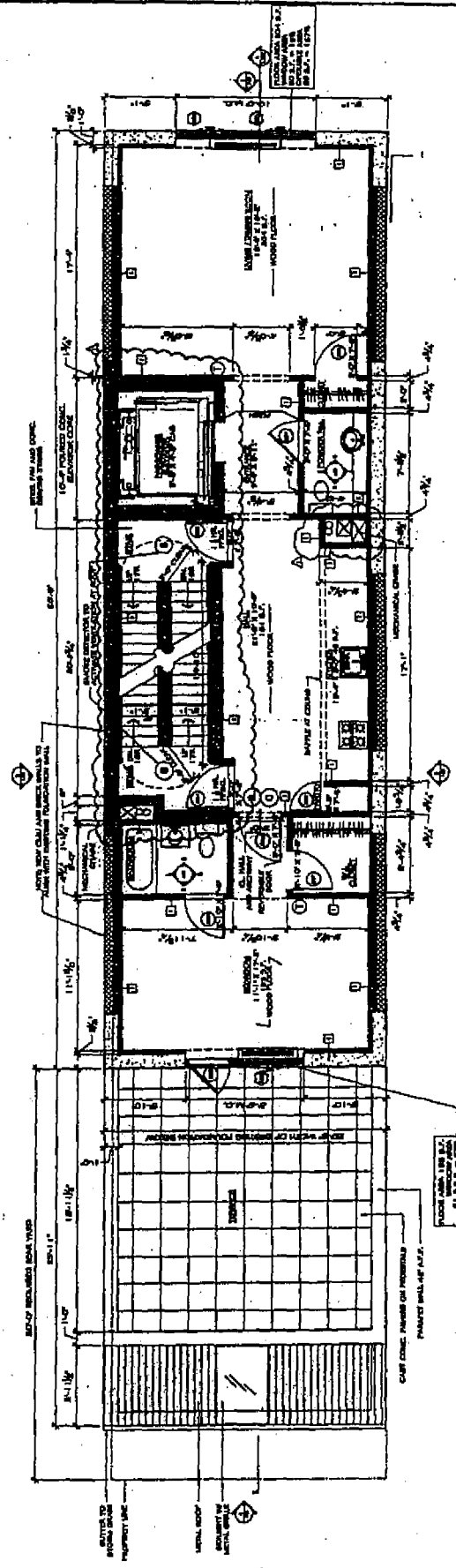
1



100-443887-100

[illegible]

THIRD, FOURTH FIFTH FLOOR PLAN  
 10' x 14'



SECOND FLOOR PLAN  
36' x 1-8'

1/3/74

**Brig. E. Boyle A.L.A.**  
 The Deuce  
 184022916

**FLOOR PLANS  
SIXTH AND  
SEVENTH FLOOR**

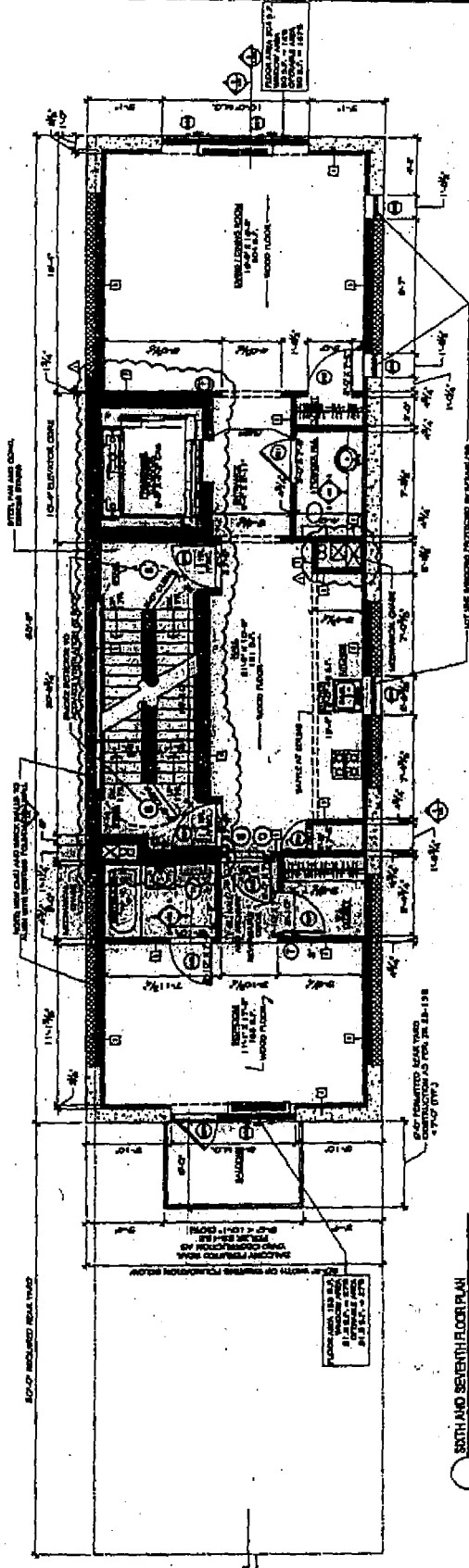
**A-004**

**LEGEND**

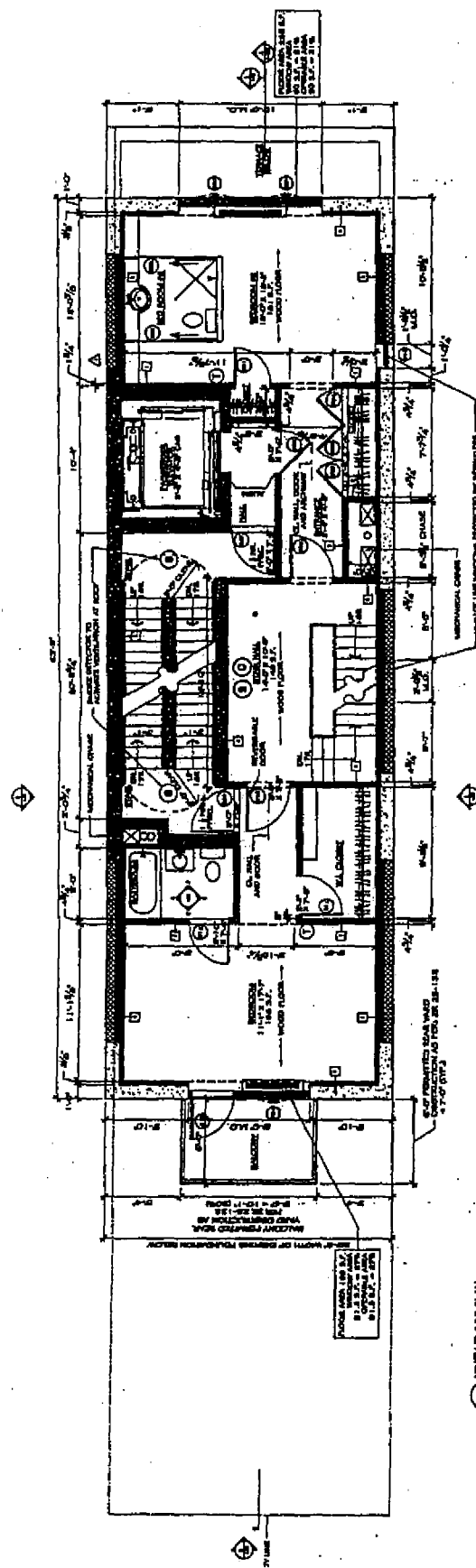
- 1. EXISTING WALLS
- 2. EXISTING DOORS
- 3. EXISTING WINDOWS
- 4. EXISTING STAIRS
- 5. EXISTING ELEVATOR
- 6. EXISTING ROOF
- 7. EXISTING FLOOR
- 8. EXISTING CEILING
- 9. EXISTING LIGHTING
- 10. EXISTING VENTILATION
- 11. EXISTING PLUMBING
- 12. EXISTING ELECTRICAL
- 13. EXISTING MECHANICAL
- 14. EXISTING STRUCTURAL
- 15. EXISTING FINISHES
- 16. EXISTING UTILITIES
- 17. EXISTING EQUIPMENT
- 18. EXISTING FURNITURE
- 19. EXISTING FIXTURES
- 20. EXISTING ACCESSORIES

**NOTES**

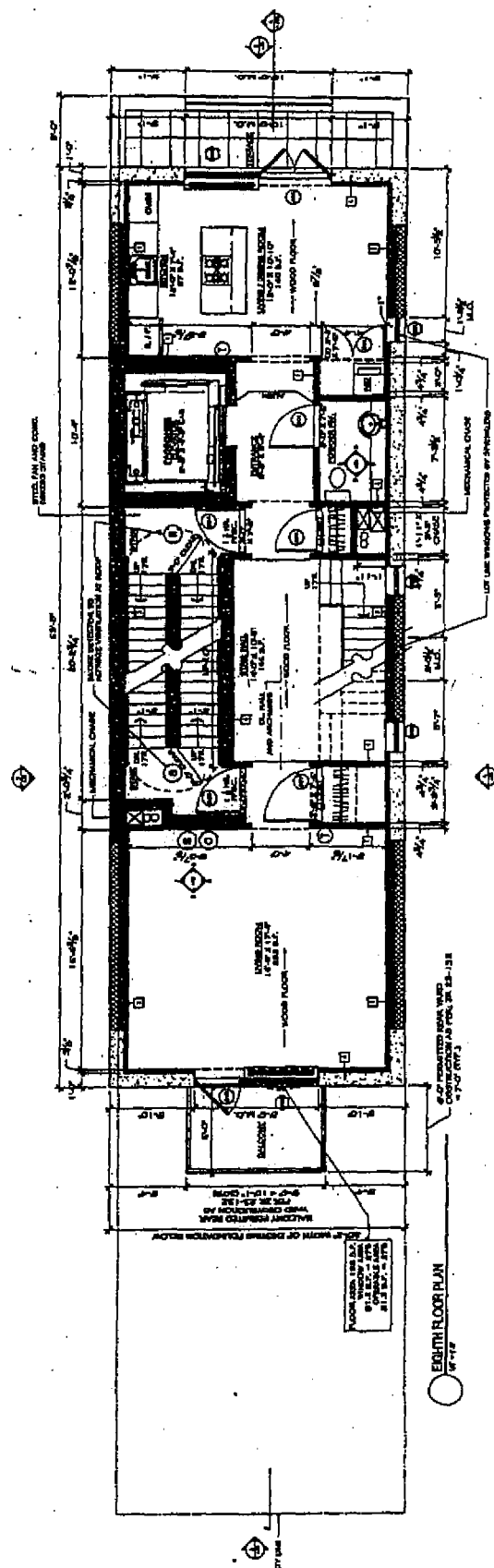
1. ALL EXISTING WALLS TO REMAIN UNLESS OTHERWISE NOTED.
2. ALL EXISTING DOORS TO REMAIN UNLESS OTHERWISE NOTED.
3. ALL EXISTING WINDOWS TO REMAIN UNLESS OTHERWISE NOTED.
4. ALL EXISTING STAIRS TO REMAIN UNLESS OTHERWISE NOTED.
5. ALL EXISTING ELEVATOR TO REMAIN UNLESS OTHERWISE NOTED.
6. ALL EXISTING ROOF TO REMAIN UNLESS OTHERWISE NOTED.
7. ALL EXISTING FLOOR TO REMAIN UNLESS OTHERWISE NOTED.
8. ALL EXISTING CEILING TO REMAIN UNLESS OTHERWISE NOTED.
9. ALL EXISTING LIGHTING TO REMAIN UNLESS OTHERWISE NOTED.
10. ALL EXISTING VENTILATION TO REMAIN UNLESS OTHERWISE NOTED.
11. ALL EXISTING PLUMBING TO REMAIN UNLESS OTHERWISE NOTED.
12. ALL EXISTING ELECTRICAL TO REMAIN UNLESS OTHERWISE NOTED.
13. ALL EXISTING MECHANICAL TO REMAIN UNLESS OTHERWISE NOTED.
14. ALL EXISTING STRUCTURAL TO REMAIN UNLESS OTHERWISE NOTED.
15. ALL EXISTING FINISHES TO REMAIN UNLESS OTHERWISE NOTED.
16. ALL EXISTING UTILITIES TO REMAIN UNLESS OTHERWISE NOTED.
17. ALL EXISTING EQUIPMENT TO REMAIN UNLESS OTHERWISE NOTED.
18. ALL EXISTING FURNITURE TO REMAIN UNLESS OTHERWISE NOTED.
19. ALL EXISTING FIXTURES TO REMAIN UNLESS OTHERWISE NOTED.
20. ALL EXISTING ACCESSORIES TO REMAIN UNLESS OTHERWISE NOTED.



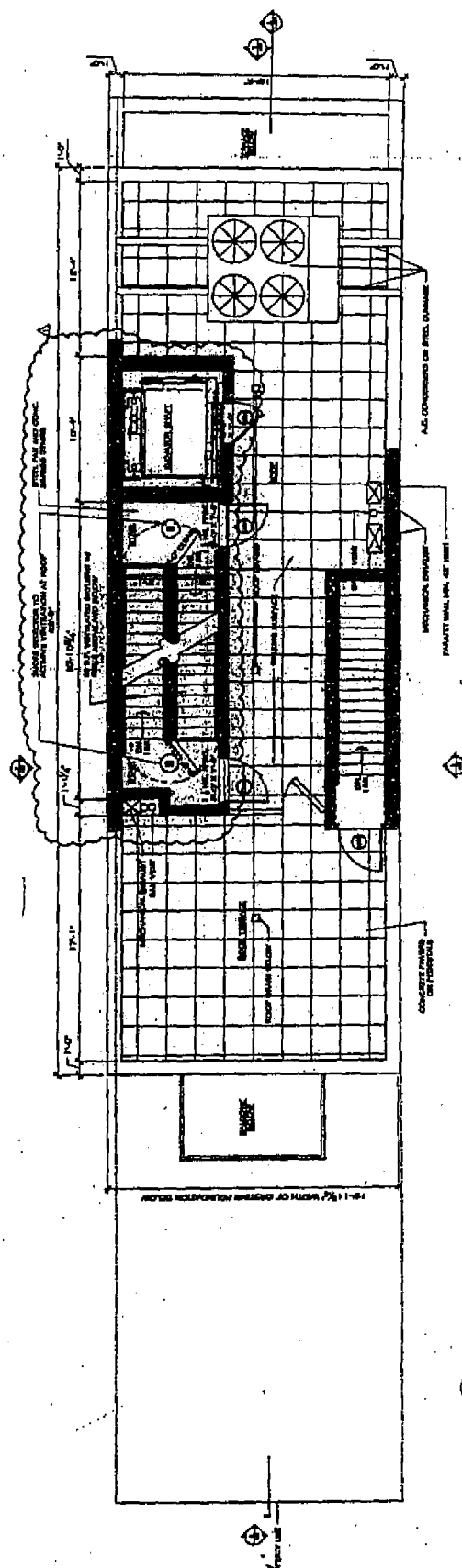
SIXTH AND SEVENTH FLOOR PLAN

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**NINTH FLOOR PLAN**

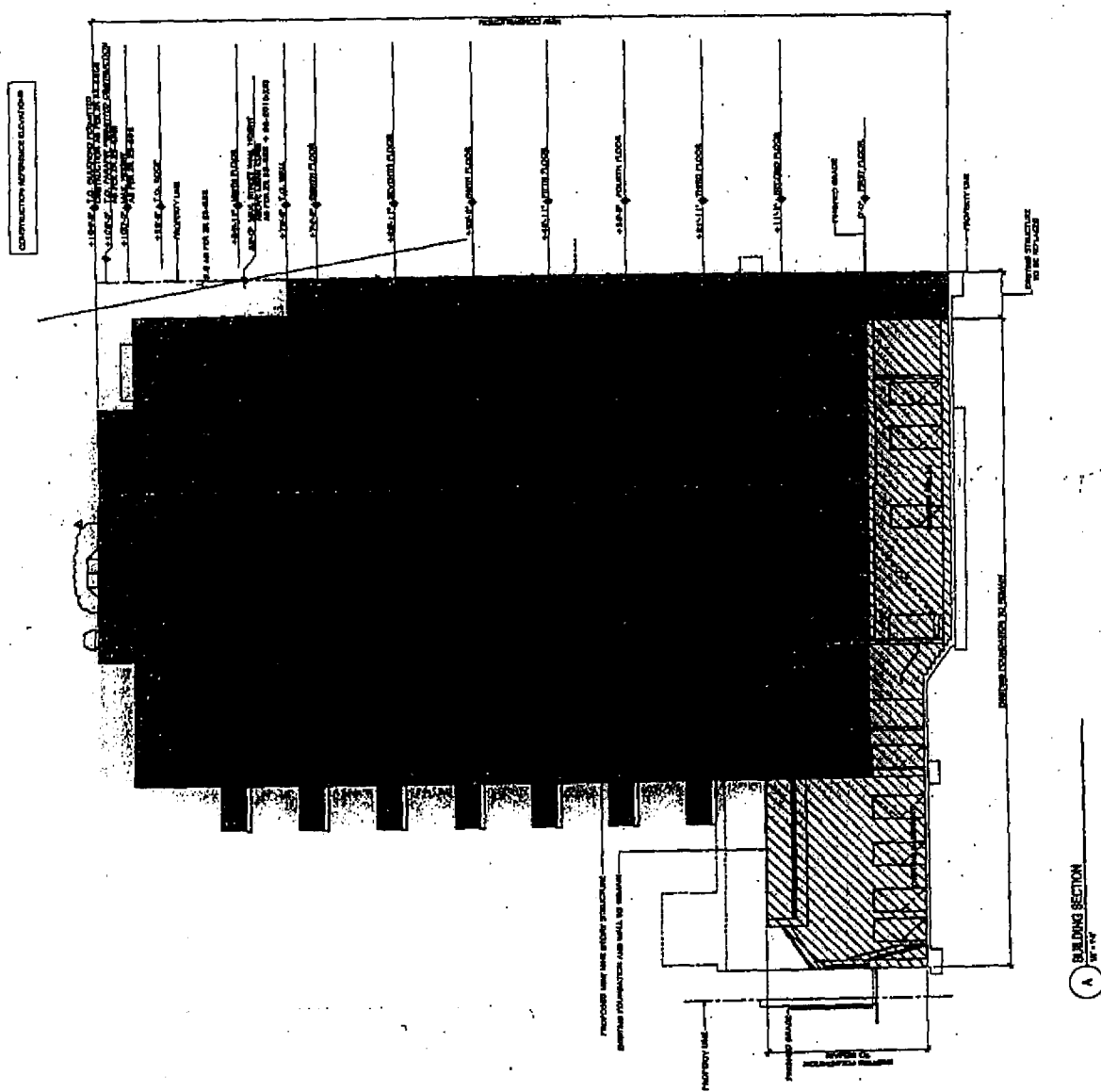


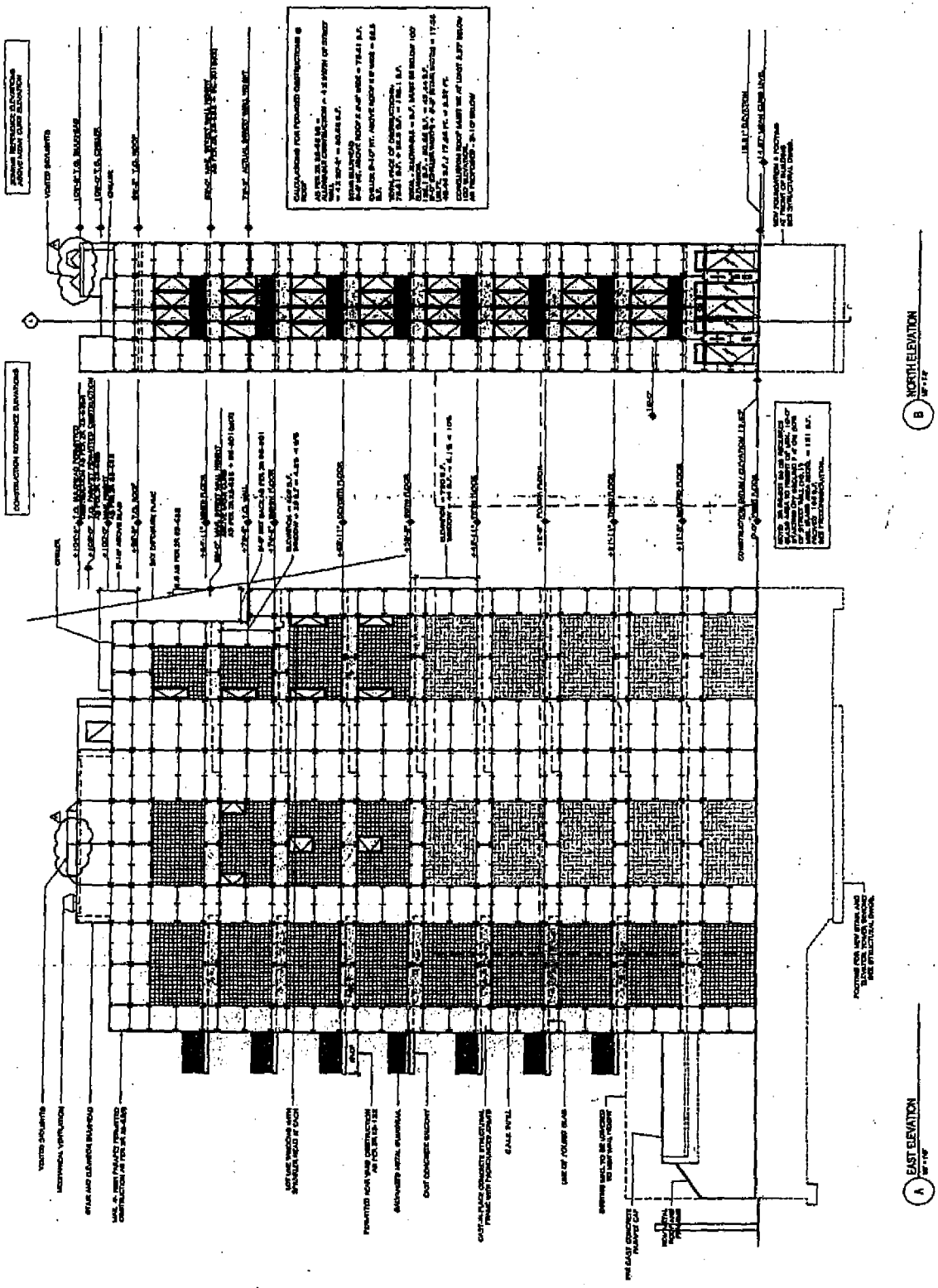
EIGHTH FLOOR PLAN



SECRET

The image shows a document page with a circular seal on the left, a small photograph in the center, and a large, tilted, and partially obscured document fragment on the right. The seal is a circular emblem with a central figure and text around the border. The photograph is a small, square, black and white image. The tilted document fragment contains text, including "A-200" and "BUILDING SECTION", and is partially covered by a large, dark, irregular shape.

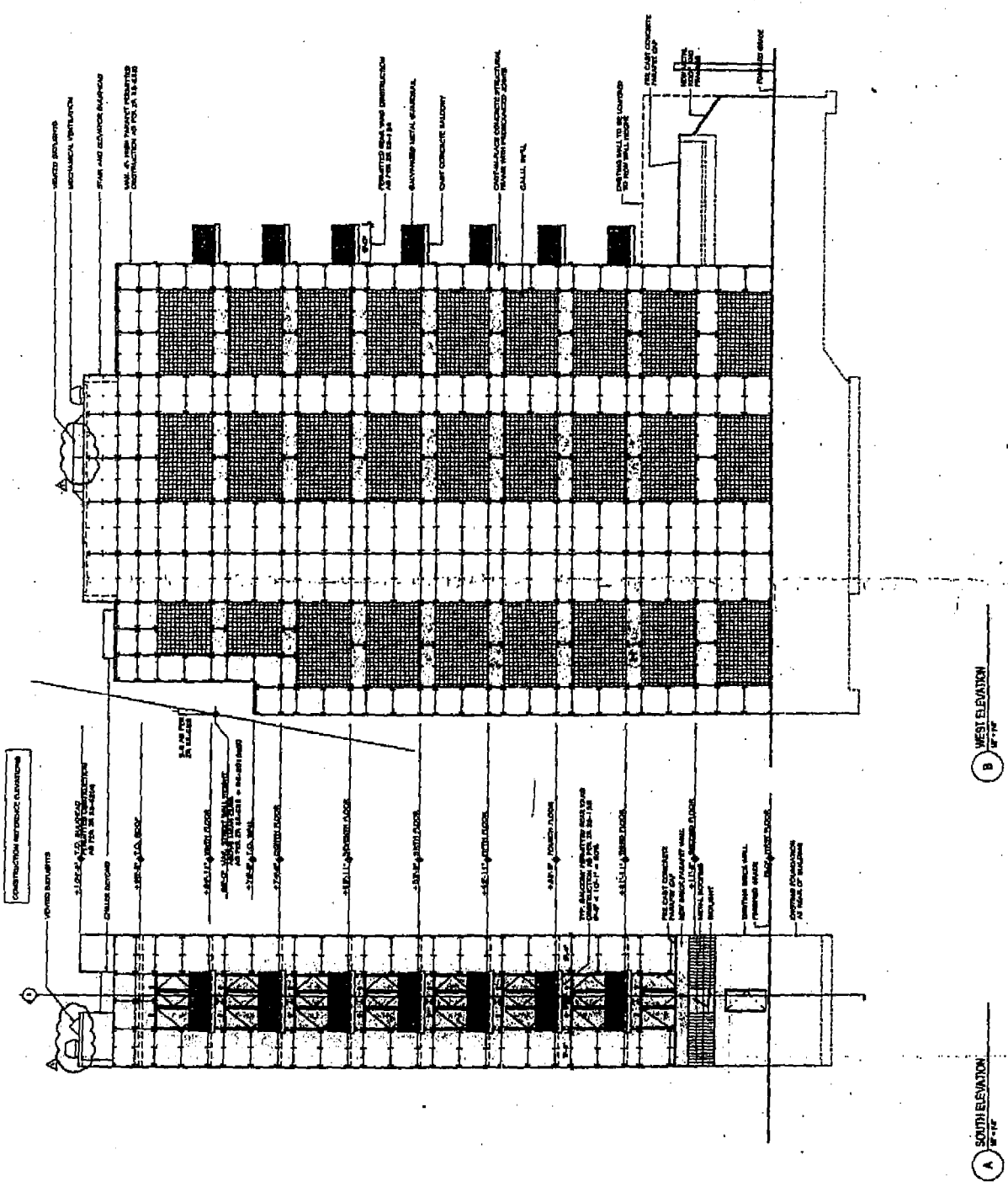


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05 OCT 1964

APPROVED 0504		RECEIVED BY SPECIAL AGENT 0504		APPROVED 0504	
THE DAUCS 104000000		THE DAUCS 104000000		THE DAUCS 104000000	
SOUTH ELEVATION WEST ELEVATION		SOUTH ELEVATION WEST ELEVATION		SOUTH ELEVATION WEST ELEVATION	
A-301		A-301		A-301	



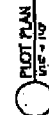
**Brian R. Boyd's ALA**



20 Academy Street, 4th Fl.  
New York, NY 10022  
Tel: 212-686-6000  
Fax: 212-686-6001  
http://www.ala.org

*[Handwritten signature]*

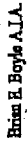
104241582  
INSTITUTE OF STATISTICS



KEN FLADEN  
OCT 11 1966  
RECEIVED FBI MEMPHIS

**FRONT ELEVATION**

04241582



**THE UNIVERSITY OF CHICAGO**

**Chemical Abstracts**

**Defining**

10132005

**The Device**  
101 West Street  
New York, NY 10038

**CELLAR AND BASEMENT PLAN**

**D-002**

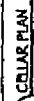
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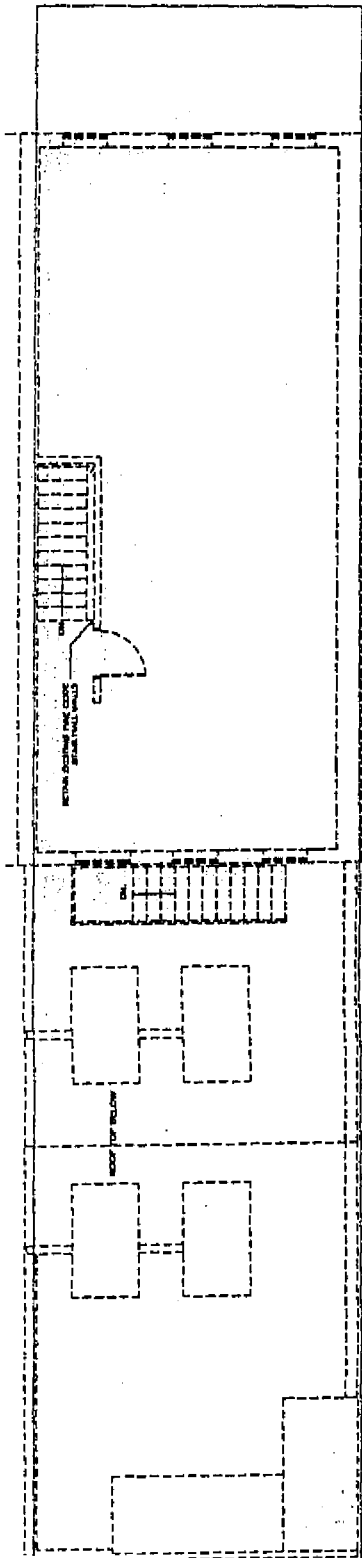
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112

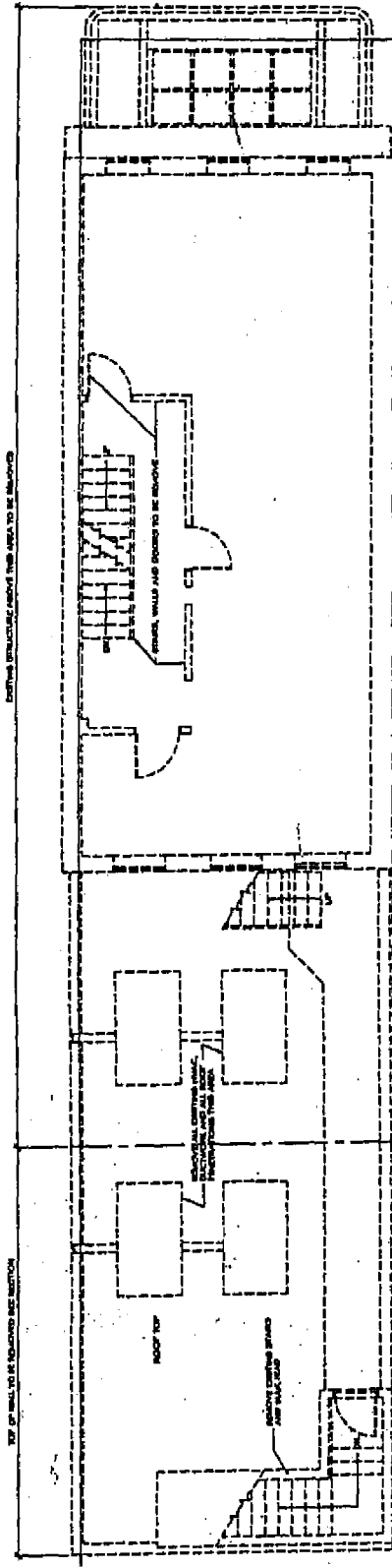
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2025 RELEASE UNDER E.O. 14176

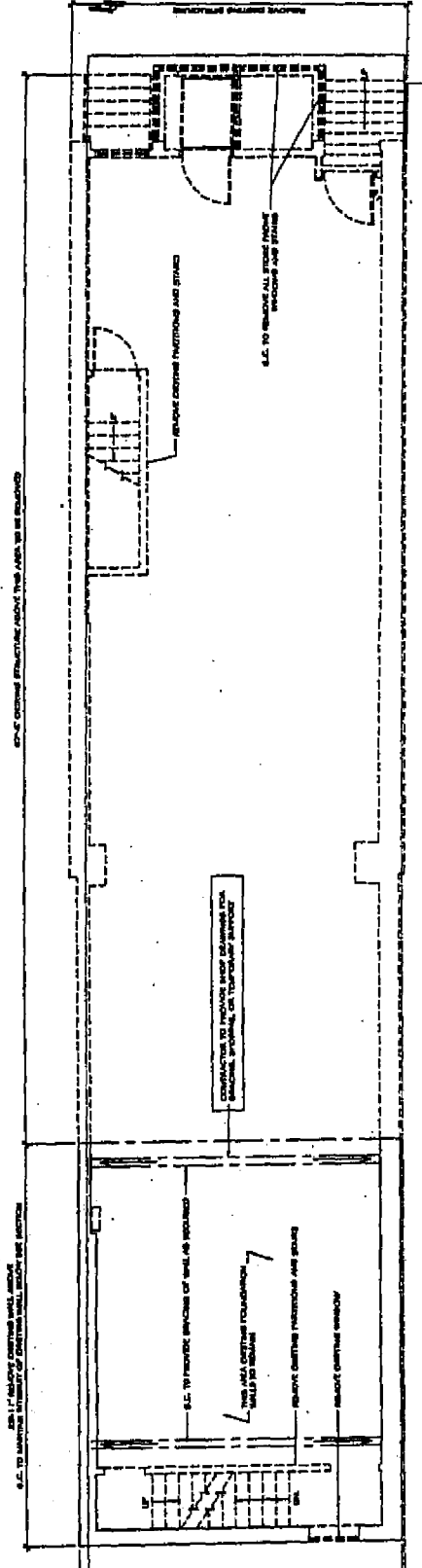




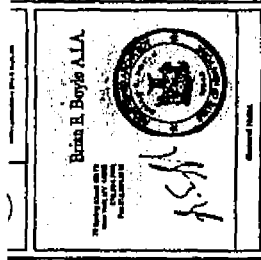
○ THIRD FLOOR DEMOLITION PLAN  
1/4" = 1'-0"



○ SECOND FLOOR DEMOLITION PLAN  
1/4" = 1'-0"



○ FIRST FLOOR DEMOLITION PLAN  
1/4" = 1'-0"



APPROVED

10/13/2005

The Dolce  
100 West 10th Street  
New York, NY 10011

CELLAR AND  
BASEMENT PLAN

D-003

KEN FLAHERTY

ARCHITECT  
100 WEST 10TH STREET  
NEW YORK, NY 10011

10/13/2005  
10:00 AM  
10:00 AM



AFFIDAVIT

STATE OF NEW YORK     )  
  : SS.:  
COUNTY OF New York)

I, Brian Shatz, being duly sworn, depose and say:

1. I make this affirmation in support of an application for tax benefits pursuant to Section 421-a of the Real Property Tax Law for the following project (hereinafter the "Project"):

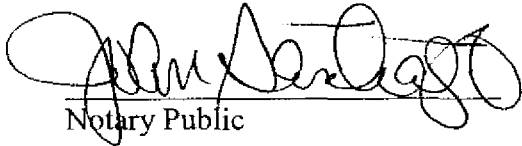
**534 W. 42<sup>nd</sup> Street, New York, New York**  
**Block: 1070, Lot: 1101-1108 (f/k/a Lot: 49)**  
**TEO # 8773**

2. I am an authorized signatory for 534 West 42<sup>nd</sup> Street, LLC, the Applicant for 421-a benefits for the Project, and as such I am fully familiar with the facts and circumstances herein.
3. I am over 18 years of age and maintain an office located at 825 Third Avenue, 37<sup>th</sup> Floor, New York, New York 10022.
4. Please also note that on December 30, 2009, a date after the Project's commencement of construction, the Applicant took title to the Project from Shao Lin Operating LLC, the previous 421-a Applicant ("Shao Lin"). Attached please find the deed as evidence of the property transfer. This was a transaction between unrelated parties. The acquisition of Lot 49 included the land as well as construction up to the point of sale.
5. Please note further that the Applicant took title to the Project pursuant to a deed in lieu of foreclosure. Pursuant to the attached Deed Agreement, dated December 12, 2009, Shao Lin defaulted on its loan to Madison Realty Capital, L.P., an affiliate of the Applicant. As the Deed Agreement indicates, at the time of the property transfer, Shao Lin owed a total \$7,980,461.46.
6. Thus, despite the fact that the December 30, 2009 deed indicates a full sale price of \$0, the true value of the deed is \$7,980,461.46, which was the amount of the debt that was forgiven through the transfer of the Project to the Applicant

I have reviewed this statement and it is true and correct to the best of my knowledge.

A stylized handwritten signature in black ink, consisting of several overlapping loops and a horizontal line extending to the right.

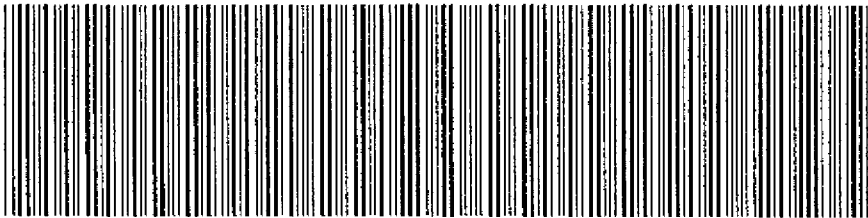
Signed before me this  
12<sup>th</sup> day of December, 2013

A handwritten signature in black ink, appearing to read "Joan Santiago", written over a horizontal line.  
Notary Public

JOAN SANTIAGO  
NOTARY PUBLIC  
STATE OF NEW YORK  
#01SA6099098  
MY COMMISSION EXP. 9-22-2015

**NYC DEPARTMENT OF FINANCE  
OFFICE OF THE CITY REGISTER**

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.



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**RECORDING AND ENDORSEMENT COVER PAGE** **PAGE 1 OF 5**

**Document ID:** 2010012500233001      **Document Date:** 01-18-2010      **Preparation Date:** 01-27-2010  
**Document Type:** DEED  
**Document Page Count:** 4

<b>PRESENTER:</b> FIRST AMERICAN TITLE INSURANCE- PICK UP FOR GAIL 633 THIRD AVENUE 3008-299234-CQR NEW YORK, NY 10017 212-850-0670	<b>RETURN TO:</b> KRISS & FEUERSTEIN LLP 360 LEXINGTON AVENUE SUITE 1200 NEW YORK, NY 10017 ATTN: JILL DIGREGORIO
---	--

<b>PROPERTY DATA</b>			
<b>Borough</b>	<b>Block</b>	<b>Lot</b>	<b>Unit Address</b>
MANHATTAN	1070	49      Entire Lot	534 WEST 42ND STREET
<b>Property Type:</b> COMMERCIAL REAL ESTATE			

**CROSS REFERENCE DATA**

CRFN \_\_\_\_\_ or Document ID \_\_\_\_\_ or Year \_\_\_\_\_ Reel \_\_\_\_\_ Page \_\_\_\_\_ or File Number \_\_\_\_\_

<b>PARTIES</b>	
<b>GRANTOR/SELLER:</b> SHAO LIN OPERATING LLC 2025 BROADWAY, APT. 21JK NEW YORK, NY 10023	<b>GRANTEE/BUYER:</b> 534 WEST 42ND STREET, LLC C/O MADISON REALTY CAPITAL, LP, 825 THIRD AVENUE, 37TH FLOOR NEW YORK, NY 10022

FEES AND TAXES			
<b>Mortgage</b>		<b>Filing Fee:</b>	
Mortgage Amount:	\$ 0.00		\$ 250.00
Taxable Mortgage Amount:	\$ 0.00	NYC Real Property Transfer Tax:	
Exemption:			\$ 214,834.88
<b>TAXES:</b> County (Basic):	\$ 0.00	NYS Real Estate Transfer Tax:	
City (Additional):	\$ 0.00		\$ 5,200.00
Spec (Additional):	\$ 0.00		
TASF:	\$ 0.00		
MTA:	\$ 0.00		
NYCTA:	\$ 0.00		
Additional MRT:	\$ 0.00		
<b>TOTAL:</b>	<b>\$ 0.00</b>		
Recording Fee:	\$ 57.00		
Affidavit Fee:	\$ 0.00		



**RECORDED OR FILED IN THE OFFICE  
OF THE CITY REGISTER OF THE  
CITY OF NEW YORK**

Recorded/Filed 02-10-2010 10:39  
 City Register File No.(CRFN):  
**2010000047759**

*Annette McMill*  
 City Register Official Signature



**DEED**

**BARGAIN AND SALE DEED  
WITH COVENANT AGAINST GRANTOR'S ACTS**

CAUTION: THIS AGREEMENT SHOULD BE PREPARED BY AN ATTORNEY AND REVIEWED BY ATTORNEYS FOR SELLER AND PURCHASER BEFORE SIGNING.

**THIS INDENTURE**, made December 30<sup>th</sup>, 2009,

**BETWEEN** SHAO LIN OPERATING LLC, a New York limited liability company having an address at 2025 Broadway, Apartment 21JK, New York, New York 10023,


\*successor by merger to Dojo West 42nd Realty LLC.  
party of the first part, and

534 WEST 42<sup>ND</sup> STREET, LLC, a New York limited liability company having an address at c/o Kriss & Feuerstein LLP, Attention Jerold C. Feuerstein, Esq., 360 Lexington Avenue, 12th Floor, New York, NY 10017,

party of the second part;

**WITNESSETH**, that the party of the first part, for good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever;

**ALL** those certain plots, pieces or parcels of land, with the buildings and improvements thereon erected, situate, lying and being in the County of New York, State of New York, known as Block: 1070, Lot: 49, and as more particularly described in Schedule A attached hereto;

Being and hereby intending to convey the same premises as conveyed to the party of the first part by successor by merger to Dojo West 42<sup>nd</sup> Realty LLC, by Deed from The Little Goddess, Inc. dated September 21, 2004 and recorded in the New York County Register's Office on November 3, 2004 as CRFN: 2004000679543. 

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

**TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

**TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

**AND** the party of the first part, covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of any

**AND FURTHER** this deed is given in lieu of foreclosure of (i) a certain Building Loan Mortgage and Security Agreement, dated December 14, 2007, and recorded on February 14, 2008 in the New York County Register's Office as CRFN 2008000063638; (ii) a certain Spreader Consolidation and Modification Mortgage, dated December 14, 2007, and recorded on February 14, 2008 in the New York County Register's Office as CRFN 2008000063640 and (iii) a certain Building Loan Mortgage and Security Agreement, dated December 14, 2007, and recorded on February 14, 2008 in the New York County Register's Office as CRFN 2008000063643 (collectively, the "Mortgage").

**AND FURTHER**, it is the intention of the party of the first part to transfer absolute fee simple legal and equitable title to the premises herein granted, being the same premises encumbered by the lien of the Mortgage. IT IS THE FURTHER INTENTION OF THE PARTY OF THE FIRST PART AND THE PARTY OF THE SECOND PART THAT THE MORTGAGE AND THE LIEN CREATED THEREBY WILL NOT MERGE INTO THE FEE SIMPLE LEGAL AND EQUITABLE TITLE CONVEYED TO THE PARTY OF THE SECOND PART PURSUANT TO THIS DEED AND THAT THE OBLIGATIONS SECURED BY THE MORTGAGE WILL REMAIN OUTSTANDING AND UNRELEASED FOLLOWING THE RECORDATION OF THIS DEED, AND SHALL NOT BE DEEMED TO BE RELEASED, EXTINGUISHED OR SATISFIED UNLESS AND UNTIL SUCH TIME AS THE PARTY OF THE SECOND PART, IN ITS SOLE AND ABSOLUTE DISCRETION, SHALL CAUSE A FULL RELEASE THEREOF. This is a deed-in-lieu of foreclosure of the mortgage held by the party of the second part as a result of a default thereunder by the party of the first part. This Deed is executed voluntarily by the party of the first part, and not pursuant to duress or threats of any kind. Furthermore, it is executed and delivered in mutual good faith between the party of the first part and the party of the second part, and is not given or intended to hinder, delay, or defraud any creditor, or to contravene any of the bankruptcy laws of the United States or any applicable laws.

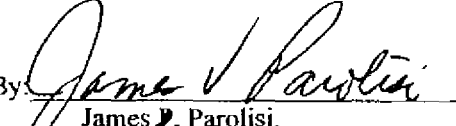
The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed the day and year first above written.

**IN PRESENCE OF:**



**SHAO LIN OPERATING LLC**

By:   
James J. Parolisi,  
Manager

Acknowledgment by a Person Within New York State (RPL § 309-a)

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

On the 23<sup>rd</sup> day of December, in the year 2009, before me, the undersigned, personally appeared James V. Parolisi, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he executed the same in his capacity(ies), and that by his signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Michele Thompson  
(signature and office of individual taking acknowledgment)  
MICHELE THOMPSON  
Notary Public, State of New York  
No. 30-4827374  
Qualified in Nassau County  
Commission Expires December 31, 20 10

SEAL

SEAL

SCHEDULE A  
PROPERTY DESCRIPTION

**METES AND BOUNDS DESCRIPTION OF PROPERTY**

ALL that certain plot, piece or parcel of land , situate, and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

**BEGINNING** at a point on the southerly side of West 42<sup>nd</sup> Street at the center of a party wall distant 395 feet 3 inches westerly from the southwestly corner of 42<sup>nd</sup> Street and 10<sup>th</sup> Avenue;

**RUNNING THENCE** southerly parallel with 10<sup>th</sup> Avenue and part of the way through a party wall, 98 feet 9 inches to the center line of the block between 41<sup>st</sup> and 42<sup>nd</sup> Street;

**THENCE** westerly along said center line of the block and parallel with West 42<sup>nd</sup> Street, 19 feet and 7 inches;

**THENCE** northerly parallel with 10<sup>th</sup> Avenue, 98<sup>th</sup> feet 9 inches to the southerly side of West 42<sup>nd</sup> Street running in part through the center of a party wall of a house and lot adjoining said premises on the west;

**THENCE** easterly along the southerly side of West 42<sup>nd</sup> Street, 19 feet 7 inches to the point or place of **BEGINNING**.

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NYC DEPARTMENT OF FINANCE  
OFFICE OF THE CITY REGISTER



2010012500233001001SF9AD

SUPPORTING DOCUMENT COVER PAGE

PAGE 1 OF 1

Document ID: 2010012500233001

Document Date: 01-18-2010

Preparation Date: 01-27-2010

Document Type: DEED

ASSOCIATED TAX FORM ID: 2009122900044

SUPPORTING DOCUMENTS SUBMITTED:

RP - 5217 REAL PROPERTY TRANSFER REPORT  
SMOKE DETECTOR AFFIDAVIT

Page Count

2

1

FOR CITY USE ONLY

C1. County Code  C2. Date Deed Recorded  /  /   
 C3. Book  OR C4. Page   
 C5. CRFN



## REAL PROPERTY TRANSFER REPORT

STATE OF NEW YORK  
STATE BOARD OF REAL PROPERTY SERVICES

RP - 5217NYC

(Rev 11/2002)

## PROPERTY INFORMATION

1. Property Location  534 WEST 42ND STREET MANHATTAN 10036  
 STREET NUMBER STREET NAME BOROUGH ZIP CODE

2. Buyer Name  534 WEST 42ND STREET, LLC  
 LAST NAME / COMPANY FIRST NAME

3. Tax Billing Address  Indicate where future Tax Bills are to be sent if other than buyer address (at bottom of form)  
 LAST NAME / COMPANY FIRST NAME

4. Indicate the number of Assessment Roll parcels transferred on the deed  # of Parcels OR ☐ Part of a Parcel

5. Deed Property Size  FRONT FEET X  DEPTH OR  ACRES

6. Seller Name  SHAO LIN OPERATING LLC  
 LAST NAME / COMPANY FIRST NAME

4A. Planning Board Approval - N/A for NYC

4B. Agricultural District Notice - N/A for NYC

Check the boxes below as they apply:

6. Ownership Type is Condominium ☐7. New Construction on Vacant Land ☐

9. Check the box below which most accurately describes the use of the property at the time of sale:

- A ☐ One Family Residential C ☐ Residential Vacant Land E ☒ Commercial G ☐ Entertainment / Amusement I ☐ Industrial  
 B ☐ 2 or 3 Family Residential D ☐ Non-Residential Vacant Land F ☐ Apartment H ☐ Community Service J ☐ Public Service

## SALE INFORMATION

10. Sale Contract Date  12 / 29 / 2009  
 Month Day Year

11. Date of Sale / Transfer  12 / 29 / 2009  
 Month Day Year

12. Full Sale Price \$  0  
 (Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) Please round to the nearest whole dollar amount.

13. Indicate the value of personal property included in the sale

14. Check one or more of these conditions as applicable to transfer:

- A ☐ Sale Between Relatives or Former Relatives  
 B ☐ Sale Between Related Companies or Partners in Business  
 C ☐ One of the Buyers is also a Seller  
 D ☐ Buyer or Seller is Government Agency or Lending Institution  
 E ☐ Deed Type not Warranty or Bargain and Sale (Specify Below)  
 F ☐ Sale of Fractional or Less than Fee Interest (Specify Below)  
 G ☐ Significant Change in Property Between Taxable Status and Sale Dates  
 H ☐ Sale of Business is Included in Sale Price  
 I ☒ Other Unusual Factors Affecting Sale Price (Specify Below)  
 J ☐ None

## ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

15. Building Class  D 6 16. Total Assessed Value (of all parcels in transfer)

17. Borough, Block and Lot / Roll Identifier(s) (If more than three, attach sheet with additional identifier(s))  
 MANHATTAN 1070 49

## CERTIFICATION

I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.

BUYER  
 BUYER SIGNATURE  1/12/00  
 DATE

STREET NUMBER STREET NAME (AFTER SALE)

CITY OR TOWN STATE ZIP CODE

BUYER'S ATTORNEY  
 LAST NAME FIRST NAME

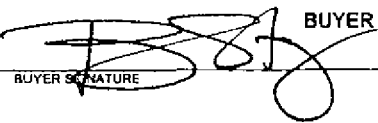
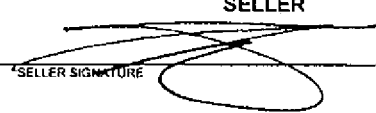
212 661-2900  
 AREA CODE TELEPHONE NUMBER

SELLER  
 SELLER SIGNATURE  12/29/09  
 DATE

200012200004420

**CERTIFICATION**

I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.

BUYER			BUYER'S ATTORNEY	
BUYER SIGNATURE	DATE		LAST NAME	FIRST NAME
	1/12/10		212	661-2900
STREET NUMBER	STREET NAME (AFTER SALE)		AREA CODE	TELEPHONE NUMBER
				SELLER
CITY OR TOWN	STATE	ZIP CODE	SELLER SIGNATURE	DATE
				12/29/09

2009122900044201

C1. County Code    C2. Date Deed Recorded        
Month Day Year  
C3. Book       C4. Page        
OR  
C5. CRFN



STATE OF NEW YORK  
STATE BOARD OF REAL PROPERTY SERVICES

**RP - 5217NYC**

(Rev 11/2002)

<b>1. Property Location</b>	534	WEST 42ND STREET	MANHATTAN	10036
	STREET NUMBER	STREET NAME	BOROUGH	ZIP CODE
<b>2. Buyer Name</b>	534 WEST 42ND STREET, LLC			
	LAST NAME / COMPANY		FIRST NAME	
	LAST NAME / COMPANY		FIRST NAME	
<b>3. Tax Billing Address</b>	Indicate where future Tax Bills are to be sent if other than buyer address (at bottom of form)			
	LAST NAME / COMPANY		FIRST NAME	
	STREET NUMBER AND STREET NAME		CITY OR TOWN	STATE ZIP CODE
<b>4. Indicate the number of Assessment Roll parcels transferred on the deed</b>	<input type="text" value="1"/> # of Parcels OR <input type="checkbox"/> Part of a Parcel		4A. Planning Board Approval - N/A for NYC 4B. Agricultural District Notice - N/A for NYC	
<b>5. Deed Property Size</b>	<input type="text" value=""/> FRONT FEET X <input type="text" value=""/> DEPTH OR <input type="text" value=""/> ACRES		Check the boxes below as they apply: 6. Ownership Type is Condominium <input type="checkbox"/> 7. New Construction on Vacant Land <input type="checkbox"/>	
<b>8. Seller Name</b>	SHAO LIN OPERATING LLC			
	LAST NAME / COMPANY		FIRST NAME	
	LAST NAME / COMPANY		FIRST NAME	
<b>9. Check the box below which most accurately describes the use of the property at the time of sale:</b>				
A <input type="checkbox"/>	One Family Residential	C <input type="checkbox"/>	Residential Vacant Land	E <input checked="" type="checkbox"/>
B <input type="checkbox"/>	2 or 3 Family Residential	D <input type="checkbox"/>	Non-Residential Vacant Land	F <input type="checkbox"/>
				G <input type="checkbox"/>
				H <input type="checkbox"/>
				I <input type="checkbox"/>
				J <input type="checkbox"/>

10. Sale Contract Date 1 / 18 / 2010  
Month Day Year

11. Date of Sale / Transfer 1 / 18 / 2010  
Month Day Year

12. Full Sale Price \$ 0

(Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) *Please round to the nearest whole dollar amount.*

13. Indicate the value of personal property included in the sale \_\_\_\_\_

A	<input type="checkbox"/>	Sale Between Relatives or Former Relatives
B	<input type="checkbox"/>	Sale Between Related Companies or Partners in Business
C	<input type="checkbox"/>	One of the Buyers is also a Seller
D	<input type="checkbox"/>	Buyer or Seller is Government Agency or Lending Institution
E	<input type="checkbox"/>	Deed Type <u>not</u> Warranty or Bargain and Sale (Specify Below)
F	<input type="checkbox"/>	Sale of Fractional or Less than Fee Interest ( Specify Below )
G	<input type="checkbox"/>	Significant Change in Property Between Taxable Status and Sale Dates
H	<input type="checkbox"/>	Sale of Business is Included in Sale Price
I	<input checked="" type="checkbox"/>	Other Unusual Factors Affecting Sale Price ( Specify Below )
J	<input type="checkbox"/>	None

15. Building Class D, 6 16. Total Assessed Value (of all parcels in transfer) 1,000,000.00

17. Borough, Block and Lot / Roll Identifier(s) ( If more than three, attach sheet with additional identifier(s) )

MANHATTAN 1070 49

I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.

**BUYER'S ATTORNEY**

BUYER SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

STREET NUMBER \_\_\_\_\_ STREET NAME (AFTER SALE) \_\_\_\_\_

CITY OR TOWN \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

LAST NAME FIRST NAME  
212 661-2900  
AREA CODE TELEPHONE NUMBER  
SELLER  
SELLER SIGNATURE DATE

2009122900044201



**AFFIDAVIT OF COMPLIANCE  
WITH SMOKE DETECTOR REQUIREMENT  
FOR ONE- AND TWO-FAMILY DWELLINGS**

State of New York )  
 ) SS.:  
County of New York )

The undersigned, being duly sworn, depose and say under penalty of perjury that they are the grantor and grantee of the real property or of the cooperative shares in a cooperative corporation owning real property located at

534 WEST 42ND STREET

Street Address		Unit/Apt.
<u>MANHATTAN</u>	New York, <u>1070</u>	<u>49</u>
Borough	Block	Lot

(the "Premises");

That the Premises is a one or two family dwelling, or a cooperative apartment or condominium unit in a one- or two-family dwelling, and that installed in the Premises is an approved and operational smoke detecting device in compliance with the provisions of Article 6 of Subchapter 17 of Chapter 1 of Title 27 of the Administrative Code of the City of New York concerning smoke detecting devices;

That they make affidavit in compliance with New York City Administrative Code Section 11-2105 (g). (The signatures of at least one grantor and one grantee are required, and must be notarized).

Shao Lin Operating LLC  
Name of Grantor (Type or Print)

[Signature]  
Signature of Grantor

Sworn to before me  
this 8<sup>th</sup> date of JANUARY 19 2010

**CYRIL DERZIE**  
NOTARY PUBLIC, State of New York  
No. 02DE6127675  
Qualified in Nassau County  
Commission Expires May 31, 2013

534 West 42nd Street, LLC  
Name of Grantee (Type or Print)

[Signature]  
Signature of Grantee

Sworn to before me  
this 12 date of January 19 2010

**SHOSHANA T. CARMEL**  
NOTARY PUBLIC - STATE OF NEW YORK  
NO. 01CA6153596  
QUALIFIED IN NEW YORK COUNTY  
COMMISSION EXPIRES OCT. 10, 2010

These statements are made with the knowledge that a willfully false representation is unlawful and is punishable as a crime of perjury under Article 210 of the Penal Law.

**NEW YORK CITY REAL PROPERTY TRANSFER TAX RETURNS FILED ON OR AFTER FEBRUARY 6th, 1990, WITH RESPECT TO THE CONVEYANCE OF A ONE- OR TWO-FAMILY DWELLING, OR A COOPERATIVE APARTMENT OR A CONDOMINIUM UNIT IN A ONE- OR TWO-FAMILY DWELLING, WILL NOT BE ACCEPTED FOR FILING UNLESS ACCOMPANIED BY THIS AFFIDAVIT.**

**AFFIDAVIT OF COMPLIANCE  
WITH SMOKE DETECTOR REQUIREMENT  
FOR ONE- AND TWO-FAMILY DWELLINGS**

State of New York     )  
                                  ) SS.:  
County of                )

The undersigned, being duly sworn, depose and say under penalty of perjury that they are the grantor and grantee of the real property or of the cooperative shares in a cooperative corporation owning real property located at

**534 WEST 42ND STREET**

<b>Street Address</b>		<b>Unit/Apt.</b>	
<b>MANHATTAN</b>	New York,	<b>1070</b>	<b>49</b>
<b>Borough</b>		<b>Block</b>	<b>Lot</b>
(the "Premises");			

That the Premises is a one or two family dwelling, or a cooperative apartment or condominium unit in a one- or two-family dwelling, and that installed in the Premises is an approved and operational smoke detecting device in compliance with the provisions of Article 6 of Subchapter 17 of Chapter 1 of Title 27 of the Administrative Code of the City of New York concerning smoke detecting devices;

That they make affidavit in compliance with New York City Administrative Code Section 11-2105 (g). (The signatures of at least one grantor and one grantee are required, and must be notarized).

<b>Name of Grantor (Type or Print)</b>	<b>Name of Grantee (Type or Print)</b>
<b>Signature of Grantor</b>	<b>Signature of Grantee</b>
Sworn to before me this _____ date of _____ 19 _____	Sworn to before me this _____ date of _____ 19 _____

These statements are made with the knowledge that a willfully false representation is unlawful and is punishable as a crime of perjury under Article 210 of the Penal Law.

**NEW YORK CITY REAL PROPERTY TRANSFER TAX RETURNS FILED ON OR AFTER FEBRUARY 6th, 1990, WITH RESPECT TO THE CONVEYANCE OF A ONE- OR TWO-FAMILY DWELLING, OR A COOPERATIVE APARTMENT OR A CONDOMINIUM UNIT IN A ONE- OR TWO-FAMILY DWELLING, WILL NOT BE ACCEPTED FOR FILING UNLESS ACCOMPANIED BY THIS AFFIDAVIT.**

## DEED AGREEMENT

**THIS DEED AGREEMENT** (hereinafter, this “**Agreement**”) made this 12<sup>th</sup> day of December, 2009 (the “**Effective Date**”) by and among:

**MADISON REALTY CAPITAL, LP** (hereinafter, “**Lender**”), a Delaware limited liability company with offices located at 825 Third Avenue, 37<sup>th</sup> Floor, New York, New York 10022;

**SHAO LIN OPERATING LLC**, a New York limited liability company having an address at 2025 Broadway, Apartment 21JK, New York, New York 10023 (hereinafter, “**Borrower**”);

**JAMES V. PAROLISI**, an individual having an address at 23 Hillcrest Avenue, Roslyn, New York 11576, **CYRIL MONTOYA**, an individual having an address at 360 Court Street, Apt. 14, Brooklyn, New York 11231 and **SHANNON SHAE SPALTEN**, n/k/a **Shannon Shae Montoya**, an individual having an address at 360 Court Street, Apt. 14, Brooklyn, New York 11231 (hereinafter, jointly and severally, collectively herein, the “**Guarantor**”); and

**534 WEST 42<sup>nd</sup> STREET, LLC**, a New York limited liability company, having an address at c/o Madsion Realty Capital, LP, 825 Third Avenue, 37<sup>th</sup> Floor, New York, New York 10022 (“**Lender Affiliate**”)

### RECITALS:

**WHEREAS**, Borrower entered into certain loan arrangements with Lender to obtain financing in the aggregate sum of up to EIGHT MILLION TWO HUNDRED THOUSAND DOLLARS (\$8,200,000.00) (the “**Loan**”), pursuant to, among other things, the following documents, instruments, and agreements (hereinafter collectively referred to, together with all other documents, instruments and agreements executed in connection with or related thereto, as the “**Loan Documents**”):

- (i) Building Loan Note (the “**Building Note**”), made as of December 14, 2007 by Borrower, as maker, for the benefit of Lender, payable in the amount of up to \$3,971,932.86;
- (ii) Amended and Restated Note (the “**Mortgage Note**”), made as of December 14, 2007 by Borrower, as maker, for the benefit of Lender, payable in the amount of up to \$2,045,222.14;
- (iii) Project Loan Note (the “**Project Note**”, and known herein together with the Building Note and Mortgage Note, unless otherwise expressly delineated, as the “**Note**”), made as of December 14, 2007, by Borrower, as maker, for the benefit of Lender, payable in the amount of \$2,182,845.00;
- (iv) Building Loan Mortgage and Security Agreement (“**Building Security Agreement**”), dated as of December 14, 2007, from Borrower as

Mortgagor, to Lender, as Mortgagee, concerning, among other collateral, the parcel of real property recited on the Schedule A annexed thereto, and commonly known as 534 West 42<sup>nd</sup> Street, New York, New York (the "Property");

- (v) Spreader Consolidation and Modification Mortgage ("Mortgage Security Agreement"), dated as of December 14, 2007, from Borrower as Mortgagor, to Lender, as Mortgagee, concerning, among other collateral, the Property;
- (vi) Project Loan Mortgage and Security Agreement ("Project Security Agreement", and known herein together with the Building Security Agreement and the Mortgage Security Agreement, unless otherwise expressly delineated, as the "Security Agreement"), dated as of December 14, 2007, from Borrower as Mortgagor, to Lender, as Mortgagee, concerning, among other Collateral, the Property;
- (vii) Building Loan Agreement, dated as of December 14, 2007, by and among Borrower and Lender (the "Building Loan Agreement" or "BLA");
- (viii) Project Loan Agreement, dated as of December 14, 2007, by and among Borrower and Lender (the "Project Loan Agreement" or "PLA");
- (ix) Guarantees (3), all dated as of December 14, 2007, by Guarantor for the benefit of Lender, guaranteeing the obligations of Borrower under the Building Note, Mortgage Note and Project Note, respectively (hereinafter, collectively, the "Guaranty");
- (x) Agreement dated July 30, 2009 (the "Forbearance Agreement"), among Borrower and Lender, in which Lender agreed to forbear from enforcing its rights under the Loan Documents provided Borrower complied with certain conditions and obligations therein.

WHEREAS, Gary B. Schaeffer, who executed the Loan Documents, individually, and in his capacity as the Manager of the Borrower, has filed for bankruptcy under Chapter 7 of the Bankruptcy Code; and

WHEREAS, pursuant to the terms, covenants and conditions contained in the Loan Documents, the Borrower defaulted under the terms of the Loan by reason of Borrower's failure to fully repay the Loan on its Maturity Date of June 13, 2009 (the "Existing Defaults"); and

WHEREAS, pursuant to the Loan Documents, Lender was entitled to serve a notice on Borrower and Guarantor and hold Borrower and Guarantor in default of the Loan, based on the Existing Defaults (the "Default Notice"); and

WHEREAS, Borrower and Guarantor acknowledge receipt of the Default Notice and the acceleration of the Loan by the Lender; and

**WHEREAS**, despite the terms and conditions of the Forbearance Agreement, Borrower represents that it is unable to comply therewith and to pay back to Lender the Obligations (as defined below); and

**WHEREAS**, to avoid the costs and expenses in connection with defending Lender's foreclosure of the Security Agreement and Lender's pursuit of any other remedies available pursuant to the Loan Documents, as well as the stigmatization by the appearance of foreclosure proceedings, Borrower has agreed to convey and deed the Property (the "Conveyance"), to Lender Affiliate, in accordance with the terms and conditions of this Agreement, subject to the lien of the Security Agreement and all obligations under the Note;

**NOW THEREFORE**, for the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed by and among the Borrower, Guarantor and Lender, as follows:

**Acknowledgment of Indebtedness**

1. The Borrower and Guarantor each hereby acknowledge and agree that, in accordance with the terms and conditions of the Loan Documents, they are jointly and severally liable to the Lender as follows:

- a. As of December 31, 2009, due under the Note:

Principal	\$7,606,720.86
Interest at Note Rate of 13 % from 7/1/09 – 8/4/09	\$96,128.80
Interest at Note Rate of 13% from 8/5/09 – 11/30/09	\$324,130.83
Interest at Default Rate of 24% from 12/1/09 – 12/31/09	\$157,205.56
Legal Fees and Costs	\$6,400.00
Less Payments Received	(\$210,124.59)

**TOTAL \$7,980,461.46**

- b. Except as otherwise provided herein, for all interest accruing upon the principal balance of the Note, from and after the Maturity Date, until such sums are paid, at the "Default Rate", as such rate is defined in the Loan Documents.
- c. For all fees, costs, expenses, and costs of collection (including attorneys' fees and expenses) heretofore or hereafter accruing or incurred by the Lender in

connection with the Loan Documents, including, without limitation, all attorney's fees and expenses incurred in connection with the negotiation and preparation of this Agreement and all documents, instruments, and agreements incidental hereto.

(Hereinafter all amounts due as set forth in this Paragraph 1, and all amounts payable under this Agreement, shall be referred to collectively as the "**Obligations**"). Notwithstanding anything to the contrary set forth herein, provided the Guarantor complies with the terms and conditions of this Agreement, the Guarantor is released from the Obligations.

- d. Subject to all terms and obligations of this Agreement, Lender's Affiliate hereby agrees to assume all Obligations upon delivery of the Deed in conformance with Paragraph 2 below.

#### **Delivery of Deed**

- 2. (a) Simultaneously with the execution hereof and delivery of such to Lender, Borrower shall execute and deliver to Lender's Affiliate, in recordable form, a Bargain and Sale With Covenant Against Grantor's Acts (the "**Deed**") in the form attached hereto and made a part hereof as Exhibit "A", including without limitation, all required transfer tax documentation requiring Borrower's execution as grantor, as well as a Bill of Sale in the form attached hereto and made a part hereof as Exhibit "B", conveying title to the Property to the Lender Affiliate. Delivery of the Deed shall be an absolute conveyance of title (the "**Conveyance**") and Lender Affiliate may thereafter record the Deed in the land records of New York County, New York. Upon recording of the Deed, Borrower's rights of redemption in the Property shall be extinguished. Notwithstanding anything to the contrary, there shall be no merger between the Security Agreement and the title conveyed by the Deed. Except as herein otherwise specifically provided, the delivery of the Deed shall not prejudice any of Lender's rights or remedies under the Loan Documents, and Lender's sole remedy shall be to foreclose upon the Security Agreement to extinguish any subordinate liens encumbering the Property. Borrower hereby grants to Lender a power of attorney, coupled with an interest, to execute all transfer documents necessary to record the Deed. The valid and sufficient consideration for the delivery of the Deed to Lender is assumption of the Obligations by Lender Affiliate, and Guarantor's release from personal liability for the repayment of the Obligations as provided below, as governed by the terms and conditions of this Agreement.
- (b) In connection with the Conveyance, Borrower hereby agrees to execute any required documentation, and otherwise cooperate, as needed, at Lender's sole cost and expense, to amend the Offering Plan to substitute Lender for Borrower as the sponsor thereunder. Borrower's obligations shall include, but not be limited to, executing any documentation necessary to so substitute Lender for Borrower in the records of the Attorney General of New York. Borrower's obligations pursuant to this Paragraph 2(b) shall survive the Conveyance for a period of one (1) year after the date hereof.
- (c) Simultaneously with the execution of this Agreement, Lender waives any and all rights to a collect a deficiency judgment or pursue the Borrower or Guarantor for any other personal liability in connection with enforcement of the Note, Security Agreement

or the Loan Documents (for avoidance of doubt, this Agreement shall constitute a Loan Document for purposes of this sentence). Such release shall have a condition subsequent such that it will be void *ab initio* if (i) there is a bankruptcy filing by or against Borrower which is filed but not stayed or dismissed within the ninety (90) day period following the date of this Agreement; or (ii) the Deed is set aside, determined to be a nullity or void for any reason unless the same is covered by title insurance or is caused by Lender's negligence. Delivery of the Deed according to Lender's instructions in compliance with the terms of this Paragraph 2 shall not extinguish, discharge or impair the Obligations, and such Obligations as they continue to apply to Lender's Affiliate, shall expressly survive in any event until such Obligations have been indefeasibly paid in full, except that the obligations of the Borrower and the Guarantor shall be released as herein provided.

#### **Letter of Credit; Cash Collateral**

3. (a) With respect to that certain Irrevocable Standby Letter of Credit No. S202265, in the amount of \$1,525,000.00, issued by Merrill Lynch in favor of Lender (the "L/C"), Borrower hereby acknowledges and agrees that upon the full execution of this Agreement and the aforesaid release Lender shall be immediately and irrevocably entitled to the balance of all funds currently attributable to such LC. Further, Borrower shall have absolutely no further right, whether in connection with the Forbearance Agreement or otherwise, to draw down funds from the L/C. Finally, Borrower shall execute any and all documentation required to secure Lender's entitlement to the L/C funds pursuant to this Paragraph 3. Lender shall be entitled to apply the remaining funds attributable to the L/C in its sole and absolute discretion.
- (b) With respect to that certain cash collateral and interest reserve created and governed by the Forbearance Agreement (defined as the "Account" in the Forbearance Agreement, and now for purposes herein as well), in the original sum of \$270,000.00, Borrower acknowledges and agrees that Lender upon the full execution of this Agreement shall be immediately and irrevocably entitled to the balance of all funds currently remaining in such Account. Lender shall be entitled to apply the remaining funds in the Account in its sole and absolute discretion.

#### **Foreclosure Proceedings**

4. (a) Borrower and Guarantor hereby agree that Lender shall be permitted, at Lender's sole cost and expense, and in Lender's sole discretion, to commence a judicial foreclosure action in the court of appropriate jurisdiction at any point in time, as applicable pursuant to the terms of this Agreement, including a strict foreclosure action. Borrower and Guarantor hereby accept service of the summons and complaint in connection with said judicial foreclosure action by way of certified mailing sent to Borrower's address as provided at the beginning of this Agreement. Borrower and Guarantor further waive any right to assert any and all defenses, setoffs and counterclaims to such complaint, subject to Lender's compliance with this Agreement, including, but not limited to, defenses of

personal jurisdiction or insufficient personal service of process. If Lender commences such a judicial foreclosure action, including a strict foreclosure action, Borrower and Guarantor covenant to reasonably cooperate in any such action at no cost or expense to themselves. Notwithstanding anything to the contrary set forth herein, neither Lender nor Lender Affiliate shall seek recourse under the Guarantor unless the release of the Guarantor is deemed void in accordance with the terms and conditions of this Agreement.

(b) Lender agrees to waive any and all rights to a collect a deficiency judgment or pursue the Borrower or Guarantor for any other personal liability in connection with enforcement of the Note, Security Agreement or the other Loan Documents (for avoidance of doubt, this Agreement shall constitute a Loan Document for purposes of this sentence). Such release shall have a condition subsequent such that it will be void ab initio if (i) there is a bankruptcy filing by or against Borrower which is filed but not stayed or dismissed within the ninety (90) day period following the date of this Agreement; or (ii) the Deed is set aside, determined to be a nullity or void for any reason unless covered by title insurance or is caused by Lender's negligence.

#### **Waiver of Claims and Release**

5. The Borrower and Guarantor hereby acknowledge and agree that they have no offsets, defenses, claims, or counterclaims against the Lender, Lender Affiliate or the Lender's officers, directors, employees, attorneys, representatives, predecessors, successors, and assigns with respect to the Obligations, or otherwise, and that if the Borrower or Guarantor now have, or ever did have, any offsets, defenses, claims, or counterclaims against the Lender, Lender Affiliate or the Lender's officers, directors, employees, attorneys, representatives, predecessors, successors, and assigns, whether known or unknown, at law or in equity, from the beginning of the world through this date and through the time of execution of this Agreement, all of them are hereby expressly **WAIVED**, and the Borrower and Guarantor each hereby **RELEASE** the Lender and the Lender's officers, directors, employees, attorneys, representatives, predecessors, successors, and assigns from any liability therefor. It is understood and agreed that this Paragraph 5 shall not be deemed or construed as an admission by Lender or Lender Affiliate of liability of any nature whatsoever arising from or related to the subject of this Paragraph or otherwise.

#### **Ratification of Loan Documents; Further Assurances and Representations**

6. The Borrower and Guarantor, subject to the terms of this Agreement and the documents to be delivered pursuant to this Agreement:
  - a. Hereby ratify, confirm, and reaffirm all and singular the terms and conditions of the Loan Documents. The Borrower and Guarantor further acknowledge and agree that except as specifically modified in this Agreement and the documents to be delivered pursuant to this Agreement, all terms and conditions of those documents, instruments, and agreements shall remain in full force and effect;



- b. Hereby ratify, confirm, and reaffirm that (i) the obligations secured by the Loan Documents include, without limitation, the Obligations, and any future modifications, amendments, substitutions or renewals thereof, and (ii) all collateral, whether now existing or hereafter acquired, granted to the Lender pursuant to the Loan Documents or otherwise, including, but not limited to, the Lender's security interest evidenced by the Security Agreement, shall secure all of the Obligations until full and final payment of the Obligations;
- c. Hereby confirm and agree that a novation is expressly denied and not intended to be effected, and except as amended or modified by this Agreement and the documents delivered pursuant to this Agreement, the terms, provisions, conditions, rights, duties and obligations contained in the Loan Documents shall remain unchanged and unimpaired by this Agreement and are in full force and effect; and
- d. Shall, from and after the execution of this Agreement, execute and deliver to the Lender whatever additional documents, instruments, and agreements that the Lender may reasonably require in order to vest or perfect the Loan Documents and the collateral granted therein more securely in the Lender and to otherwise give effect to the terms and conditions of this Agreement.

#### **Further Conditions Precedent**

- 7. This Agreement shall not be effective unless and until each of the following conditions precedent have been fulfilled, all as determined by the Lender in its sole and exclusive discretion:
  - a. All action on the part of the Borrower and Guarantor necessary for the valid execution, delivery and performance by the Borrower and Guarantor of this Agreement shall have been duly and effectively taken and evidence thereof satisfactory to the Lender shall have been provided to the Lender;
  - b. This Agreement, and all documents, instruments, and agreements required in connection with, or related to, this Agreement, shall be executed and delivered to the Lender by the parties thereto, shall be in full force and effect and shall be form and substance satisfactory to the Lender;
  - c. Borrower and/or Guarantor (as necessary) shall duly execute, and deliver to Lender together with this Agreement as duly executed, the following documents:
    - (i) an Absolute Assignment of Contracts, Permits and Development Rights, in the form attached hereto as Exhibit "C";
    - (ii) an Indemnity by Borrower and Guarantor in favor of Lender, in the form attached hereto as Exhibit "D"; and
    - (iii) an Amendment to the Offering Plan, in the form attached hereto as Exhibit "E".

### Further Lender Remedies

8. If (i) the Borrower and/or Guarantor, or their successors in interest, attempt to cause the Deed to be set aside by any court, (ii) the Deed shall be set aside for any reason (other than negligence on the part of the Lender), or (iii) following delivery of the Deed to Lender Affiliate in accordance with this Agreement or completion of any foreclosure action pursuant to the terms of this Agreement or the Loan Documents, a bankruptcy action commenced by Borrower or Guarantor pursuant to the United States Bankruptcy Court enjoins, delays or impedes in any manner with Lender's, or Lender Affiliate's or Lender's designee's (as the case may be), ownership of the Property, then, at the Lender's sole discretion, (a) to the extent previously discharged or satisfied, the indebtedness evidenced by the Note and all other indebtedness secured by the Security Agreement shall be revived, with interest to accrue on the principal thereof from the date of the Existing Defaults, at the Default Rate, and any satisfaction and cancellation of such indebtedness shall be revoked; (b) the lien of the Security Agreement shall automatically be revived; (c) the Lender may foreclose any or all of the lien of the Security Agreement; (d) the Borrower and Guarantor shall remain and shall be (notwithstanding anything in this Agreement to the contrary) jointly and severally liable for the payment and performance of the Note and the Security Agreement, respectively, pursuant to the terms and provisions of each such document, and for any deficiency resulting after foreclosure of the lien created by the Security Agreement and the application of the proceeds from such foreclosure to the indebtedness secured thereby, such proceeds to be applied in such manner as the Lender may direct; and (e) the Lender will have the right, at its option and without limiting any other remedy, to exercise all rights and remedies which it may have at law, in equity or under this Agreement and the Note and any instruments (including but not limited to the Security Agreement) related thereto, including, without limitation, the right to receive damages from the Borrower. Under no circumstances shall the Borrower or Guarantor have the right to have the Deed set aside. Notwithstanding anything to the contrary, Guarantor and Borrower agree to cooperate, at no cost or expense to themselves, with any revisions to the Deed or other supporting documents in order to facilitate the recording of the Deed.

### Costs of Collection

9. [Intentionally omitted].

### Waivers

10. Non-Interference. The Borrower and Guarantor agree not to interfere with the exercise by the Lender of any of its rights and remedies hereunder and under the Loan Documents. The Borrower and Guarantor further agree that they shall not seek to distraint or otherwise hinder, delay, or impair the Lender's efforts to realize upon any collateral granted to the Lender, or otherwise to enforce its rights and remedies pursuant to the Loan Documents. The provisions of this Paragraph shall be specifically enforceable by the Lender.

11. Automatic Stay. As additional consideration for Lender entering into this Agreement, the Borrower and Guarantor agree that upon the filing of any Petition for Relief by or against the Borrower or Guarantor under the United States Bankruptcy Code, the Lender shall be entitled to immediate and complete relief from the automatic stay with respect to such Borrower or Guarantor, and Lender shall be permitted to proceed to protect and enforce its rights and remedies under state law. The Borrower and Guarantor hereby expressly assent to any motion filed by the Lender seeking relief from the automatic stay. The Borrower and Guarantor further hereby expressly WAIVE the protections afforded under Section 362 of the United States Bankruptcy Code with respect to the Lender.
12. Jury Trial. The Borrower and Guarantor hereby make the following waiver knowingly, voluntarily, and intentionally, and understand that the Lender, in entering into this Agreement or making any financial accommodations to the Borrower or Guarantor, whether now or in the future, is relying on such a waiver: THE BORROWER AND GUARANTOR HEREBY IRREVOCABLY WAIVE ANY PRESENT OR FUTURE RIGHT TO A JURY IN ANY TRIAL OF ANY CASE OR CONTROVERSY IN WHICH THE LENDER BECOMES A PARTY (WHETHER SUCH CASE OR CONTROVERSY IS INITIATED BY OR AGAINST THE LENDER OR IN WHICH THE LENDER IS JOINED AS A PARTY LITIGANT), WHICH CASE OR CONTROVERSY ARISES OUT OF, OR IS IN RESPECT OF, ANY RELATIONSHIP BETWEEN THE BORROWER, GUARANTOR, OR ANY OTHER PERSON, AND THE LENDER.
13. No Reinstatement. It is expressly understood that Lender's execution of this Agreement shall by no means be considered or construed as a reinstatement or de-acceleration of the Note, an extension of the Loan, or a waiver of Lender's rights or remedies at law, in equity or under the Note, the Security Agreement or the Loan Documents.

#### Entire Agreement

14. This Agreement shall be binding upon the Guarantor, Borrower and their respective employees, representatives, successors, and assigns, and shall inure to the benefit of the Lender and the Lender's successors and assigns. This Agreement and all documents, instruments, and agreements executed in connection herewith incorporate all of the discussions and negotiations between the Borrower, Guarantor and the Lender, either expressed or implied, concerning the matters included herein and in such other documents, instruments and agreements, any statute, custom, or usage to the contrary notwithstanding. No such discussions or negotiations shall limit, modify, or otherwise affect the provisions hereof. No modification, amendment, or waiver of any provision of this Agreement, or any provision of any other document, instrument, or agreement between the Borrower, Guarantor and the Lender shall be effective unless executed in writing by the party to be charged with such modification, amendment, or waiver, and if such party be the Lender, then by a duly authorized officer thereof.

### **Construction of Agreement**

15. In connection with the interpretation of this Agreement and all other documents, instruments, and agreements incidental hereto:
- a. All rights and obligations hereunder and thereunder, including matters of construction, validity, and performance, shall be governed by and construed in accordance with the law of the State of New York and are intended to take effect as sealed instruments.
  - b. The captions of this Agreement are for convenience purposes only, and shall not be used in construing the intent of the Lender, Guarantor and the Borrower under this Agreement.
  - c. In the event of any inconsistency between the provisions of this Agreement and any other document, instrument, or agreement entered into by and between the Lender, Guarantor and the Borrower, the provisions of this Agreement shall govern and control.
  - d. The Lender, Guarantor and the Borrower have prepared this Agreement and all documents, instruments, and agreements incidental hereto with the aid and assistance of their respective counsel. Accordingly, all of such documents, instruments, and agreements shall be deemed to have been drafted by the Lender, Guarantor and the Borrower and shall not be construed against either the Lender, Guarantor or the Borrower.

### **Illegality or Unenforceability**

16. Any determination that any provision or application of this Agreement is invalid, illegal, or unenforceable in any respect, or in any instance, shall not affect the validity, legality, or enforceability of any such provision in any other instance, or the validity, legality, or enforceability of any other provision of this Agreement.

### **Informed Execution**

17. The Borrower and Guarantor warrant and represent to the Lender that the Borrower and Guarantor:
- a. Have read and understand all of the terms and conditions of this Agreement;
  - b. Intend to be bound by the terms and conditions of this Agreement, and this Agreement constitutes a valid, binding and enforceable contract against each of them in accordance with the terms hereof; and

- c. Are executing this Agreement freely and voluntarily, without duress, after consultation with independent counsel of their own selection.

**Recitals**

18. All recital contained in this Agreement are ratified and confirmed.

**REMAINDER OF PAGE INTENTIONALLY BLANK**

IN WITNESS WHEREOF, this Agreement has been executed as of the date first set forth above.

**MADISON REALTY CAPITAL, LP**

By: Madison Realty Capital GP, LLC

By: 

Name:

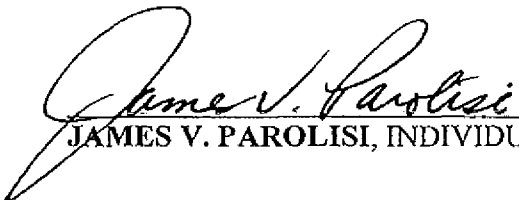
Title: Mary Mueker

**SHAO LIN OPERATING LLC**

By: 

Name: James V. Parolisi

Title: Manager

  
JAMES V. PAROLISI, INDIVIDUALLY

\_\_\_\_\_  
CYRIL MONTOYA, INDIVIDUALLY

\_\_\_\_\_  
SHANNON SHAE SPALTEN, n/k/a

Shannon Shae Montoya

INDIVIDUALLY

IN WITNESS WHEREOF, this Agreement has been executed as of the date first set forth above.

**MADISON REALTY CAPITAL, LP**

By: Madison Realty Capital GP, LLC

By: 

Name:

Title: *Meij Muller.*

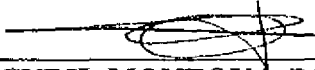
**SHAO LIN OPERATING LLC**


By: \_\_\_\_\_

Name: James P. Parolisi

Title: Manager

\_\_\_\_\_  
**JAMES P. PAROLISI, INDIVIDUALLY**

  
\_\_\_\_\_  
**CYRIL MONTOYA, INDIVIDUALLY**

  
\_\_\_\_\_  
**SHANNON SHAE SPALTEN, n/k/a**  
Shannon Shae Montoya  
**INDIVIDUALLY**

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

On the 12 day of January, in the year 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared, Brian Skatz, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

  
Notary Public

SHOSHANA T. CARMEL  
NOTARY PUBLIC - STATE OF NEW YORK  
NO. 01CA6153596  
QUALIFIED IN NEW YORK COUNTY  
COMMISSION EXPIRES OCT. 10, 2010

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

On the 29 day of December, in the year 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared, JAMES V. PAROLISI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

  
Notary Public

MICHELE THOMPSON  
Notary Public, State of New York  
No. 30-4827374  
Qualified in Nassau County  
Commission Expires December 31, 2010

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

On the \_\_\_ day of December, in the year 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared, CYRIL MONTOKA, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

\_\_\_\_\_  
Notary Public



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

On the \_\_ day of \_\_\_\_\_, in the year 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared, \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

Notary Public

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

On the \_\_ day of December, in the year 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared, JAMES P. PAROLISI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

Notary Public

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF NEW YORK *Kings* )

On the 30 day of December, in the year 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared, CYRIL MONTOYA, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

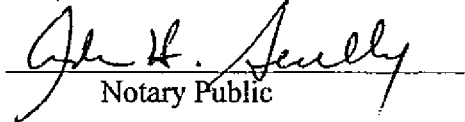
**ADA H. SCULLY**  
**Notary Public State of New York**  
**Commission No. 01SC6175580**  
**Qualified in Kings County**  
**Commission Expires 10/15/2011**

Notary Public

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ~~NEW YORK~~ *KINGS* )

On the 30 day of December, in the year 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared, SHANNON SHAE SPALTEN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

ADA H. SCULLY  
Notary Public State of New York  
Commission No. 01SC8175580  
Qualified in Kings County  
Commission Expires 10/15/2011

  
Notary Public

**EXHIBIT "A"**  
**DEED**

**BARGAIN AND SALE DEED  
WITH COVENANT AGAINST GRANTOR'S ACTS**

CAUTION: THIS AGREEMENT SHOULD BE PREPARED BY AN ATTORNEY AND REVIEWED BY ATTORNEYS FOR SELLER AND  
PURCHASER BEFORE SIGNING.

*THIS INDENTURE*, made December \_\_\_\_, 2009,

*BETWEEN* SHAO LIN OPERATING LLC, a New York limited liability company having an address at 2025 Broadway, Apartment 21JK, New York, New York 10023,

party of the first part, and

\_\_\_\_\_, a New York limited liability company having an address at c/o Kriss & Feuerstein LLP, Attention Jerold C. Feuerstein, Esq., 360 Lexington Avenue, 12th Floor, New York, NY 10017,

party of the second part;

*WITNESSETH*, that the party of the first part, for good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever;

*ALL* those certain plots, pieces or parcels of land, with the buildings and improvements thereon erected, situate, lying and being in the County of New York, State of New York, known as Block: 1070, Lot: 49, and as more particularly described in Schedule A attached hereto;

Being and hereby intending to convey the same premises as conveyed to the party of the first part by \_\_\_\_\_, by Deed dated \_\_\_\_\_ and recorded in the New York County Register's Office on \_\_\_\_\_ as \_\_\_\_\_.

*TOGETHER* with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

*TOGETHER* with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

*TO HAVE AND TO HOLD* the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

*AND* the party of the first part, covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

*AND* the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of any

improvement and will apply the same first to the payment of the cost of any improvement before using any part of the total of the same for any other purpose.

**AND FURTHER** this deed is given in lieu of foreclosure of (i) a certain Building Loan Mortgage and Security Agreement, dated December 14, 2007, and recorded on February 14, 2008 in the New York County Register's Office as CRFN 2008000063638; (ii) a certain Spreader Consolidation and Modification Mortgage, dated December 14, 2007, and recorded on February 14, 2008 in the New York County Register's Office as CRFN 2008000063640 and (iii) a certain Building Loan Mortgage and Security Agreement, dated December 14, 2007, and recorded on February 14, 2008 in the New York County Register's Office as CRFN 2008000063643 (collectively, the "Mortgage").

**AND FURTHER**, it is the intention of the party of the first part to transfer absolute fee simple legal and equitable title to the premises herein granted, being the same premises encumbered by the lien of the Mortgage. IT IS THE FURTHER INTENTION OF THE PARTY OF THE FIRST PART AND THE PARTY OF THE SECOND PART THAT THE MORTGAGE AND THE LIEN CREATED THEREBY WILL NOT MERGE INTO THE FEE SIMPLE LEGAL AND EQUITABLE TITLE CONVEYED TO THE PARTY OF THE SECOND PART PURSUANT TO THIS DEED AND THAT THE OBLIGATIONS SECURED BY THE MORTGAGE WILL REMAIN OUTSTANDING AND UNRELEASED FOLLOWING THE RECORDATION OF THIS DEED, AND SHALL NOT BE DEEMED TO BE RELEASED, EXTINGUISHED OR SATISFIED UNLESS AND UNTIL SUCH TIME AS THE PARTY OF THE SECOND PART, IN ITS SOLE AND ABSOLUTE DISCRETION, SHALL CAUSE A FULL RELEASE THEREOF. This is a deed-in-lieu of foreclosure of the mortgage held by the party of the second part as a result of a default thereunder by the party of the first part. This Deed is executed voluntarily by the party of the first part, and not pursuant to duress or threats of any kind. Furthermore, it is executed and delivered in mutual good faith between the party of the first part and the party of the second part, and is not given or intended to hinder, delay, or defraud any creditor, or to contravene any of the bankruptcy laws of the United States or any applicable laws.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed the day and year first above written.

**IN PRESENCE OF:**

**SHAO LIN OPERATING LLC**

By: \_\_\_\_\_  
**James V. Parolisi,**  
Manager

Acknowledgment by a Person Within New York State (RPL § 309-a)

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

On the \_\_\_\_ day of December, in the year 2009, before me, the undersigned, personally appeared **James V. Parolisi**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he executed the same in his capacity(ies), and that by his signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(signature and office of individual taking acknowledgment)

SCHEDULE A  
PROPERTY DESCRIPTION

**METES AND BOUNDS DESCRIPTION OF PROPERTY**

ALL that certain plot, piece or parcel of land , situate, and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

**BEGINNING** at a point on the southerly side of West 42<sup>nd</sup> Street at the center of a party wall distant 396 feet 3 inches westerly from the southwesterly corner of 42<sup>nd</sup> Street and 10<sup>th</sup> Avenue;

**RUNNING THENCE** southerly parallel with 10<sup>th</sup> Avenue and part of the way through a party wall, 98 feet 9 inches to the center line of the block between 41<sup>st</sup> and 42<sup>nd</sup> Street;

**THENCE** westerly along said center line of the block and parallel with West 42<sup>nd</sup> Street, 19 feet and 7 inches;

**THENCE** northerly parallel with 10<sup>th</sup> Avenue, 98<sup>th</sup> feet 9 inches to the southerly side of West 42<sup>nd</sup> Street running in part through the center of a party wall of a house and lot adjoining said premises on the west;

**THENCE** easterly along the southerly side of West 42<sup>nd</sup> Street, 19 feet 7 inches to the point or place of **BEGINNING**.

---

**EXHIBIT "B"**  
**BILL OF SALE**

**BILL OF SALE**

SHAO LIN OPERATING LLC, a New York limited liability company having an address at 2025 Broadway, Apartment 21JK, New York, New York 10023 ("Seller"), in consideration of Ten Dollars (\$10.00) and other good and valuable consideration paid to Seller by \_\_\_\_\_, a New York limited liability company having an address at c/o Kriss & Feuerstein LLP, Attention Jerold C. Feuerstein, Esq., 360 Lexington Avenue, 12th Floor, New York, NY 10017 ("Purchaser"), the receipt and sufficiency of which are hereby acknowledged, hereby sells, conveys, assigns, transfers, delivers and sets over to Purchaser all fixtures, furniture, furnishings, equipment, machinery, inventory, appliances and other articles of tangible personal property owned by Seller that are located at and used or usable in connection with the real property located at 534 West 42<sup>nd</sup> Street, New York, New York 10036, as more fully described on Schedule A, attached hereto and made a part hereof, and all intangible personal property owned by Seller, or any Seller affiliate, related to the business of Seller as condominium sponsor in connection with said real property, including but not limited to all intellectual property, contracts, books and records and other tangible personal property, **all of the foregoing AS IS, WHERE IS.**

TO HAVE AND TO HOLD unto Purchaser and its successors and assigns to its and their own use and benefit forever.

This Bill of Sale is made by Seller without recourse and without any expressed or implied representation or warranty whatsoever.

IN WITNESS WHEREOF, Seller has caused this Bill of Sale to be delivered as of this \_\_\_\_ day of December, 2009.

SHAO LIN OPERATING LLC

By: \_\_\_\_\_  
Name: **James V. Parolisi**  
Title: **Manager**

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

On the \_\_ day of December, in the year 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared, JAMES V. PAROLISI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

\_\_\_\_\_  
Notary Public



Schedule A

**METES AND BOUNDS DESCRIPTION OF PROPERTY**

**ALL** that certain plot, piece or parcel of land , situate, and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

**BEGINNING** at a point on the southerly side of West 42<sup>nd</sup> Street at the center of a party wall distant 395 feet 3 inches westerly from the southwesterly corner of 42<sup>nd</sup> Street and 10<sup>th</sup> Avenue;

**RUNNING THENCE** southerly parallel with 10<sup>th</sup> Avenue and part of the way through a party wall, 98 feet 9 inches to the center line of the block between 41<sup>st</sup> and 42<sup>nd</sup> Street;

**THENCE** westerly along said center line of the block and parallel with West 42<sup>nd</sup> Street, 19 feet and 7 inches;

**THENCE** northerly parallel with 10<sup>th</sup> Avenue, 98<sup>th</sup> feet 9 inches to the southerly side of West 42<sup>nd</sup> Street running in part through the center of a party wall of a house and lot adjoining said premises on the west;

**THENCE** easterly along the southerly side of West 42<sup>nd</sup> Street, 19 feet 7 inches to the point or place of **BEGINNING**.

---

**EXHIBIT "C"**  
**ABSOLUTE ASSIGNMENT OF**  
**CONTRACTS, PERMITS AND DEVELOPMENT RIGHTS**

KNOW THAT, SHAO LIN OPERATING LLC, a New York limited liability company having an address at 2025 Broadway, Apartment 21JK, New York, New York 10023 ("Assignor"), in consideration of Ten (\$10.00) Dollars, and other good and valuable consideration paid by \_\_\_\_\_, a New York limited liability company having an address at c/o Kriss & Feuerstein LLP, Attention Jerold C. Feuerstein, Esq., 360 Lexington Avenue, 12th Floor, New York, NY 10017 ("Assignee"), hereby absolutely assigns unto Assignee any and all of Assignor's right, title and interest, if any, and to, any and all (i) purchase and sale contracts, construction contracts and contracts or agreements with any architect or consultant retained by the Assignor of any nature whatsoever, relating to the premises described in Schedule A attached hereto (the "Premises") and made a part hereof, or any portion thereof, currently in effect or entered into as of the date hereof (the "Contracts"), (ii) development rights of any nature whatsoever now or at any time in the future, relating to the Premises (the "Rights"), (iii) any and all contract rights and intangible property related to the Property, including, without limitation, all guaranties and warranties, designs, plans, drawings, specifications, surveys, consent, licenses, permits, registrations, certificates, authorizations and approvals and (iv) any permits, licenses, consents and approvals issued or to be issued by any governmental or private authority or agency (the "Permits"), affecting portions or all of the Premises, including, without limitation, the Contracts, Rights and Permits described on Schedule B attached hereto and made a part hereof.

TO HAVE AND TO HOLD the same unto Assignee and its successors and assigns forever.

**This Absolute Assignment is made by Assignor without recourse and without any expressed or implied representation or warranty whatsoever.**

IN WITNESS WHEREOF, Assignor and Assignee have fully executed this Assignment as of the \_\_\_ day of December, in the year 2009.

SHAO LIN OPERATING LLC

By: \_\_\_\_\_  
Name: **James V. Parolisi**  
Title: **Manager**

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

On the \_\_ day of December, in the year 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared, **JAMES V. PAROLISI**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

---

Notary Public

ACKNOWLEDGMENT, ACCEPTANCE AND AGREEMENT

THE UNDERSIGNED HEREBY ACKNOWLEDGES, ACCEPTS AND AGREES TO BE BOUND BY THE ABSOLUTE ASSIGNMENT OF CONTRACTS, PERMITS AND DEVELOPMENT RIGHTS TO MADISON REALTY CAPITAL, LP AND FURTHER AGREES THAT MADISON REALTY CAPITAL, LP IS THE OWNER UNDER THE certin CONTRACT DATED FEBRUARY 21, 2007 BETWEEN SHAO LIN OPERATING LLC AND BFI CONSTRUCTION CORP. WITH RESPECT TO THE ON-GOING RENOVATION AND DEVELOPMENT OF THE PROPERTY AND AGREES TO COMPLETE THE CONSTRUCTION IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE CONTRACT.

BFI Construction Corp.

\_\_\_\_\_(SEAL)  
Name:  
Title:

ACKNOWLEDGMENT, ACCEPTANCE AND AGREEMENT

THE UNDERSIGNED HEREBY ACKNOWLEDGES, ACCEPTS AND AGREES TO BE BOUND BY THE ABSOLUTE ASSIGNMENT OF CONTRACTS, PERMITS AND DEVELOPMENT RIGHTS ASSIGNING THE DRAWINGS TO MADISON REALTY CAPITAL, LP AND FURTHER AGREES THAT MADISON REALTY CAPITAL, LP IS THE OWNER OF THE DRAWINGS AND IS THE SUCCESSOR UNDER THAT CERTAIN CONTRACT DATED JUNE 28, 2006 BETWEEN SHAO LIN OPERATING LLC AND BRIAN E. BOYLE AND (II) THAT CERTAIN CONTRACT DATED SEPTEMBER 14, 2005 BETWEEN SHAO LIN OPERATING LLC AND CUTSOGEOGE, TOOMAN & ALLEN ARCHITECTS, P.C.

\_\_\_\_\_  
BRIAN E. BOYLE

CUTSOGEOGE, TOOMAN & ALLEN  
ARCHITECTS, P.C.

By: \_\_\_\_\_  
Name:

Schedule A

Property Description

**METES AND BOUNDS DESCRIPTION OF PROPERTY**

**ALL** that certain plot, piece or parcel of land , situate, and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

**BEGINNING** at a point on the southerly side of West 42<sup>nd</sup> Street at the center of a party wall distant 396 feet 3 inches westerly from the southwestly corner of 42<sup>nd</sup> Street and 10<sup>th</sup> Avenue;

**RUNNING THENCE** southerly parallel with 10<sup>th</sup> Avenue and part of the way through a party wall, 98 feet 9 inches to the center line of the block between 41<sup>st</sup> and 42<sup>nd</sup> Street;

**THENCE** westerly along said center line of the block and parallel with West 42<sup>nd</sup> Street, 19 feet and 7 inches;

**THENCE** northerly parallel with 10<sup>th</sup> Avenue, 98<sup>th</sup> feet 9 inches to the southerly side of West 42<sup>nd</sup> Street running in part through the center of a party wall of a house and lot adjoining said premises on the west;

**THENCE** easterly along the southerly side of West 42<sup>nd</sup> Street, 19 feet 7 inches to the point or place of **BEGINNING**.

---

Schedule B

List of Contracts, Rights and Permits

- (i) That certain contract dated February 21, 2007 between Assignor and BFI Construction Corp. with respect to the on-going renovation and development of the Property and any and all other contracts or agreement entered into by Borrower with regard to the on-going renovation and development of the Property, including, without limitation, with regard to the delivery of all personal property required in connection therewith and to be installed in any of the residential units at the Property (the "Residential Units")
- (ii) That certain (i) contract dated June 28, 2006 between Borrower and Brian E. Boyle and (ii) contract dated September 14, 2005 between Borrower and Cutsogeorge, Tooman & Allen Architects, P.C. ("Cutsogeorge" and together with Boyle hereinafer collectively the "Architect") with respect to the design of the Property (which contract, by its terms, provides for the Architect to engage the services of certain other professionals, including, without limitation, a mechanical engineer and a structural engineer;
- (ii) Any contracts with a marketing agent or broker and/or any other contracts or agreements with respect to the marketing and sale of the Residential Units;
- (iv) Any and all other rights of Borrower in and to the Property; (vii) currently existing certificate of occupancy for the Property, if any, and any other certificates, licenses, permits, authorizations or approvals with respect to the Property (including, without limitation, the on-going renovation and development thereof) issued by any governmental or quasi-governmental authority having jurisdiction;
- (viii) The plans and specifications, and any and all amendments and/or change orders thereto, and any and all other plans, books and records and/or files in Borrower's possession and/or control in any manner relating to the acquisition, operation, maintenance, renovation, financing, use and/or development of the Property;
- (ix) Borrower's insurance policies; and
- (x) any and all contracts, licenses or agreements which benefit the Borrower or the Property and are entered into with each of the following

General Conditions	Stanley Winnick / Sara Blumenthal
Fee	Stanley Winnick / Sara Blumenthal
Insurance	Stanley Winnick / Sara Blumenthal
AR Supply Corp.	Rona Goodman
ABC Restoration Inc.	Mohammed Saleem
AR Finishing Work LLC.	Adar Farkash
AFAP Protective Systems	Robert Burns
Alex Figliola Contracting Corp.	Janet
Apple Intercom and Electronics Inc.	Robert Moriarty
Artisan Glazing Inc.	Ray Bombardiere
BFI/NYS Sales Tax Dept.	

## List of Contractors

BHB Exterminating Inc.	
C&C Mechanical	
Chen Engineering Services PC	
Coffee Contracting Inc.	Mike Ward - Estimator
Cole Schotz Meisel Forman & Le	
DeMonte Plumbing and Heating Corp.	Bob Demonte (Ext 12)
Earl B. Lovell - SP Belcher Inc.	Joseph Entler - Pres.
EC Contracting Inc.	Ed Crimmins
Essential Electric Corp.	Andrew Rabbi
Europa Construction Corp.	Alcides (Al) Rodrigues
Five Boro Associates Inc.	
Great Star Electric Inc.	Sam Grosshtern
HP Electric Inc.	
Hudson Insulation of NY LLC.	Matthew Davie
IC Water and Sewers Inc.	Charlie Brahimi - Pres.
Knockdown Contracting Inc.	Steve Russell
L. Kanner Flooring Systems Inc.	Larry Kanner
M & D Fire Door	Izzy Pollack
M&L Mechanical Maintenance Corp.	Michael Margarella
Marine Bulkheading Inc.	Tom DeSousa
Mastro Concrete Inc.	Mario
Metro Painting Group	Mark Dupuis
Metro Waterworks Inc.	Stuart G. Liben
Metropolitan Lumber Inc.	
Orchester Management Corp.	Karl Yu
Ozela Iron Works Inc.	Ekrim
P.F. Mechanical Corp.	Tom Wojciezek
Pedini of Manhattan Inc.	NO LONGER IN BUSINESS
Pentagon Protection and Investigation	Bob Brennan
Petrocelli Electrical Co. Inc.	Joseph H. Antes
Plains Environmental and General Cont.	Augustine Uwagboe
Quality Solid Surface Inc.	Offer Bock
Quimby Equipment	
Richard C. Mugler Co. Inc.	Richard Mugler - Pres.
Rockledge Scaffold Corp	Jeremiah Harrington - Pres.
Royal Glass and Storefronts Inc.	Dennis Finn - Project Manager
Safe and Secure Inc.	Frederick Leischen
Salsbury Industries	Johnny Fraher - Estimator
Secure Door and Hardware Inc.	Alex Kachka - Sales
St. Cloud Window Inc.	Scott - Ext 138
Star Electrical Supply Co.	Joe Forster / David Seitzman
TP Rental	
Testwell Inc.	Paul Moretti
The Drywall Organization Inc.	Herman Morales - Owner
The Finishing Touch	Garry O'Callaghan
The Gillespie Group	Bob Gillespie
The Iron Shop	Howard
ThyssenKrupp Access Corp.	Tom Knoblauch
Total Structure Concepts Inc.	Cliff Schiavo



W.W. Grainger Inc.	
Walden Environmental Engineering	John M Semioli, PE - Ext 37
World Glass Stoneworks Inc.	Demet Sampat
Zip Systems Inc.	John Weigele - Pres and Sales

Brian E. Boyle AIA	Brian E. Boyle - Owner
William Vitacco Associates Inc.	William Vitacco / Victoria Calderon
Hage Engineering PC	Will Hage (Owner)
Con Edison (Electric)	
Verizon (Phone - Elevator Operation)	
Dragon Container Svs (Garbage)	

**EXHIBIT "D"**  
**INDEMNITY**

This *INDEMNITY* is made this \_\_\_ day of December, in the year 2009,

**FROM** SHAO LIN OPERATING LLC, a New York limited liability company having an address at 2025 Broadway, Apartment 21JK, New York, New York 10023,

known herein as "Grantor", and

JAMES V. PAROLISI, an individual having an address at 23 Hillcrest Avenue, Roslyn, New York 11576, CYRIL MONTOYA, an individual having an address at 360 Court Street, Apt. 14, Brooklyn, New York 11231 and SHANNON SHAE SPALTEN, an individual having an address at 360 Court Street, Apt. 14, Brooklyn, New York 11231 (hereinafter, jointly and severally, collectively herein, the "Guarantor")

known herein, jointly and severally, collectively, as "Guarantor", in favor of

\_\_\_\_\_, a New York limited liability company having an address at c/o Kriss & Feuerstein LLP, Attention Jerold C. Feuerstein, Esq., 360 Lexington Avenue, 12th Floor, New York, NY 10017,

known herein as "Grantee";

**WITNESSETH**, that the Grantor, on the date hereof, for good and valuable consideration paid by the Grantee, has granted and released unto the Grantee, by Bargain and Sale Deed with Covenant Against Grantor's Acts dated the date hereof, that certain real property lying and being in the County of New York, State of New York, known as Block: 1070, Lot: 49 (the "Premises"), and as more particularly described in Schedule A attached hereto;

**WITNESSETH**, that the Grantor intended to construct a condominium building at the Premises, and in connection therewith, currently acts as the Sponsor with respect to that certain Condominium Offering Plan to be filed with the New York Attorney General's office (the "Offering Plan"), a copy of which is attached hereto as Exhibit "A";

**WITNESSETH**, that the Guarantor are all members of Grantor and have agreed to indemnify Grantee from and against certain liabilities, obligations, claims, demands, damages, penalties, causes of action, losses, fines, costs and expenses (including, without limitation, reasonable attorneys' fees, whether in house staff, retained firms, or otherwise, and disbursements) (collectively, "Claims") ;

**NOW THEREFORE**, in addition to any other indemnifications provided by Grantor and Guarantor to Grantee, Grantor and Guarantor shall, jointly and severally, protect, defend, indemnify and save harmless Grantee from and against all Claims of third party imposed upon or incurred by or asserted against Grantee by reason of (a) Grantor's ownership of the Premises or any interest therein; (b) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Premises or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways, that arose out of or in connection with events that occurred at the Premises during the period of Grantor's ownership of the Premises but solely to the extent of insurance coverage, if any; (c) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such hazardous substance or asbestos during Grantor's period of ownership of the Premises to the extent of any insurance coverage; (d) any representation or warranty made in the Deed In Lieu

Agreement among Grantor and Grantee and dated the date hereof, being false or misleading in any material respect as of the date such representation or warranty was made; and (e) any claim by brokers, finders or similar persons claiming to be entitled to a commission in connection with any lease/occupancy agreement of any kind or other transaction involving the Premises or any part thereof under any legal requirement or any liability asserted against Grantee with respect thereto, which arose out of or in connection with events that occurred during Grantor's ownership of the Premises. Any amounts payable to Grantee by reason of the application of this Indemnity shall be immediately due and payable upon demand by Grantee, and any and all lawful action that may be taken by Grantee in connection with the enforcement of this Indemnity, whether or not suit is filed in connection with the same, or in connection with the Grantor and/or any partner, member, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding. The obligations and liabilities of Grantor under this Indemnity shall the conveyance of the Premises by Grantor to Grantee.

*IN WITNESS WHEREOF*, the Grantor has duly executed this Indemnity the day and year first above written.

**SHAO LIN OPERATING LLC**

By: \_\_\_\_\_  
**James V. Parolisi,**  
Manager

\_\_\_\_\_  
**JAMES P. PAROLISI, INDIVIDUALLY**

\_\_\_\_\_  
**CYRIL MONTOYA, INDIVIDUALLY**

\_\_\_\_\_  
**SHANNON SHAE SPALTEN,**  
n/k/a Shannon Shae Montoya  
**INDIVIDUALLY**

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK )

SS:

On the \_\_\_ day of December, in the year 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared, JAMES V. PAROLISI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

Notary Public

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

1 SS:

On the \_\_\_ day of December, in the year 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared, CYRIL MONTOYA, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

Notary Public

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

155:

On the \_\_ day of December, in the year 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared, SHANNON SHAE SPALTEN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

Notary Public

O/C

LAW OFFICES

LAWRENCE J. BERGER, P. C.

200 MADISON AVENUE  
SUITE 1902  
NEWYORK, N.Y. 10016

(212) 532-0222  
FAX (212) 532-0224

LAWRENCE J. BERGER  
STEVEN E. RESNICK  
HARVEY I. SHIFF

May 15, 2009

LESLE R. PERLMAN  
SETH J. GOLDBERG

NYC Department of Housing,  
Preservation & Development  
Office of Development, Division of Housing Incentives  
421-a Exemption Unit  
100 Gold Street, 3-Y4  
New York, New York 10038  
Attn: Ron Sinacori

Re: TEO 8773  
421-a Partial Tax Exemption Final Application  
534 West 42<sup>nd</sup> Street  
Block 1070, Lot 49, Manhattan

Dear Mr. Sinacori:

Enclosed please find the final paper version of the re-filed electronic application for the above referenced project consisting of the following executed documents:

1. "Application for Preliminary Certificate of Eligibility for Partial Tax Exemption";
2. Duly-executed "Owner's Affidavit";
3. Duly-executed "Architect's/Engineer's Certification In Support of Preliminary Application for 421-a Partial Tax Exemption" with revised plans;
4. Duly-executed "Opinion of Counsel";
5. Copy of Appraisal documentation;
6. Copy of Negotiable Certificates of Eligibility; and
7. Copy of Survey.

Please immediately issue the Preliminary Certificate of Eligibility for this project or advise if there is any additional information or documentation required.

Very truly yours,

  
Harvey I. Shiff



NYC Department of Housing Preservation and Development

Division of Housing Incentives

**Application for Preliminary Certificate of Eligibility  
for Partial Tax Exemption**Mail to: NYC Department of Housing Preservation and Development 421-a Partial Tax Exemption  
Program, 100 Gold Street, 3rd floor, Section 3Y, New York, NY 10038 (212) 863-8540 Fax (212) 863-5899

Instructions: Once you have completed filling out the application and have submitted it electronically to HPD, you must also print, sign and send a hard copy to the 421-a Partial Tax Exemption Program at HPD along with all required affidavits and documentation. If construction commenced on or after December 28, 2007, each multiple dwelling must contain four (4) dwelling units or more (unless it is built with substantial government assistance). If construction commenced before December 28, 2007, three (3) or more dwelling units are sufficient.

**Section 1: Entity Information**

Entity Type	Limited Liability Company (LLC)		
Entity Name	534 West 42nd Street LLC		
Name	Brian Shatz		
Title	Manager		
House No	825	Street Name	Third Avenue
PO Box/Suite/Floor	37 Floor		
City	New York	State	NY
Country	USA	Zip code	10022
Phone	(646) 442-4202	Fax	
Email			

**Section 2: Filing Representative Information**

Filing Representative Type	Entity	Company Name	Lawrence J. Berger, P.C.
Name of Contact Person			
Name	Harvey Shiff		
House No	200	Street Name	Madison Avenue
PO Box/Suite/Floor	Suite 1902		
City	New York	State	NY
Country	USA	Zip code	10016
Phone	(212) 532-0222	Fax	(212) 532-0224
Email	hshiff@ljbpc.com		

**Section 3: Project Information**

Commencement of construction date	06/07/2007		
Estimated Year of Construction Completion	08/26/2010		
Borough	MANHATTAN	Block	01070
Base Year AV	\$202,860.00	GEA	Y
Lot	0049	Tax Class	4
REMIC	N	NPP	N
Will the project involve any subdivision or merger of current lot(s)?	N		

**Section 4: Project Location Information**

House Number	534	Street Name	West 42 Street	Zip Code		Tentative Lot	49
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**Section 5: Other Information**

Are negotiable certificates being used to qualify a project located in a 421-a geographic exclusion area?

Y

Please enter the date on which the 421-a Written Agreement was executed.

05/11/2007

Will this project or any part of this project be receiving tax exemption or tax abatement under any other provision of state or local law?

N

Was this project site mapped as a public park or utilized for 10 or more consecutive years as a private park immediately prior to October 1, 1971?

N

Will any part of this project be used as a hotel or for single room occupancy?

N

Does this project contain more than 20 dwelling units?

N

Were there Class A residential units on the site one month prior to the start of construction?

N/A

Does the new project contain at least 5 dwelling units for each Class A dwelling unit on the site one month prior to the new construction?

N/A

### Section 4: Substantial Government Assistance and Affordability Restrictions

Is the project being constructed with Substantial Governmental Assistance?

N

Is the Substantial Governmental Assistance pursuant to a program for the development of affordable housing?

N/A

Are at least 20% of the project's units subject to affordability restrictions?

N

There is a requirement that at least 20% of the onsite units be affordable to Low and Moderate Income households, as defined in 28 RCNY § 6-01 (c).

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 80% of Area Median Income(AMI).

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 60% of AMI.

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 120% of AMI, and the average AMI does not exceed 90%.

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 120% of AMI.

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 125% of AMI.

N/A

### Section 5: Additional Site Information Lot No 0049

Did you purchase the lot within two (2) years prior to the start of construction?

N

Please enter purchase price:

N/A

Did you purchase the lot more than two (2) years prior to the start of construction?

Y

Please enter appraised value at the start of construction:

\$3,000,000.00

Is the lot being performed under a ground lease?

Please indicate monthly rent payable during period of construction:

N/A

Please indicate length of a ground lease in months:

N/A

Total Construction Costs:

\$4,900,643.70

Total Builder's Fee/Developer's Profit:	\$1,403,971.40
Total Professional and Other Fees:	\$1,224,638.90
Total Marketing Expenses:	\$74,275.00
Total Financing and Other Charges:	\$4,033,320.00
Total Project Cost:	\$14,636,849.00

# Section 7 - Building Specifications 534 West 42 Street Permitted for 49

Did any portion of the building apply for the Industrial and Commercial Incentive Program (ICIP)  
Does the building include new residential construction and the concurrent conversion, alteration  
or improvement of a pre-existing building or structure?

N  
N

Commencement of construction date  
DOB/BIS Job Number  
Building Permit Type

06/07/2007  
104032949  
Alteration Permit

Floor	Residential A.F.A.	#0 BR	#1 BR	#2 BR	#3 BR	#4 BR	#5 BR	#6 BR	#7 BR	#8 BR	# of Dwelling Units	# Rooms	Non-Residential A.F.A. and Ineligible Residential A.F.A.
10	0.00	0	0	0	0	0	0	0	0	0	0.00	0.00	266.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						Roof stairs/Elev.Buldhead							
9	1,285.00	0	0	0	0	0	0	0	0	0	0.00	0.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
8	1,285.00	0	0	1	0	0	0	0	0	0	1.00	4.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
7	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
6	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
5	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
4	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
3	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
2	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
1	893.00	0	0	0	0	0	0	0	0	0	0.00	0.00	199.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						Retail							



Address: 534 West 42 Street

Tentative Lot: 49

Floor	#0 BR	#1 BR	#2 BR	#3 BR	#4 BR	#5 BR	#6 BR	#7 BR	#8 BR	#Rooms	Residential A.F.A.	Non-Residential A.F.A. and Ineligible Residential
1	0	0	0	0	0	0	0	0	0	0.00	893.00	199.00
10	0	0	0	0	0	0	0	0	0	0.00	0.00	266.00
2	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
3	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
4	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
5	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
6	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
7	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
8	0	0	1	0	0	0	0	0	0	4.50	1,285.00	0.00
9	0	0	0	0	0	0	0	0	0	0.00	1,285.00	0.00

Totals:	10	0	6	1	0	0	0	0	0	0	25.50	11,779.00	465.00
---------	----	---	---	---	---	---	---	---	---	---	-------	-----------	--------

# Dwelling Units: 7

# Rooms: 25.50

Commercial, etc. area in excess of 12% 0.00%

Total Square Feet of Finished Space	12,407.00
Total Square Feet of Balcony Space	1,269.00
Total Square Feet of Unfinished Space	1,384.00
Average Square Feet Per Dwelling Unit	1,308.57
Total Net SF of Dwelling Units	9,160.00

# **Section 421-a Eligibility Test 1: Vacant Lot**

To qualify for 421-a benefits, a site must have been vacant, predominantly vacant, underutilized, or improved with a non-conforming use three years prior to the start of construction (i.e. "Operative Date"). In order to determine if your project qualifies for 421-a benefits, this section of the application will take you through a number of questions which will determine your site eligibility. You must complete this section for each of the lots for which you are applying for 421-a benefits. Please enter the information as of the Operative Date.

Commencement of Construction Date:	6/7/2007
Operative Date:	06/07/2004
Total land area of lot (Square Feet):	1,933.53
Square footage of site:	1,933.53

## **Test 1: The question below will test your site's eligibility based on vacant lot.**

Actual Assessed Valuation of improvements on the lot in the Fiscal Year in which the Operative Date falls:	\$72,000.00
--	-------------

This site is ineligible based on this test because the actual assessed valuation of the improvements on the lot was not less than or equal to \$2,000. Please move on to the next site eligibility test.

## **Test 2: The questions below will test your site's eligibility based on a vacant portion of the former lot as of the Operative Date.**

Is there an existing building that will not be demolished and will remain on the lot?	N
---	---

Is the new multiple dwelling being constructed on a vacant portion of the lot as of the Operative Date?	
---	--

This site is ineligible based on this test because the land that you are building on is not vacant. Please move on to the next site eligibility test.

## **Test 3: The questions below will test your site's eligibility based on predominantly vacant land as of the Operative Date.**

Length of footprint of improvement (sq ft):	98.67	Width of footprint of improvement (sq ft):	19.58
Total area of footprint of improvement on lot (sq ft):	1,931.96	Total land area of lot (sq ft):	1,933.53

This site is ineligible based on this test because the area of the footprint of the improvement is not less than or equal to 15% of the land area of the lot. Please move on to the next site eligibility test.

## **Test 4: The questions below will test your site's eligibility based on underutilized buildings as of the Operative Date.**

Was there a building(s) on the lot on the Operative Date?	Y
---	---

What was the tax class of the lot on the Operative Date?	4
--	---

## **Test 7: The questions below will test your site's eligibility based on underutilized former non-residential building.**

Did work commence on or after May 12, 2000?	Y
---	---

Is lot located in the Borough of Manhattan on either side or south of 110th Street?	Y
---	---

Is lot located in the outer boroughs or in Manhattan north of 110th Street?

N

**Test 8:** The questions below will test your site's eligibility based on underutilized former non-residential building in Manhattan on either side or south of 110th Street (assessed valuation test).

Actual assessed valuation of building in the Fiscal Year in which the Operative Date falls	\$72,000.00
--	-------------

Actual assessed valuation of land in the Fiscal Year in which the Operative Date falls: **\$130,500.00**

50% of the assessed valuation of the land on the Operative Date is: \$65,250.00

This site is ineligible based on this test because the actual assessed valuation of the building is not less than or equal to 50% of the actual assessed valuation of the land. Please move on to the next site eligibility test.

**Test 10:** The questions below will test your site's eligibility based on underutilized former non-residential building in Manhattan on either side or south of 110th Street (Floor Area Ratio test).

Zoning district of lot: C6-4

Zoning map number: 8d

Maximum residential F.A.R. in this zoning district: **10.00**

Identify Zoning Resolution section which confirms maximum residential F.A.R. above: **34-112**

Maximum non-residential F.A.R. in this zoning district: 10.00

Identify Zoning Resolution section which confirms maximum non-residential F.A.R. above: 33-122

Floor Area of former non-residential building:	5,461.00
--	----------

Total lot area (sq ft): 1,933.53

This site has passed this 421-a eligibility test.

Lot	Square Feet	421-a Eligible
0049	1933.53	Pass

### Part A: Contact Information for Certifying Professionals

Architect's/Engineer's Certification to be provided by:

Name **Brian E. Boyle, R.A.**

Business Name **Brian E. Boyle, AIA**

House No 75

Street **Spring Street, 6th Floor**

City New York  
State NY  
Phone Number (212) 334-7402  
Opinion of Counsel to be provided by:  
Name Harvey I. Shiff  
Business Name Lawrence J. Berger, P.C.  
House No 200  
Street Madison Avenue  
City New York  
State NY  
Phone Number (212) 532-0222

Submit the most recent approved building plans. However, if the most recent approved building plans were already submitted to HPD as part of an earlier Architect's/Engineer's Certification, you do not need to re-submit the building plans.

☒

Appraisal documentation

☒

Surveys

☒

Copy of 421-a negotiable certificates or 421-a Affordable Housing Written Agreement and contract to purchase certificates.

☒

Architect's/Engineer's Certification

☒

Opinion of Counsel

☒

**Please Keep a Copy of this Application for Your Records.**

State of New York )

) ss.:

County of NY )

**Brian Shatz**, being duly sworn, under penalty of perjury, deposes and says:

1.a. I, **Brian Shatz, Manager, 534 West 42nd Street LLC**, am making this application for a Preliminary Certificate of Eligibility for 421-a Partial Tax Exemption (the "Application").

[If applicable:]

\_\_\_1.b. I held fee title or the leasehold interest under a ground lease of the real property identified in the Application at the time of the original filing, and I am authorized to make the Application on behalf of all persons or entities that currently hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application.

2. I have read and understand the requirements for 421-a Partial Tax Exemption.

3. I have reviewed the Application and I swear that all information set forth in the Application is true and correct and I submit the Application to induce the City of New York to grant 421-a Partial Tax Exemption.

4. The multiple dwelling will be owned as a cooperative or condominium, and is not required to be registered with the State of New York Department of Housing and Community Renewal. However, if the prospective cooperative or condominium plan has not been declared effective for filing at a time fifteen months after issuance of a Final Certificate of Eligibility for 421-a Partial Tax Exemption, these rental units must be registered with the New York State Division of Housing and Community Renewal no later than fifteen calendar days after such fifteen month period or, if the building is not occupied, such units must be registered prior to initial occupancy, and proof of registration submitted.

5. As required pursuant to §11-245.8 of the Administrative Code of the City of New York and §6-05(d)(1) of Chapter 6, Title 28 of the Rules of the City of New York, whenever any household appliance in any dwelling unit, or any household appliance that provides heat or hot water for any dwelling unit in the multiple dwelling, is installed or replaced with a new household appliance on or after December 19, 2006, such new appliance shall be certified as Energy Star, unless either (A) an appropriately-sized Energy Star certified household appliance is not manufactured, such that movement of walls or fixtures would be necessary to create sufficient space for such appliance, and/or (B) an Energy Star certified boiler or furnace of sufficient capacity is not manufactured.

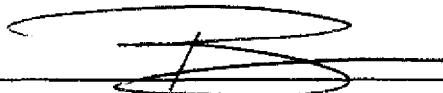
[For purposes of this paragraph, (A) "household appliance" shall mean any refrigerator, room air conditioner, dishwasher or clothes washer, within a dwelling unit in the multiple dwelling that is provided by the owner, and any boiler or furnace that provides heat or hot water for any dwelling unit in the multiple dwelling, and (B) "Energy Star" shall mean a designation from the United States Environmental Protection Agency or Department of Energy indicating that a product meets the energy efficiency standards set forth by the agency for compliance with the Energy Star program.]

I understand that if the City of New York finds that the Application and/or supporting documents, including but not limited to, the most recent Department of Buildings approved building plans; the survey; and contain incorrect or misleading information of substantial nature, or have omitted information of a material nature, and in the event that such breach or omission is not cured within ninety (90) days of notice thereof, the Department of Housing Preservation and Development shall advise the Department of Finance that the 421-a Certificate of Eligibility has been revoked or that the amount of 421-a Partial Tax Exemption has been reduced, and the Department of Finance shall retroactively or prospectively withdraw or reduce 421-a Partial Tax Exemption and reinstate the amount of taxes which would have been exempted and charge interest at the rate prescribed by the New York City Administrative Code to be calculated from the day on which such taxes would have been payable but for the 421-a Partial Tax Exemption.

I understand that in order to qualify for 421-a benefits, a site must have been vacant, predominantly vacant, underutilized, or improved with a non-conforming use three years prior to the commencement of construction (i.e., "Operative Date"). The site eligibility statements and/or calculations stated in Section 7 of the Application accurately reflect the conditions at the site on the Operative Date and confirm that the real property identified in the Application meets the site eligibility requirement for 421-a benefits.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.



Owner's Signature

*Brian Shatz*

Owner's Name

*Manager*

Owner's Title

*534 West 42nd Street LLC*

Owner's Affiliation

Sworn to me before this 16 day of May, 20 12



Notary Public or Commissioner of Deeds

**SHOSHANA T. CARMEL**  
Notary Public, State of New York  
No. 01CA6153568  
Qualified in New York County  
Commission Expires October 10, 2014

City of New York  
Department of Housing Preservation and Development  
Office of Development  
Division of Housing Incentives  
Tax Incentive Programs Unit  
421-a Partial Tax Exemption Program  
100 Gold Street, 3-Y4  
New York, NY 10038

**Architect's / Engineer's Certification**  
**In Support of Preliminary Application for 421-a Partial Tax Exemption**

Re: Online Application Submission Confirmation # **44820**

Docket # **TEO8773**

Address(es) / Tentative Lot (s)

**Building 1: 534, West 42 Street, 49**

Borough **MANHATTAN** Block **01070**

Lot(s) **0049.**

Total Number of Buildings **1**

**Brian E. Boyle, R.A.** , being duly sworn, under penalty of perjury, deposes and says:

1. I am a Registered Architect or Professional Engineer licensed to practice by and in good standing with the New York State Department of Education. As such, I certify to the truth of the matters set forth below in connection with the above pending application (the "Application") for 421-a Partial Tax Exemption.
2. The Building plans accompanying the Architect's/Engineer's Certification signed by me on **4/9/2008** and previously submitted to HPD, each page of which was initialed and dated by me, are a true copy of the most recent plans approved by the New York City Department of Buildings (hereinafter, "**Plans**").
3. The calculations in Section 6 of the Application are a true and accurate reflection of the layout and dimensions of the Plans, and the room count and dwelling unit count as shown in Section 6 of the Application are in compliance with Section 6-01(c) of Chapter 6 of Title 28 of the Rules of the City of New York (the "421-a Rules").
4. The calculations of Aggregate Floor Area and Floor Area of Commercial Community Facilities and Accessory Use Space of the building(s) applying for 421-a Partial Tax Exemption in Section 6 of the Application are in compliance with Sections 6-01(c) and 6-06(b) of the 421-a Rules and the guidance provided in the latest edition of Department of Housing Preservation and Development's Frequently Asked Questions, dated **6/17/2004**.

The annexed survey, dated 6/24/2005, as prepared by Thomas Piciocco, a licensed land surveyor of Earl B. Lovell-S.P. Belcher, Inc. (name of company, if applicable) is a true copy of the survey used to determine the eligibility of the site for 421-a Partial Tax Exemption. The site eligibility statements and/or calculations stated in Section 7 of the Application accurately represent the conditions at the site on the Operative Date (i.e. 36 months prior to the commencement of construction) and the current lot or lots indicated on the Application are eligible for 421-a Partial Tax Exemption.

5. I have read the specific sections of the 421-a Rules applicable to this Project and understand them. I have relied upon this understanding for purposes of the representations I am making in this affidavit. 6/7/2007 is the accurate date of "commencement of construction," (i.e., the date upon which excavation and construction of initial footings and foundations commenced in good faith), for the above-referenced project and is consistent with the definitions of "commencement of construction" in Section 6-01(c) and "commence" in Section 6-09(a) of the 421-a Rules, as applicable.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.



I understand that if the Department of Housing Preservation and Development finds that any of the statements are incorrect, I may, in HPD's sole discretion, be prevented from certifying any future projects with HPD. Furthermore, I understand that submission of a false certification shall be deemed to be professional misconduct pursuant to Section 6509 of the Education Law.

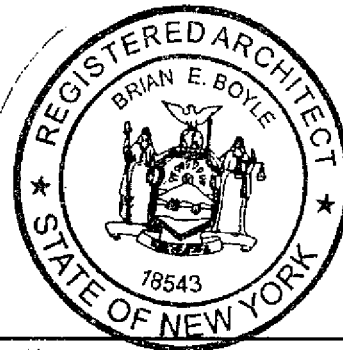
Sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public or Commissioner of Deeds

[OR

Dated: May 29, 2012

Seal of RA or PE]



*Brian E. Boyle*

\_\_\_\_\_  
Architect / Engineer Signature

***Brian E. Boyle, R.A.***

\_\_\_\_\_  
Architect / Engineer Name

***Brian E. Boyle, AIA***

\_\_\_\_\_  
Business Name

***75 Spring Street, 6th Floor New York, NY***

\_\_\_\_\_  
Business Address

***(212) 334-7402***

\_\_\_\_\_  
Phone Number

State of New York )

) ss.:  
County of NEW YORK )

**Gary Schaeffer**, being duly sworn, under penalty of perjury, deposes and says:

1.a. I, **Gary Schaeffer, Managing Member, Shao-Lin Operating LLC**, am making this application for a Preliminary Certificate of Eligibility for 421-a Partial Tax Exemption (the "Application").

[If applicable:]

1.b. I held fee title or the leasehold interest under a ground lease of the real property identified in the Application at the time of the original filing, and I am authorized to make the Application on behalf of all persons or entities that currently hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application.

2. I have read and understand the requirements for 421-a Partial Tax Exemption.

3. I have reviewed the Application and I swear that all information set forth in the Application is true and correct and I submit the Application to induce the City of New York to grant 421-a Partial Tax Exemption.

4. The multiple dwelling will be owned as a cooperative or condominium, and is not required to be registered with the State of New York Department of Housing and Community Renewal. However, if the prospective cooperative or condominium plan has not been declared effective for filing at a time fifteen months after issuance of a Final Certificate of Eligibility for 421-a Partial Tax Exemption, these rental units must be registered with the New York State Division of Housing and Community Renewal no later than fifteen calendar days after such fifteen month period or, if the building is not occupied, such units must be registered prior to initial occupancy, and proof of registration submitted.

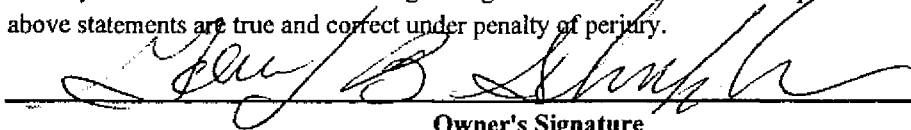
5. As required pursuant to §11-245.8 of the Administrative Code of the City of New York and §6-05(d)(1) of Chapter 6, Title 28 of the Rules of the City of New York, whenever any household appliance in any dwelling unit, or any household appliance that provides heat or hot water for any dwelling unit in the multiple dwelling, is installed or replaced with a new household appliance on or after December 19, 2006, such new appliance shall be certified as Energy Star, unless either (A) an appropriately-sized Energy Star certified household appliance is not manufactured, such that movement of walls or fixtures would be necessary to create sufficient space for such appliance, and/or (B) an Energy Star certified boiler or furnace of sufficient capacity is not manufactured.

[For purposes of this paragraph, (A) "household appliance" shall mean any refrigerator, room air conditioner, dishwasher or clothes washer, within a dwelling unit in the multiple dwelling that is provided by the owner, and any boiler or furnace that provides heat or hot water for any dwelling unit in the multiple dwelling, and (B) "Energy Star" shall mean a designation from the United States Environmental Protection Agency or Department of Energy indicating that a product meets the energy efficiency standards set forth by the agency for compliance with the Energy Star program.]

I understand that if the City of New York finds that the Application and/or supporting documents, including but not limited to, the most recent Department of Buildings approved building plans; the survey; and contain incorrect or misleading information of substantial nature, or have omitted information of a material nature, and in the event that such breach or omission is not cured within ninety (90) days of notice thereof, the Department of Housing Preservation and Development shall advise the Department of Finance that the 421-a Certificate of Eligibility has been revoked or that the amount of 421-a Partial Tax Exemption has been reduced, and the Department of Finance shall retroactively or prospectively withdraw or reduce 421-a Partial Tax Exemption and reinstate the amount of taxes which would have been exempted and charge interest at the rate prescribed by the New York City Administrative Code to be calculated from the day on which such taxes would have been payable but for the 421-a Partial Tax Exemption.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.



Owner's Signature

Gary Schaeffer

Owner's Name

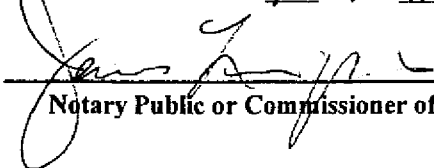
Managing Member

Owner's Title

Shao-Lin Operating LLC

Owner's Affiliation

Sworn to me before this 7<sup>th</sup> day of MAY, 2009

  
Notary Public or Commissioner of Deeds

James Limpert  
Notary Public, State of New York  
No. 01LI4925742  
Qualified in New York County  
Commission Expires April 4, 2010

LAW OFFICES  
**LAWRENCE J. BERGER, P. C.**

200 MADISON AVENUE  
SUITE 1902  
NEW YORK, N.Y. 10016  
(212) 532-0222  
FAX (212) 532-0224

LAWRENCE J. BERGER  
STEVEN E. RESNICK  
HARVEY I. SHIFF

Date: 2/4/2011

LESLIE R. PERLMAN  
SETH J. GOLDBERG

Director, 421-a Programs  
The City of New York  
Department of Housing Preservation and Development  
100 Gold Street Room 3-Y4  
New York, New York 10038

Re: Online Application Submission Confirmation # 44820

Docket # TEO8773

Address(es) / Tentative Lot (s)

Building 1: 534, West 42 Street, 49

Borough MANHATTAN Block 01070

Lot(s) 0049.

Total Number of Buildings 1

Harvey I. Shiff, an attorney admitted to practice in the Courts of the State of New York, affirms the following to be true under the penalties of perjury pursuant to Civil Practice Law and Rules 2106:

1. I have acted as legal counsel to 534 West 42nd Street LLC ("Owner") in connection with its above referenced application for a partial real property tax exemption pursuant to Section 421-a of the Real Property Tax Law (the "Application").
2. I have reviewed all of the organizational documents of the Owner and such other certificates and instruments as necessary for the purpose of this opinion.
3. Owner is a Limited Liability Company (LLC), which is duly formed and validly existing under the laws of the State of New York
4. Brian Shatz is duly authorized to execute and deliver the Application to the City of New York Department of Housing Preservation and Development on behalf of the Owner and to make the representations and warranties contained in the Application.

X 5a. Owner holds fee title to the real property identified in the Application.

\_\_\_\_ 5b. I have attached a title report from \_\_\_\_\_, dated \_\_\_\_\_,  
which indicates that Owner holds fee title to the real property identified in the Application.

\_\_\_\_ 5c. Owner held fee title to the real property identified in the Application at the time of the original  
filing.

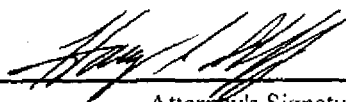
\_\_\_\_ 5d. I have attached a title report from \_\_\_\_\_, dated \_\_\_\_\_,  
which indicates that Owner held fee title to the real property identified in the Application at the time of  
the original filing.

I make these statements to induce the Department of Housing Preservation and  
Development of the City of New York to grant a partial tax exemption pursuant to  
Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and  
11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the  
veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the  
above statements are true and correct under penalty of perjury.

I understand that if the Department of Housing Preservation and Development finds that  
any of the statements herein are incorrect, I may, at HPD's sole discretion, be prevented  
from delivering any certification or legal opinion to HPD in connection with any future  
project. Furthermore, I understand that any false statement may be deemed to be  
professional misconduct pursuant to Section 90 of the Judiciary Law.

Sincerely,



\_\_\_\_\_  
Attorney's Signature

*Harvey I. Shiff*

\_\_\_\_\_  
Attorney's Name

**APPRAISAL REPORT**  
**OF**  
**534 W. 42 STREET**  
**NEW YORK, NEW YORK**  
**BLOCK 1070, LOT 49**

**AS OF JUNE 7, 2007**

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**ELIOT W. BERRY & CO., INC.**  
**501 FIFTH ABENUE - SUITE 1802**  
**NEW YORK, NEW YORK 10017**

ELIOT W. BERRY & CO., INC.  
501 Fifth Avenue - Suite 1802  
New York, New York 10017  
(212) 768-7000  
eliotberry@verizon.net

April 25, 2008

Harvey Schiff, Esq.  
Lawrence Berger PC  
200 Madison Avenue - Suite 1902  
New York, New York 10016

**RE: VALUATION OF VACANT LAND  
534 W. 42 STREET  
NEW YORK, NEW YORK  
BLOCK 1070, LOT 49  
AS OF JUNE 7, 2007**

Dear Mr. Schiff:

Per your request, we have prepared an appraisal of the above referenced premises.

The subject lot contains 1,933.53 square feet and was vacant land as of the appraisal date. The lot measures 19.58' wide by 98.75' deep. The lot is less than 45' wide and as such is considered a "sliver" parcel. As a result, though zoned C6-4, it may only be improved with a building of 11,978 square feet.

Based on our research and analysis, the market value of the subject land, as of the date of appraisal, June 7, 2007, is:

**THREE MILLION (\$3,000,000) DOLLARS**

Exposure time at this price is estimated at three months. Marketing time is estimated at six months.

Respectfully submitted,



Eliot Berry, ASA  
Senior Member, American Society of Appraisers  
N.Y. State Certified Real Estate Appraiser No. 6448  
EWB/gl

**SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS**

<b>PROPERTY IDENTIFICATION:</b>	534 W. 42 STREET New York, New York Block 1070, Lot 49
<b>LAND AREA:</b>	1,933.53± square feet (19.58' wide x 98.75' deep)  Sliver Site (less than 45' wide)
<b>MAXIMUM BUILDABLE FAR:</b>	11,978 Square Feet
<b>ZONING:</b>	C6-4 (minimized by sliver lot)
<b>DATE OF REPORT:</b>	April 25, 2008
<b>DATE OF VALUE:</b>	June 7, 2007
<b><u>VALUE ESTIMATE:</u></b>	
Via Sales Comparison Approach	\$3,000,000
<b>FINAL VALUE ESTIMATE</b>	<b>\$3,000,000</b>

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**ELIOT W. BERRY & CO., INC.**



**SCOPE OF THE APPRAISAL**

This appraisal has been conducted using applicable standard appraisal techniques and in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute. The appraised value is exclusive of movable equipment, trade fixtures and personal property and is limited to the real estate only.

**PROPERTY IDENTIFICATION**

As of the appraisal date, June 7, 2007, the subject property is vacant land located at 534 W. 42 STREET in the County of New York. The municipal jurisdictions governing the subject property are New York City, New York County and the State of New York. The subject property is recorded in the City of New York property tax rolls as Block 1070, Lot 49.

**PURPOSE OF THE APPRAISAL**

The purpose of the appraisal is to estimate the market value of the Fee Simple Interest in the subject land as of June 7, 2007.

**FUNCTION OF THE APPRAISAL**

The function of this appraisal is to estimate the market value of the property as of June 7, 2007. The report is to be used as an estimate of the value for HPD, which may use it in attributing rents to the building to be constructed on the subject site.

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**ELIOT W. BERRY & CO., INC.**

**DEFINITION OF MARKET VALUE**

Market value is defined in the Dictionary of Real Estate Appraisal, 2nd edition, 1989, as:

*"The most probable price, as of a specified date, in cash, terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress."*

Fundamental assumptions and conditions presumed in this definition are:

1. Buyer and seller are motivated by self-interest.
2. Buyer and seller are well informed and are acting prudently.
3. The property is exposed for a reasonable time on the open market.
4. Payment is made in cash, its equivalent, or in specified financing terms.
5. Specific financing, if any, may be the financing actually in place or on terms generally available for the property type in its locale on the effective appraisal date.
6. The effect, if any, on the amount of market value of atypical financing, services, or fees shall be clearly and precisely revealed in the appropriate sections of the report.

**Exposure Time** is defined in the Dictionary of Real Estate Appraisal, 3rd edition, 1993, as follows:

- 
- "1. The time a property remains on the market
  2. The estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of appraisal...Exposure time is always presumed to occur prior to the effective date of appraisal. The concept of reasonable exposure encompasses not only adequate, sufficient and reasonable effort. Exposure time is different for various types of real estate and value ranges and varies under various market conditions."

**Marketing Time (or Market Period)**

- "1. The time it takes an interest in real property to sell on the market subsequent to the date of an appraisal.
2. Reasonable marketing time is an estimate of the amount of time it might take to sell an interest in real property at its estimated market value during the period immediately after the effective date of appraisal; the anticipated time required to expose the property to a pool of prospective purchasers and to allow appropriate time for negotiation, the exercise of due diligence, and the consummation of a sale at a price supported by current market conditions. Marketing time differs from exposure time, which is always presumed to precede the effective date of the appraisal."

**OWNERSHIP HISTORY**

Public records indicate title to the subject property is owned by Dojo West 42<sup>nd</sup> Street Realty. The property was purchased for \$1,800,000 November 3, 2004.

**AREA AND NEIGHBORHOOD ANALYSIS**

The subject neighborhood is located on the far west side of Manhattan between Tenth and 11<sup>th</sup> Avenues. Development in the 42<sup>nd</sup> Street corridor has been primarily commercial. Residential development of the subject site is minimized as it is a "sliver" site, less than 45' wide.

**DESCRIPTION OF THE SITE**

The subject lot is located on W. 42nd Street between Tenth and Eleventh Avenues in Manhattan, City and State of New York. The subject lot contains 1,933.53 square feet and was vacant land as of the appraisal date. The lot measures 19.58' wide by 98.75' deep. The lot is less than 45' wide and as such is considered a "sliver" parcel. As a result, though zoned C6-4, it may only be improved with a building of 11,978 square feet.

All public utilities including electricity, gas, telephone, water and city sewers service the site.

**ELIOT W. BERRY & CO., INC.**

## ZONING

The subject property is located in a C6-4 residential zone. According to the Zoning Handbook, C6 districts are zoned for a wide variety of high bulk commercial uses requiring a central location. Most C6 districts are in Manhattan and provide for corporate headquarters, large hotels, entertainment facilities, retail stores and some residential development in mixed buildings.

C6-1A is a non-contextual district mapped in regional centers (Downtown Jamaica, for example). The designation includes the same bulk provision as C6-1, but imposes parking requirements appropriate for areas outside of Manhattan. All other C6 districts are exempt from parking requirements.

C6-2A is a contextual commercial district which is the equivalent of an R8A contextual district. It is currently mapped in Greenwich Village, and near Union Square in Manhattan.

C6-3A and C6-4A are medium bulk contextual commercial districts equivalent to R9A and R10A residential districts, respectively.

C6-1: General Central Commercial District

Commercial FAR: 6.0 (7.12 with bonus)

C6-1A: Regional Subcenters

Commercial FAR: 6.0 (9.0 with bonus)

C6-2: General Commercial District Outside Central Business District

Commercial FAR: 6.0 (7.2 with bonus)

C6-2A: Contextual Commercial District Outside Central Business District

Commercial FAR: 6.0

C6-3: General Commercial District Outside Central Business District

Commercial FAR: 6.0 (7.2 with bonus)

C6-3A: Contextual Commercial District Inside the Central Business District

Commercial FAR: 6.0

C6-4: Medium Bulk Office District

Commercial FAR: 10.0 (12.0 with bonus)

## HIGHEST AND BEST USE, AS IF VACANT

Given maximum allowable FAR of 10 in this C6-4 zone, the subject land (1,933.53 square feet vacant), if built to maximum FAR of 10, the site hypothetically could contain an improvement of not more than 19,335 square feet. However, the subject site is a "sliver" lot and can be improved with improvements of only 11,978 square feet.

**ELIOT W. BERRY & CO., INC.**

## APPRAISAL PROCESS

This section of the report explains the applicability of recognized appraisal methods, reviews the work done in the valuation process, and sets forth the reasoning that supports each opinion or conclusion.

### Applicability of Approaches

**The Cost Approach:** In this approach, the cost to replace the improvements is estimated. A deduction is made for any depreciation, and the result is combined with the estimated value of the land. The approach is applicable when each component is independently measurable, and when the sum of all components is believed to reflect fair value. The building was erected in 1900, making the Cost Approach unfeasible.

**The Sales Comparison Approach:** This approach compares the subject property to other properties that have changed hands fairly recently, at known price levels. The approach is most meaningful when there is adequate market data involving comparable properties. Reliability of the approach varies directly with the quantity and quality of available market data.

**The Income Capitalization Approach:** This approach analyzes the property's capacity to generate income (or other monetary benefit) and converts this capacity into an indication of value. The approach is suitable for properties that have obvious earning power and investment appeal, but inappropriate for properties that have no readily discernible income potential. This approach is generally the preferred technique for appraising income producing properties because it most closely reflects the investment rationale and strategies of typical buyers. However, the subject is a development site, with no income stream. Therefore, the Income Approach has not been employed.

### Applicability to Subject Property:

---

The Sales Comparison Approach has been used in this valuation of 1,933.53 square feet of vacant land as of the appraisal date. The subject is a sliver lot that can be improved with only 11,978 square feet.

### **SALES COMPARISON APPROACH**

The Sales Comparison Approach is most viable when an adequate number of properties of similar type have been sold recently or are currently for sale in the subject area's market. The application of this approach produces a value indication for a property through comparison with similar properties that have sold within a time frame applicable to a potential sale of the subject.

The sales prices of properties judged to be the most comparable tend to set a range of value into which the value indication for the subject property falls.

In analyzing the subject property via the Sales Comparison Approach, we have analyzed several sales of developable land from the subject and neighboring zip codes. All sales are development sites improved at the time of sale with buildings that would be demolished before construction.

The four (4) comparable sales are as follows:

---

**ELIOT W. BERRY & CO., INC.**

COMPARABLE MIDTOWN FAR SALES					
	SALE 1	SALE 2	SALE 3	SALE 4	SUBJ
Address	12-18 W 55 St	13 E 47 Street	208-210 E 52 St	224 5th Ave (26-27 St)	534 W 42 St
Block/Lot	1270/48-47	1283/11	1325/48	828/39	1070/49
Price	\$11,000,000	\$10,400,000	\$16,000,000	\$13,000,000	Sliver Lot
Date	3/29/05	8/22/2006	8/15/2006	4/11/2006	4/21/07
Year Built	1920	1910	1915	1980	1910
Lot Size/SF	4,000 sf (40' x 100')	2,500 sf (25' x 100')	4,000 sf (40' x 100')	2,800 sf (28' x 100')	1,934 sf (19.58' x 98.75')
Zoning	C5-P	C5-2.5	C6-6	C5-2	C6-4
FAR	8	12	15	10	10 but Sliver Lot
Buildable FAR	32,000	30,000 sf	60,000 sf	28,000 sf	11,978 sf
Price/SF/FAR	\$344	\$347	\$267	\$464	
<b>Adjustments:</b>					
Market Conditions	+24%	+12%	+16%	+12%	
Location	-10%	-20%	-10%	-20%	
Zoning/ Sliver Lot (45')	-30%	-20%	-30%	-30%	
Total Adj.	-16%	-28%	-24%	-38%	
Price/SF/FAR	\$289	\$250	\$203	\$288	

ELIOT W. BERRY &amp; CO., INC.

### EXPLANATION OF ADJUSTMENTS

The subject site contains 1,935 +/- square feet of site area that, due to the sliver nature of the subject lot, can be improved only with 11,978 square feet of building.

#### **MARKET CONDITIONS:**

Developable land in Manhattan was still in demand as of the appraisal date, though the market was showing early signs of cooling. We have adjusted all the sales by +1% per month to the date of value.

#### **LOCATION:**

The subject is located between Tenth and Eleventh Avenues on W. 42<sup>nd</sup> Street. This is not a prime residential location, hence the downwards locations to the comparable development sites.

#### **ZONING/SLIVER LOT**

As noted, size of the developable FAR is a key to development in Manhattan. Larger sites are more desirable as the size of the land contributes to the allowable building size and the return that can be anticipated for what is to be constructed on a development site. The subject site is a "sliver" site. It is less than 45' wide and as such is limited to the size of improvements that can be built on the site.

#### **VALUATION VIA SALES COMPARISON APPROACH**

After adjustments, the sales ranged from \$205 to \$289 per square foot.

While the market was still strong as of the date of value, June 7, 2007, the nature of the subject sliver site is such that only a very small building could be built on it. Sale 2, also less than 45' wide, was part of an assemblage and was thus able to maximize its FAR. We have emphasized Sale 2 and have adopted a value estimate of \$250 per square foot, as follows:

$$\begin{array}{rcl} 11,978 \text{ SF of DEVELOPABLE FAR} \times \$250/\text{SF/FAR} & = & \$2,994,500 \\ \text{SAY:} & & \$3,000,000 \end{array}$$

#### **VALUE ESTIMATE VIA SALES COMPARISON APPROACH:**

**THREE MILLION (\$3,000,000) DOLLARS**

**ELIOT W. BERRY & CO., INC.**



**CERTIFICATE OF VALUE**

**PREMISES: 534 W. 42 STREET  
NEW YORK, NEW YORK**

I, ELIOT W. BERRY, CERTIFY, THAT to the best of our knowledge and belief,...

THAT the statements of fact contained in this report are true and correct.

THAT the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are our personal, unbiased professional analyses, opinions and conclusions.

THAT we have no present or prospective interest in the property that is the subject of this report, we have no personal interest or bias with respect to the parties involved.

THAT our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Practice of the American Institute of Real Estate Appraisers.

THAT the use of this report is subject to the requirements of the American Institute of Real Estate Appraisers relating to review by its duly authorized representatives.

THAT Eliot W. Berry has personally conducted a physical inspection of the Subject Site and has written the enclosed report.

THAT we have employed accepted and tested methods in arriving at our conclusions as to value.

~~THAT the opinions of value expressed in the Report and in this Certificate are made subject to the "Assumptions and Conditions" appended to the Report and made a part thereof.~~

THAT as a result of our examination, investigation and analysis of the property and all the data pertinent thereto and in the light of our experience, our estimate of value of the property is:

**THREE MILLION (\$3,000,000) DOLLARS**



ELIOT BERRY, ASA

New York State Certified Appraiser No. 6448

Senior Member, American Society of Appraisers

**ELIOT W. BERRY & CO., INC.**

**UNDERLYING ASSUMPTIONS AND CONTINGENT CONDITIONS**

For the purpose of this appraisal, it is assumed:

1. That the legal description is correct.
2. That the title to the property is legally sufficient.
3. That there are no encumbrances or defects of title.
4. That the property is free and clear of all liens.
5. That the property will be efficiently managed and properly maintained.
6. That there are no structural conditions which are not apparent. The engineer's report referred to herein reflects the structural damage that has occurred at the property.
7. That there are no sub-surface soil conditions which would cause extraordinary development costs.

The appraisal is made subject to the following contingent conditions:

1. That no liability is assumed because of inaccuracies or errors in said estimate and opinions.
2. That no liability is assumed as a result of matters of legal character affecting the property, such as title defects, encroachments, liens, overlapping boundaries, party wall agreements, and easements. Nor will the appraiser assume any legal liability as to the opinion of value contained in this report.
3. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. ~~The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value.~~ No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.
4. This appraisal is to be used in whole and not in part. No part of it shall be used in conjunction with any other appraisal. The appraisal is invalid if so used.
5. That no survey, structural or sub-surface soil investigation was made of the property by the appraiser.
6. The appraiser herein by reason of this appraisal is not required to give testimony in court with reference to the subject property unless otherwise previously arranged.

**ELIOT W. BERRY & CO., INC.**

7. Possession of this report, or copy thereof, does not carry with it the right of publication, nor may it be used for any purpose by anyone but the applicant, without the previous written consent of the appraiser.
8. Present worth of the purchasing power of a dollar.
9. This appraisal was made for the purpose stated and should not be used for any other purpose.
10. Each finding, prediction, assumption or conclusion contained in the appraisal report is the appraiser's personal opinion and is not an assurance that an event will or will not occur. We assume that there are no conditions relating to the real estate, sub-soil or structures located on the real estate which would affect appraiser's analyses, opinions or conclusions with respect to the real estate that are not apparent.
11. The data gathered in the appraisal process (except data furnished by client) and the appraisal report will remain property of the appraiser. The appraiser will not violate the confidential nature of the appraiser-client relationship by improperly disclosing any confidential information furnished to him. The appraiser is, however, authorized by the client to disclose all or any portion of the appraisal report and the related appraisal data to appropriate representatives of the Appraisal Institute if such disclosure is required to enable appraiser to comply with the by-laws and regulations of such Institute now or hereafter in effect.
12. The client agrees that the appraisal report will not be quoted or referred to in any report or financial statement of the client or in any documents filed with any governmental agency without the prior written consent of the appraiser. Neither all nor any part of the contents of the appraisal report (especially the conclusions as to value, the identity of the appraiser or references to the Appraisal Institute) shall be disseminated to the public through advertising media, public relations media, news media, sales media or other public means of communication without the prior written consent of the appraiser.

ELIOT W. BERRY & CO., INC.

THE CITY OF NEW YORK  
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT  
OFFICE OF DEVELOPMENT  
RPTL Section 421-a Affordable Housing Program  
100 Gold Street, Room 9S7  
New York, NY 10038

**\*NEGOTIABLE CERTIFICATE OF ELIGIBILITY\***

DOCKET NUMBER 07-07 DATE OF ISSUANCE OF THIS CERTIFICATE August 22, 2012  
SITE OF AFFORDABLE UNITS 550 East 170th Street, Bronx DATE OF EXECUTION OF WRITTEN AGREEMENT May 11, 2007  
BLOCK(S) 2925 LOT(S) 42, 48 DATE OF ISSUANCE OF (TEMPORARY) C O F O FOR AFFORDABLE UNITS December 19, 2008  
APPLICANT East 170th Street Associates, L.P. NUMBER OF MARKET RATE UNITS ELIGIBLE\* 8  
c/o Atlantic Development Group, LLC  
\*If average size of units exceeds 1,200 sq. ft., see Section 6-08(b)(6) of the Rules  
APPLICANT'S ADDRESS 155 Avenue of the Americas, 3rd Floor, New York, NY 10013  
BENEFIT TRANSFEROR Shao Lin Operating, LLC BENEFIT TRANSFEREE 534 West 42<sup>nd</sup> Street, LLC

Whereas, the Department of Housing Preservation and Development has determined that the above-referenced Applicant has completed the construction, rehabilitation, or conversion of affordable dwelling units in accordance with the §421-a Affordable Housing Written Agreement between the City of New York's Department of Housing Preservation and Development and the Applicant;

The Commissioner has determined, therefore, that one or more eligible multiple dwellings containing the above-referenced number of units in the Geographic Exclusion Area is eligible to receive a 421-a partial Tax Exemption.

This Certificate may be conveyed or sold only by the Benefit Transferor named above, and only to the Benefit Transferee named above. This Certificate cannot be used to transfer benefits to any person or entity other than the Benefit Transferee named above. The transfer of this Certificate to the Benefit Transferee is accomplished by both the Benefit Transferor and the Benefit Transferee endorsing and notarizing this Certificate in the place indicated below. If this Certificate is not transferred in accordance with the above procedure, then the Benefit Transferor shall remain the owner of record of the above-referenced benefits if and until such time as the Benefit Transferor directs HPD, at its sole discretion, to re-issue this Certificate to another entity. After the initial endorsement and notarization by the Benefit Transferor and the Benefit Transferee, subsequent transfers of this Certificate or any portion hereof by the Benefit Transferee may be accomplished by written request to HPD accompanied by this original Certificate. Unused Certificates must be returned to HPD for voiding and re-issuance.

**BENEFIT TRANSFEROR:**

Shao Lin Operating, LLC

By: Jana V. Parotian  
Managing Member  
Sworn to me before this

**BENEFIT TRANSFEREE:**

534 West 42<sup>nd</sup> Street, LLC

By: [Signature]  
Sworn to me before this

Inclusionary Housing/  
421-a Affordable Housing  
Program Seal

17 day of Sept 2012

19 day of September 2012

[Signature]  
Notary Public

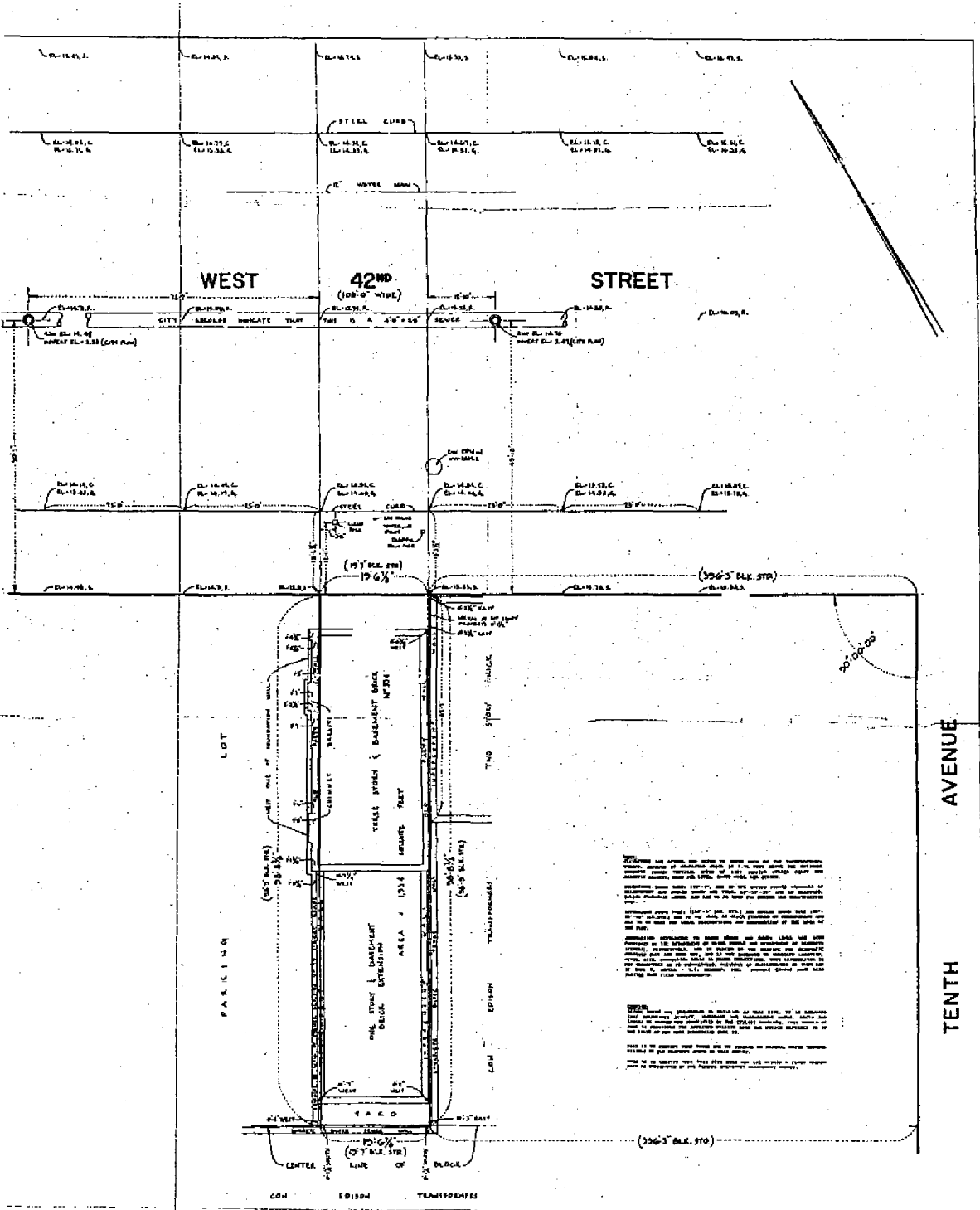
[Signature]  
Notary Public

**CINDY LOPEZ**  
Notary Public, State of New York  
No. 01LO8103784  
Qualified in Bronx County  
Commission Expires 01-12-20 16

**SHOSHANA T. CARMEL**  
Notary Public, State of New York  
No. 01CA6153598  
Qualified in New York County  
Commission Expires October 10, 2014

[Signature]  
Miriam Colón  
Assistant Commissioner  
Housing Incentives

MC 8/22/2012



49 L.B. 1070  
63375-1

ENCLOSURES TO ANY BUILDING SURFACE NOT SHOWN HEREON  
SULVERED JUNE 14, 1901  
EARL B. LOVELL - S. P. BELCHER, INC.

*Earl B. Lovell*

LICENSÉE CIVIL ENGINEER  
107 CHAMBERS STREET  
VICE PRESIDENT  
NEW YORK, N.Y. 10001



OFFICE COPY

LAW OFFICES  
**LAWRENCE J. BERGER, P. C.**

200 MADISON AVENUE  
SUITE 1902  
NEW YORK, N.Y. 10016

(212) 532-0222  
FAX (212) 532-0224

LAWRENCE J. BERGER  
STEVEN E. RESNICK  
HARVEY I. SHIFF

August 20, 2010

LESLIE R. PERLMAN  
SETH J. GOLDBERG

Ms. Joanne Dolman  
NYC Dept. Of Housing Preservation & Development  
100 Gold Street (3Y)  
New York, New York 10038

Re: TEO 8773  
421-a Partial Tax Exemption Application  
534 West 42 Street  
Block 1070, Lot 49, Manhattan

RECEIVED  
421-A PARTIAL TAX EXEMPTION  
TAX EXEMPTION PROGRAM  
2010 AUG 20 A.D. 00

Dear Ms. Dolman:

In reply to the Preliminary Application Checklist for the above referenced project, we submit the following:

Architect's Certification with attachments in reply to the items listed in numbers one, two, and three of the checklist.

In addition, it is respectfully submitted that your request for a new appraisal is not appropriate since the appraisal submitted meets all of the criteria listed in the letter.


The appraisal submitted clearly describes the lot as it lists the borough, block and lot, lot size and indicates the valuation date of June 7, 2007 as the date of valuation. The appraisal clearly states that only vacant land was appraised. The appraiser's name was spelled clearly and correctly. The appraiser signed the appraisal. The appraiser's license number is indicated on the appraisal. The appraised value was clearly indicated in the appraisal. The appraiser's valid business name and place of business was listed in the appraisal.

As I indicated to you in our initial telephone conversation that we had prior to your sending this checklist, the appraiser died sometime after he completed the appraisal. He had a valid license to appraise property in the City and State of New York at the time that he made the appraisal.

This project was the subject of a declaratory ruling issued by HPD on September 29, 2008 and a copy of the Declaratory Ruling is submitted herewith. As all of the facts and assumptions upon which the Declaratory Ruling was based are accurate and confirmed by information contained in the Preliminary Application and in the Certification now submitted by the Architect, the project qualifies for 421-a benefits and a Preliminary Certificate of Eligibility should now be granted.

Please issue a Preliminary Certificate of Eligibility for this project as soon as possible.

Very truly yours,



Harvey I. Shiff

CERTIFICATION OF BRIAN E. BOYLE, R.A.

OFFICE 301 1

Brian E. Boyle, R.A., certifies the accuracy of the information set forth below:

1. I am a Registered Architect licensed by the State of New York under License Number 18543. I make this Certification in reply to the "Preliminary Application Checklist" of HPD dated July 22, 2010.
2. The developer of the project located at 534 West 42<sup>nd</sup> Street (M/1070/49), retained me and my firm to design a new nine (9) story primarily residential structure.
3. An alteration permit was initially utilized to commence construction because a small portion of the exterior wall of the pre-existing structure was retained. It was only after after construction commenced pursuant to the Alteration Permit that the Department of Buildings required the issuance of a new building permit.
4. The site was previously improved with a three (3)-story and basement commercial structure with a one-story and basement extension that was formerly utilized as a theater and was classified in tax class 4. The floor area of the demolished structure was 5,461 sf<sup>1</sup> and the dimensions of each floor of the former structure are set forth in the footnote below.<sup>2</sup> See also attached Survey. The parts of the former structure that were retained included 668 sf of the pre-existing perimeter wall out of the total pre-existing exterior wall area of 7,356 sf that was located in the rear addition and a small part of the old foundation supporting the section of the retained perimeter walls. The floor area of the new building is 12,795 sf. and the dimensions of the new structure are set forth in the footnote 3 below.<sup>3</sup> All of the floor area of the former structure was demolished or removed so that there was no floor area remaining after the demolition. As all of the floor area of the new building is new, 100 % of the floor area of the new structure is new and thus more than 51% of the new building is new compared to the former structure.
5. There will be a total of 8 units in the condominium that will include one commercial condominium unit and seven individual residential condominium units.
6. Due to the narrow nature of the site, the small section of the rear perimeter wall was retained because the existing walls were used as shoring and removed in stages, facilitating the building of the new foundation of the new building. This allowed selective removal of the old foundation walls to perform the new foundation work in sections and this was more manageable, allowing phasing of the work and allowing work inside the small footprint of the building.

---

<sup>1</sup> The vast majority of the existing building, including all floor framing, stairs, mechanical, electrical and plumbing systems, windows, doors, appliances and finishes were removed and demolished. All demolition work was performed pursuant to permit (Alt-2 type permits- # 104241562) and in accordance with filed plans, showing the extent of the demolition.

All of the pre-existing structure has been demolished except for approximately 9% of the pre-existing perimeter walls (only part of rear wall) and a small part of the old foundation supporting this retained perimeter wall. The building that was demolished contained 7,356 sf of exterior wall area and only 668 sf of the former building's wall surface remains. Attached hereto is a massing model graphically illustrating the pre-existing structure and the minor portion of the pre-existing structure that was retained and that will be integrated into the new building that has been constructed on the site

<sup>2</sup> basement dimensions: 20.445 x 89.07; first floor dimensions: 20.445 x 92.82; 2nd & 3rd floor dimensions: 20.73 x 44.25.

<sup>3</sup> basement dimensions: 20.16 x 44.00; 1st flr dimensions: 20.16 x 64.07; 2nd thru 7th floor dimensions: 20.16 x 68.75; 8th & 9th floor dimensions: 20.16 x 63.75.

7. The building will be new in all material respects. There will be a newly designed structural framework, new enhanced foundation system integrated into the small portion of the remaining foundation and there will be all new building systems in compliance with current code requirements, including structural, MEP, Life Safety, Egress, waste management, telecommunications, finishes and Energy Code compliance.

8. The NYC Building Department will issue a Certificate of Occupancy for a New Building after the completion of the construction at the Site. Originally, the building was commenced pursuant to an Alteration Type 1 Permit (Permit # 104032949). However, thereafter, the NYC Dept. of Buildings required the issuance of new building permit and the building will eventually be completed pursuant to a new building permit as issued by the New York City Building Department.

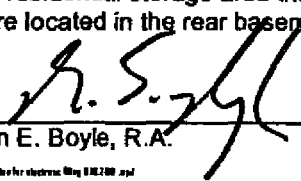
9. A breakdown of tentative condo units showing use and new units versus old is set forth below:

Tentative Tax Lot	Use	New or Old
1401	Retail	New
1402	Residential Apt.	New
1403	Residential Apt.	New
1404	Residential Apt.	New
1405	Residential Apt.	New
1406	Residential Apt.	New
1407	Residential Apt.	New
1408	Residential Apt.	New

10. The plans previously submitted that were initialed and dated by me on April 9, 2008, a copy of which are annexed, represent what was built on the site and a copy of the demolition plans are annexed.

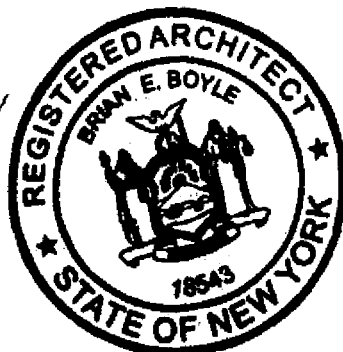
11. The laundry area is located in the cellar and the residential storage area that is accessory to the individual residential condominium units are located in the rear basement section of the building.

Seal

  
Brian E. Boyle, R.A.

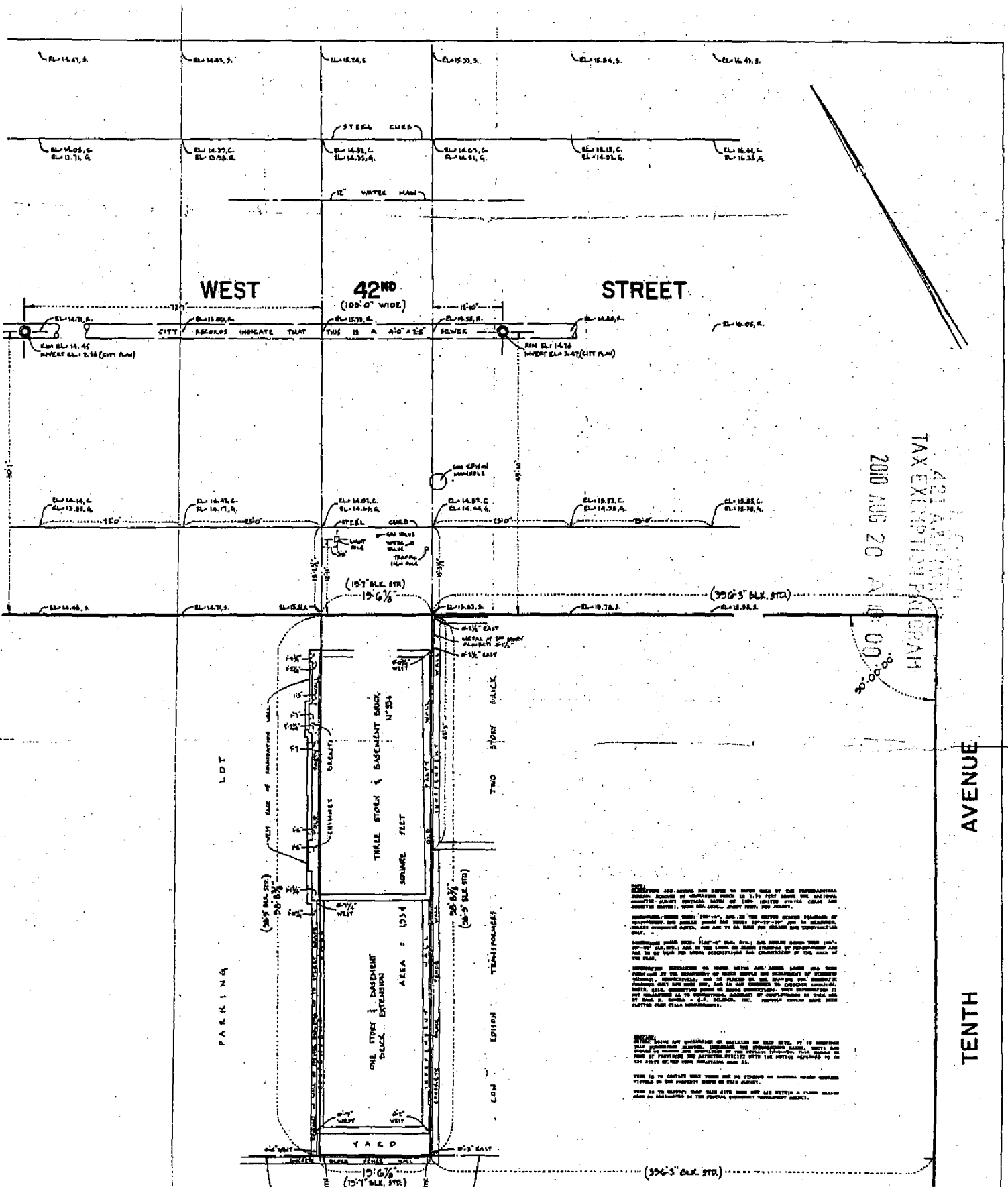
Dated: August 19, 2010

EXAMINER'S CERTIFICATE: This is a true and correct copy of the original as filed with the Department of Buildings.









421 AVE. TENTH  
TAX EXEMPTION PROGRAM  
2010 AUG 20 AM 10:00:00

NOTES:  
1. ALL DIMENSIONS ARE GIVEN IN FEET AND INCHES. DIMENSIONS IN PARENTHESES ARE IN METERS.  
2. ALL ELEVATIONS ARE GIVEN IN FEET ABOVE MEAN SEA LEVEL.  
3. ALL DISTANCES ARE GIVEN IN FEET.  
4. ALL ANGLES ARE GIVEN IN DEGREES.  
5. ALL CURVES ARE GIVEN BY THEIR RADIUS IN FEET.  
6. ALL SLOPES ARE GIVEN BY THEIR PERCENTAGE.  
7. ALL GRADES ARE GIVEN BY THEIR PERCENTAGE.  
8. ALL UTILITIES ARE SHOWN BY THEIR SYMBOLS.  
9. ALL STRUCTURES ARE SHOWN BY THEIR SYMBOLS.  
10. ALL FENCES ARE SHOWN BY THEIR SYMBOLS.  
11. ALL DRIVEWAYS ARE SHOWN BY THEIR SYMBOLS.  
12. ALL PARKING AREAS ARE SHOWN BY THEIR SYMBOLS.  
13. ALL LANDSCAPING ARE SHOWN BY THEIR SYMBOLS.  
14. ALL OTHER FEATURES ARE SHOWN BY THEIR SYMBOLS.  
15. ALL DIMENSIONS ARE TO THE CENTER OF THE LOT.



OFFICE OF DEVELOPMENT  
DIVISION OF HOUSING INCENTIVES  
100 GOLD STREET  
NEW YORK, NY 10038

**421-a Partial Tax Exemption Program**

**PRELIMINARY APPLICATION CHECKLIST**

LAWRENCE J. BERGER, P.C.  
200 MADISON AVENUE  
1902  
NEW YORK, NY 10016

July 22, 2010

Docket #: TEO8773

<u>Borough</u>	<u>Address</u>	<u>Block</u>	<u>Lot</u>
Manhattan	534 West 42 Street	01070	0049

Dear 421-a Applicant/Applicant Representative:

The above referenced application for 421-a Partial Tax Exemption benefits has been reviewed. Your application is incomplete or contains inconsistencies, as set forth in this checklist letter.

Comments: 1. SUBMIT A SEALED NOTE FROM THE ARCHITECT EXPLAINING THE FF: WHY WAS ALT PERMIT USED VS. GETTING A NEW BUILDING PERMIT; DESCRIBE EXISTING STRUCTURE: TAX CLASS (COMMERCIAL / RESIDENTIAL); USE (STORE / RESIDENCE); THE DIMENSIONS OF THE FORMER STRUCTURE / NUMBER OF FLOORS; THE DIMENSIONS OF THE NEW ADDITION / NUMBER OF FLOORS; WHAT EXACT PARTS OF THE FORMER STRUCTURE REMAINED? BE SPECIFIC (I.E., WALL, FOUNDATION, ETC.); SHOW % OF OLD STRUCTURE VS. NEW. (WE ARE TRYING TO DETERMINE IF AT LEAST 51% IS NEW); WILL THE EXISTING PORTION GET A GUT REHABILITATION?; HOW MANY UNITS CREATED IN TOTAL?; IF THIS IS A CONDO (SHOW TAX LOTS BREAKDOWN), PLEASE IDENTIFY THE USE OF EACH TAX LOT; IDENTIFY WHICH UNITS ARE COMPLETELY NEW & WHICH ONES ARE EXISTING. 2. SUBMIT ALSO "AS-BUILT-PLANS" & DEMOLITION PLANS 3. APPLICANT SHOULD SUBMIT A NOTE CLARIFYING THE LOCATION OF LAUNDRY & STORAGE AREAS. (CONTINUED ON PAGE 2)

If your application is incomplete or inaccurate, you may re-file the application with the correct information by submitting a new online application under this docket number. A hard copy of your new application with the accompanying affidavits and documentation must be delivered to the 421-a Program along with a new \$ 100 non-refundable deposit towards the filing fee.

If your application is complete and accurate, and you can address the items in this checklist letter without correcting or adding to the application as submitted, you must do so within 4 weeks. If we do not receive your response by 08/19/2010, this application will be rejected. If your response changes the information in the application as submitted or does not completely address the items raised in this checklist letter, this application will also be rejected since we no longer accept correction affidavits. You may re-file the application with the correct information by submitting a new online application under this docket number. A new \$100 non-refundable deposit towards the filing fee must be paid upon delivery of the re-filed application, executed affidavits and documentation to the 421-a Program.

Should you have any questions, please contact the 421-a Unit at 212-863-8540. Please indicate the docket number on all correspondence and documents and make all submissions at one time to the following address:

421-a Partial Tax Exemption Program  
New York City Department of Housing Preservation and Development  
Office of Tax Incentive Programs  
100 Gold Street (Room 3Y)  
New York, NY 10038



nyc.gov/hpd

LAW OFFICES  
**LAWRENCE J. BERGER, P. C.**

200 MADISON AVENUE  
SUITE 1902  
NEW YORK, N.Y. 10016

(212) 532-0222  
FAX (212) 532-0224

OFFICE COPY

LAWRENCE J. BERGER  
STEVEN E. RESNICK  
HARVEY I. SHIFF

LESLIE R. PERLMAN  
SETH J. GOLDBERG

May 12, 2008

Lisa Yee, Esq.  
Director, Tax Incentive Programs  
New York City Department of  
Housing, Preservation & Development  
421(a) Tax Exemption Unit  
100 Gold Street (Section 3Z-7)  
New York, New York 10038

Attn: Mr. Christopher Boltinghouse

Re: Request for Declaratory Ruling  
534 West 42<sup>nd</sup> Street  
Block: 1070, Lot: 49, Borough: Manhattan

Dear Ms. Yee:

I am writing to request that the Department of Housing, Preservation & Development (hereafter, "HPD") issue a declaratory ruling regarding the eligibility of a project located at 534 West 42<sup>nd</sup> Street, New York, New York (the "Project") for partial tax exemption benefits pursuant to Section 421-a of the Real Property Tax Law ("421-a"). The developer of the Project will be Shao-Lin Operating LLC ("Developer"). The managing member will be Gary Schaeffer. We are requesting that HPD's declaratory ruling be issued as soon as possible as construction commenced on June 7, 2007. A check in the amount of \$1,500.00, payable to the Department of Finance, is enclosed herewith.

Set forth below is a discussion of the eligibility requirements of Chapter 6 of Title 28 of the Rules of the City of New York (the "Rules") and the facts which demonstrate that the Project meets such requirements.

A. Location Requirement

1. Geographic Exclusion Area Limitation

Sections 6-02(b)(3) and 6-02(c)(10) of the Rules provide that a project in the Geographic Exclusion Area is eligible for § 421-a tax benefits only if carried out with Substantial Governmental Assistance or if affordable units are created in accordance with the requirements of § 6-08 of the Rules.

The Project is located in the Geographic Exclusion Area and Developer will therefore purchase and deliver the requisite number of Negotiable Certificates to HPD.

2. Public and Private Park Limitation

Paragraphs (5) and (6) of Section 6-02(c) of the Rules bar § 421-a benefits for projects situated on

land mapped as a public park (with certain exceptions) or utilized for ten (10) or more consecutive years immediately prior to October 1, 1971, as a Private Park.

The site does not fall within either category.

**B. Site Requirement**

Section 6-02(f) of the Rules states that for a project to be eligible for § 421-a benefits, the land on which it is located must have been "vacant, predominantly vacant, under-utilized, or improved with a non-conforming use on the "Operative Date." "Operative Date" means, in the case of the Project, June 7, 2004, thirty-six (36) months prior to the commencement of construction.

As of June 7, 2004, the site was improved with a three (3)-story and basement commercial theater type building comprising a building area of 3,647.7 sf, that has been substantially demolished. Lot 49 was 19.7' x 98.75' or 1,933.53 sf., and was and still is zoned C6-4 with a residential and commercial FAR of 10.0. The actual FAR of the pre-existing building was 2.82 and therefore did not exceed the maximum FAR for non-residential buildings in the zoning district and had an FAR which was 28.2% of the Maximum FAR for residential buildings in the zoning district<sup>1</sup>. See copy of annexed Certification of Site Eligibility of Architect. Therefore, as of the Operative Date, the building on lot 49 meets the definition of "under-utilized" as set forth in Section 6-02 (f)(3)(G)(a)(1) & (2)(i)<sup>2</sup>.

Accordingly the lot on the site was underutilized and meets the eligibility requirements of Section 6-02(f) of the Rules.

**C. Project Requirements**

**1. New Multiple Dwelling**

Section 6-02(b) of the Rules provides that a project is eligible for 421-a benefits only if it constitutes a "new multiple dwelling" pursuant to said Rules.

The Project will consist of a primarily multi-family residential apartment building comprising seven (7) residential apartments and a single commercial unit on the first floor. The project was commenced pursuant to an Alteration Type 1 Permit (Permit # 104032949) The New York City Building Department (hereafter "DOB") is now requiring that a New Building Permit be obtained. The application for a new building permit for this project is now currently under review at DOB.

The vast majority of the pre-existing building, including all floor framing, stairs, mechanical, electrical, and plumbing systems, windows, doors, appliances and finishes have been removed and demolished. All demolition work was performed pursuant to permit (Alt-2 type permits- #104241562) and in accordance with filed plans showing the extent of the demolition. See annexed affidavit of Brian E. Boyle, R.A., dated January 24, 2008.

The pre-existing building on the site was substantially demolished with the exception of nine percent

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<sup>1</sup> FAR of substantially demolished = 2.82 divided by Maximum FAR for residential buildings of 10.0 (2.82/10 = 28.2 %. See attached Site-Eligibility Certification of Architect, Brian E. Boyle, R.A.

<sup>2</sup> Lot 49 was improved with a commercial building with a floor area ratio that did not exceed the maximum FAR for non-residential buildings in the zoning district and whose floor area ratio was 50% or less than the Maximum FAR for residential buildings in the zoning district.

(9%) of the perimeter walls (only part of the rear addition) and a small part of the old stone foundation supporting the retained perimeter wall. The building that was substantially demolished contained 7,356 sf of exterior wall area and only 668 sf of the former building's wall surface remains. See annexed affidavit of Brian E. Boyle, R.A., dated January 24, 2008.

Due to the extremely narrow nature of the site, small sections of the perimeter wall were retained because the existing walls were used as shoring and were removed in stages, facilitating the building of the new foundation of the new building. This allowed selective removal of the old foundation walls to perform the new foundation work, in sections and this was more manageable, allowing phasing of the work and allowing work inside the small footprint of the building. See annexed affidavit of Brian E. Boyle, R.A., dated January 24, 2008.

A majority of the exterior walls on the first floor will be new and the building will be new in all material respects. There will be a newly designed structural framework, new enhanced foundation system integrated into the small portion of the remaining foundation and there will be new building systems in compliance with current code requirements, including structural, MEP, Life Safety, Egress, waste management, telecommunications, finishes and Energy Code compliance. See annexed affidavit of Brian E. Boyle, R.A., dated January 24, 2008.

Although this project initially was constructed pursuant to Alteration permit(s), and this process continues, the New York City Building Department is now requiring the issuance of a new building permit for this project and approval of the new building permit is pending. Upon completion of construction, the NYC Building Department will issue a Certificate of Occupancy for a new building for this project. See annexed affidavit of Brian E. Boyle, R.A., dated January 24, 2008.

HPD has previously granted full 421-a exemption benefits where entire façade walls and partial party walls were retained to meet requirements of the Landmarks Preservation Commission, where all other work constituted "new" construction (see application of 14-22 Leonard Street Associates, LLC Docket # 3573/2001 f/k/a Block:179, Lot:23). In addition, HPD has issued a declaratory ruling allowing full 421-a exemption benefits where the pre-existing building was demolished except for 51 per cent of the perimeter walls, the existing stone foundations and areaway. (See Declaratory Ruling No. 1691 (Section 421-a) issued on April 7, 2006).

Based upon recent statutory and regulatory interpretation, the facts set forth above and the facts in the affidavit of Brian E. Boyle, R.A., the Project satisfies Section 6-02(b)(1) of the Rules.

2. Not Used as a Hotel or for Single Room Occupancy

Paragraphs (3) and (4) of § 6-02(c) of the Rules deem any building or portion thereof which is used as a hotel or for single room occupancy ineligible for 421-a benefits.

No such use of the Project is contemplated.

D. Construction Requirements:

1. Number of Bedrooms

Section 6-02(e) of the Rules requires that in buildings containing more than one hundred (100) dwelling units, not less than ten percent (10%) of the dwelling units contain at least 4 ½ rooms (as defined in Section 6-01 of the Rules) and not less than an additional fifteen percent (15%) of the dwelling units contain at least three and one-half (3 ½) rooms.

The Project will contain a total of seven (7) apartments, and is not subject to this requirement.

2. Class A Unit Replacement

Section 6-02(e)(3) of the Rules requires that a project with more than twenty (20) dwelling units contain at least five (5) dwelling units for each Class A dwelling unit in existence immediately preceding the Commencement of Construction.

The Project will contain a total of seven (7) dwelling units and is therefore not subject to this requirement.

E. Limitation on Other Real Estate Tax Benefits:

Section 6-02(c)(1) of the Rules provides that a multiple dwelling shall be eligible for tax benefits pursuant to that section only if exemption from taxes is not availed of concurrently under any other law.

The Project will not receive real estate tax benefits under any other state or local law.

F. Timing Requirement:

1. Project Commencement and Completion

Section 6-02(a) of the Rules requires that a project be commenced before December 31, 2007. Although, this requirement has been extended to June 30, 2008, applicant started construction prior to December 31, 2007.

The Project has complied with this requirement. A copy of the Start of Construction Affidavit executed by Brian E. Boyle, R.A. is annexed.

2. Application Timing

Sections 6-05(b) and 6-05(d) of the Rules impose specific timing requirements for filing applications for Preliminary and Final Certificates of Eligibility.

The Project Developer will comply with these requirements.

G. Rent Regulation Requirement:

Section 6-02(g)(2) of the Rules requires that all residential rental units be subjected to Rent Stabilization.

All residential units will be condominium units and will be offered for sale. The Project is therefore exempt from this requirement.

H. Community Board Notice Requirement

Section 6-03 of the Rules requires that a 421-a application for a project containing more than twenty (20) dwelling units be submitted to the community board in which the Project is located.

The Project will contain a total of seven (7) dwelling units and is therefore not subject to this requirement.

I. Rent Limitations

Ms. Lisa Yee  
May 12, 2008  
Page 5

Section 6-04 of the Rules imposes a cap on the initial monthly rent which may be charged in a project receiving §421-a benefits.

All residential units will be condominium units and will be offered for sale pursuant to a Condominium Offering Plan to be filed with the Office of the Attorney General of the State of New York. The Project is therefore exempt from this requirement.

J. Duration of Tax Benefits

Section 6-02(d) of the Rules establishes the duration of the § 421-a partial tax exemption. Section 6-02(d)(1)(iii) of the Rules states that a ten (10) year "post-construction" exemption is available within the geographic exclusion area in Manhattan pursuant to an agreement with HPD wherein affordable low and moderate income housing is either newly constructed or substantially rehabilitated off-site.

Developer will purchase an adequate number of negotiable certificates from a developer of off-site affordable housing so that all seven (7) units in the Project and the single commercial unit will be eligible pursuant to section 6-02(d)(1)(iii) of the Rules.

K. Reduction of Benefit for Excess Commercial, Community Facility or Accessory Use Space

Section 6-06(b) of the Rules provides that the tax exemption granted by § 421-a will be reduced if the floor area of the Project's commercial, community facility and accessory use space exceeds twelve percent (12%) of aggregate floor area.

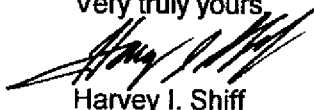
The Project will contain commercial space on the first floor and residential accessory-use storage space in the cellar. Accordingly, the determination of the amount of tax exemption, the Project is entitled to receive, will be determined upon submission and review by HPD of the "Aggregate Floor Area And Commercial Community Facility and Accessory Use Area Report" submitted as part of the Preliminary Application or by an appropriately executed Architect/Engineers Certification for the project submitted by the project's architect, Brian E. Boyle, R.A.

M. Conclusion

Based on the information provided above, the Project should be eligible for a construction period tax exemption and a ten (10) year post construction partial tax exemption, as provided by § 421-a.

Thank you in advance for your anticipated attention to this matter.

Very truly yours



Harvey I. Schiff

HIS:

H:\HARVEY\421\FORMS\534 West 42nd Street DEC RULE 3.wpd



26735

THIS CHECK IS DELIVERED FOR PAYMENT ON THE FOLLOWING ACCOUNTS	
DATE	AMOUNT
M/1070/49	
Request - Deduct	
For Ruling	
TOTAL OF INVOICES	
LESS % DISCOUNT	
LESS	
TOTAL DEDUCTIONS	
AMOUNT OF CHECK	

**LAWRENCE J. BERGER, P.C.**  
**ATTORNEY AT LAW**  
 200 MADISON AVENUE  
 NEW YORK, NY 10016

DATE

5/9/08

1-2  
210 621

PAY  
TO THE  
ORDER OF

New York City Dept of Finance \$1500.00  
 Fifteen Hundred 00/100 - DOLLARS

**CHASE**

JPMorgan Chase Bank, N.A.  
 New York, New York 10017  
 www.Chase.com

*Lawrence J. Berger*

⑈026735⑈ ⑆021000021⑆0891007841⑈

AFFIDAVIT

State of New York )  
 ) ss.:  
County of New York )

Brian E. Boyle, R.A., being duly sworn, deposes and says:

1. I am a Registered Architect licensed by the State of New York under License Number 18543.
2. The developer of the project located at 534 West 42<sup>nd</sup> Street, New York, NY (M/1070/49), has retained me and my firm to design a new nine (9) story primarily residential structure. The pre-existing structure has been substantially demolished and construction of the new building is proceeding.
3. The site was previously improved with a three (3)-story and basement commercial structure that was formerly utilized as a theater, constructed in or about 1910.
4. The vast majority of the existing building, including all floor framing, stairs, mechanical, electrical and plumbing systems, windows, doors, appliances and finishes have been removed and demolished. All demolition work was performed pursuant to permit (Alt-2 type permits- # 104241562- copies annexed) and in accordance with filed plans, showing the extent of the demolition.
5. All of the pre-existing structure has been demolished except for approximately 9% of the pre-existing perimeter walls (only part of rear addition) and a small part of the old foundation supporting this retained perimeter wall. The building that was substantially demolished contained 7,356 sf of exterior wall area and only 668 sf of the former building's wall surface remains. Attached hereto is a massing model graphically illustrating the pre-existing structure and the minor portion of the pre-existing structure that was retained and that will be integrated into the new building to be constructed on the site.
6. Due to the narrow nature of the site, the small section of the rear perimeter wall was retained because the existing walls were used as shoring and removed in stages, facilitating the building of the new foundation of the new building. This allowed selective removal of the old foundation walls to perform the new foundation work in sections and this was more manageable, allowing phasing of the work and allowing work inside the small footprint of the building.
7. The building will be new in all material respects. There will be a newly designed structural framework, new enhanced foundation system integrated into the small portion of the remaining foundation and there will be all new building systems in compliance with current code requirements, including structural, MEP, Life Safety, Egress, waste management, telecommunications, finishes and Energy Code compliance.
8. The NYC Department of Buildings will issue a Certificate of Occupancy for a New Building after the completion of the construction at the Site. Originally, the building was commenced pursuant to an Alteration Type 1 Permit (Permit # 104032949). However, the NYC Department of Buildings requires the issuance of a new building permit (NB). Therefore, the new building on the site will be built pursuant to the NB permit which is currently under review by the NYC Department of Buildings.

  
Brian E. Boyle, R.A.

Sworn to before  
me this 24 day of

January 2008

NOTARY PUBLIC STATE OF NEW YORK  
QUALIFIED IN KINGS COUNTY  
Notary REG. #01BA0171169  
MY COMM. EXP. JULY 23, 2011



## Work Permit Department of Buildings

Permit Number: 104241562-01-EW-OT

Issued: 10/16/2006

Expires: 10/29/2007

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT2 - GEN.CONSTRUCTN.

Application filed to remove roof, building exterior walls, floor slabs and

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: *Christopher M. Santilli* Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

Permit Number: 104356126-01-EW-SP

Issued: 08/20/2007

Expires: 08/19/2008

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT2 - SPRINKLER Install and relocate sprinkler heads with associated piping as shown on p filed herewith. No change in use, egress or occupancy.

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night: 311**

**Borough Commissioner:** Christopher M. Santilli **Commissioner of Buildings:**

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

Permit Number: 103934995-01-EW-MH

Issued: 06/11/2007

Expires: 06/10/2008

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT2 - MECH/HVAC Interior demolition to include partitions and plumbing fixtures with removal of fixtures, piping and capping of lines and existing HVAC ductwork as shown on

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night: 311**

**Borough Commissioner:** Christopher M. Santelli **Commissioner of Buildings:**

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.

MAY 12 08 12:17p

Brian Boyle

212-334-6112

P.3



## Work Permit Department of Buildings

**Permit Number:** 103934995-01-EW-OT

**Issued:** 06/11/2007 **Expires:** 06/10/2008

**Address:** MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT2 - DEMOLITION.  
Interior demolition to include partitions and plumbing fixtures with removal of

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night:** 311

**Borough Commissioner:** Christopher M Santall **Commissioner of Buildings:**

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.

May 12 08 12:17p

Brian Boyle

212-334-6112

P.4



## Work Permit Department of Buildings

Permit Number: 104633292-01-EW-OT

Issued: 12/22/2006

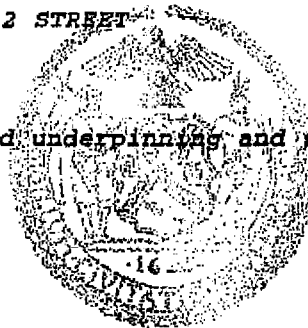
Expires: 10/29/2007

Address: MANHATTAN 534 WEST 42 STREET

Description of Work:

ALT2 - GEN. CONST.

Application filed for required underpinning and shoring details as shown on



For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: Christopher M. Santilli Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.

OP-35A (2/05)

NYC BUILDINGS

DEPARTMENT OF BUILDINGS

OP-35A (2/05)

P.10



## Work Permit Department of Buildings

Permit Number: 104241562-01-EQ-FN

Issued: 07/17/2007

Expires: 10/29/2007

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT2 - CONSTRUCTION EQUIPMENT - FENCE

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night: 311**

**Borough Commissioner:** Christopher M. Santelli **Commissioner of Buildings:**

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.

May 12 08 12:19p

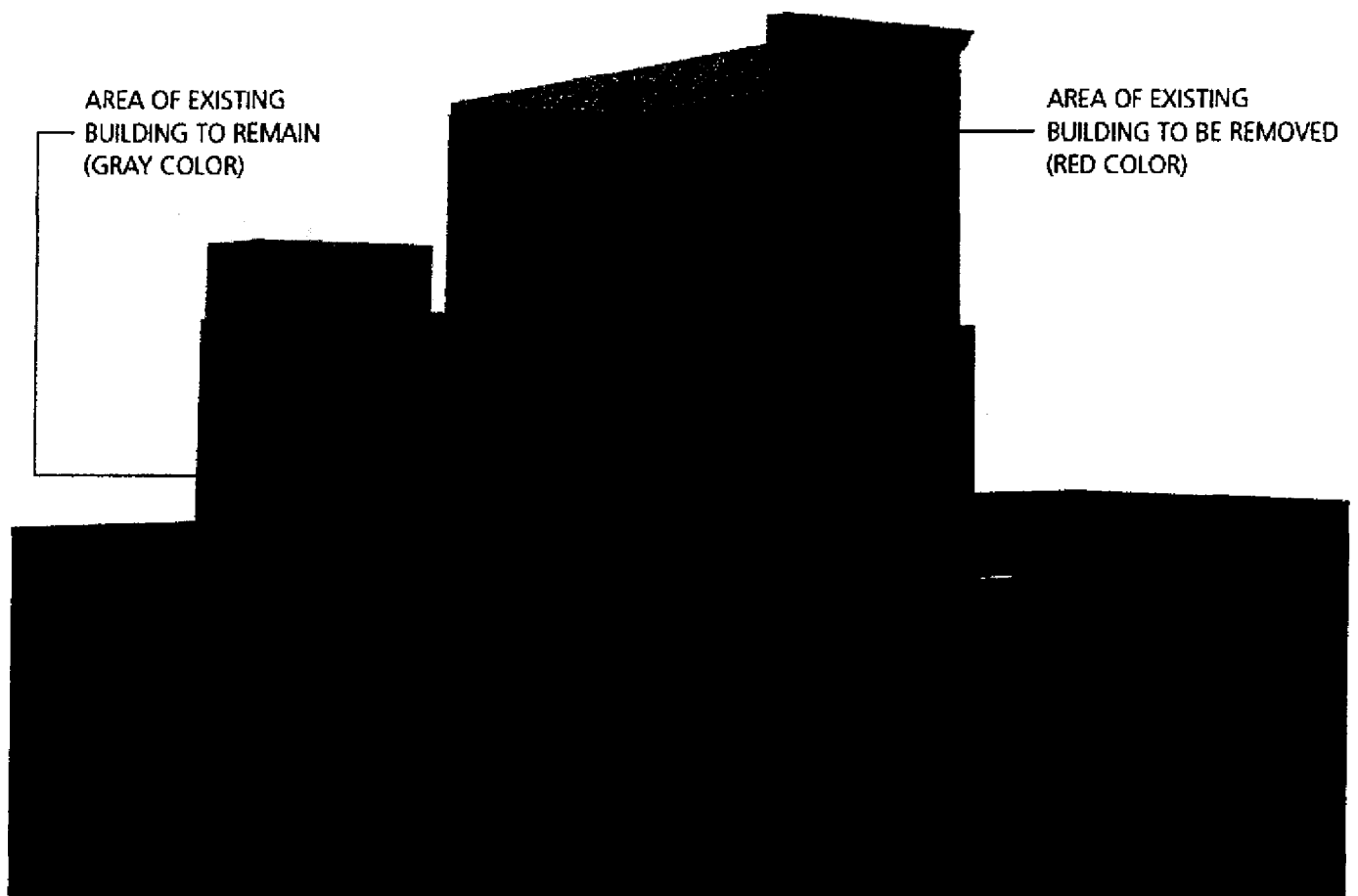
Brian Boyle

212-334-6112

P.11



THE DEUCE CONDOMINIUM  
534 W. 42nd ST. NY, NY  
BRIAN E. BOYLE, AIA





## Work Permit Department of Buildings

Permit Number: 104032949-01-AL

Issued: 10/16/2006

Expires: 10/29/2007

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT1 - APPLICATION FILED FOR CHANGE OF USE FROM THEATRE TO RETAIL AND RESIDENTIAL  
USE WITH NEW 4TH FLOOR THROUGH 9TH FLOOR AND ROOF. OBTAIN NEW C OF O.

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: *Christopher M. Santallo* Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

Permit Number: 104032949-01-AL

Issued: 10/24/2007

Expires: 10/29/2008

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT1 - APPLICATION FILED FOR CHANGE OF USE FROM THEATRE TO RETAIL AND RESIDENTIAL USE WITH NEW 4TH FLOOR THROUGH 9TH FLOOR AND ROOF. OBTAIN NEW C OF O.

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night: 311**

**Borough Commissioner:** *Christopher M. Santalucia* **Commissioner of Buildings:** 

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

Permit Number: 104032949-03-PL

Issued: 08/13/2007 Expires: 08/12/2008

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

PLUMBING - ALTI Install new HVAC and plumbing fixtures as shown on plans filed h

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night: 311**

**Borough Commissioner:** Christopher M. Santilli **Commissioner of Buildings:**

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.

# SITE-ELIGIBILITY CERTIFICATION OF ARCHITECT

This Certification is based on an actual physical inspection of the building prior to its demolition and examination of the records of the New York City Building Department in order to indicate information concerning the building as of the Operative Date indicated below.

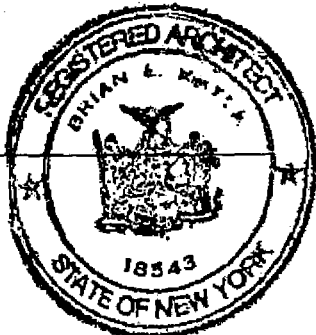
Block 1070, Lot 49: 534 West 42<sup>nd</sup> Street

A	Address	534 West 42 <sup>nd</sup> Street, New York, NY
B	Borough/Block/Lot	Manhattan/1070/49
C	Construction Start Date	June 7, 2007
D	Operative Date	June 7, 2004
E	Lot Area	19.5833' x 98.75' = 1,933.53 sf
F	Zoning District (Map 8d)	C6-4
G	Maximum Residential FAR (Residential Equivalent Per ZR-34-112, ZR-23-15, and ZR-96-21)	10.0
H	FAR of Former/Demolished Non-Residential Structure	2.82
I	Maximum Non-Residential FAR (ZR-33-122)	10.0 for Commercial
J	Floor Area of Former Demolished Non-Residential Structure	5,461.4 sf

## Attachments:

- Survey of Block 1070, Lot 49 by Thomas Piciocco of Earl B. Lovell - S.P. Belcher, Inc. dated June 24, 2005.
- Copy of Zoning Map showing Zoning District.
- Copy of appropriate pages from the zoning resolution verifying both residential and non-residential Maximum FAR ratios.
- Underutilization Test Worksheet for Block 1070, Lot 49

Seal



*Brian E. Boyle*  
 Brian E. Boyle, R.A.

Manhattan, Block 1070, Lot 49: 534 West 42<sup>nd</sup> Street, New York, New York

**UNDERUTILIZATION TEST WORKSHEET FOR NON-RESIDENTIAL BUILDING**

Lot No.	Lot Area (sf)	Floor Area of Former Demolished Building (sf)	FAR of Former Demolished Building	Permissible Commercial FAR	Maximum Floor Area Ratio for Residential Buildings in C6-4 Zoning District	Ratio of Former Demolished Building's FAR to Maximum FAR for Residential Buildings in Zoning District <sup>1</sup>
49	1,933.53	5,461.4	2.82	10	10	28.2%

As of the Operative Date, Block 1070, Lot 49 qualified as under-utilized pursuant to the 421-a Rules, since the site was improved with a non-residential building which did not contain more than the permissible floor area for non-residential buildings in the zoning district in which it was located and which had an FAR which was 50% or less of the maximum FAR for residential buildings in the zoning district (actual FAR of 2.82 was 28.2% of Maximum FAR for residential buildings which is 10).

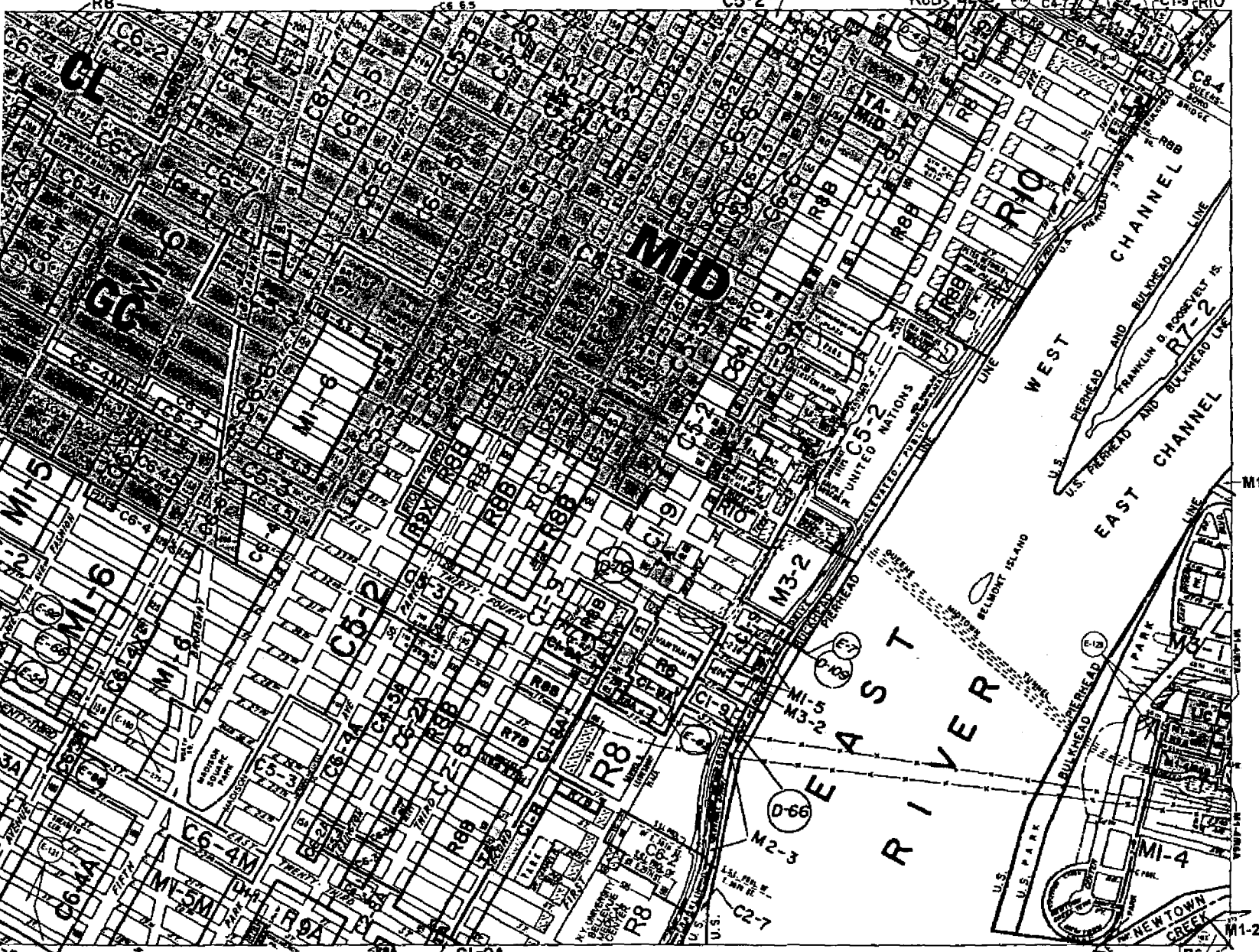
H:\HARVEY\421\FORMS\534 West 42nd Street Site Eligibility final 4.9.08 .wpd



<sup>1</sup> FAR of demolished building = 2.82 divided by Maximum FAR for Residential Buildings of 10.0 (2.82/10 = 28.2%).



map to view sketch map of proposed map change



1200 1800 FEET

# NOTE: STREETS FOR THE STREET MAP CHANGE C 040508MM ARE SHOWN ON THIS MAP PRIOR TO BECOMING EFFECTIVE IN ORDER TO LOCATE ZONING DISTRICT BOUNDARIES.

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5

NOTE: Where no emblems for zoning district boundaries appear on the Zoning maps, such dimensions are determined in Article VII, Chapter 6 (Location of District Boundaries) of the Zoning Resolution.

# ZONING MAP

THE NEW YORK CITY PLANNING COMMISSION

## Major Zoning Classifications:

The number(s) and/or letter(s) that follows on R, C or M District designation indicates use, bulk and other controls as described in the text of the Zoning Resolution.

- R - RESIDENTIAL DISTRICT
- C - COMMERCIAL DISTRICT
- M - MANUFACTURING DISTRICT

AREA(S) REZONED

EFFECTIVE DATE(S) OF REZONING:

- \* 12-11-2007 C 060372 ZMM
- 11-15-2007 C 000198 ZMM

SPECIAL PURPOSE DISTRICT  
The letter(s) within the shaded area designates the special purpose district as described in the text of the Zoning Resolution.

- (D) - RESTRICTIVE DECLARATION
  - (E) - CITY ENVIRONMENTAL QUALITY REVIEW DECLARATION
  - (e1) - REFERS TO BLOCKS WITH LOTS SUBJECT TO CEQR DESIGNATION E-137.
  - (e2) - REFERS TO BLOCKS WITH LOTS SUBJECT TO CEQR DESIGNATION E-138.
- SEE Z.R. APPENDICES (CEQR DECLARATIONS) FOR LIST OF AFFECTED BLOCK AND LOTS.

## MAP KEY

8a	8c	9a
8b	8d	9b
12a	12c	13a

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NOTE: Zoning information as shown on this map is subject to change. For the most up-to-date zoning information for this map, visit the Zoning section of the Department of City Planning website: [www.nyc.gov/planning](http://www.nyc.gov/planning) or contact the Zoning Information Desk at (212) 720-3291.

ZONING MAP 8d



7/26/01

**34-11**

**General Provisions**

C1 C2 C3 C4 C5 C6

In the districts indicated, the #bulk# regulations for #residential buildings# set forth in Article II, Chapter 3, shall apply to all #residential buildings# in accordance with the provisions of this Section, except as modified by the provisions of Sections 34-21 to 34-24, inclusive, relating to Exceptions to Applicability of Residence District Controls.

12/15/61

**34-111**

**Residential bulk regulations in C1 or C2 Districts whose bulk is governed by surrounding Residence District**

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5

In the districts indicated, the #bulk# regulations for the #Residence District# within which such #Commercial Districts# are mapped apply, except that when such districts are mapped within R1 or R2 Districts, the #bulk# regulations for R3-2 Districts apply.

10/29/07

**34-112**

**Residential bulk regulations in other C1 or C2 Districts or in C3, C4, C5 or C6 Districts**

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6

In the districts indicated, the applicable #bulk# regulations are the #bulk# regulations for the #Residence Districts# set forth in the following table:

Districts	Applicable #Residence District#
-----------	---------------------------------

---

C3	R3-2
C4-1	R5
C4-2 C4-3 C6-1A	R6
C4-2A C4-3A	R6A
C1-6 C2-6 C4-4 C4-5 C6-1	R7
C1-6A C2-6A C4-4A C4-5A	R7A
C4-5D	R7D
C4-5X	R7X
C1-7 C4-2F C6-2	R8
C1-7A C4-4D C6-2A	R8A
C1-8 C2-7 C6-3	R9
C1-8A C2-7A C6-3A	R9A
C1-8X C2-7X C6-3X	R9X
C1-9 C2-8 C4-6 C4-7 C5 C6-4 C6-5	R10
C6-6 C6-7 C6-8 C6-9	
C1-9A C2-8A C4-6A C4-7A	R10A
C5-1A C5-2A C6-4A	
C6-4X	R10X

10/17/07

**34-113**

**Existing public amenities for which floor area bonuses have been received**

- (a) Elimination or reduction in size of non-bonused open area on a #zoning lot# containing a bonused amenity

In all districts, any existing open area for which no #floor area# bonus has been utilized that occupies the same #zoning lot# as an existing #publicly accessible open area# or other public amenity, open or enclosed, for which a #floor area# bonus has been utilized, may be reduced in size or eliminated only upon certification of the Chairperson of the City Planning Commission that all bonused amenities comply with the standards under which such #floor area# bonus was

However, in R6 or R7 Districts, the minimum required #open space ratio# shall not apply to #non-profit residences for the elderly developed#, or #enlarged# where permitted, pursuant to the Quality Housing Program. Such #developments# or #enlargements# shall be subject to the requirements of R6A or R7A Districts, respectively, as set forth in paragraph (b) of this Section.

R6A R6B R7A R7B R7D R7X

- (b) In the districts indicated, the maximum #lot coverage# and the maximum #floor area ratio# for #non-profit residences for the elderly# shall be as set forth in the following table:

MAXIMUM LOT COVERAGE AND FLOOR AREA RATIO  
FOR  
NON-PROFIT RESIDENCES FOR THE ELDERLY  
(in percent)

Maximum #Lot Coverage#		Maximum #Floor Area Ratio#	District
#Corner Lot#	#Interior Lot# or #Through Lot#		
80	65	3.90	R6A R7B
80	60	2.00	R6B
80	70	5.01	R7A R7D R7X

6/12/96

**23-15**

**Maximum Floor Area Ratio in R10 Districts**

R10

In the district indicated, the #floor area ratio# for any #building# on a #zoning lot# shall not exceed 10.0, except as provided in Section 23-17 (Special Provisions for Zoning Lots Divided By District Boundaries) and Section 23-90 (INCLUSIONARY HOUSING).

Notwithstanding any other provision of this Resolution, the maximum #floor area ratio# shall not exceed 12.0. However, within the boundaries of Community District 7 in the Borough of

Manhattan, all #developments# or #enlargements# in R10 Districts, except R10A or R10X Districts, shall be limited to a maximum #floor area ratio# of 10.0.

10/17/07

## **23-16**

### **Existing Public Amenities for Which Floor Area Bonuses Have Been Received**

- (a) Elimination or reduction in size of non-bonused open area on a #zoning lot# containing a bonused amenity

In all districts, any existing open area for which a #floor area# bonus has not been utilized that occupies the same #zoning lot# as an existing #publicly accessible open area# or other public amenity, open or enclosed, for which a #floor area# bonus has been utilized, may be reduced in size or eliminated only upon certification of the Chairperson of the City Planning Commission that all bonused amenities comply with the standards under which such #floor area# bonus was granted.

- (b) Nighttime closing of existing public open areas

In all #Residence Districts#, the City Planning Commission may, upon application, authorize the closing during certain nighttime hours of an existing #publicly accessible open area# for which a #floor area# bonus has been received, pursuant to Section 37-727 (Hours of access).

- (c) Elimination or reduction in size of existing public amenities

In all districts, no existing #publicly accessible open area#, #arcade# or other public amenity, open or enclosed, for which a #floor area# bonus has been utilized, shall be eliminated or reduced in size except by special permit of the City Planning Commission, pursuant to Section 74-761 (Elimination or reduction in size of bonused public amenities).

### **Regulations Applying in Special Situations**

6/12/96

## **23-17**

10/17/07

96-21

**Special Regulations for 42<sup>nd</sup> Street Perimeter Area**

The provisions of this Section shall apply to #developments# or #enlargements# located in all #Commercial Districts# within the area bounded by the following:

Starting 150 feet west of Eighth Avenue, south to the southern boundary of West 41st Street, west to the east side of Twelfth Avenue, north along the eastern border of Twelfth Avenue to 43rd Street, east on West 43rd Street to the eastern side of Tenth Avenue, south along Tenth Avenue to the southern boundary of West 42nd Street, east on West 42nd Street to Ninth Avenue, north along the western boundary of Ninth Avenue to the midblock of 42nd/43rd Street, east to a point 150 feet west of Eighth Avenue, south to the southerly boundary of 41st Street.

(a) Special regulations for office use

In the 42nd Street Perimeter Area, as shown in Appendix A of this Chapter, any #development# or #enlargement# that includes Use Group 6B offices constructed after January 19, 2005, shall be permitted only pursuant to Section 93-13 (Special Office Use Regulations)

(b) Floor area regulations

(1) Floor area regulations in Subarea 1

In Subarea 1 of the 42nd Street Perimeter Area as shown in Appendix A, the basic #floor area ratio# of any #development# or #enlargement# shall be 10.0, and may be increased to a maximum of 12.0 only in accordance with the provisions of Section 23-90 (INCLUSIONARY HOUSING), except that any units for which a #floor area# increase has been earned pursuant to Section 23-90 shall be within the #Special Clinton District#.

(2) Floor area regulations in Subarea 2

In Subarea 2 of the 42nd Street Perimeter Area, as shown in Appendix A, the basic #floor area ratio# of any #development# or #enlargement# shall be 10.0. However, the #floor area ratio# of any #development# or

#enlargement# containing #residential use# may exceed 10.0 to a maximum of 12.0 only in accordance with the provisions of Section 23-90, except that any units for which a #floor area# increase has been earned pursuant to Section 23-90 shall be within the #Special Clinton District#. For #developments# or #enlargements# that have fully utilized the Inclusionary Housing Program, the maximum permitted #floor area ratio# may be increased from 12.0 to 15.0 for new legitimate theater use in accordance with the provisions of Section 96-25 (Floor Area Bonus for New Legitimate Theater Use)

(c) Retail continuity requirements

- (1) For any #development# or #enlargement# fronting on West 42nd Street, between 9th and 12th Avenues, at least 50 percent of the street frontage of the ground floor, or within five feet of #curb level#, shall be limited to Use Groups 4A, 6A, 6C, 10A, 11, 12A and 12B.
- (2) At least 50 percent of the length of the facade of such #street wall# fronting on West 42nd Street shall be glazed with transparent material to a height of not less than 16 feet above #curb level#. The lowest point of such glazed area shall not be higher than four feet above #curb level#.

(d) Street wall continuity requirements

- (1) At least 80 percent of the #aggregate width of street walls# of a #building# fronting on West 42nd Street, up to a height of 45 feet, shall be located within 10 feet of the #street line# of such #street#.
- (2) The minimum height of the #street wall# of a #building# above #curb level# shall be no less than 45 feet and no more than 85 feet. Above this required height, the #street wall# of a #building# shall set back at least five feet. The requirements of this paragraph shall also apply to any #development# or #enlargement# on a #wide street# frontage within a distance of 50 feet from its intersection with West 42nd Street.

(e) Pedestrian circulation space

Within Subarea 2 of the 42nd Street Perimeter Area, as shown in Appendix A, pedestrian circulation space shall be provided in accordance with the provisions of Section 37-50. In addition, for #developments# or #enlargements# that provide subway entranceways constructed after December 21,

**33-122****Commercial buildings in all other Commercial Districts**

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6 C7 C8

In the districts indicated, the maximum #floor area ratio# for a #commercial building# shall not exceed the #floor area ratio# set forth in the following table:

Districts	Maximum #Floor Area Ratio#
C3	0.50
C4-1 C8-1	1.00
C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C7 C8-2 C8-3	2.00
C4-2A C4-3A	3.00
C4-2 C4-2F C4-3 C4-4 C4-4D C4-5 C4-6	3.40
C4-4A C4-5A C4-5X C5-1	4.00
C4-5D	4.20
C8-4	5.00
C6-1 C6-2 C6-3	6.00
C4-7 C5-2 C5-4 C6-4 C6-5 C6-8	10.00
C5-3 C5-5 C6-6 C6-7 C6-9	15.00

10/29/07

**33-123****Community facility buildings or buildings used for both community facility and commercial uses in all other Commercial Districts**

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6 C8

In the districts indicated, the maximum #floor area ratio# for a #community facility building#, or for a #building# used for both #commercial# and #community facility uses#, shall not exceed the #floor area ratio# set forth in the following table:

**THE CITY OF NEW YORK  
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT  
421-a PARTIAL TAX EXEMPTION PROGRAM  
100 GOLD STREET, 9th FLOOR, SECTION F  
NEW YORK, NY 10038  
(212) 863-5077/5100/5084**

**START OF CONSTRUCTION AFFIDAVIT**

The date of "commencement of construction" of the project is a very important date for the implementation of 421-a benefits. It confirms that the project started construction within the statutory date and establishes the prior tax year for the setting of the "mini-tax" which must be paid during construction and for the 10, 15, 20, or 25 years following the completion of construction. The below affidavit must be completed by the architect or engineer for the project and submitted to HPD with the 421-a application.

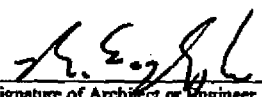
\*\*\*\*\*  
\*\*\*\*\*

Address(es)	Block(s)	Lot(s)
534 West 42nd Street New York, New York	1070	49

I, Brian E. Boyle, R.A. hereby certify that the installation of initial footings and foundations for the above project were commenced on:  
June 7, 2007  
(date)

Notary or Seal



  
Signature of Architect or Engineer  
Brian E. Boyle, R.A.  
Print Name  
75 Spring St. (6th Floor)  
Address  
New York, New York 10002  
City, State, Zip  
(212) 334-7402  
Telephone Number

**Only original affidavits will be accepted by HPD  
THEY MAY NOT BE ALTERED IN ANY WAY**

Sworn to before me  
this 9 day of  
April, 2008

**Lori A Moser  
Notary Public, State of New York  
No. 01MO6186462  
Qualified in New York City  
My Commission Expires  
Nov. 07, 2009**



Harvey I. Shiff

Steve W/K - ctg. 107

From: Boltinghouse, Christopher [boltingc@hpd.nyc.gov]  
Sent: Monday, August 18, 2008 3:22 PM  
To: hshiff@ljbpc.com  
Subject: 534 West 42 Street 421-a

Categories: Red Category

Hi Harvey -

org ALT I  
104 032 949  
9/11/08

Thank you for request for a declaratory ruling for 534 West 42nd Street. It was a pleasure to discuss the Project with you via telephone. Could you please address the following?

The architect certifies that initial footings and foundations were commenced on June 7, 2007. The recently adopted Rules state that construction commences on the later of the installation of initial footings and foundations or the issuance of a NB or Alteration permit based on structural, architectural and plumbing plans approved by DOB. A review of the Alteration permit provided indicates that plumbing plans appear to have been approved on August 13, 2007. Therefore it appears as if construction commenced pursuant to an alteration permit based on architectural, structural and plumbing plans approved by DOB on 8/13/2007. Please confirm or clarify. See the definition of "commence" in 6-09 of the Rules. Further, based on the above, please confirm that construction commenced pursuant to an Alteration permit based on architectural, structural and plumbing plans approved by DOB.

You indicate that the Project commenced pursuant to an Alteration permit, and subsequently, the Project was required to obtain a New Building permit. Was there any subsequent change in the plans from those approved by DOB for the Alteration permit? If so, please clarify. Specifically, did the floor area of the Project change from that initially represented to DOB? If so, please clarify the previous floor area approved by DOB and the new floor area of the Project.

Do you have a copy of the demo/alt plans showing the demolition of the pre-existing building and the portion retained (in relation to the new building)? If so, could you please provide?

The Site Eligibility Certification provided by the architect is not dated. Please provide a dated Site Eligibility Certification. In addition, if the Operative Date has changed (please see above), please have the architect revise his Certification accordingly.

Please confirm that the Project will comply with the Energy Star and Multiple Dwelling registration requirements of the Rules.

Please confirm that the Project will comply with the condo offering plan filing requirement of 6-05(d)(1)(iii) of the Rules.

If you have any questions, please call and we can discuss.

Regards,

Christopher Boltinghouse

Declaratory Rulings Analyst

Dept. Housing Preservation and Development Tax Incentive Programs phone (212) 863 - 7414 ;  
fax (212) 863 - 5899 P Please consider the environment before printing this e-mail.

\*\*

\*\*

COPY

LAW OFFICES

LAWRENCE J. BERGER, P. C.

200 MADISON AVENUE  
SUITE 1902  
NEW YORK, N.Y. 10016

(212) 532-0222  
FAX (212) 532-0224

LAWRENCE J. BERGER  
STEVEN E. RESNICK  
HARVEY I. SHIFF

LESLIE R. PERLMAN  
SETH J. GOLDBERG

August 28, 2008

Mr. Christopher Boltinghouse  
Declaratory Rulings Analyst  
New York City Department of  
Housing, Preservation & Development  
421(a) Tax Exemption Unit  
100 Gold Street (Section 3-Y)  
New York, New York 10038

CAB  
9/5/08

Re: Request for Declaratory Ruling  
Additional Information Request  
TEO 8773  
534 West 42<sup>nd</sup> Street  
Block: 1070, Lot: 49, Borough: Manhattan

Dear Mr. Boltinghouse:

Pursuant to your email communication of August 18, 2008 requesting additional information and clarification, please be advised of the following:

Attached you will find a letter from the project's architect addressing the start date issues, fulfilling your request about the demolition plans and responding to your inquiry about any change in the floor area of the building between the alteration permit and the new building permit. I trust that it satisfactorily clarifies and answers your inquiries. It is our understanding that the architect does not have to amend the start date from the indicated date of June 7, 2007.

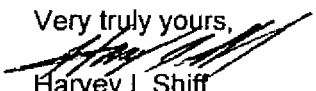
The applicant will comply with the Energy Star requirements as required by HPD rules. A copy of the applicant's affidavit is attached that was submitted with the Preliminary Application, filed on May 2, 2008.

Upon completion of construction, the applicant will comply with the Multiple Dwelling registration requirement of the Rules.

The applicant will also comply with the condominium offering plan filing requirement of Section 6-05(d)(1)(iii) of the Rules. The Final Application (without Certified costs that are not yet available) has been submitted that contains the required statement pursuant to Section 6-05(d)(1) (iii) of the Rules, a copy of which is also enclosed.

Thank you in advance for your anticipated attention to this matter.

Very truly yours,

  
Harvey I. Shiff

COPY

BRIAN E. BOYLE, AIA

75 Spring Street 6th Floor  
New York, NY 10012  
212.334.7402  
Fax 212.334.6112

August 27, 2008

Christopher Boltinghouse  
Declaratory Rulings Analyst  
Dept of Housing Preservation & Development  
Tax Incentives Program  
100 Gold Street ( 3Y)  
New York, New York 10007

Re: TEO 8773  
421-a Partial Tax Exemption : Declaratory Ruling Request  
534 West 42 Street  
Block 1070, Lot 49, Manhattan

Dear Mr. Boltinghouse,

This is in reply to your email information request of August 18, 2008.

Regarding Construction Start Date:

The installation of initial footings was commenced on June 7, 2007 pursuant to Alteration Permit No. 104032949 (Alteration Type 1 permit; copy attached) that was issued on September 11, 2006, based on the structural plans approved on June 23, 2006. The project's structural, architectural and plumbing plans were approved by DOB on June 23, 2006. The plumbing and architectural permits were not pulled until 8/13/07 and 10/24/07, respectively. However, the plans for plumbing and architectural were approved prior thereto. It is my understanding that the start date would still be June 7, 2007 because all the plans for the work were approved prior to the issuance of the alteration type 1 permit that authorized the installation of the footings or foundation.

This shall confirm that construction commenced pursuant to Alteration permit No. 104032949 based on architectural, structural and plumbing plans approved by DOB.

Regarding any Change in Plans for New Building Permit Compared to Alteration permit

The floor area of the building is the same for the Alteration I permit and the New Building (NB) permit. The only change was how it is expressed in the zoning analysis. There was a pre-existing 7" encroachment on the adjacent property due to standard party wall construction, and as is known, part of the existing building remained. Therefore, DOB requested that in the plan for the NB application that the zoning analysis quantify only the square footage that is located on our parcel or lot. Thus, the NB zoning analysis does not



## Work Permit Department of Buildings

Permit Number: 104032949-01-AL

Issued: 10/16/2006 Expires: 10/29/2007

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT1 - APPLICATION FILED FOR CHANGE OF USE FROM THEATRE TO RETAIL AND RESIDENTIAL USE WITH NEW 4TH FLOOR THROUGH 9TH FLOOR AND ROOF. OBTAIN NEW C OF O.

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: *Christopher M. Santilli* Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.

- [illegible]

104241562









# AFFIDAVIT OF ENERGY STAR COMPLIANCE

Gary Schaeffer, being duly sworn, under penalty of perjury, deposes and says:

owner of premises located in the County of New York, City and State of New York, identified as block 1070, lot(s) 49 on the tax map of the City of New York, making this application for a Preliminary Certificate of Eligibility for a §421-a Partial Tax Exemption.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption and know the City of New York will rely on the veracity of such statements in granting tax exemption. The attached application is intended to be a written instrument as defined in Article 175 of the Penal Law and I understand that any false statement is punishable as a Class E felony that provides a term of imprisonment not to exceed four years.

*Sheryl D. Limpert*  
Notary Public  
SHERYL D. LIMPERT  
Notary Public, State of New York  
No. 0115072374  
Qualified in New York County  
Commission Expires Jan. 27, 2011

(6/18/07)

**33-122****Commercial buildings in all other Commercial Districts**

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6 C7 C8

In the districts indicated, the maximum #floor area ratio# for a #commercial building# shall not exceed the #floor area ratio# set forth in the following table:

Districts	Maximum #Floor Area Ratio#
C3	0.50
C4-1 C8-1	1.00
C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C7 C8-2 C8-3	2.00
C4-2A C4-3A	3.00
C4-2 C4-2F C4-3 C4-4 C4-4D C4-5 C4-6	3.40
C4-4A C4-5A C4-5X C5-1	4.00
C4-5D	4.20
C8-4	5.00
C6-1 C6-2 C6-3	6.00
C4-7 C5-2 C5-4 C6-4 C6-5 C6-8	10.00
C5-3 C5-5 C6-6 C6-7 C6-9	15.00

10/29/07

**33-123****Community facility buildings or buildings used for both community facility and commercial uses in all other Commercial Districts**

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6 C8

In the districts indicated, the maximum #floor area ratio# for a #community facility building#, or for a #building# used for both #commercial# and #community facility uses#, shall not exceed the #floor area ratio# set forth in the following table:

#enlargement# containing #residential use# may exceed 10.0 to a maximum of 12.0 only in accordance with the provisions of Section 23-90, except that any units for which a #floor area# increase has been earned pursuant to Section 23-90 shall be within the #Special Clinton District#. For #developments# or #enlargements# that have fully utilized the Inclusionary Housing Program, the maximum permitted #floor area ratio# may be increased from 12.0 to 15.0 for new legitimate theater use in accordance with the provisions of Section 96-25 (Floor Area Bonus for New Legitimate Theater Use)

(c) Retail continuity requirements

- (1) For any #development# or #enlargement# fronting on West 42nd Street, between 9th and 12th Avenues, at least 50 percent of the street frontage of the ground floor, or within five feet of #curb level#, shall be limited to Use Groups 4A, 6A, 6C, 10A, 11, 12A and 12B.
- (2) At least 50 percent of the length of the facade of such #street wall# fronting on West 42nd Street shall be glazed with transparent material to a height of not less than 16 feet above #curb level#. The lowest point of such glazed area shall not be higher than four feet above #curb level#.

(d) Street wall continuity requirements

- (1) At least 80 percent of the #aggregate width of street walls# of a #building# fronting on West 42nd Street, up to a height of 45 feet, shall be located within 10 feet of the #street line# of such #street#.
- (2) The minimum height of the #street wall# of a #building# above #curb level# shall be no less than 45 feet and no more than 85 feet. Above this required height, the #street wall# of a #building# shall set back at least five feet. The requirements of this paragraph shall also apply to any #development# or #enlargement# on a #wide street# frontage within a distance of 50 feet from its intersection with West 42nd Street.

(e) Pedestrian circulation space

Within Subarea 2 of the 42nd Street Perimeter Area, as shown in Appendix A, pedestrian circulation space shall be provided in accordance with the provisions of Section 37-50. In addition, for #developments# or #enlargements# that provide subway entranceways constructed after December 21,

10/17/07

96-21

**Special Regulations for 42<sup>nd</sup> Street Perimeter Area**

The provisions of this Section shall apply to #developments# or #enlargements# located in all #Commercial Districts# within the area bounded by the following:

Starting 150 feet west of Eighth Avenue, south to the southern boundary of West 41st Street, west to the east side of Twelfth Avenue, north along the eastern border of Twelfth Avenue to 43rd Street, east on West 43rd Street to the eastern side of Tenth Avenue, south along Tenth Avenue to the southern boundary of West 42nd Street, east on West 42nd Street to Ninth Avenue, north along the western boundary of Ninth Avenue to the midblock of 42nd/43rd Street, east to a point 150 feet west of Eighth Avenue, south to the southerly boundary of 41st Street.

(a) Special regulations for office use

In the 42nd Street Perimeter Area, as shown in Appendix A of this Chapter, any #development# or #enlargement# that includes Use Group 6B offices constructed after January 19, 2005, shall be permitted only pursuant to Section 93-13 (Special Office Use Regulations)

(b) Floor area regulations

(1) Floor area regulations in Subarea 1

In Subarea 1 of the 42nd Street Perimeter Area as shown in Appendix A, the basic #floor area ratio# of any #development# or #enlargement# shall be 10.0, and may be increased to a maximum of 12.0 only in accordance with the provisions of Section 23-90 (INCLUSIONARY HOUSING), except that any units for which a #floor area# increase has been earned pursuant to Section 23-90 shall be within the #Special Clinton District#.

(2) Floor area regulations in Subarea 2

In Subarea 2 of the 42nd Street Perimeter Area, as shown in Appendix A, the basic #floor area ratio# of any #development# or #enlargement# shall be 10.0. However, the #floor area ratio# of any #development# or

Manhattan, all #developments# or #enlargements# in R10 Districts, except R10A or R10X Districts, shall be limited to a maximum #floor area ratio# of 10.0.

10/17/07

23-16

**Existing Public Amenities for Which Floor Area Bonuses Have Been Received**

- (a) Elimination or reduction in size of non-bonused open area on a #zoning lot# containing a bonused amenity

In all districts, any existing open area for which a #floor area# bonus has not been utilized that occupies the same #zoning lot# as an existing #publicly accessible open area# or other public amenity, open or enclosed, for which a #floor area# bonus has been utilized, may be reduced in size or eliminated only upon certification of the Chairperson of the City Planning Commission that all bonused amenities comply with the standards under which such #floor area# bonus was granted.

- (b) Nighttime closing of existing public open areas

In all #Residence Districts#, the City Planning Commission may, upon application, authorize the closing during certain nighttime hours of an existing #publicly accessible open area# for which a #floor area# bonus has been received, pursuant to Section 37-727 (Hours of access).

- (c) Elimination or reduction in size of existing public amenities

In all districts, no existing #publicly accessible open area#, #arcade# or other public amenity, open or enclosed, for which a #floor area# bonus has been utilized, shall be eliminated or reduced in size except by special permit of the City Planning Commission, pursuant to Section 74-761 (Elimination or reduction in size of bonused public amenities).

**Regulations Applying in Special Situations**

6/12/96

23-17

However, in R6 or R7 Districts, the minimum required #open space ratio# shall not apply to #non-profit residences for the elderly developed#, or #enlarged# where permitted, pursuant to the Quality Housing Program. Such #developments# or #enlargements# shall be subject to the requirements of R6A or R7A Districts, respectively, as set forth in paragraph (b) of this Section.

R6A R6B R7A R7B R7D R7X

- (b) In the districts indicated, the maximum #lot coverage# and the maximum #floor area ratio# for #non-profit residences for the elderly# shall be as set forth in the following table:

MAXIMUM LOT COVERAGE AND FLOOR AREA RATIO  
FOR  
NON-PROFIT RESIDENCES FOR THE ELDERLY  
(in percent)

Maximum #Lot Coverage#		Maximum #Floor Area Ratio#	District
#Corner Lot#	#Interior Lot# or #Through Lot#		
80	65	3.90	R6A R7B
80	60	2.00	R6B
80	70	5.01	R7A R7D R7X

6/12/96

**23-15**

**Maximum Floor Area Ratio in R10 Districts**

R10

In the district indicated, the #floor area ratio# for any #building# on a #zoning lot# shall not exceed 10.0, except as provided in Section 23-17 (Special Provisions for Zoning Lots Divided By District Boundaries) and Section 23-90 (INCLUSIONARY HOUSING).

Notwithstanding any other provision of this Resolution, the maximum #floor area ratio# shall not exceed 12.0. However, within the boundaries of Community District 7 in the Borough of



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C3	R3-2
C4-1	R5
C4-2 C4-3 C6-1A	R6
C4-2A C4-3A	R6A
C1-6 C2-6 C4-4 C4-5 C6-1	R7
C1-6A C2-6A C4-4A C4-5A	R7A
C4-5D	R7D
C4-5X	R7X
C1-7 C4-2F C6-2	R8
C1-7A C4-4D C6-2A	R8A
C1-8 C2-7 C6-3	R9
C1-8A C2-7A C6-3A	R9A
C1-8X C2-7X C6-3X	R9X
C1-9 C2-8 C4-6 C4-7 C5 C6-4 C6-5 C6-6 C6-7 C6-8 C6-9	R10
C1-9A C2-8A C4-6A C4-7A C5-1A C5-2A C6-4A	R10A
C6-4X	R10X

10/17/07

34-113

**Existing public amenities for which floor area bonuses have been received**

- (a) Elimination or reduction in size of non-bonused open area on a #zoning lot# containing a bonused amenity

In all districts, any existing open area for which no #floor area# bonus has been utilized that occupies the same #zoning lot# as an existing #publicly accessible open area# or other public amenity, open or enclosed, for which a #floor area# bonus has been utilized, may be reduced in size or eliminated only upon certification of the Chairperson of the City Planning Commission that all bonused amenities comply with the standards under which such #floor area# bonus was

7/26/01

**34-11**

**General Provisions**

C1 C2 C3 C4 C5 C6

In the districts indicated, the #bulk# regulations for #residential buildings# set forth in Article II, Chapter 3, shall apply to all #residential buildings# in accordance with the provisions of this Section, except as modified by the provisions of Sections 34-21 to 34-24, inclusive, relating to Exceptions to Applicability of Residence District Controls.

12/15/61

**34-111**

**Residential bulk regulations in C1 or C2 Districts whose bulk is governed by surrounding Residence District**

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5

In the districts indicated, the #bulk# regulations for the #Residence District# within which such #Commercial Districts# are mapped apply, except that when such districts are mapped within R1 or R2 Districts, the #bulk# regulations for R3-2 Districts apply.

10/29/07

**34-112**

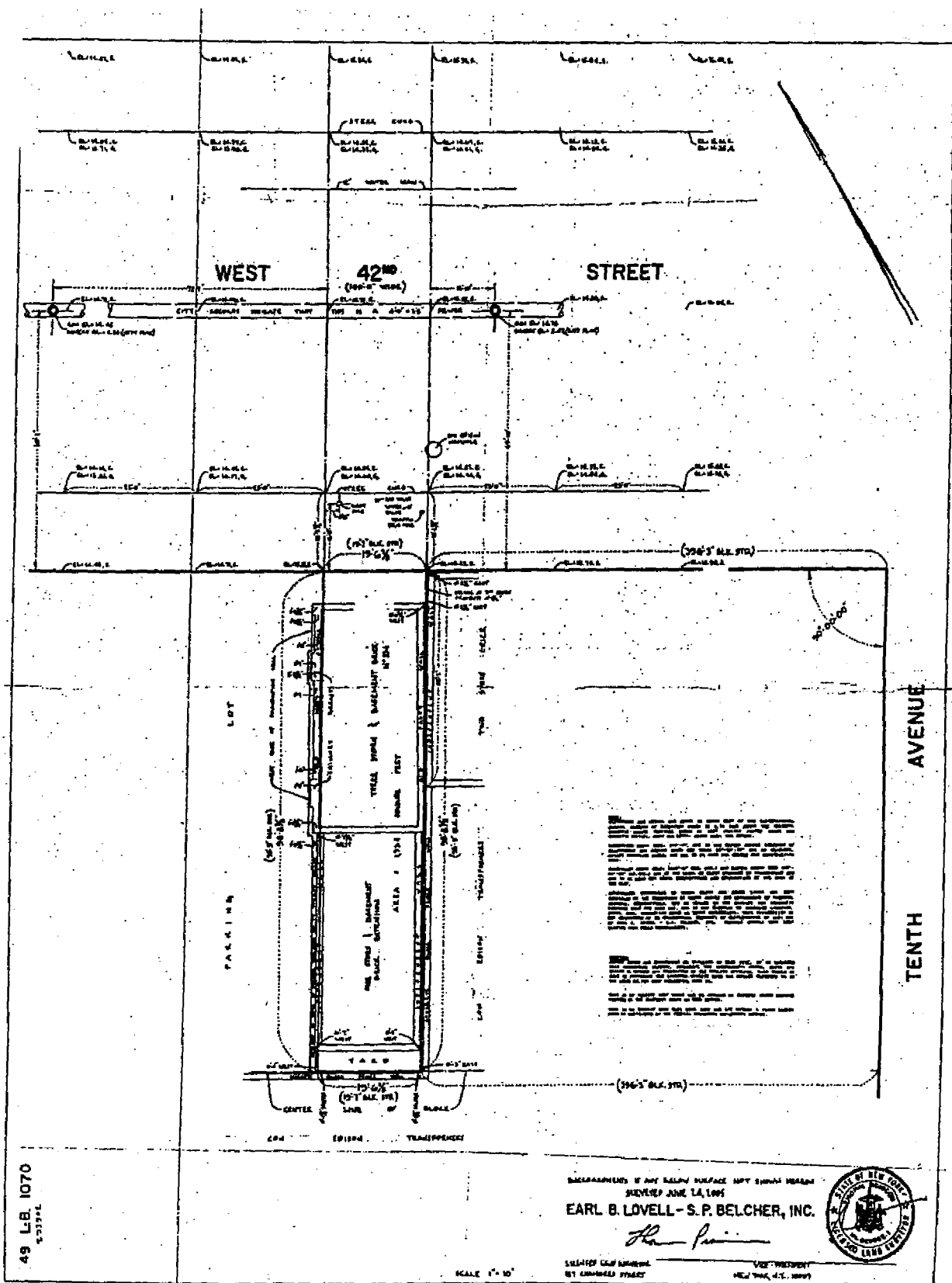
**Residential bulk regulations in other C1 or C2 Districts or in C3, C4, C5 or C6 Districts**

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6

In the districts indicated, the applicable #bulk# regulations are the #bulk# regulations for the #Residence Districts# set forth in the following table:

Districts	Applicable #Residence District#
-----------	---------------------------------





49 L.B. 1070  
5/31/06

RECORDS OF ANY BELOW SURFACE NOT SHOWN HEREON  
REVISED JUNE 14, 1906  
EARL B. LOVELL - S. P. BELCHER, INC.

*Handwritten signature*

SCALE 1" = 10'  
NOT TO BE USED FOR ANY OTHER PURPOSE  
NEW YORK, N.Y., 1906



COPY

Manhattan, Block 1070, Lot 49: 534 West 42<sup>nd</sup> Street, New York, New York

**UNDERUTILIZATION TEST WORKSHEET FOR NON-RESIDENTIAL BUILDING**

Lot No.	Lot Area (sf)	Floor Area of Former Demolished Building (sf)	FAR of Former Demolished Building	Permissible Commercial FAR	Maximum Floor Area Ratio for Residential Buildings in C6-4 Zoning District	Ratio of Former Demolished Building's FAR to Maximum FAR for Residential Buildings in Zoning District <sup>1</sup>
49	1,933.53	5,461.4	2.82	10	10	28.2%

As of the Operative Date, Block 1070, Lot 49 qualified as under-utilized pursuant to the 421-a Rules, since the site was improved with a non-residential building which did not contain more than the permissible floor area for non-residential buildings in the zoning district in which it was located and which had an FAR which was 50% or less of the maximum FAR for residential buildings in the zoning district (actual FAR of 2.82 was 28.2% of Maximum FAR for residential buildings which is 10).

H:\HARVEY\421\FORMS\534 West 42nd Street See Eligibility final 4 9 08 .wpd



Dated: August 26, 2008

## SITE-ELIGIBILITY CERTIFICATION OF ARCHITECT

This Certification is based on an actual physical inspection of the building prior to its demolition and examination of the records of the New York City Building Department in order to indicate information concerning the building as of the Operative Date indicated below.

Block 1070, Lot 49: 534 West 42<sup>nd</sup> Street

A	Address	534 West 42 <sup>nd</sup> Street, New York, NY
B	Borough/Block/Lot	Manhattan/1070/49
C	Construction Start Date	June 7, 2007
D	Operative Date	June 7, 2004
E	Lot Area	19.5833' x 98.75' = 1,933.53 sf
F	Zoning District (Map 8d)	C6-4
G	Maximum Residential FAR (Residential Equivalent Per ZR-34-112, ZR-23-15, and ZR-96-21)	10.0
H	FAR of Former/Demolished Non-Residential Structure	2.82
I	Maximum Non-Residential FAR (ZR-33-122)	10.0 for Commercial
J	Floor Area of Former Demolished Non-Residential Structure	5,461.4 sf

## Attachments:

- a) Survey of Block 1070, Lot 49 by Thomas Piciocco of Earl B. Lovell - S.P. Belcher, Inc. dated June 24, 2005.
- b) Copy of Zoning Map showing Zoning District.
- c) Copy of appropriate pages from the zoning resolution verifying both residential and non-residential Maximum FAR ratios.
- d) Underutilization Test Worksheet for Block 1070, Lot 49



*Brian E. Boyle*  
Brian E. Boyle, R.A.

August 26, 2008

Dated \_\_\_\_\_

harvey shiff

---

**To:** Boltinghouse, Christopher  
**Subject:** RE: TEO 8873 534 W. 42 Street Manhattan

I have conferred with the project's architect. This will confirm that although construction initially commenced pursuant to an alteration permit based on architectural, structural and plumbing plans approved by the Department of Buildings, construction will be carried out pursuant to a new building permit based upon architectural, plumbing and structural plans approved by DOB

---

**From:** Boltinghouse, Christopher [mailto:boltingc@hpd.nyc.gov]  
**Sent:** Monday, September 15, 2008 12:22 PM  
**To:** harvey shiff  
**Subject:** RE: TEO 8873 534 W. 42 Street Manhattan

Harvey –

Thank you for your letter concerning 534 West 42 Street.  
You have indicated that construction initially commenced pursuant to an alteration permit based on architectural, structural and plumbing plans approved by the Department of Buildings on June 7, 2007. Subsequently, DOB required the project to apply for a New Building permit to supersede the Alt1 permit. Please confirm that, although construction initially commenced pursuant to an alteration permit based on architectural, structural and plumbing plans approved by the Department of Buildings, construction will be carried out pursuant to a new building permit based upon architectural, plumbing and structural plans approved by DOB.  
A response via email is sufficient.

Thank you,

Christopher Boltinghouse  
Declaratory Rulings Analyst  
Dept. Housing Preservation and Development  
Tax Incentive Programs  
phone (212) 863 - 7414 ; fax (212) 863 - 5899



Please consider the environment before printing this e-mail.

---

**From:** harvey shiff [mailto:hshiff@ljbpc.com]  
**Sent:** Tue 9/9/2008 7:13 PM  
**To:** Boltinghouse, Christopher  
**Subject:** TEO 8873 534 W. 42 Street Manhattan

Have you had a chance to review. I have a very anxious developer who would like to proceed to buy Negotiable Certificates. Please advise asap. Thank you.

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\*\*

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Department of  
Housing Preservation  
& Development

nyc.gov/hpd

Office of Development  
Housing Incentives  
100 Gold Street  
New York, N.Y. 10038

SHAUN DONOVAN  
Commissioner  
HOLLY M. LEIGHT  
Deputy Commissioner  
MIRIAM COLÓN  
Assistant Commissioner

September 29, 2008

Harvey I. Shiff, Esq.  
Lawrence J. Berger, P.C.  
200 Madison Avenue, Suite 1902  
New York, NY 10016  
Phone: (212) 532-0222; Fax: (212) 532-0224

Re: 534 West 42<sup>nd</sup> Street  
Block 1070, Lot 49  
Borough of Manhattan  
Declaratory Ruling No. 2008 (§421-a)

Dear Mr. Shiff:

I am writing in response to your request dated May 12, 2008, as supplemented by later submissions, for a declaratory ruling pursuant to §6-05(g) of Chapter 6 of Title 28 of the Rules of the City of New York (the "Rules") regarding the eligibility of a construction project (the "Project") at the above referenced site (the "Site") for tax benefits pursuant to §421-a of the Real Property Tax Law ("§421-a"),<sup>1</sup> §§11-245, 11-245.1, and 11-245.1-b of the Administrative Code,<sup>2</sup> and the Rules.<sup>3</sup>

I. Eligibility Requirements

To be eligible for §421-a tax benefits, the Project must comply with each of the eligibility requirements set forth in §421-a, the Administrative Code, and the Rules. The application of these requirements to the Project is discussed in detail below. Capitalized terms not defined herein have the respective meanings given in the Rules.

<sup>1</sup> As amended by Chapters 618, 619 and 620 of the Laws of 2007 and Chapter 15 of the Laws of 2008.

<sup>2</sup> As added or amended by Local Law No. 58 of 2006.

<sup>3</sup> Including amendments effective June 19, 2008.

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A. Location Requirements

1. Geographic Exclusion Area Limitation

Sections 6-02(b)(3) and 6-02(c)(10) of the Rules provide that multiple dwellings that commence construction in the Geographic Exclusion Area prior to July 1, 2008 are eligible for §421-a tax benefits only if carried out with Substantial Governmental Assistance or if Affordable Units are created in accordance with the requirements of §6-08 of the Rules. Real Property Tax Law §421-a and §6-09(b)(1) of the Rules provide that multiple dwellings that commence construction in the Geographic Exclusion Area on or after July 1, 2008 are eligible for §421-a tax benefits only if affordable units are created in accordance with the requirements of §421-a(7) or if Negotiable Certificates are purchased. In accordance with Administrative Code §11-245(d), to determine whether construction commences on or after July 1, 2008, construction shall be deemed to have commenced on the date immediately following the issuance by the Department of Buildings ("DOB") of a building or alteration permit for a multiple dwelling (based upon architectural, plumbing and structural plans approved by DOB) on which the excavation and the construction of initial footings and foundations commences in good faith as certified by an architect or professional engineer licensed in New York State, provided that the construction of such multiple dwelling has been completed without undue delay, as certified by such architect or professional engineer.

Based on the information you have provided, the Project is located in the Geographic Exclusion Area described in §6-02(c)(10) of the Rules. You indicate that the Project commenced construction prior to July 1, 2008. Accordingly, the Project will be subject to the Geographic Exclusion Area limitations described in §6-02(b)(3) of the Rules. You have advised us that the owner will purchase Negotiable Certificates as provided in §6-08 of the Rules. Accordingly, the Project will satisfy the Geographic Exclusion Area limitation requirement of §6-02(b)(3) of the Rules. Negotiable Certificates must be presented when filing an application for a certificate of eligibility pursuant to the Rules.

2. Public and Private Park Limitation

Paragraphs (5) and (6) of §6-02(c) of the Rules bar §421-a benefits for projects situated on land mapped as a public park (with certain exceptions) or utilized for ten (10) or more consecutive years immediately prior to October 1, 1971 as a private park (as defined in §6-02(c)(6) of the Rules). You state and we assume that the Site does not fall within either category.

B. Site Requirements

Section 6-02(f) of the Rules states that for a project to be eligible for §421-a benefits, the land on which it is located must have been "vacant, predominantly vacant, under-utilized, or improved with a non-conforming use on the operative date." "Operative Date" means, in the case of the Project, thirty-six (36) months prior to the Commencement of Construction.

Under §6-02(f)(3)(G)(a)(1) and (2)(i) of the Rules, where Commencement of Construction occurred on or after October 30, 2002, land in Manhattan south of or adjacent to either side of 110<sup>th</sup>

**NYC**



Printed on paper containing 30% post-consumer material.

9/11/08  
TS

Street is under-utilized if, on the Operative Date, it was improved with a non-residential building or buildings, each of which contained no more than the permissible floor area ratio ("FAR") for non-residential buildings in the zoning district in question, and an FAR which was fifty percent (50%) or less of the maximum FAR for residential buildings in such zoning district.

You indicate that the Commencement of Construction occurred on June 7, 2007 in the 2006/2007 fiscal year.<sup>4</sup> Accordingly, the Operative Date will have occurred on June 7, 2004 in the 2003/2004 fiscal year.

You have submitted a zoning analysis in the form of affidavits sworn to by Brian E. Boyle, a registered architect, dated January 24, 2008 and August 26, 2008 and supplemented by a letter dated August 27, 2008 (collectively, the "Boyle analysis"), along with a copy of the zoning map for lot 49 and relevant pages from the Zoning Resolution. In addition, you have provided a survey of lot 49 dated June 24, 2005, prepared by Thomas Piciocco, a licensed land surveyor and vice president of Earl B. Lovell - S.P. Belcher, Inc.

Mr. Boyle indicates that on the Operative Date, lot 49 was improved with a non-residential building. In addition, Department of Finance Records indicate that in the 2003/2004 fiscal year, lot 49 was improved with a non-residential building or buildings designated as tax class 4. Mr. Boyle further indicates that on the Operative Date, lot 49 was located in a C6-4 zoning district, in which the permissible FAR for non-residential buildings was 10.0 and the maximum FAR for residential buildings was 10.0. Based upon Mr. Boyle's analysis, the relationship of the FAR of the existing building on lot 49 to the permissible non-residential FAR and maximum residential FAR in the 2003/2004 fiscal year was as follows:

Lot Number	Lot Area (square feet)	Floor Area of Existing Building (square feet)	FAR of Existing Building	Permissible Non-Residential FAR	Maximum Residential FAR	Ratio of Existing to Maximum Residential FAR
49	1,934	5,461	2.82	10.0	10.0	28.2%

Accordingly, on the Operative Date, the Site qualifies as under-utilized for the purposes of the Rules, since lot 49 was improved with a non-residential building which did not contain more than the permissible FAR for a non-residential building in the zoning district in which it was located and which had an FAR which was less than fifty percent (50%) of the maximum FAR for a residential building in such zoning district.

9/19/08

<sup>4</sup> Fiscal year refers to the 365 day New York City year for budget and tax purposes from July 1 through June 30. For example, both September 27, 2006 and February 25, 2007 fall in fiscal year 2006/2007.



The Project's Floor Area of Commercial, Community Facilities, and Accessory Use Space and a resulting decrease in benefits, if any, will be determined in accordance with the Rules based on the building plans for the Project as built.

IV. Conclusion

Based on the information provided by you and the assumptions stated herein, we conclude that the Project will be eligible for a construction period partial tax exemption and a ten (10) year post-construction partial tax exemption, as provided by §421-a.<sup>8</sup>

V. Scope of this Letter

Except as specifically stated herein, this letter is based solely upon the information provided by you and the assumptions stated herein, and we have not verified any of your statements or claims or investigated the accuracy of our assumptions. The Project must satisfy all statutory and regulatory requirements of §421-a in effect at the time of issuance of the certificate of eligibility in order to be eligible for benefits, and we cannot render a final determination regarding eligibility until all documentation required for a certificate of eligibility has been provided to us, reviewed and approved.


We confirm that an application for a preliminary certificate of eligibility for this Project was filed with this Office on May 5, 2008 and assigned docket number TEO8773. We have not completed our review of that application and express no opinion as to whether the Project is eligible for a §421-a partial tax exemption based upon the application submitted.

This letter relates only to the Project and the specific facts and circumstances thereof. It may not be used or relied upon in connection with any other application or project.

Each page of this letter is imprinted with the Tax Incentives raised seal, which is initialed and dated in blue ink.

In order to expedite processing, please include a copy of this letter when you apply for §421-a benefits.

Very truly yours,



Lisa S.J. Yee  
Director, Tax Incentive Programs

cc: Nancy Batterman, Deputy General Counsel  
Ronald Sinacori, 421 Program Director  
Christopher Boltinghouse, Declaratory Rulings Analyst

9/29/08

<sup>8</sup> In that the Project commenced construction prior to July 1, 2008, it is not subject to the Exemption cap as defined in §421-a(9)(a)(v i). See §6-09(b)(6).

**NYC**



0/c  
LAW OFFICES

LAWRENCE J. BERGER, P. C.

200 MADISON AVENUE  
SUITE 1902  
NEW YORK, N.Y. 10016

(212) 532-0222  
FAX (212) 532-0224

LAWRENCE J. BERGER  
STEVEN E. RESNICK  
HARVEY I. SHIFF

May 18, 2009

LESLIE R. PERLMAN  
SETH J. GOLDBERG

Mr. Ron Sinacori  
NYC Department of Housing,  
Preservation & Development  
421-a Exemption Unit  
100 Gold Street (Section 3Y)  
New York, New York 10038

Re: TEO 8773  
421-a Partial Tax Exemption Application  
534 West 42<sup>nd</sup> Street  
Block 1070, Lot 49, Manhattan

2009 MAY 18 PM 1:23

Dear Mr. Sinacori:

The paper version of the Preliminary Application for this project was not accepted on Friday May 15, 2009 because "according to DOF Dojo West 42<sup>nd</sup> Realty LLC is the last owner and there is no deed for Shao Lin Operating LLC, only an easement".

~~Dojo West 42<sup>nd</sup> Realty LLC and Shao Lin Operating LLC were merged into Shao Lin Operating LLC. See annexed copy of the Certified copy of the Certificate of Merger filed with the New York State, Department of State, Division of Corporations.~~

As Dojo West 42<sup>nd</sup> Realty LLC is officially merged into, is now known as Shao Lin Operating LLC, and is the surviving limited liability company, please accept the paper version of the Preliminary Application that has been filed electronically.

Very truly yours,



Harvey I. Shiff

New York City Department of Housing Preservation and Development  
Office of Development  
Division of Housing Incentives  
Tax Incentive Programs Unit  
The 421-a Partial Tax Exemption Program

Date: 5-15-09

Dear 421-a Applicant/Applicant's Representative:

This application has failed to meet the basic submission criteria, will not be accepted for processing, and is being returned to the owner or owner's filing representative for one or more of the following reasons:

Complete and properly executed application, such as:

- ☐ Application and/or Affidavits are not in 'Final' form;
- ☐ Pages of Application and/or Affidavits are missing;
- ☐ Project Sequence # is not same on all pages or is missing on pages;
- ☐ Blank field(s) on Architect's Affidavit;
- ☐ Architect's Affidavit is not signed & sealed OR is not signed & notarized;
- ☐ Opinion of Counsel is not printed on Attorney's letterhead;
- ☐ Incorrect or Missing Appraisal;
- ☐ Incorrect or Missing RP-604;
- ☐ Incorrect or Missing Survey; and
- ☐ Plans are not signed and dated on each page.

Ownership/Project Information not correct, such as:

- ☒ Information on the Online Application, RPTR, and SAL1 does not match Deed; <sup>1</sup>
- ☐ Former lots on Online Application do not match RP-604;
- ☐ Information on Section 4A of the Online Application pertaining to land acquisition cost does not match the SAL-1/RPTR.

You may re-file for 421-a benefits by submitting a new online application with the correct information. A hard copy of your new application with the accompanying affidavits and documentation must be delivered to the 421-a Program along with a \$100 non-refundable deposit towards the preliminary application fee.

---

Should you have any questions, please contact the 421-a Unit at 212-863-8540.

Sincerely,

421-a Partial Tax Exemption Program

\* According to DOF Data, West 42nd Realty LLC  
is the last owner  
\* There is NO deed for Shao Lin operating LLC,  
only an Easement.

070320000715

New York State  
Department of State  
Division of Corporations, State Records  
and Uniform Commercial Code  
Albany, NY 12211

CERTIFICATE OF MERGER  
OF

DOJO WEST 42<sup>ND</sup> REALTY LLC  
(Insert name of Domestic Entity)

AND

SHAO LIN OPERATING LLC  
(Insert name of Domestic Limited Liability Company)

INTO

SHAO LIN OPERATING LLC  
(Insert name of Domestic Limited Liability Company)

Under Section 1001 of the Limited Liability Company Law

FIRST: The name (and if the name has been changed, the name under which it was formed) and jurisdiction of formation or organization of each domestic limited liability company or other domestic business entity that is to merge is:

DOJO WEST 42<sup>ND</sup> REALTY LLC (DOJO)  
SHAO LIN OPERATING LLC (SHAO LIN)

SECOND: For each domestic limited liability company and domestic other business entity, the date when its initial articles of organization or formation document was filed with Department of State is:

DOJO WEST 42<sup>ND</sup> REALTY LLC - 8/2/04  
SHAO LIN OPERATING LLC - 8-3-04

THIRD: The name of the surviving domestic limited liability company is:

SHAO LIN OPERATING LLC

FOURTH: The agreement of merger has been approved and executed by each of the domestic limited liability companies or domestic other business entities that is a party thereto.

FIFTH: The future effective date of the merger, which does not exceed 30 days from the date of filing, is: \_\_\_\_\_



SIXTH: The Secretary of State is designated as agent of surviving limited liability company upon whom process against it may be served. The address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is: 2025 Broadway - Apt 21JK

New York, New York 10023

SEVENTH: The agreement of merger is on file at the following place of business of the surviving domestic limited liability company: 2025 Broadway - Apt 21JK

New York, New York 10023

EIGHTH: A copy of the agreement merger will be furnished by the surviving domestic limited liability company on request and without cost to any member of any domestic limited liability company or to any person holding an interest in any other business entity that is to merge pursuant to such agreement.

DOJO WEST 42<sup>ND</sup> REALTY LLC

*(Name of Domestic Entity)*

X

*(Signature)*

GARY SCHAEFFER

*(Type or Print Name)*

Manager

*(Title or capacity of signor)*

SHAO LIN OPERATING LLC

*(Name of Domestic Limited Liability Company)*

X

*(Signature)*

GARY SCHAEFFER

*(Type or Print Name)*

Manager

*(Title or capacity of signor)*

2

070320000715

CERTIFICATE OF MERGER  
OFDOJO WEST 42<sup>ND</sup> REALTY LLC  
(Insert name of Domestic Entity)

AND

SHAO LIN OPERATING LLC  
(Insert name of Domestic Limited Liability Company)

INTO

SHAO LIN OPERATING LLC  
(Insert name of Domestic Limited Liability Company)

Under Section 1003 of the Limited Liability Company Law

Filed by: Jeffrey Green/Rivkin Radler LLP  
(Name)926 Reckon Plaza  
(Mailing address)Uniondale, New York 11556  
(City, State and Zip Code)Stellar-cn  
Draw down

NOTE: This form was prepared by the New York State Department of State for filing a certificate of merger with a domestic business entity into a domestic limited liability company survivor. The certificate must be signed on behalf of each entity. It does not contain all optional provisions under law. You are not required to use this form. You may draft your own form or use forms available at legal supply stores. The Department of State recommends that legal documents be prepared under the guidance of an attorney. The certificate must be submitted with a \$60 filing fee payable to the Department of State.

(For office use only)

STATE OF NEW YORK  
DEPARTMENT OF STATE  
FILED

MAR 20 2007

TAX \$             
BY:           

FILED

2007 MAR 20 PM 12:50

2007-1

3

759



***STATE OF NEW YORK***  
***DEPARTMENT OF STATE***

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the  
Department of State, at the City of Albany, on  
August 30, 2007.

*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State



DEPARTMENT OF HOUSING PRESERVATION  
AND DEVELOPMENT

Richard T. Roberts, Commissioner

Office of the Commissioner  
100 GOLD STREET, NEW YORK, N.Y. 10038

Division of Tax Programs and Policy  
Alliea Glen, Assistant Commissioner

OFFICE COPY

FINAL APPLICATION FOR CERTIFICATION OF ELIGIBILITY  
FOR 421-a PARTIAL TAX EXEMPTION

Property address: 534 West 42 Street  
New York, NY

Docket #: 8773  
Date rec'd by HPD: \_\_\_\_\_  
Block: 1070 Lot: 49

To the Commissioner:

The undersigned affirms that: (Place an "X" where applicable)

- ☒ All information previously submitted in the Preliminary Application for a Certification of Eligibility for partial tax exemption remains true and accurate.
- ☐ Documentation is attached advising you of all physical changes made in this project since the submission of the Preliminary Application; and the need, if any, to revise initial rents or selling prices.
- ☒ Documentation is attached advising you of increased development and/or maintenance and operating costs and the need for revised initial rents or selling prices.
- Final Total Development Costs Certified by CPA to be submitted when available**
- ☐ Each year the owner shall make available to HPD's Tax Incentives Unit a schedule of rents for each unit in the building. An annual rent schedule must be mailed to HPD.
- ☐ All units have been registered with the New York State Division of Housing and Community Renewal.  
Date: \_\_\_\_\_
- ☐ All units in the above building/s will be registered with the NYS Division of Housing and Community Renewal as they become occupied.
- ☒ If the project is owned and operated as a co-op or condominium and if the co-op or condo plan has not been declared effective 15 months after the issuance of a Final Certificate of Eligibility, the owner will register the rental units with the NYS Division of Housing & Community Renewal no later than 15 days after such 15 month period.

The approximate date of completion of this project is: Dec. 15, 2008

Applicant understands that pursuant to Sec. 6-05 (7) of the 421-a Rules that:

- A. The application for a Final Certificate of Eligibility must be filed as follows:
- For a multiple dwelling owned as a rental and containing more than six units, the application must be filed prior to occupancy of the building, but no earlier than the date of application for a preliminary certificate of eligibility.
  - For a multiple dwelling to be owned as a condominium or co-op, the application must be filed prior to the first taxable status date following the completion of construction.
- B. The application process for a Final Certificate of Eligibility must be completed within 90 days following the issuance of a permanent certificate of occupancy or a temporary certificate of occupancy covering all residential space. In the event that all the required documents are not timely filed, benefits of the Act may be revoked pursuant to Sec. 6-07 (c) (5) of the 421-a Rules.

Applicant understands and agrees that, if tax exemption is granted as a result of this application and there is failure to complete said structure within the time limit set forth in the 421-a Statute and Rules, or if any other breach of the Rules is committed without curing said breach within 90 days after notice of same is given, the Commissioner shall revoke the Certificate of Eligibility for said premises. In the event of Revocation for failure to timely complete, the owner shall pay the City, with interest, the amount of exempted taxes. Such unpaid taxes and the interest thereon shall become a lien against said property.

Affidavit is herewith submitted for the issuance of a final certification of eligibility for partial tax exemption for the structure herein mentioned.

STATE OF NEW YORK )  
CITY OF NEW YORK )  
COUNTY OF New York )

Gary Schaeffer, being duly sworn, deposes and says, that, he/she is the applicant or officer of applicant Corp. or General Partner of Managing Member, Shao-Lin Operating LLC, making application for a Certification of Eligibility for Partial Tax Exemption; he/she has read and agrees to abide by the Regulations for 421-a partial tax exemption, and he/she understands that the City of New York will rely on the statements contained herein in acting upon this application.

Sworn to before me this

THIS day of JUNE, 2008

2008

[Signature]  
Signature

Gary Schaeffer

[Signature]

ANA I. CEDANO

Notary Public, State of New York  
No. 01CE6181322

Qualified in New York County  
Commission Expires Jan. 26, 2012



OFFICE OF DEVELOPMENT  
DIVISION OF HOUSING INCENTIVES  
100 GOLD STREET  
NEW YORK, NY 10038

**421-a Partial Tax Exemption Program**

**RECEIPT OF APPLICATION**

LAWRENCE BERGER, P.C.  
200 MADISON AVENUE  
SUITE 1902  
NEW YORK, NEW YORK 10016

May 5, 2008

Docket #: TEO8773

Applicant: SHAO-LIN OPERATING LLC

<u>Borough</u>	<u>Address</u>	<u>Block</u>	<u>Lot</u>
Manhattan	534 West 42 Street	01070	0049

Dear Applicant/Agent:

Your application for a Preliminary Certificate of Eligibility for 421-a benefits was received by our office on May 5, 2008.

We are also in receipt of your filing fee payment in the amount of \$100.00.

If you are contacted and requested to submit more information, kindly refer to the above docket number when submitting this information. In addition, when making telephone inquiries please have your docket number available.

421-a Partial Tax Exemption Program  
New York City Department of Housing Preservation and Development  
Office of Tax Incentive Programs  
100 Gold Street (Room 9V3)  
New York, NY 10038  
Tel. (212) 863-5421



nyc.gov/hpd

LAW OFFICES  
**LAWRENCE J. BERGER, P. C.**  
200 MADISON AVENUE  
SUITE 1902  
NEW YORK, N.Y. 10016  
(212) 532-0222  
FAX (212) 532-0224

LAWRENCE J. BERGER  
STEVEN E. RESNICK  
HARVEY I. SHIFF

May 5, 2008

LESLIE R. PERLMAN  
SETH J. GOLDBERG

Re: Application for RPTL 421-a Tax Exemption  
534 West 42<sup>nd</sup> Street  
Block: 1070, Lot: 49, Manhattan

**ADDITIONAL SUPPORTING DOCUMENTS**

1. Bank Check for \$100.00 filing fee;
2. Preliminary Application: 3 Pages;
3. Affidavit in Support of "Estimated Development Costs" Schedule and "Construction Cost Detail Sheet".
  - a. Estimated Development Costs Schedule
  - b. Construction Cost Detail Sheet;
4. Copy of Deed and Closing Statement;
5. Copy of Certificate of Merger;
6. Appraisal of Site as of June 7, 2007;
7. "Aggregate Floor Area and Commercial, Community Facility and Accessory Use Area Report";
8. Copy of Draft of Portion of Condominium Offering Plan including Sch. "A";
9. Original "Start of Construction Affidavit";
10. Copy of Work Permit(s);
11. Copy of Final Assessment Roll for 2003-2004;
12. Copy of Tax Map;
13. Site-Eligibility Certification of Architect with attachments;
14. Copy of Architect's Affidavit;
15. Architect's Certification of Net SF Areas and Average SF Area of apartment units;
16. Services and Amenities Schedule;
17. Copy of Survey;
18. Affidavit of Energy STAR Compliance; and
19. Original "Architect's/Engineer's Certification of the Aggregate Floor Area, Dwelling Units & Room Count" with approved Building Plans submitted herewith.

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

**citibank**

Citibank, N.A.

OFFICIAL CHECK

110201707

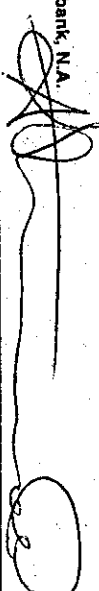
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311

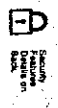
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115-05 CR. Ser.# 110201707 \* \* \* \* \* 1 0 0 . 0 0 \* \* \*

PAY \*\*\*ONE HUNDRED DOLLARS\*\*\*

TO THE ORDER OF \*\*\*CITY OF NEW YORK-DEPT OF FINANCE\*\*\*

NAME OF REMITTER SHAO LIN OPERATING LLC  
ADDRESS 2025 BROADWAY #21-K NYC 10023  
Citibank, N.A. One Penn's Way  
New Castle, DE 19720

Drawer: Citibank, N.A.  
BY   
AUTHORIZED SIGNATURE MP



⑈ 110201707 ⑈ ⑆031100209⑆ 3875292⑈

**THE CITY OF NEW YORK**  
**DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**  
**421-a PARTIAL TAX EXEMPTION PROGRAM**  
**100 GOLD STREET, SECTION V, NINTH FLOOR, NEW YORK, NY 10038**  
**(212) 863-5421 or 863-5077/5100/5084**

**APPLICATION FOR PRELIMINARY CERTIFICATION OF ELIGIBILITY FOR PARTIAL TAX EXEMPTION**  
**UNDER SECTION 421-a OF THE NEW YORK STATE REAL PROPERTY TAX LAW**  
**AND 11-245 OF THE NEW YORK CITY ADMINISTRATIVE CODE**

This application must be accompanied by a Certified or Bank Check for \$100.00 made payable to the City of New York – Department of Finance.

<b>HDP USE ONLY</b>	
Docket #:	_____
Date Rec'd:	_____

TO THE COMMISSIONER:

The undersigned applicant hereby requests that a Preliminary Certification of Eligibility for 421-a Partial Tax Exemption be issued to him/her stating that the site and the improvements to be located at the site conforms to and are eligible pursuant to the requirements of the Department of Housing Preservation and Development Rules for 421-a Partial Tax Exemption and all other Laws and Regulations/Rules applicable thereto.

APPLICANT: Shao-Lin Operating LLC  
 ADDRESS: 2025 Broadway (Suite 21K)  
 CITY, STATE: New York, New York  
 ZIP: 10023

TELEPHONE #: (212) 873-9225  
 FAX #: \_\_\_\_\_

2008 MAY -2 PM 3:08

If the applicant is a corporation, list one officer:

NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CITY, STATE: \_\_\_\_\_  
 ZIP: \_\_\_\_\_

TITLE: \_\_\_\_\_  
 TELEPHONE #: \_\_\_\_\_  
 FAX #: \_\_\_\_\_

If the applicant is partnership, list one general partner:

NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CITY, STATE: \_\_\_\_\_  
 ZIP: \_\_\_\_\_

TITLE: \_\_\_\_\_  
 TELEPHONE #: \_\_\_\_\_  
 FAX #: \_\_\_\_\_

This affidavit is herewith submitted for the issuance of a Preliminary Certification of Eligibility for 421-a Partial Tax Exemption for the structure/s herein mentioned. APPLICANT UNDERSTANDS AND AGREES THAT IF A TAX EXEMPTION IS APPROVED AS A RESULT OF THIS APPLICATION AND THE OWNER FAILS TO COMPLY WITH THE REQUIREMENTS CONTAINED WITHIN THE 421-a RULES ADOPTED BY THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT, THE COMMISSIONER SHALL REVOKE THE CERTIFICATION OF ELIGIBILITY AND TERMINATE THE TAX EXEMPTION THEREUNDER. WITHDRAWAL OF TAX EXEMPTION FOR PROVIDING SUBSTANTIALLY INCORRECT INFORMATION OR FOR NONCOMPLIANCE OR VIOLATION OF THESE RULES SHALL COMMENCE ON SUCH DATE OF REVOCATION. WITHDRAWAL OF TAX EXEMPTION FOR FAILURE TO COMPLETE THE BUILDING WITHIN THE TIME PERIOD PROVIDED SHALL COMMENCE WITH THE INITIAL DATE OF SUCH EXEMPTION. THE OWNER SHALL PAY THE CITY, WITH INTEREST, THE AMOUNT OF TAXES FROM WHICH HE/SHE HAD BEEN EXEMPTED. SUCH AMOUNT, IF UNPAID, SHALL BECOME A LIEN AGAINST THE PROPERTY.

STATE OF New York )  
 ) SS: Gary Schaeffer  
 COUNTY OF New York ) being duly sworn deposes and says

that he/she is the Managing Member of Shao-Lin Operating LLC

Applicant or Officer of Applicant Corp. or General Partner making this application for a Preliminary Certification of Eligibility for Partial Tax Exemption; he/she has read the 421-a Rules for Partial Tax Exemption; he/she understands that the City of New York may rely on the statements contained herein acting upon this application.

Sworn to before me this 2<sup>nd</sup> day of

April, 2008

Sheryl D. Limpert  
 Notary Public

Gary B. Schaeffer  
 Signature  
April 2, 2008  
 Date

**SHERYL D. LIMPERT**  
 Notary Public, State of New York  
 No. 01LI5072374  
 Qualified in New York County  
 Commission Expires Jan. 27, 2011

**THIS APPLICATION IS FOR NEWLY CONSTRUCTED MULTIPLE DWELLINGS, NOT LESS THAN (6) DWELLING UNITS, THAT COMPLETE CONSTRUCTION NO LATER THAN DECEMBER 31, 2005. BE SURE TO ANSWER ALL QUESTIONS AND PLACE A CHECKMARK IN THE APPROPRIATE BOXES.**

## 1. CONTACT PERSON/FIRM:

**Lawrence J. Berger, PC** ATTN: **Harvey I. Shiff, Esq.**  
 ADDRESS & ZIP CODE: **200 Madison Avenue, Suite 1902, New York, New York 10016**  
 TELEPHONE #: **212-532-0222** FAX #: **(212) 532-0224**

## 2. PROJECT INFORMATION:

BOROUGH **Manhattan** COMMUNITY BOARD **4** EXISTING ZONING: **C6-4**  
 BLOCK **1070** LOT(S) **49**  
 FORMER LOT(S) IF MERGED OR APPORTIONED \_\_\_\_\_  
 PLOT DIMENTIONS **25.4 x 99.11** LAND AREA IN SQ.FT. **1,933.53**  
 ADDRESS OF PREMISES: **534 West 42nd Street**  
**New York, New York** ZIP: **10036**  
 SITE NAME (IF APPLICABLE) **The Deuce Condominium**

ATTACH NYC TAX MAP OUTLINING THE PROPERTY -  
 OBTAIN FROM SURVEY SECTION OF THE DEPARTMENT OF FINANCE PROPERTY DIVISION

## NUMBER OF:

STORIES:	<b>9</b>	BLDGS:	<b>1</b>
STUDIOS:	<b>0</b>	ONE BEDROOMS:	<b>6</b>
TWO BEDROOMS:	<b>1</b>	THREE BEDROOMS:	
FOUR BEDROOMS:		FIVE BEDROOMS:	
OTHER:			
TOTAL NUMBER OF ZONING ROOMS:	<b>25.5</b>		
TOTAL NUMBER OF DWELLING UNITS:	<b>7</b>		

PLEASE CHECK: RENTAL ☐ CO-OP ☐ CONDO ☒

LIST AND DESCRIBE ALL NON-RESIDENTIAL SPACE AND WHERE LOCATED (Attach sheets, if necessary):

FLOORS: **1st** **Retail**  
 BASEMENT: \_\_\_\_\_  
 CELLARS: **Cellar** **Residential Storage**

ESTIMATED COMPLETION DATE OF PROJECT: **August 2008**

WILL AIR RIGHTS BE PURCHASED? YES ☐ NO ☒  
 IF YES, OVER WHAT? \_\_\_\_\_ AIR RIGHTS LOT # \_\_\_\_\_

## 3. SITE ELIGIBILITY:

INDICATE THE CONDITIONS OF THE PROJECT SITE (AS OF 36 MONTHS PRIOR TO COMMENCEMENT OF CONSTRUCTION) SEE 421a RULES, SECTION 6-02 (F)

- |  |  |  |
|--|--|--|
| (a) VACANT   | YES <input type="checkbox"/>                   | NO <input checked="" type="checkbox"/> |
| PREDOMINANTLY VACANT   | YES <input type="checkbox"/>                   | NO <input checked="" type="checkbox"/> |
| UNDERUTILIZED  | YES <input checked="" type="checkbox"/>        | NO <input type="checkbox"/>            |
| NON-CONFORMING   | YES <input type="checkbox"/>                   | NO <input checked="" type="checkbox"/> |
| FUNCTIONALLY OR ECONOMICALLY OBSOLETE  | YES <input checked="" type="checkbox"/>        | NO <input type="checkbox"/>            |
| (b) DOES THIS PROJECT CONTAIN MORE THAN 20 DWELLING UNITS?   | YES <input type="checkbox"/>                   | NO <input checked="" type="checkbox"/> |
| IF YES, ANSWER 3(c), 3(d), AND 3(e)  |  |  |
| (c) WERE RESIDENTIAL BUILDINGS ON THE LAND IMMEDIATELY PRIOR TO THE START OF CONSTRUCTION?   | YES <input type="checkbox"/>                   | NO <input checked="" type="checkbox"/> |
| (d) DOES THE NEW BUILDING CONTAIN AT LEAST FIVE DWELLING UNITS FOR EACH DEMOLISHED DWELLING UNIT IN EXISTENCE IMMEDIATELY PRIOR TO THE NEW CONSTRUCTION? | NOT APPLICABLE<br>YES <input type="checkbox"/> | NO <input type="checkbox"/>            |
| (e) INDICATE THE NUMBER OF DEMOLISHED RESIDENTIAL BUILDINGS:   | <b>0</b>                                       | UNITS: <b>0</b>                        |
|  | NOT APPLICABLE                                 |  |

**4. OTHER STANDARDS FOR REVIEW:**

(a) IS THE NEW MULTIPLE DWELLING LOCATED IN THE 421-a GEOGRAPHIC EXCLUSION AREA? YES ☒ NO ☐

(b) IS THIS PROJECT LOCATED IN A NEIGHBORHOOD PRESERVATION AREA (NPA) OR AN AREA ELIGIBLE FOR MORTGAGE INSURANCE PROVIDED BY THE REHABILITATION MORTGAGE INSURANCE CORPORATION (REMIC)? YES ☐ NO ☒

NPP AREA ☐

REMIC AREA ☐

(c) IS THIS PROJECT BEING CONSTRUCTED WITH SUBSTANTIAL GOVERNMENTAL ASSISTANCE? YES ☐ NO ☒

PLEASE EXPLAIN AND PROVIDE A COPY OF THE REGULATORY AGREEMENT, WRITTEN AGREEMENT, LOWER INCOME HOUSING PLAN, CONTRACT, ETC.

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(d) ARE NEGOTIABLE CERTIFICATES BEING USED TO QUALIFY A PROJECT LOCATED IN THE 421-a GEOGRAPHIC EXCLUSION AREA? YES ☒ NO ☐

IF YES, ATTACH A COPY OF THE 421-a AFFORDABLE HOUSING WRITTEN AGREEMENT. **To be Provided**

(e) WILL THIS PROJECT OR ANY PART OF THIS PROJECT BE RECEIVING TAX EXEMPTION OR TAX ABATEMENT UNDER ANY OTHER PROVISION OF STATE OR LOCAL LAW? YES ☐ NO ☒  
IF YES, PLEASE EXPLAIN:

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(f) WAS THIS PROJECT SITE MAPPED AS A PUBLIC PARK OR UTILIZED FOR 10 OR MORE CONSECUTIVE YEARS AS A PRIVATE PARK IMMEDIATELY PRIOR TO OCTOBER 1, 1971? YES ☐ NO ☒

(g) WILL ANY PART OF THIS PROJECT BE USED AS A TRANSIENT HOTEL/ APARTMENT HOTEL OR SINGLE ROOM OCCUPANCY? YES ☐ NO ☒

(h) DOES THIS PROJECT CONTAIN MORE THAN 100 DWELLING UNITS? (SEE BELOW NOTATION) YES ☐ NO ☒  
INDICATE NUMBER OF ONE BEDROOMS \_\_\_\_\_  
INDICATE NUMBER OF TWO BEDROOMS \_\_\_\_\_

(i) HAS THE OWNER APPLIED FOR OR RECEIVED A RESERVATION FOR LOW INCOME HOUSING TAX CREDITS FROM A HOUSING CREDIT AGENCY (DHCR or HPD)? YES ☐ NO ☒

**Note:** For projects applying for 421-a benefits, 10% of the units must contain at least 4½ zoning rooms, and at least 15% of the units must contain at least 3½ zoning rooms. See section 6-02(c)(2) of the 421-a rules for details. This requirement may be waived, if the project provides housing exclusively for the elderly.



THE CITY OF NEW YORK  
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT  
421-a PARTIAL TAX EXEMPTION PROGRAM  
100 GOLD STREET, SECTION V, NINTH FLOOR, NEW YORK, NY 10038

AFFIDAVIT

STATE OF NEW YORK     )  
  ): SS.  
COUNTY OF New York     )

I, Gary Schaeffer, Managing Member, am the applicant of record of the  
project at 534 West 42nd Street, New York, New York 1001  
(address)

Block: 1070 Lot/s 49

and make this affidavit in support of the estimated development costs submitted to the  
Department of Housing Preservation and Development as part of the application for 421-  
a Partial Tax Exemption benefits. The costs contained therein represent a fair and  
accurate estimate of the development costs to be incurred for the acquisition of the land  
and the construction of the above project.

I am fully aware that upon completion of this project, a certified public accountant  
certification of the actual project cost must be submitted in order for a Final Certificate of  
Eligibility to be issued by the Department of Housing Preservation and Development.

I make these statements to induce the City of New York to grant partial tax exemption  
benefits and know that the City of New York will rely on the veracity of such statements  
in granting 421-a Partial Tax Exemption benefits.

Sworn this 2nd  
day of April, 2008

Sheryl D. Limpert  
notary

Gary Schaeffer  
signature

SHERYL D. LIMPERT  
Notary Public, State of New York  
No. 0115072374  
Qualified in New York County  
Commission Expires Jan. 27, 2011

**421 - a**  
**ESTIMATED DEVELOPMENT COSTS**

**Address of Project: 534 West 42nd Street**

**Block : 1070**

**Lot: 49, Manhattan**

**1. LAND ACQUISITION (ATTACH DEED)**

a) Purchase Price (attach contract of sale or closing statement)	0.00	
b) Appraisal (if required - see 421 -a Rule 6-05 (b) (1) (I) (A))	3,000,000.00	
c) Ground Lease (for _____ months)		
d) Relocation and other expenses		
e) Air Rights		
f) Other (please specify) Property Inspection	1,000.00	\$ 3,001,000.00

**2. CONSTRUCTION COSTS**

c) Demolition and Site Clearance Costs	57,000.00	
b) Abnormal Foundations & Conditions	0.00	
c) Hard Construction Costs (attach itemization to erect bldg/s)	3,831,625.69	
d) Lawn/Plantings		
e) Roads/Walkways		
f) Site Work		
g) Other (please specify)	0.00	\$ 3,888,625.69

**3. BUILDER'S FEE/DEVELOPER'S PROFIT**

420,087.55	\$ 420,087.55
------------	---------------

**4. PROFESSIONAL AND OTHER FEES**

a) Architect's Fee	573,278.00	
b) Engineer's Inspection fee and Engineer Fee	211,442.00	
c) Laboratory Fees Other, Permits Filing Fees	20,000.00	
d) Soil Investigation (Remedial action plan/soil displacement)	44,377.00	
e) Preliminary Surveys	450.00	
f) Project supervision fee		
g) Legal fees (including Lender's legal fees)	316,000.00	
h) Environmental Surveys/Reports		
i) Controlled Inspection Fee		
j) Accounting fees	30,000.00	
k) Consultant fees	15,818.00	
l) Appraisal fees	500.00	
m) 421-a Partial Tax Exemption Filing Fee	43,354.00	
n) Cost of 421-a Negotiable Certificates	16,000.00	\$ 1,271,219.00

(Purchase price only, include copy of contract of sale)

**5. MARKETING EXPENSES**

a) Commissions/Sales Expense		
b) Advertising	63,000.00	
c) Other (please specify) Renderings	12,000.00	\$ 75,000.00

**6. FINANCING AND OTHER CHARGES**

a) Construction Interest & Loan Fee/Origination fees/Loan servicing	1,494,805.50	
b) Rent-up Interest		
c) Construction Real Estate Taxes	103,908.00	
d) Rent-up Real Estate Taxes		
e) Title and Recording Expenses	303,309.08	
f) Construction Insurance (fire/liability, etc.)	247,073.93	
g) Water/Sewer	32,000.00	
h) Other (please specify) Independent Member fee	1,500.00	\$ 2,182,596.51

**7. TOTAL PROJECT COSTS**

\$ 10,838,528.75	\$ 10,838,528.75
------------------	------------------

THE CITY OF NEW YORK  
DEPARTMENT OF HOUSING PRESERVATION & DEVELOPMENT  
421 (a) TAX EXEMPTION UNIT  
100 GOLD STREET, 9TH FLR, NEW YORK, NY 10038  
(212) 386-5421/5883/5884/5886

OFFICE USE ONLY	
DOCKET #: _____	
DATE: _____	

### CONSTRUCTION COST DETAIL SHEET

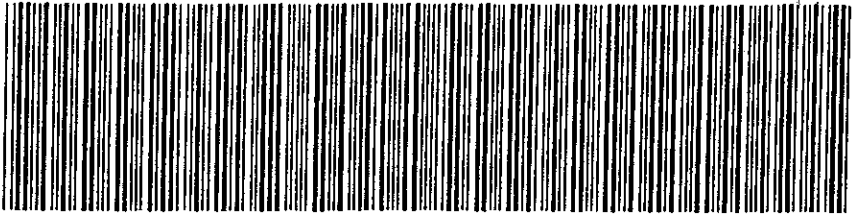
ADDRESS OF PROJECT: 534 West 42nd Street BORO: Manhattan  
 LOCATION: South side of West 42nd Street between Tenth and Eleventh Avenues.

ITEM #	DESCRIPTION OF ITEM	\$
1	Foundations	\$ 639,610.00
2	Concrete - Structural	\$ 899,380.00
3	Mini-Caissons	\$ 134,859.50
4	Masonry	\$ 207,278.00
5	Structural Steel	\$ 153,105.00
6	Asbestos Abatement	\$ 6,000.00
7	Shoring	\$ 32,100.00
8	Rough Carpentry	
9	Finish Carpentry	
10	Windows & Glazing	\$ 142,260.00
11	Doors & Hardware	\$ 69,800.00
12	Finish Hardware	
13	Drywall/Ceiling/Carpentry	\$ 264,025.57
14	Ceramic Tile, Stone	\$ 101,976.00
15	Resilient Flooring	
16	Wood Flooring	\$ 77,196.00
17	Roofing & Skylight	\$ 98,551.40
18	Leaders & Gutters	
19	Alum. Siding or Special facade work	
20	Protection/hoist	\$ 217,026.93
21	Waterproofing & Damp-proofing	\$ 20,900.00
22	Lighting Electrical Supply	\$ 37,356.15
23	Millwork	\$ 154,000.00
24	Ducts, Ventilation	
25	Painting & Decorating	\$ 55,000.00
26	Kitchen Cabinets	
27	Entrance & Lobby Doors	
28	Elevators	\$ 186,400.00
29	Compactors, Refuse chute	
30	Heating & Ventilation (including Air Conditioning)	\$ 334,801.14
31	Air Conditioning (see above)	
32	Plumbing & Supplies	\$ 231,563.42
33	Electrical	\$ 244,265.55
34	Intercoms	
35	Ranges / Dishwashers, etc.	\$ 87,811.69
36	Refrigerators	
37	Mail Boxes & Hardware	\$ 1,506.25
38	Toilet & Bathroom accessories	\$ 5,387.00
39	Storefront & Mirrors	\$ 32,620.00
40	Planting, Fencing & Site Work	
41	Child Guard & Security Gates	
42	General Conditions:	\$ 592,037.00
43	Other:	
44	a. Cleaning/extermination	\$ 704.44
45	b. Sprinklers	\$ 95,000.00
46	c. Expeditor	\$ 50,669.99
47	d. Testing & Inspection	\$ 30,000.00
48	e. Watchman	\$ 50,000.00
49	f. Signage	\$ 2,000.00
50	g. Site safety	\$ 17,385.00
51	<b>TOTAL **</b>	<b>\$ 3,831,625.69</b>

\*\* Carry this figure forward to section 2 of the Estimated Development Cost and Capital Requirements sheets, to the appropriate "Residential Structures" line - eg - High Rise or Low Rise

NYC DEPARTMENT OF FINANCE  
OFFICE OF THE CITY REGISTER

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RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 4

Document ID: 2004101302567001

Document Date: 09-21-2004

Preparation Date: 10-13-2004

Document Type: DEED

Document Page Count: 3

PRESENTER:

FIRST AMERICAN TITLE INS. CO., HUDSON VALLEY  
188 EAST POST RD. (PICK-UP BY GAIL)  
3008-15270 (LIZ R.)  
WHITE PLAINS, NY 10601  
914-428-3433

RETURN TO:

FRIEDBERG GREENER COHEN LLP  
444 MADISON AVENUE  
SUITE 805  
NEW YORK, NY 10022

PROPERTY DATA

Borough	Block	Lot	Unit	Address
MANHATTAN	1070	49	Entire Lot	534 WEST 42ND STREET
Property Type: INDUSTRIAL BUILDING				

CROSS REFERENCE DATA

CRFN \_\_\_\_\_ or Document ID \_\_\_\_\_ or \_\_\_\_\_ Year \_\_\_\_\_ Reel \_\_\_\_\_ Page \_\_\_\_\_ or File Number \_\_\_\_\_

PARTIES

GRANTOR/SELLER:

THE LITTLE GODDESS, INC.  
C/O FRIEDMAN & LAROSA, INC., 1344 LEXINGTON AVENUE  
NEW YORK, NY 10128

GRANTEE/BUYER:

DOJO WEST 42ND REALTY LLC  
2025 BROADWAY, SUITE 21K  
NEW YORK, NY 10023

FEES AND TAXES

Mortgage			Recording Fee: \$	52.00
Mortgage Amount:	\$	0.00	Affidavit Fee: \$	0.00
Taxable Mortgage Amount:	\$	0.00	NYC Real Property Transfer Tax Filing Fee:	
Exemption:			\$	165.00
TAXES: County (Basic):	\$	0.00	NYS Real Estate Transfer Tax:	
City (Additional):	\$	0.00	\$	7,200.00
Spec (Additional):	\$	0.00		
TASF:	\$	0.00		
MTA:	\$	0.00		
NYCTA:	\$	0.00		
Additional MRT:	\$	0.00		
TOTAL:	\$	0.00		

NYC HPD Affidavit in Lieu of Registration Statem



RECORDED OR FILED IN THE OFFICE  
OF THE CITY REGISTER OF THE  
CITY OF NEW YORK

Recorded/Filed 11-03-2004 15:57  
City Register File No.(CRFN):  
2004000679543

*Annette McMill*

City Register Official Signature

**BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR'S ACTS  
(INDIVIDUAL OR CORPORATION)**

**CAUTION: THIS AGREEMENT SHOULD BE PREPARED BY AN ATTORNEY AND  
REVIEWED BY ATTORNEYS  
FOR SELLER AND PURCHASER BEFORE SIGNING.**

**THIS INDENTURE**, made the 21<sup>st</sup> day of September, two thousand four,  
between **THE LITTLE GODDESS, INC.**, having an address c/o Friedman & Larosa, Inc.,  
1344 Lexington Avenue, New York, New York 10128, party of the first part, **DOJO WEST  
42ND REALTY LLC**, having an office at 2025 Broadway, Suite 21K, New York, New York  
10023, party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of Ten Dollars and other  
valuable consideration paid by the party of the second part, does hereby grant and release unto  
the party of the second part, the heirs, or successors and assigns of the party of the second part  
forever,

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements  
thereon erected, situate, lying and being in the Borough of Manhattan, and State of New York, as  
described in Schedule A annexed hereto and made a part hereof.

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to  
any streets and roads abutting the above described premises to the center lines thereof,  
**TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in  
and to said premises, **TO HAVE AND TO HOLD** the premises herein granted unto the party of  
the second part, the heirs or successors and assigns of the party of the second part forever.

**AND** the party of the first part, covenants that the party of the first part has not done or  
suffered anything whereby the said premises have been encumbered in any way whatever.

**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants  
that the party of the first part will receive the consideration for this conveyance and will hold the  
right to receive such consideration as a trust fund to be applied first for the purpose of paying the  
cost of the improvement and will apply the same first to the payment of the cost of the  
improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed the day and year first above written.

**IN PRESENCE OF:**

*Natalie Nami*

THE LITTLE GODDESS, INC.

By: *Angelina Fiordellisi*  
Name: Angelina Fiordellisi  
Title: President

STATE OF NEW YORK            )  
  ) ss.:  
COUNTY OF *new york*        )

On the 21<sup>st</sup> day of September, in the year 2004, before me, the undersigned, a Notary Public in and for said state, personally appeared *Angela Scordellia* personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

*Victoria P. Apostle*  
Notary Public

VICTORIA P. APOSTLE  
Notary Public, State of New York  
No. 01AP4614741  
Qualified in New York County  
Commission Expires May 31, 2007

Section:  
Block: 1070  
Lot: 49  
County: New York  
Address: 534 West 42<sup>nd</sup> Street  
New York, New York

**Bargain and Sale Deed**  
With Covenant Against Grantors Acts

Title No.: \_\_\_\_\_

THE LITTLE GODDESS, INC.,

TO

DOJO WEST 42ND REALTY LLC.

RETURN BY MAIL TO:

Friedberg Greener Cohen LLP  
444 Madison Avenue, Suite 805  
New York, New York 10022  
Attention: Jeffrey Greener, Esq.

## **EXHIBIT A**

### **LEGAL DESCRIPTION**

ALL that certain plot, piece and parcel of land, situate and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of West 42<sup>nd</sup> Street at the center of a party wall distant 396 feet 3 inches westerly from the southwesterly corner of West 42<sup>nd</sup> Street and 10<sup>th</sup> Avenue;

RUNNING THENCE southerly parallel with 10<sup>th</sup> Avenue and part of the way through a party wall, 98 feet 9 inches to the center line of the block between 41<sup>st</sup> and 42<sup>nd</sup> Streets;

THENCE westerly along said center line of the block and parallel with West 42<sup>nd</sup> Street, 19 feet and 7 inches;

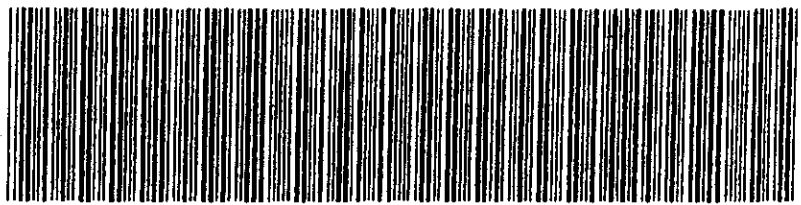
THENCE northerly parallel with 10<sup>th</sup> Avenue, 98 feet 9 inches to the southerly side of West 42<sup>nd</sup> Street running in part through the center of a party wall of a house and lot adjoining said premises on the west;

THENCE easterly along the southerly side of West 42<sup>nd</sup> Street, 19 feet 7 inches to the point or place of BEGINNING.

Exhibit A



NYC DEPARTMENT OF FINANCE  
OFFICE OF THE CITY REGISTER



2004101302567001002SA030

SUPPORTING DOCUMENT COVER PAGE

PAGE 1 OF 1

Document ID: 2004101302567001

Document Date: 09-21-2004

Preparation Date: 10-13-2004

Document Type: DEED

ASSOCIATED TAX FORM ID: 2004083000360

SUPPORTING DOCUMENTS SUBMITTED:

Page Count  
2

RP - 5217 REAL PROPERTY TRANSFER REPORT

**FOR CITY USE ONLY**

C1. County Code    C2. Date Deed Recorded    Month / Day / Year  
C3. Book OR    C4. Page  
C5. CRFN

**REAL PROPERTY TRANSFER REPORT**

STATE OF NEW YORK  
STATE BOARD OF REAL PROPERTY SERVICES

**RP - 5217NYC**

(Rev 11/2002)

**PROPERTY INFORMATION**

<b>1. Property Location</b>	<div style="border-bottom: 1px solid black; padding-bottom: 2px;">534</div>	<div style="border-bottom: 1px solid black; padding-bottom: 2px;">WEST 42ND STREET</div>	<div style="border-bottom: 1px solid black; padding-bottom: 2px;">MANHATTAN</div>	<div style="border-bottom: 1px solid black; padding-bottom: 2px;">10036</div>
	STREET NUMBER	STREET NAME	BOROUGH	ZIP CODE
<b>2. Buyer Name</b>	<div style="border-bottom: 1px solid black; padding-bottom: 2px;">DOJO WEST 42ND REALTY LLC</div>			
	LAST NAME / COMPANY		FIRST NAME	
	LAST NAME / COMPANY		FIRST NAME	
<b>3. Tax Billing Address</b>	Indicate where future Tax Bills are to be sent if other than buyer address (at bottom of form)			
	LAST NAME / COMPANY		FIRST NAME	
	STREET NUMBER AND STREET NAME		CITY OR TOWN	STATE
<b>4. Indicate the number of Assessment Roll parcels transferred on the deed</b>	<div style="border-bottom: 1px solid black; padding-bottom: 2px; width: 50px; text-align: center;">1</div>	# of Parcels	OR	<input type="checkbox"/> Part of a Parcel
<b>5. Deed Property Size</b>	<div style="border-bottom: 1px solid black; padding-bottom: 2px; width: 100px; text-align: center;">FRONT FEET</div>	X	<div style="border-bottom: 1px solid black; padding-bottom: 2px; width: 100px; text-align: center;">DEPTH</div>	OR
	ACRES		ACRES	
<b>6. Seller Name</b>	<div style="border-bottom: 1px solid black; padding-bottom: 2px;">THE LITTLE GODDESS, INC.</div>			
	LAST NAME / COMPANY		FIRST NAME	
	LAST NAME / COMPANY		FIRST NAME	
<b>7. Check the box below which most accurately describes the use of the property at the time of sale:</b>	<div style="border: 1px solid black; width: 100px; height: 40px; margin: 0 auto;"></div>			

**SALE INFORMATION**

10. Sale Contract Date 8 / 16 / 2004  
Month Day Year

11. Date of Sale / Transfer 9 / 21 / 2004  
Month Day Year

12. Full Sale Price 1 8 0 0 0 0 0  
\$

( Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption mortgages or other obligations.) Please round to the nearest whole dollar amount.

13. Indicate the value of personal property included in the sale \$

14. Check one or more of these conditions as applicable to transfer:

A	<input type="checkbox"/>	Sale Between Relatives or Former Relatives
B	<input type="checkbox"/>	Sale Between Related Companies or Partners in Business
C	<input type="checkbox"/>	One of the Buyers is also a Seller
D	<input type="checkbox"/>	Buyer or Seller is Government Agency or Lending Institution
E	<input type="checkbox"/>	Deed Type not Warranty or Bargain and Sale (Specify Below)
F	<input type="checkbox"/>	Sale of Fractional or Less than Fee Interest (Specify Below)
G	<input type="checkbox"/>	Significant Change in Property Between Taxable Status and Sale Dates
H	<input type="checkbox"/>	Sale of Business is Included in Sale Price
I	<input type="checkbox"/>	Other Unusual Factors Affecting Sale Price (Specify Below)
J	<input checked="" type="checkbox"/>	None

**ASSESSMENT INFORMATION** - Data should reflect the latest Final Assessment Roll and Tax Bill.

15. Building Class J, 7 16. Total Assessed Value (of all parcels in transfer) 198,360

17. Borough, Block and Lot / Roll Identifier(s) ( If more than three, attach sheet with additional identifier(s) )

MANHATTAN 1070 49

## CERTIFICATION

I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.

DOJO WEST 42ND REALTY BUYER  
By: [Signature] LLC  
BUYER SIGNATURE DATE 9-21-07  
Name:  
Title:  
2025 Broadway, Suite 21K  
STREET NUMBER STREET NAME (AE/EB/SA/EA)

**BUYER'S ATTORNEY**

Greener	Jeffrey
LAST NAME	FIRST NAME

212 | 829-9090

AREA CODE      TELEPHONE NUMBER  
THE LITTLE GODDESS • SELLER

By  INC. SELLER 9/21/4  
SELLER SIGNATURE DATE  
Name:  
Title: 2004083000360201

<b>CERTIFICATION</b>		I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.	
DOJO WEST 42ND REALTY LLC		BUYER'S ATTORNEY	
By: <i>[Signature]</i>	<i>[Signature]</i>	Greener	Jeffrey
Name: <i>[Signature]</i>	Title: <i>[Signature]</i>	LAST NAME	FIRST NAME
2025 Broadway, Suite 21K		212	829-9090
STREET NUMBER	STREET NAME (AFTER SALE)	AREA CODE	TELEPHONE NUMBER
New York	NY	10023	
CITY OR TOWN	STATE	ZIP CODE	
		THE LITTLE GODDESS, INC.	SELLER
		By: <i>[Signature]</i>	DATE: 9/21/04
		SELLER SIGNATURE	
		Name: Angelina Fradellis	
		Title: <i>[Signature]</i>	

2004083000360201

***STATE OF NEW YORK***  
***DEPARTMENT OF STATE***

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the  
Department of State, at the City of Albany, on  
August 30, 2007.

*Paul LaPointe*

Paul LaPointe  
Special Deputy Secretary of State

070320000715

CERTIFICATE OF MERGER  
OF

DOJO WEST 42<sup>ND</sup> REALTY LLC  
(Insert name of Domestic Entity)

AND

SHAO LIN OPERATING LLC  
(Insert name of Domestic Limited Liability Company)

INTO

SHAO LIN OPERATING LLC  
(Insert name of Domestic Limited Liability Company)

Under Section 1603 of the Limited Liability Company Law

Filed by: Jeffrey Green/Rivkin Radler LLP  
(Name)  
926 Rockton Plaza  
(Mailing address)  
Uniondale, New York 11556  
(City, State and Zip Code)

Stellar-CN  
Drawdown

NOTE: This form was prepared by the New York State Department of State for filing a certificate of merger with a domestic business entity into a domestic limited liability company survivor. The certificate must be signed on behalf of each entity. It does not contain all optional provisions under law. You are not required to use this form. You may draft your own form or use forms available at legal supply stores. The Department of State recommends that legal documents be prepared under the guidance of an attorney. The certificate must be submitted with a \$60 filing fee made payable to the Department of State.

FILED  
2007 MAR 20 PM 12:50

(For office use only)

200304 v1

STATE OF NEW YORK  
DEPARTMENT OF STATE  
FILED

MAR 20 2007

TAX \$                       
BY:                     



3

759

070320000715

New York State  
Department of State  
Division of Corporations, State Records  
and Uniform Commercial Code  
Albany, NY 12231

CERTIFICATE OF MERGER  
OF

DOJO WEST 42<sup>ND</sup> REALTY LLC  
(Insert name of Domestic Entity)

AND

SHAO LIN OPERATING LLC  
(Insert name of Domestic Limited Liability Company)

INTO

SHAO LIN OPERATING LLC  
(Insert name of Domestic Limited Liability Company)

Under Section 1003 of the Limited Liability Company Law

FIRST: The name (and if the name has been changed, the name under which it was formed) and jurisdiction of formation or organization of each domestic limited liability company or other domestic business entity that is to merge is:

DOJO WEST 42<sup>ND</sup> REALTY LLC #804023  
SHAO LIN OPERATING LLC #SHAO LDE3

SECOND: For each domestic limited liability company and domestic other business entity, the date when its initial articles of organization or formation document was filed with Department of State is:

DOJO WEST 42<sup>ND</sup> REALTY LLC - 8/2/04  
SHAO LIN OPERATING LLC - 8-2-04

THIRD: The name of the surviving domestic limited liability company is:

SHAO LIN OPERATING LLC

FOURTH: The agreement of merger has been approved and executed by each of the domestic limited liability companies or domestic other business entities that is a party thereto.

FIFTH: The future effective date of the merger, which does not exceed 30 days from the date of filing, is: \_\_\_\_\_



1

SIXTH: The Secretary of State is designated as agent of surviving limited liability company upon whom process against it may be served. The address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is: 2025 Broadway - Apt. 21JK  
New York, New York 10023

SEVENTH: The agreement of merger is on file at the following place of business of the surviving domestic limited liability company: 2025 Broadway - Apt. 21JK  
New York, New York 10023

EIGHTH: A copy of the agreement merger will be furnished by the surviving domestic limited liability company on request and without cost to any member of any domestic limited liability company or to any person holding an interest in any other business entity that is to merge pursuant to such agreement.

DOJO WEST 42<sup>ND</sup> REALTY LLC

(Name of Domestic Entity)

X

[Signature]  
(Signature)

GARY SCHAEFFER

(Type or Print Name)

Manager

(Title or capacity of signer)

SHAO LIN OPERATING LLC

(Name of Domestic Limited Liability Company)

X

[Signature]  
(Signature)

GARY SCHAEFFER

(Type or Print Name)

Manager

(Title or capacity of signer)

2

## **CLOSING STATEMENT**

**Purchase of "The Little Goddess Theater" Building**

**located at**

**534 West 42nd Street  
New York, New York**

**by**

**Dojo West 42nd Street Realty LLC, Purchaser**

**from**

**The Little Goddess, Inc., Seller**

1. The Closing occurred at Blank Rome, LLP, 405 Lexington Avenue, New York, New York 11570 on September 21, 2004 at 9:30 a.m.

A. The following persons were present:

Dojo West 42nd Street Realty LLC	Purchaser
By: Gary Schaeffer, Manager	

Friedberg Greener Cohen, LLP	Purchaser's Attorney
By: Jeffrey S. Greener, Esq.	

The Little Goddess Inc.	Seller
By: Angelina Fiordellisi, President	
By: Joyce Friedman, Esq., Counsel	

Blank Rome, LLP	Seller's Attorney
By: Natalie Nassie, Esq.	

First American Title Insurance Company	Title Agent
By: Victoria Apostle	(Title #3008-15270)

Douglas Elliman	Broker
By: Nancy Werner	

Sotheby's International Realty	Broker
By: Alexander Peters	



B. The Purchase Price of \$1,800,000.00 was paid as follows:

	Credits to Seller	Credits to Purchaser
Purchase Price	\$1,800,000.00	
Contract Deposit		180,000.00
Prepaid Real Estate Taxes	6,252.37	
<b>Total</b>	<u>\$ 1,806,252.37</u>	<u>\$ 180,000.00</u>
<b>Balance Due Seller at Closing</b>		<u><b>\$1,626,252.37</b></u>

2. The balance due Seller was paid as follows:

State Bank Cashiers check No. 010229 - payable to "The Little Goddess, Inc."	\$1,620,000.00
State Bank Cashiers check No. 010230 - payable to "The Little Goddess, Inc."	<u>6,252.37</u>
<b>Total Paid to Seller</b>	<u><b>\$1,626,252.37</b></u>

3. Purchasers' Closing Expenses:

Title Charges - Lawyers Title Ins. Corp.	\$8,656.00
Legal Fees - Jeffrey S. Greener	4,768.00
Title Closer Gratuity - Victoria Apostle	150.00

4. Notes:

1. Purchase Price was paid from Purchaser's attorney's escrow account. Purchaser wired funds into that account prior to closing.

5. Index of Documents

1. Deed
2. NYS Combined Real Estate Transfer Tax Return
3. Real Property Transfer Report (RP-5217-NYC)
4. NYC Real Property Transfer Tax Return
5. Affidavit in Lieu of Registration Statement
6. FIRPTA Certification
7. DEP Customer Registration Form for Water and Sewer Billing
8. Assignment of Licenses, Permits, Guarantees and Warranties
9. Title Certification Affidavit of Seller
10. "The Little Goddess, Inc." Secretary's Certificate
11. "The Little Goddess, Inc." Consent of the Board of Directors to Action Taken in Lieu of a Meeting
12. Incorporation Documents regarding "The Little Goddess, Inc."
13. Consent of the Members of Dojo West 42nd Realty LLC
14. Articles of Organization of Dojo West 42nd Realty LLC
15. Certificate of Good Standing for Dojo West 42nd Realty LLC
16. Lawyers Title Invoice
17. Miscellaneous Checks

Very truly yours,

Jeffrey S. Greener

JSG/ad

Encl.

**APPRAISAL REPORT  
OF  
534 W. 42 STREET  
NEW YORK, NEW YORK  
BLOCK 1070, LOT 49**

**AS OF JUNE 7, 2007**

**ELIOT W. BERRY & CO., INC.  
501 FIFTH AVENUE - SUITE 1802  
NEW YORK, NEW YORK 10017**

ELIOT W. BERRY & CO., INC.  
501 Fifth Avenue - Suite 1802  
New York, New York 10017  
(212) 768-7000  
eliotberry@verizon.net

April 25, 2008

Harvey Schiff, Esq.  
Lawrence Berger PC  
200 Madison Avenue - Suite 1902  
New York, New York 10016

**RE: VALUATION OF VACANT LAND  
534 W. 42 STREET  
NEW YORK, NEW YORK  
BLOCK 1070, LOT 49  
AS OF JUNE 7, 2007**

Dear Mr. Schiff:

Per your request, we have prepared an appraisal of the above referenced premises.

The subject lot contains 1,933.53 square feet and was vacant land as of the appraisal date. The lot measures 19.58' wide by 98.75' deep. The lot is less than 45' wide and as such is considered a "sliver" parcel. As a result, though zoned C6-4, it may only be improved with a building of 11,978 square feet.

Based on our research and analysis, the market value of the subject land, as of the date of appraisal, June 7, 2007, is:

**THREE MILLION (\$3,000,000) DOLLARS**

Exposure time at this price is estimated at three months. Marketing time is estimated at six months.

Respectfully submitted,



Eliot Berry, ASA  
Senior Member, American Society of Appraisers  
N.Y. State Certified Real Estate Appraiser No. 6448  
EWB/gl

**SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS**

<b>PROPERTY IDENTIFICATION:</b>	534 W. 42 STREET New York, New York Block 1070, Lot 49
<b>LAND AREA:</b>	1,933.53± square feet (19.58'' wide x 98.75' deep)  Sliver Site (less than 45' wide)
<b>MAXIMUM BUILDABLE FAR:</b>	11,978 Square Feet
<b>ZONING:</b>	C6-4 (minimized by sliver lot)
<b>DATE OF REPORT:</b>	April 25, 2008
<b>DATE OF VALUE:</b>	June 7, 2007
<b><u>VALUE ESTIMATE:</u></b>	
Via Sales Comparison Approach	\$3,000,000
<b>FINAL VALUE ESTIMATE</b>	<b>\$3,000,000</b>

**ELIOT W. BERRY & CO., INC.**

**SCOPE OF THE APPRAISAL**

This appraisal has been conducted using applicable standard appraisal techniques and in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute. The appraised value is exclusive of movable equipment, trade fixtures and personal property and is limited to the real estate only.

**PROPERTY IDENTIFICATION**

As of the appraisal date, June 7, 2007, the subject property is vacant land located at 534 W. 42 STREET in the County of New York. The municipal jurisdictions governing the subject property are New York City, New York County and the State of New York. The subject property is recorded in the City of New York property tax rolls as Block 1070, Lot 49.

**PURPOSE OF THE APPRAISAL**

The purpose of the appraisal is to estimate the market value of the Fee Simple Interest in the subject land as of June 7, 2007.

**FUNCTION OF THE APPRAISAL**

The function of this appraisal is to estimate the market value of the property as of June 7, 2007. The report is to be used as an estimate of the value for HPD, which may use it in attributing rents to the building to be constructed on the subject site.

**ELIOT W. BERRY & CO., INC.**

**DEFINITION OF MARKET VALUE**

Market value is defined in the Dictionary of Real Estate Appraisal, 2nd edition, 1989, as:

*"The most probable price, as of a specified date, in cash, terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress."*

Fundamental assumptions and conditions presumed in this definition are:

1. Buyer and seller are motivated by self-interest.
2. Buyer and seller are well informed and are acting prudently.
3. The property is exposed for a reasonable time on the open market.
4. Payment is made in cash, its equivalent, or in specified financing terms.
5. Specific financing, if any, may be the financing actually in place or on terms generally available for the property type in its locale on the effective appraisal date.
6. The effect, if any, on the amount of market value of atypical financing, services, or fees shall be clearly and precisely revealed in the appropriate sections of the report.

**Exposure Time** is defined in the Dictionary of Real Estate Appraisal, 3rd edition, 1993, as follows:

- "1. The time a property remains on the market
2. The estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of appraisal...Exposure time is always presumed to occur prior to the effective date of appraisal. The concept of reasonable exposure encompasses not only adequate, sufficient and reasonable effort. Exposure time is different for various types of real estate and value ranges and varies under various market conditions."

**ELIOT W. BERRY & CO., INC.**

**Marketing Time (or Market Period)**

- "1. The time it takes an interest in real property to sell on the market subsequent to the date of an appraisal.
2. Reasonable marketing time is an estimate of the amount of time it might take to sell an interest in real property at its estimated market value during the period immediately after the effective date of appraisal; the anticipated time required to expose the property to a pool of prospective purchasers and to allow appropriate time for negotiation, the exercise of due diligence, and the consummation of a sale at a price supported by current market conditions. Marketing time differs from exposure time, which is always presumed to precede the effective date of the appraisal."

**OWNERSHIP HISTORY**

Public records indicate title to the subject property is owned by Dojo West 42<sup>nd</sup> Street Realty. The property was purchased for \$1,800,000 November 3, 2004.

**AREA AND NEIGHBORHOOD ANALYSIS**

The subject neighborhood is located on the far west side of Manhattan between Tenth and 11<sup>th</sup> Avenues. Development in the 42<sup>nd</sup> Street corridor has been primarily commercial. Residential development of the subject site is minimized as it is a "sliver" site, less than 45' wide.

**DESCRIPTION OF THE SITE**

The subject lot is located on W. 42nd Street between Tenth and Eleventh Avenues in Manhattan, City and State of New York. The subject lot contains 1,933.53 square feet and was vacant land as of the appraisal date. The lot measures 19.58'' wide by 98.75' deep. The lot is less than 45' wide and as such is considered a "sliver" parcel. As a result, though zoned C6-4, it may only be improved with a building of 11,978 square feet.

All public utilities including electricity, gas, telephone, water and city sewers service the site.

**ELIOT W. BERRY & CO., INC.**



## ZONING

The subject property is located in a **C6-4** residential zone. According to the Zoning Handbook, C6 districts are zoned for a wide variety of high bulk commercial uses requiring a central location. Most C6 districts are in Manhattan and provide for corporate headquarters, large hotels, entertainment facilities, retail stores and some residential development in mixed buildings.

C6-1A is a non-contextual district mapped in regional centers (Downtown Jamaica, for example). The designation includes the same bulk provision as C6-1, but imposes parking requirements appropriate for areas outside of Manhattan. All other C6 districts are exempt from parking requirements.

C6-2A is a contextual commercial district which is the equivalent of an R8A contextual district. It is currently mapped in Greenwich Village, and near Union Square in Manhattan.

C6-3A and C6-4A are medium bulk contextual commercial districts equivalent to R9A and R10A residential districts, respectively.

C6-1: General Central Commercial District  
Commercial FAR: 6.0 (7.12 with bonus)

C6-1A: Regional Subcenters  
Commercial FAR: 6.0 (9.0 with bonus)

C6-2: General Commercial District Outside Central Business District  
Commercial FAR: 6.0 (7.2 with bonus)

C6-2A: Contextual Commercial District Outside Central Business District  
Commercial FAR: 6.0

C6-3: General Commercial District Outside Central Business District  
Commercial FAR: 6.0 (7.2 with bonus)

C6-3A: Contextual Commercial District Inside the Central Business District  
Commercial FAR: 6.0

C6-4: Medium Bulk Office District  
Commercial FAR: 10.0 (12.0 with bonus)

### HIGHEST AND BEST USE, AS IF VACANT

Given maximum allowable FAR of 10 in this C6-4 zone, the subject land (1,933.53 square feet vacant), if built to maximum FAR of 10, the site hypothetically could contain an improvement of not more than 19,335 square feet. However, the subject site is a "sliver" lot and can be improved with improvements of only 11,978 square feet.

**ELIOT W. BERRY & CO., INC.**

## APPRAISAL PROCESS

This section of the report explains the applicability of recognized appraisal methods, reviews the work done in the valuation process, and sets forth the reasoning that supports each opinion or conclusion.

### Applicability of Approaches

**The Cost Approach:** In this approach, the cost to replace the improvements is estimated. A deduction is made for any depreciation, and the result is combined with the estimated value of the land. The approach is applicable when each component is independently measurable, and when the sum of all components is believed to reflect fair value. The building was erected in 1900, making the Cost Approach unfeasible.

**The Sales Comparison Approach:** This approach compares the subject property to other properties that have changed hands fairly recently, at known price levels. The approach is most meaningful when there is adequate market data involving comparable properties. Reliability of the approach varies directly with the quantity and quality of available market data.

**The Income Capitalization Approach:** This approach analyzes the property's capacity to generate income (or other monetary benefit) and converts this capacity into an indication of value. The approach is suitable for properties that have obvious earning power and investment appeal, but inappropriate for properties that have no readily discernible income potential. This approach is generally the preferred technique for appraising income producing properties because it most closely reflects the investment rationale and strategies of typical buyers. However, the subject is a development site, with no income stream. Therefore, the Income Approach has not been employed.

### Applicability to Subject Property:

The Sales Comparison Approach has been used in this valuation of 1,933.53 square feet of vacant land as of the appraisal date. The subject is a sliver lot that can be improved with only 11,978 square feet.

ELIOT W. BERRY & CO., INC.

### SALES COMPARISON APPROACH

The Sales Comparison Approach is most viable when an adequate number of properties of similar type have been sold recently or are currently for sale in the subject area's market. The application of this approach produces a value indication for a property through comparison with similar properties that have sold within a time frame applicable to a potential sale of the subject.

The sales prices of properties judged to be the most comparable tend to set a range of value into which the value indication for the subject property falls.

In analyzing the subject property via the Sales Comparison Approach, we have analyzed several sales of developable land from the subject and neighboring zip codes. All sales are development sites improved at the time of sale with buildings that would be demolished before construction.

The four (4) comparable sales are as follows:

**ELIOT W. BERRY & CO., INC.**

COMPARABLE MIDTOWN FAR SALES					
	SALE 1	SALE 2	SALE 3	SALE 4	SUBJ.
Address	12-18 W 55 St	131 E 47 Street	208-210 E 52 St	224 5th Ave (26-27 St.)	534 W 42 ST
Block/Lot	1270/48,47	1283/11	1325/48	1828/39	1070/49
Price	\$11,000,000	\$10,400,000	\$16,000,000	\$13,000,000	Sliver Lot
Date	3/29/05	8/22/2006	8/15/2006	4/11/2006	4/21/07
Year Built	1920	1910	1915	1980	1910
Lot Size/SF	4,000 sf (40' x 100')	2,500 sf (25' x 100')	4,000 sf (40' x 100')	2,800 sf (28' x 100')	1,934 sf (19.58' x 98.75')
Zoning	C5-P	C5-2.5	C6-6	C5-2	C6-4
FAR	8	12	15	10	10 but Sliver Lot
Buildable FAR	32,000	30,000 sf	60,000 sf	28,000 sf	11,978 sf
Price/SF/FAR	\$344	\$347	\$267	\$464	
<b>Adjustments:</b>					
Market Conditions	+24%	+12%	+16%	+12%	
Location	-10%	-20%	-10%	-20%	
Zoning/ Sliver Lot (45')	-30%	-20%	-30%	-30%	
Total Adj.	-16%	-28%	-24%	-38%	
Price/SF/FAR	\$289	\$250	\$203	\$288	

ELIOT W. BERRY &amp; CO., INC.

### EXPLANATION OF ADJUSTMENTS

The subject site contains 1,935 +/- square feet of site area that, due to the sliver nature of the subject lot, can be improved only with 11,978 square feet of building.

#### **MARKET CONDITIONS:**

Developable land in Manhattan was still in demand as of the appraisal date, though the market was showing early signs of cooling. We have adjusted all the sales by +1% per month to the date of value.

#### **LOCATION:**

The subject is located between Tenth and Eleventh Avenues on W. 42<sup>nd</sup> Street. This is not a prime residential location, hence the downwards locations to the comparable development sites.

#### **ZONING/SLIVER LOT**

As noted, size of the developable FAR is a key to development in Manhattan. Larger sites are more desirable as the size of the land contributes to the allowable building size and the return that can be anticipated for what is to be constructed on a development site. The subject site is a "sliver" site. It is less than 45' wide and as such is limited to the size of improvements that can be built on the site.

#### **VALUATION VIA SALES COMPARISON APPROACH**

After adjustments, the sales ranged from \$205 to \$289 per square foot.

While the market was still strong as of the date of value, June 7, 2007, the nature of the subject sliver site is such that only a very small building could be built on it. Sale 2, also less than 45' wide, was part of an assemblage and was thus able to maximize its FAR. We have emphasized Sale 2 and have adopted a value estimate of \$250 per square foot, as follows:

$$\begin{array}{rcl} 11,978 \text{ SF of DEVELOPABLE FAR} \times \$250/\text{SF}/\text{FAR} & = & \$2,994,500 \\ \text{SAY:} & & \mathbf{\$3,000,000} \end{array}$$

#### **VALUE ESTIMATE VIA SALES COMPARISON APPROACH:**

**THREE MILLION (\$3,000,000) DOLLARS**

**ELIOT W. BERRY & CO., INC.**

**CERTIFICATE OF VALUE**

**PREMISES: 534 W. 42 STREET  
NEW YORK, NEW YORK**

I, ELIOT W. BERRY, CERTIFY, THAT to the best of our knowledge and belief,...

THAT the statements of fact contained in this report are true and correct.

THAT the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are our personal, unbiased professional analyses, opinions and conclusions.

THAT we have no present or prospective interest in the property that is the subject of this report, we have no personal interest or bias with respect to the parties involved.

THAT our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Practice of the American Institute of Real Estate Appraisers.

THAT the use of this report is subject to the requirements of the American Institute of Real Estate Appraisers relating to review by its duly authorized representatives.

THAT Eliot W. Berry has personally conducted a physical inspection of the Subject Site and has written the enclosed report.

THAT we have employed accepted and tested methods in arriving at our conclusions as to value.

THAT the opinions of value expressed in the Report and in this Certificate are made subject to the "Assumptions and Conditions" appended to the Report and made a part thereof.

THAT as a result of our examination, investigation and analysis of the property and all the data pertinent thereto and in the light of our experience, our estimate of value of the property is:

**THREE MILLION (\$3,000,000) DOLLARS**



---

ELIOT BERRY, ASA  
New York State Certified Appraiser No. 6448  
Senior Member, American Society of Appraisers

**ELIOT W. BERRY & CO., INC.**

**UNDERLYING ASSUMPTIONS AND CONTINGENT CONDITIONS**

For the purpose of this appraisal, it is assumed:

1. That the legal description is correct.
2. That the title to the property is legally sufficient.
3. That there are no encumbrances or defects of title.
4. That the property is free and clear of all liens.
5. That the property will be efficiently managed and properly maintained.
6. That there are no structural conditions which are not apparent. The engineer's report referred to herein reflects the structural damage that has occurred at the property.
7. That there are no sub-surface soil conditions which would cause extraordinary development costs.

The appraisal is made subject to the following contingent conditions:

1. That no liability is assumed because of inaccuracies or errors in said estimate and opinions.
2. That no liability is assumed as a result of matters of legal character affecting the property, such as title defects, encroachments, liens, overlapping boundaries, party wall agreements, and easements. Nor will the appraiser assume any legal liability as to the opinion of value contained in this report.
3. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.
4. This appraisal is to be used in whole and not in part. No part of it shall be used in conjunction with any other appraisal. The appraisal is invalid if so used.
5. That no survey, structural or sub-surface soil investigation was made of the property by the appraiser.
6. The appraiser herein by reason of this appraisal is not required to give testimony in court with reference to the subject property unless otherwise previously arranged.

**ELIOT W. BERRY & CO., INC.**

7. Possession of this report, or copy thereof, does not carry with it the right of publication, nor may it be used for any purpose by anyone but the applicant, without the previous written consent of the appraiser.
8. Present worth of the purchasing power of a dollar.
9. This appraisal was made for the purpose stated and should not be used for any other purpose.
10. Each finding, prediction, assumption or conclusion contained in the appraisal report is the appraiser's personal opinion and is not an assurance that an event will or will not occur. We assume that there are no conditions relating to the real estate, sub-soil or structures located on the real estate which would affect appraiser's analyses, opinions or conclusions with respect to the real estate that are not apparent.
11. The data gathered in the appraisal process (except data furnished by client) and the appraisal report will remain property of the appraiser. The appraiser will not violate the confidential nature of the appraiser-client relationship by improperly disclosing any confidential information furnished to him. The appraiser is, however, authorized by the client to disclose all or any portion of the appraisal report and the related appraisal data to appropriate representatives of the Appraisal Institute if such disclosure is required to enable appraiser to comply with the by-laws and regulations of such Institute now or hereafter in effect.
12. The client agrees that the appraisal report will not be quoted or referred to in any report or financial statement of the client or in any documents filed with any governmental agency without the prior written consent of the appraiser. Neither all nor any part of the contents of the appraisal report (especially the conclusions as to value, the identity of the appraiser or references to the Appraisal Institute) shall be disseminated to the public through advertising media, public relations media, news media, sales media or other public means of communication without the prior written consent of the appraiser.

ELIOT W. BERRY & CO., INC.



THE CITY OF NEW YORK  
DEPARTMENT OF HOUSING PRESERVATION & DEVELOPMENT  
421-a TAX EXEMPTION PROGRAM  
100 GOLD STREET, 9th FLOOR, SECTION V  
NEW YORK, NY 10038  
(212) 863-5421/5077/5100/5084

Docket # \_\_\_\_\_

Date of  
submission to  
ARCH. DIV:  
\_\_\_\_\_

**AGGREGATE FLOOR AREA AND COMMERCIAL COMMUNITY  
FACILITY AND ACCESSORY USE AREA REPORT**

This form must be signed, dated, and notarized

Property address: 534 West 42nd Street, New York, New York 10036

Block: 1070 Lots: 49

I hereby certify the following areas in the above premises are located and measure as follows:

The aggregate floor area of the building/s applying for 421-a benefits is 12,244 sq. ft.

Note: Please indicate the floor by floor breakdown of the aggregate floor area on the reverse side of this form or on a separate sheet attached to this form. Unfortunately, this form will be returned if the level by level breakdown is omitted.

See Chapter 6, Section 6-01 (c) of the 421-a Rules for the definitions of aggregate floor area and commercial, community facilities and accessory use space.

**ONLY COMMERCIAL, COMMUNITY FACILITY AND ACCESSORY USE SPACE  
MUST BE LISTED IN THIS BOX**

Location (i.e. basement, cellar, 1st floor, etc.)	Area description	Aggregate (sq. ft.)	% to Aggregate	FOR HPD USE ONLY	
				Square feet	% to Aggregate
Cellar	None				
1st	Retail	199	1.63		
2 through 9	None				
Roof	Egress and convenience stairs and Elevator Bulkhead	266	2.17		
TOTAL:		465	3.8		
Commercial, etc. area in excess of 12%:		0	0		

Note: See the Zoning Resolution (Article 1, Chapter 2) for definitions of commercial, community facility, and accessory use space. Typical examples are: retail stores, professional offices, community recreation rooms, pools, exercise rooms and storage space. Plans outlining this space must accompany this report.

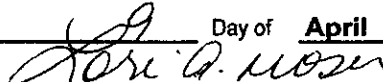
All indoor parking located not more than 23 feet above curb level should not be counted as 421-a accessory use space.

Name of architect or applicant: Brian E. Boyle, R.A.; Brian E. Boyle, A.I.A., 75 Spring St. (6th Flr.), New York, NY 10002

PRINT NAME

Signature of architect or applicant:  Date: April 9, 2008

Sworn to before me this

 Day of April

20 08

NOTARY PUBLIC

Lori A Moser  
Notary Public, State of New York  
No. 01MO8196462  
Qualified in New York City  
My Commission Expires  
Nov. 07, 2009

Agregate Floor Area - 534 West 42nd Street

Floor	Agregate Floor Area
Cellar	N.A.
1	1,092.00
2	1,386.00
3	1,386.00
4	1,386.00
5	1,386.00
6	1,386.00
7	1,386.00
8	1,285.00
9	1,285.00
Roof	266.00
Total	12,244.00



Brian E. Boyle, AIA

**SCHEDULE OF OFFERING PRICES, PROJECTED COMMON CHARGES, AND REAL ESTATE TAXES FOR  
THE FIRST YEAR OF CONDOMINIUM OPERATION**

### The Deuce Condominium

### The Deuce Condominium

534 West 42nd Street, New York, NY 10036

*this column is estimated on a \$50,000 budget. Use the real amount in cell F29 below and this column will correct*



## Work Permit Department of Buildings

Permit Number: 110049082-01-EQ-OT

Issued: 02/01/2008

Expires: 04/01/2009

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALTERATION TYPE 3 - CONSTRUCTION EQUIPMENT - OTHER  
INSTALLATION OF 2000LBS PERSONNEL AND MATERIAL HOIST AT 534 WEST 42 STREET,  
SERVING A TOTAL HEIGHT OF 100 FT. AS PER PLANS. DURING CONSTRUCTION. NO CHANGE  
IN USE, EGRESS OR OCCUPANCY.

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: *Christopher M. Santilli* Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

Permit Number: 104425720-01-EQ-SH

Issued: 01/07/2008 Expires: 01/06/2009

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALTERATION TYPE 3 - CONSTRUCTION EQUIPMENT - SIDEWALK-SHED  
INSTALL HEAVY DUTY SIDEWALK SHED FOR A TOTAL OF 136 FT LONG AT 534 WEST  
42TH STREET.- DURING REMEDIAL REPAIRS. WORK TO COMPLY WITH LL33/91. NO CHANGE IN  
USE, EGRESS OR OCCUPANCY.

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: *Christopher M. Santilli* Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

**Permit Number:** 110000187-01-EQ-FN

**Issued:** 10/30/2007

**Expires:** 12/31/2007

**Address:** MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT3 - CONSTRUCTION EQUIPMENT - FENCE

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night:** 311

**Borough Commissioner:** Christopher M. Santalucia **Commissioner of Buildings:**

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



# Work Permit Department of Buildings

**Permit Number:** 104032949-01-AL

**Issued:** 10/24/2007

**Expires:** 10/29/2008

**Address:** MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT1 - APPLICATION FILED FOR CHANGE OF USE FROM THEATRE TO RETAIL AND RESIDENTIAL USE WITH NEW 4TH FLOOR THROUGH 9TH FLOOR AND ROOF. OBTAIN NEW C OF O.

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night:** 311

**Borough Commissioner:**

*Christopher M. Santalka*

**Commissioner of Buildings:**

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



# Work Permit Department of Buildings

**Permit Number:** 104356126-01-EW-SP

**Issued:** 08/20/2007

**Expires:** 08/19/2008

**Address:** MANHATTAN 534 WEST 42 STREET

**Description of Work:**

*ALT2 - SPRINKLER Install and relocate sprinkler heads with associated piping as shown on p filed herewith. No change in use, egress or occupancy.*

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night:** 311

**Borough Commissioner:** Christopher M. Santilli **Commissioner of Buildings:**

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.





## Work Permit Department of Buildings

**Permit Number:** 104032949-03-PL

**Issued:** 08/13/2007

**Expires:** 08/12/2008

**Address:** MANHATTAN 534 WEST 42 STREET

**Description of Work:**

*PLUMBING - ALT1 Install new HVAC and plumbing fixtures as shown on plans filed h*

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night:** 311

**Borough Commissioner:**

*Christopher M. Santilli*

**Commissioner of Buildings:**

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

**Permit Number:** 103934995-01-PL

**Issued:** 07/20/2007

**Expires:** 07/19/2008

**Address:** MANHATTAN 534 WEST 42 STREET

**Description of Work:**

*PLUMBING - ALT2 Interior demolition to include partitions and plumbing fixtures with removal of fixtures, piping and capping of lines and existing HVAC ductwork as shown on*

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night:** 311

**Borough Commissioner:** Christopher M. Santelli

**Commissioner of Buildings:**

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



# Work Permit Department of Buildings

**Permit Number:** 104241562-01-EQ-FN

**Issued:** 07/17/2007

**Expires:** 10/29/2007

**Address:** MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT2 - CONSTRUCTION EQUIPMENT - FENCE

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night:** 311

**Borough Commissioner:**

*Christopher M. Santilli*

**Commissioner of Buildings:**

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

Permit Number: 103934995-01-EW-OT

Issued: 06/11/2007 Expires: 06/10/2008

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT2 - DEMOLITION.

Interior demolition to include partitions and plumbing fixtures with removal of

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: Christopher M. Santilli Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

Permit Number: 103934995-01-EW-MH

Issued: 06/11/2007

Expires: 06/10/2008

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT2 - MECH/HVAC Interior demolition to include partitions and plumbing fixtures with removal of fixtures, piping and capping of lines and existing HVAC ductwork as shown on

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: Christopher M. Santilli Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

Permit Number: 104744724-01-EW-OT

Issued: 05/24/2007

Expires: 10/29/2007

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT2 - SHOR/UNDERPIN

Application filed for required underpinning and shoring details as shown on

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: *Christopher M. Santilli* Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

**Permit Number:** 104425720-01-EQ-SH

**Issued:** 04/24/2007

**Expires:** 12/31/2007

**Address:** MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT3 - CONSTRUCTION EQUIPMENT - SIDEWALK-SHED

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night:** 311

**Borough Commissioner:** Christopher M. Santalucia **Commissioner of Buildings:**

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



# Work Permit Department of Buildings

**Permit Number:** 103934995-01-EW-OT

**Issued:** 06/11/2007

**Expires:** 06/10/2008

**Address:** MANHATTAN 534 WEST 42 STREET

**Description of Work:**

*ALT2 - DEMOLITION.*

*Interior demolition to include partitions and plumbing fixtures with removal of*

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night:** 311

**Borough Commissioner:** Christopher M. Santilli **Commissioner of Buildings:**

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.





## Work Permit Department of Buildings

Permit Number: 104425720-01-EQ-SH

Issued: 04/24/2007 Expires: 12/31/2007

Address: MANHATTAN 534 WEST 42 STREET

Description of Work:

ALT3 - CONSTRUCTION EQUIPMENT - SIDEWALK-SHED

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: Christopher M. Santelli Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

**Permit Number:** 103934995-01-EW-MH

**Issued:** 06/11/2007    **Expires:** 06/10/2008

**Address:** MANHATTAN      534 WEST      42 STREET

**Description of Work:**

*ALT2 - MECH/HVAC Interior demolition to include partitions and plumbing fixtures with removal of fixtures, piping and capping of lines and existing HVAC ductwork as shown on*

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

**Emergency Telephone Day or Night:** 311

**Borough Commissioner:** *Christopher M. Santall*    **Commissioner of Buildings:**

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

Permit Number: 104633292-01-EW-OT

Issued: 12/22/2006

Expires: 10/29/2007

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT2 - GEN. CONST.

Application filed for required underpinning and shoring details as shown on

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: *Christopher M. Santalucia* Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

Permit Number: 104241562-01-EW-OT

Issued: 10/16/2006

Expires: 10/29/2007

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT2 - GEN.CONSTRUCTN.

Application filed to remove roof, building exterior walls, floor slabs and

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: *Christopher M. Santilli* Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

Permit Number: 104032949-01-AL

Issued: 10/16/2006

Expires: 10/29/2007

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT1 - APPLICATION FILED FOR CHANGE OF USE FROM THEATRE TO RETAIL AND RESIDENTIAL USE WITH NEW 4TH FLOOR THROUGH 9TH FLOOR AND ROOF. OBTAIN NEW C OF O.

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: Christopher M. Santilli Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

Permit Number: 110000187-01-EQ-FN

Issued: 12/06/2007

Expires: 10/29/2008

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALTERATION TYPE 3 - CONSTRUCTION EQUIPMENT - FENCE

Erect temporary construction fence as shown on plans filed herewith. All required DOT permits to be obtained. No change in use, egress or occupancy.

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: *Christopher M. Santalucia* Commissioner of Buildings:

A handwritten signature in black ink, appearing to read "Christopher M. Santalucia", written over a horizontal line.

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## FINAL ASSESSMENT ROLL 2003-2004 | City of New York

Taxable Status Date: January 5, 2003

[EXPLANATION OF ASSESSMENT ROLL](#)[View 2004 FINAL ASSESSMENT ROLL](#)[View 2005 FINAL ASSESSMENT ROLL](#)[View 2006 FINAL ASSESSMENT ROLL](#)[View 2007 FINAL ASSESSMENT ROLL](#)[View 2008 TENTATIVE ASSESSMENT ROLL](#)[View Market Value History](#)

## Parcel Information

[« Previous BBL](#)[Next BBL »](#)

## Owner Name:

LITTLE GODDESS, INC C

## Property Address and Zip Code:

534 WEST 42 STREET 10036

## Real Estate Billing Name and Address:

LITTLE GODDESS INC

% FRIEDMAN-LAROSA

1344 LEXINGTON AVE

NEW YORK NY 10128

Borough: MANHATTAN

Block: 1070

Lot: 49

Tax Class: 4

Building Class: J7 [Codes](#)

## Land Information

## Lot Size

19.58FT X 98.75FT

## Irregular

## Corner

## Building Information

## Number of Buildings

1

## Building Size

20.00FT X 83.00FT

## Extension

E

## Stories

3

## Assessment Information

## Description

## Land

## Total

ESTIMATED MARKET VALUE

450,000

ACTUAL AV

130,500

202,500

ACTUAL EX AV

0

0

TRANS AV

116,100

193,500

TRANS EX AV

0

0

## Taxable/Billable Assessed Value

## Assessed Value

SUBJECT TO ADJUSTMENTS, YOUR 2003/04 TAXES WILL BE BASED  
ON

193,500

Property is assessed at the following uniform percentages of full market value, unless  
limited to a lesser amount by law:

Class 1 - 8%

Class 2 - 45%

Class 3 - 45%

Class 4 - 45%

# NYC Tax Block and Lot Maps

Borough: MANHATTAN

Block: 1070

Lot: 49

Area: ~ 1934 SF

Lot Dimensions: 19.58 x 98.75 x 19.58 x 98.75



Note: Block and lot maps are believed accurate. It is recommended, particularly on irregularly shaped lots, to consult a survey.  
Base maps derived by permission from BYTES of the BIG APPLE™, a product of the City of New York Department of City Planning.  
BYTES of the BIG APPLE™ is a trademark of the City of New York Department of City Planning. BYTES of the BIG APPLE™  
base maps are copyrighted by the City of New York Department of City Planning.



# SITE-ELIGIBILITY CERTIFICATION OF ARCHITECT

This Certification is based on an actual physical inspection of the building prior to its demolition and examination of the records of the New York City Building Department in order to indicate information concerning the building as of the Operative Date indicated below.

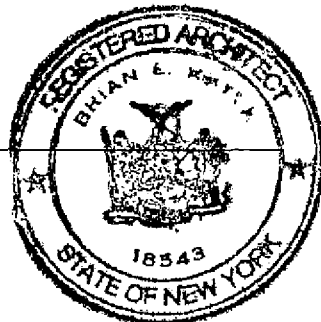
Block 1070, Lot 49: 534 West 42<sup>nd</sup> Street

A	Address	534 West 42 <sup>nd</sup> Street, New York, NY
B	Borough/Block/Lot	Manhattan/1070/49
C	Construction Start Date	June 7, 2007
D	Operative Date	June 7, 2004
E	Lot Area	19.5833' x 98.75' = 1,933.53 sf
F	Zoning District (Map 8d)	C6-4
G	Maximum Residential FAR (Residential Equivalent Per ZR-34-112, ZR-23-15, and ZR-96-21)	10.0
H	FAR of Former/Demolished Non-Residential Structure	2.82
I	Maximum Non-Residential FAR (ZR-33-122)	10.0 for Commercial
J	Floor Area of Former Demolished Non-Residential Structure	5,461.4 sf

## Attachments:

- Survey of Block 1070, Lot 49 by Thomas Piciocco of Earl B. Lovell - S.P. Belcher, Inc. dated June 24, 2005.
- Copy of Zoning Map showing Zoning District.
- Copy of appropriate pages from the zoning resolution verifying both residential and non-residential Maximum FAR ratios.
- Underutilization Test Worksheet for Block 1070, Lot 49

Seal



*Brian E. Boyle*  
Brian E. Boyle, R.A.

Manhattan, Block 1070, Lot 49: 534 West 42<sup>nd</sup> Street, New York, New York

### UNDERUTILIZATION TEST WORKSHEET FOR NON-RESIDENTIAL BUILDING

Lot No.	Lot Area (sf)	Floor Area of Former Demolished Building (sf)	FAR of Former Demolished Building	Permissible Commercial FAR	Maximum Floor Area Ratio for Residential Buildings in C6-4 Zoning District	Ratio of Former Demolished Building's FAR to Maximum FAR for Residential Buildings in Zoning District <sup>1</sup>
49	1,933.53	5,461.4	2.82	10	10	28.2%

As of the Operative Date, Block 1070, Lot 49 qualified as under-utilized pursuant to the 421-a Rules, since the site was improved with a non-residential building which did not contain more than the permissible floor area for non-residential buildings in the zoning district in which it was located and which had an FAR which was 50% or less of the maximum FAR for residential buildings in the zoning district (actual FAR of 2.82 was 28.2% of Maximum FAR for residential buildings which is 10).

H:\HARVEY\421\FORMS\534 West 42nd Street Site Eligibility final 4.9.08 .wpd

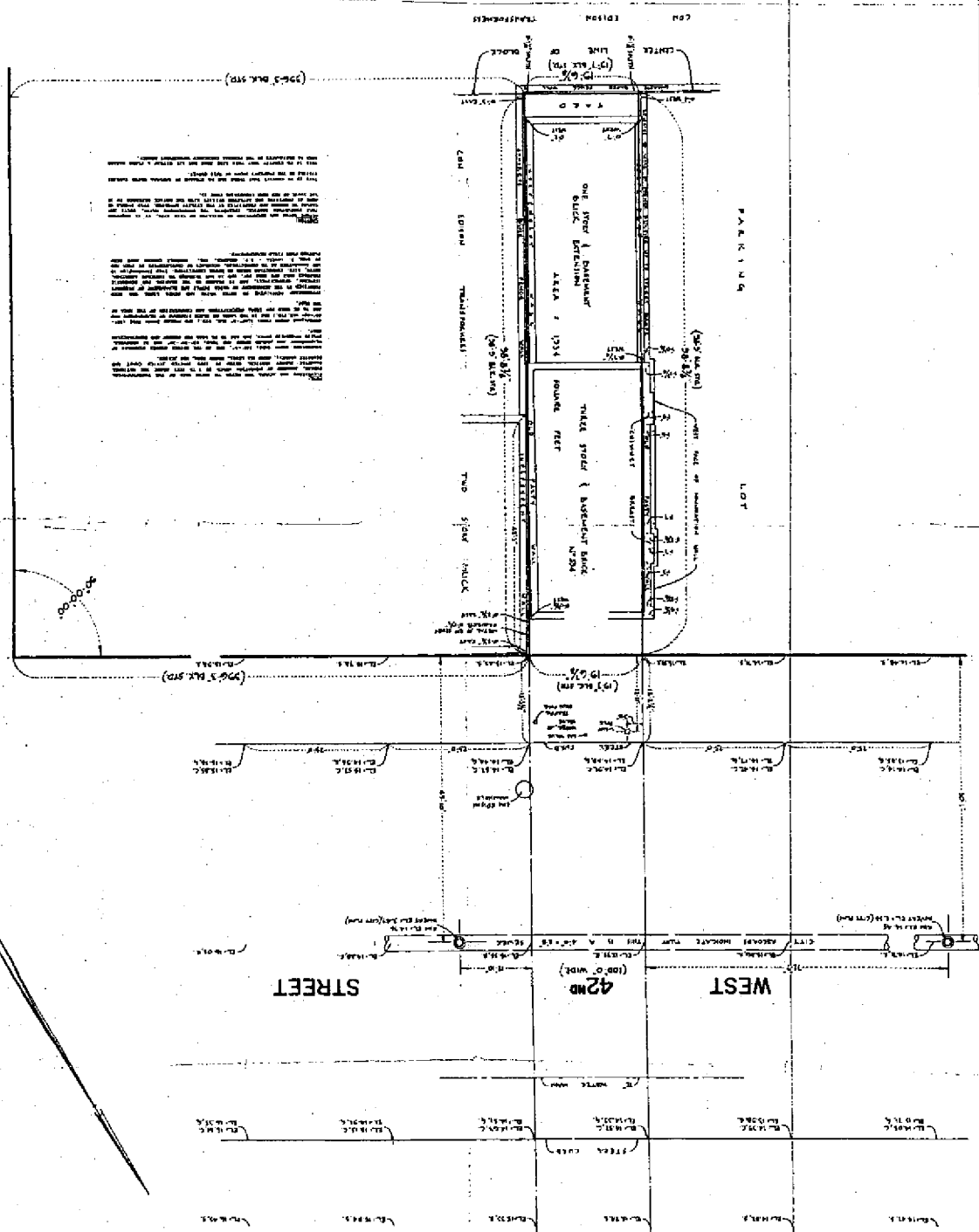


<sup>1</sup> FAR of demolished building = 2.82 divided by Maximum FAR for Residential Buildings of 10.0 (2.82/10 = 28.2%).

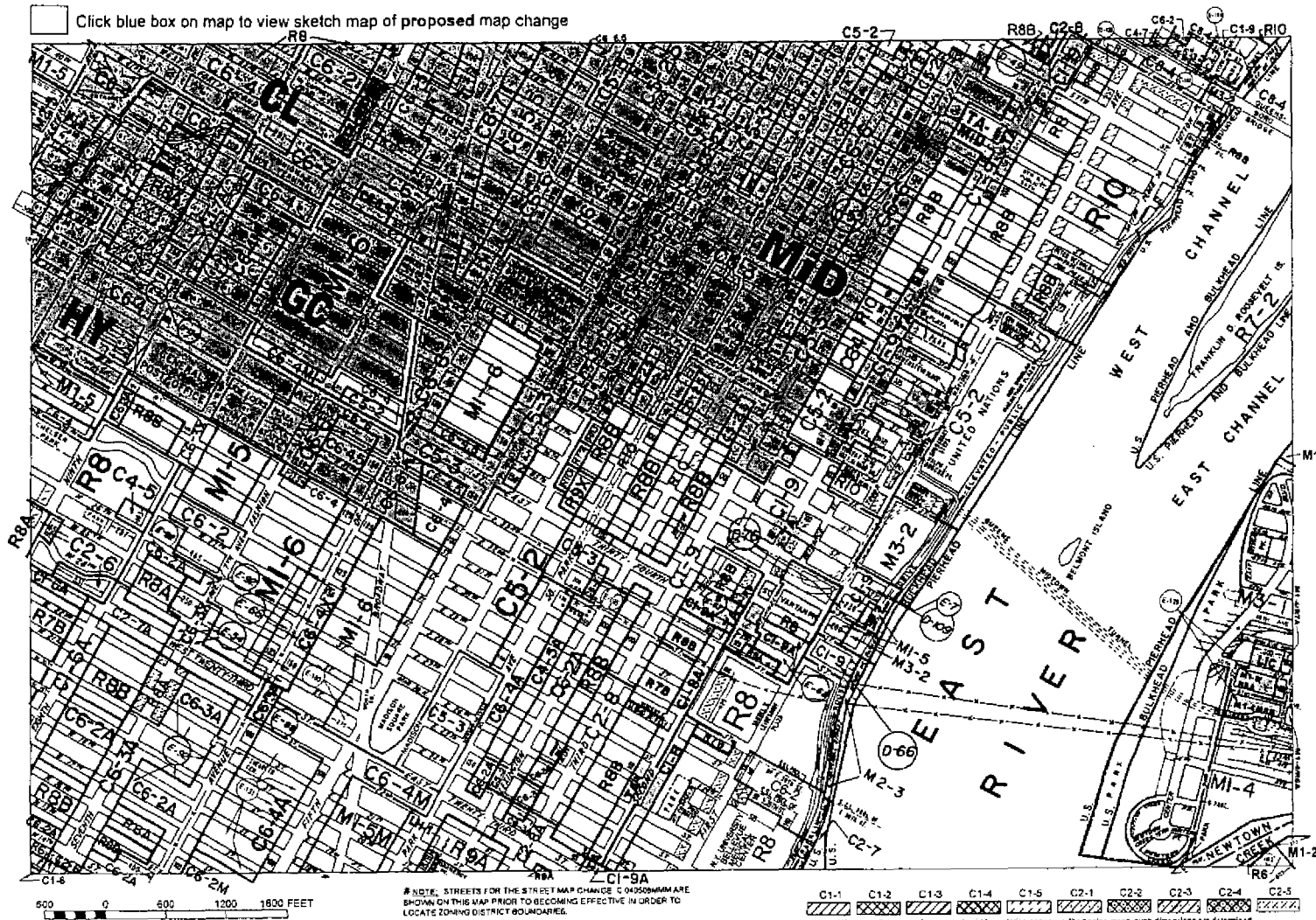


RECEIVED JULY 14, 1905  
EARL B. LOVELL - S. P. BELCHER, INC.  
SUBJECT: PROPOSED  
BUILDING  
SCALE: 1" = 10'  
BY: [Signature]  
CHECKED: [Signature]  
DATE: [Signature]

TENTH AVENUE



Click blue box on map to view sketch map of proposed map change



## ZONING MAP

THE NEW YORK CITY PLANNING COMMISSION

**Major Zoning Classifications:**  
the number(s) and/or letter(s) that follows an R, C or M District designation indicates use, bulk and other controls as described in the text of the Zoning Resolution.

- R - RESIDENTIAL DISTRICT
- C - COMMERCIAL DISTRICT
- M - MANUFACTURING DISTRICT

AREA(S) REZONED

EFFECTIVE DATE(S) OF REZONING:  
\* 12-11-2007 C 060372 ZMM  
11-15-2007 C 000198 ZMM

- SPECIAL PURPOSE DISTRICT  
The letter(s) within the shaded area designates the special purpose district as described in the text of the Zoning Resolution.
- RESTRICTIVE DECLARATION
- CITY ENVIRONMENTAL QUALITY REVIEW DECLARATION
- REFERS TO BLOCKS WITH LOTS SUBJECT TO CLEAR DESIGNATION E-137.
- REFERS TO BLOCKS WITH LOTS SUBJECT TO CLEAR DESIGNATION E-138.

### MAP KEY

8a	8c	9a
8b	8d	9b
12a	12c	13a

© Copyrighted by the City of New York

ZONING MAP **p8**

7/26/01

**34-11**

**General Provisions**

C1 C2 C3 C4 C5 C6

In the districts indicated, the #bulk# regulations for #residential buildings# set forth in Article II, Chapter 3, shall apply to all #residential buildings# in accordance with the provisions of this Section, except as modified by the provisions of Sections 34-21 to 34-24, inclusive, relating to Exceptions to Applicability of Residence District Controls.

12/15/61

**34-111**

**Residential bulk regulations in C1 or C2 Districts whose bulk is governed by surrounding Residence District**

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5

In the districts indicated, the #bulk# regulations for the #Residence District# within which such #Commercial Districts# are mapped apply, except that when such districts are mapped within R1 or R2 Districts, the #bulk# regulations for R3-2 Districts apply.

10/29/07

**34-112**

**Residential bulk regulations in other C1 or C2 Districts or in C3, C4, C5 or C6 Districts**

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6

In the districts indicated, the applicable #bulk# regulations are the #bulk# regulations for the #Residence Districts# set forth in the following table:

<u>Districts</u>	<u>Applicable #Residence District#</u>
------------------	--

C4-1	R3-2
C4-2 C4-3 C6-1A	R5
C4-2A C4-3A	R6
C1-6 C2-6 C4-4 C4-5 C6-1	R6A
C1-6A C2-6A C4-4A C4-5A	R7
C4-5D	R7A
C4-5X	R7D
C1-7 C4-2F C6-2	R7X
C1-7A C4-4D C6-2A	R8
C1-8 C2-7 C6-3	R8A
C1-8A C2-7A C6-3A	R9
C1-8X C2-7X C6-3X	R9A
C1-9 C2-8 C4-6 C4-7 C5 C6-4 C6-5	R9X
C6-6 C6-7 C6-8 C6-9	R10
C1-9A C2-8A C4-6A C4-7A	R10A
C5-1A C5-2A C6-4A	
C6-4X	R10X

10/17/07

### 34-113

#### **Existing public amenities for which floor area bonuses have been received**

- (a) Elimination or reduction in size of non-bonused open area on a #zoning lot# containing a bonused amenity

In all districts, any existing open area for which no #floor area# bonus has been utilized that occupies the same #zoning lot# as an existing #publicly accessible open area# or other public amenity, open or enclosed, for which a #floor area# bonus has been utilized, may be reduced in size or eliminated only upon certification of the Chairperson of the City Planning Commission that all bonused amenities comply with the standards under which such #floor area# bonus was

However, in R6 or R7 Districts, the minimum required #open space ratio# shall not apply to #non-profit residences for the elderly developed#, or #enlarged# where permitted, pursuant to the Quality Housing Program. Such #developments# or #enlargements# shall be subject to the requirements of R6A or R7A Districts, respectively, as set forth in paragraph (b) of this Section.

R6A R6B R7A R7B R7D R7X

- (b) In the districts indicated, the maximum #lot coverage# and the maximum #floor area ratio# for #non-profit residences for the elderly# shall be as set forth in the following table:

MAXIMUM LOT COVERAGE AND FLOOR AREA RATIO  
FOR  
NON-PROFIT RESIDENCES FOR THE ELDERLY  
(in percent)

Maximum #Lot Coverage#		Maximum #Floor Area Ratio#	District
#Corner Lot#	#Interior Lot# or #Through Lot#		
80	65	3.90	R6A R7B
80	60	2.00	R6B
80	70	5.01	R7A R7D R7X

6/12/96

**23-15**

**Maximum Floor Area Ratio in R10 Districts**

R10

In the district indicated, the #floor area ratio# for any #building# on a #zoning lot# shall not exceed 10.0, except as provided in Section 23-17 (Special Provisions for Zoning Lots Divided By District Boundaries) and Section 23-90 (INCLUSIONARY HOUSING).

Notwithstanding any other provision of this Resolution, the maximum #floor area ratio# shall not exceed 12.0. However, within the boundaries of Community District 7 in the Borough of

Manhattan, all #developments# or #enlargements# in R10 Districts, except R10A or R10X Districts, shall be limited to a maximum #floor area ratio# of 10.0.

10/17/07

**23-16**

**Existing Public Amenities for Which Floor Area Bonuses Have Been Received**

- (a) Elimination or reduction in size of non-bonused open area on a #zoning lot# containing a bonused amenity

In all districts, any existing open area for which a #floor area# bonus has not been utilized that occupies the same #zoning lot# as an existing #publicly accessible open area# or other public amenity, open or enclosed, for which a #floor area# bonus has been utilized, may be reduced in size or eliminated only upon certification of the Chairperson of the City Planning Commission that all bonused amenities comply with the standards under which such #floor area# bonus was granted.

- (b) Nighttime closing of existing public open areas

In all #Residence Districts#, the City Planning Commission may, upon application, authorize the closing during certain nighttime hours of an existing #publicly accessible open area# for which a #floor area# bonus has been received, pursuant to Section 37-727 (Hours of access).

- (c) Elimination or reduction in size of existing public amenities

In all districts, no existing #publicly accessible open area#, #arcade# or other public amenity, open or enclosed, for which a #floor area# bonus has been utilized, shall be eliminated or reduced in size except by special permit of the City Planning Commission, pursuant to Section 74-761 (Elimination or reduction in size of bonused public amenities).

**Regulations Applying in Special Situations**

6/12/96

**23-17**



10/17/07

**96-21**

**Special Regulations for 42<sup>nd</sup> Street Perimeter Area**

The provisions of this Section shall apply to #developments# or #enlargements# located in all #Commercial Districts# within the area bounded by the following:

Starting 150 feet west of Eighth Avenue, south to the southern boundary of West 41st Street, west to the east side of Twelfth Avenue, north along the eastern border of Twelfth Avenue to 43rd Street, east on West 43rd Street to the eastern side of Tenth Avenue, south along Tenth Avenue to the southern boundary of West 42nd Street, east on West 42nd Street to Ninth Avenue, north along the western boundary of Ninth Avenue to the midblock of 42nd/43rd Street, east to a point 150 feet west of Eighth Avenue, south to the southerly boundary of 41st Street.

(a) Special regulations for office use

In the 42nd Street Perimeter Area, as shown in Appendix A of this Chapter, any #development# or #enlargement# that includes Use Group 6B offices constructed after January 19, 2005, shall be permitted only pursuant to Section 93-13 (Special Office Use Regulations)

(b) Floor area regulations

(1) Floor area regulations in Subarea 1

In Subarea 1 of the 42nd Street Perimeter Area as shown in Appendix A, the basic #floor area ratio# of any #development# or #enlargement# shall be 10.0, and may be increased to a maximum of 12.0 only in accordance with the provisions of Section 23-90 (INCLUSIONARY HOUSING), except that any units for which a #floor area# increase has been earned pursuant to Section 23-90 shall be within the #Special Clinton District#.

(2) Floor area regulations in Subarea 2

In Subarea 2 of the 42nd Street Perimeter Area, as shown in Appendix A, the basic #floor area ratio# of any #development# or #enlargement# shall be 10.0. However, the #floor area ratio# of any #development# or

#enlargement# containing #residential use# may exceed 10.0 to a maximum of 12.0 only in accordance with the provisions of Section 23-90, except that any units for which a #floor area# increase has been earned pursuant to Section 23-90 shall be within the #Special Clinton District#. For #developments# or #enlargements# that have fully utilized the Inclusionary Housing Program, the maximum permitted #floor area ratio# may be increased from 12.0 to 15.0 for new legitimate theater use in accordance with the provisions of Section 96-25 (Floor Area Bonus for New Legitimate Theater Use)

(c) Retail continuity requirements

- (1) For any #development# or #enlargement# fronting on West 42nd Street, between 9th and 12th Avenues, at least 50 percent of the street frontage of the ground floor, or within five feet of #curb level#, shall be limited to Use Groups 4A, 6A, 6C, 10A, 11, 12A and 12B.
- (2) At least 50 percent of the length of the facade of such #street wall# fronting on West 42nd Street shall be glazed with transparent material to a height of not less than 16 feet above #curb level#. The lowest point of such glazed area shall not be higher than four feet above #curb level#.

(d) Street wall continuity requirements

- (1) At least 80 percent of the #aggregate width of street walls# of a #building# fronting on West 42nd Street, up to a height of 45 feet, shall be located within 10 feet of the #street line# of such #street#.
- (2) The minimum height of the #street wall# of a #building# above #curb level# shall be no less than 45 feet and no more than 85 feet. Above this required height, the #street wall# of a #building# shall set back at least five feet. The requirements of this paragraph shall also apply to any #development# or #enlargement# on a #wide street# frontage within a distance of 50 feet from its intersection with West 42nd Street.

(e) Pedestrian circulation space

Within Subarea 2 of the 42nd Street Perimeter Area, as shown in Appendix A, pedestrian circulation space shall be provided in accordance with the provisions of Section 37-50. In addition, for #developments# or #enlargements# that provide subway entranceways constructed after December 21,

**33-122****Commercial buildings in all other Commercial Districts**

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6 C7 C8

In the districts indicated, the maximum #floor area ratio# for a #commercial building# shall not exceed the #floor area ratio# set forth in the following table:

Districts	Maximum #Floor Area Ratio#
C3	0.50
C4-1 C8-1	1.00
C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C7 C8-2 C8-3	2.00
C4-2A C4-3A	3.00
C4-2 C4-2F C4-3 C4-4 C4-4D C4-5 C4-6	3.40
C4-4A C4-5A C4-5X C5-1	4.00
C4-5D	4.20
C8-4	5.00
C6-1 C6-2 C6-3	6.00
C4-7 C5-2 C5-4 C6-4 C6-5 C6-8	10.00
C5-3 C5-5 C6-6 C6-7 C6-9	15.00

10/29/07

**33-123****Community facility buildings or buildings used for both community facility and commercial uses in all other Commercial Districts**

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6 C8

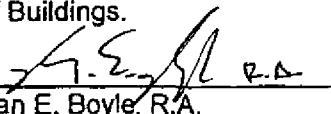
In the districts indicated, the maximum #floor area ratio# for a #community facility building#, or for a #building# used for both #commercial# and #community facility uses#, shall not exceed the #floor area ratio# set forth in the following table:

AFFIDAVIT

State of New York )  
 ) ss.:  
County of New York )

Brian E. Boyle, R.A., being duly sworn, deposes and says:

1. I am a Registered Architect licensed by the State of New York under License Number 18543.
2. The developer of the project located at 534 West 42<sup>nd</sup> Street, New York, NY (M/1070/49), has retained me and my firm to design a new nine (9) story primarily residential structure. The pre-existing structure has been substantially demolished and construction of the new building is proceeding.
3. The site was previously improved with a three (3)-story and basement commercial structure that was formerly utilized as a theater, constructed in or about 1910.
4. The vast majority of the existing building, including all floor framing, stairs, mechanical, electrical and plumbing systems, windows, doors, appliances and finishes have been removed and demolished. All demolition work was performed pursuant to permit (Alt-2 type permits- # 104241562- copies annexed) and in accordance with filed plans, showing the extent of the demolition.
5. All of the pre-existing structure has been demolished except for approximately 9% of the pre-existing perimeter walls (only part of rear addition) and a small part of the old foundation supporting this retained perimeter wall. The building that was substantially demolished contained 7,356 sf of exterior wall area and only 668 sf of the former building's wall surface remains. Attached hereto is a massing model graphically illustrating the pre-existing structure and the minor portion of the pre-existing structure that was retained and that will be integrated into the new building to be constructed on the site.
6. Due to the narrow nature of the site, the small section of the rear perimeter wall was retained because the existing walls were used as shoring and removed in stages, facilitating the building of the new foundation of the new building. This allowed selective removal of the old foundation walls to perform the new foundation work in sections and this was more manageable, allowing phasing of the work and allowing work inside the small footprint of the building.
7. The building will be new in all material respects. There will be a newly designed structural framework, new enhanced foundation system integrated into the small portion of the remaining foundation and there will be all new building systems in compliance with current code requirements, including structural, MEP, Life Safety, Egress, waste management, telecommunications, finishes and Energy Code compliance.
8. The NYC Department of Buildings will issue a Certificate of Occupancy for a New Building after the completion of the construction at the Site. Originally, the building was commenced pursuant to an Alteration Type 1 Permit (Permit # 104032949). However, the NYC Department of Buildings requires the issuance of a new building permit (NB). Therefore, the new building on the site will be built pursuant to the NB permit which is currently under review by the NYC Department of Buildings.

  
Brian E. Boyle, R.A.

Sworn to before  
me this 24 day of

January, 2008  
Notary Public, State of New York  
Notary Public in Kings County  
REG. #01BA6171169  
NY COMM. EXP. JULY 23, 2011



## Work Permit Department of Buildings

Permit Number: 104241562-01-EW-OT

Issued: 10/16/2006

Expires: 10/29/2007

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT2 - GEN.CONSTRUCTN.

Application filed to remove roof, building exterior walls, floor slabs and

For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: Christopher M. Santilli Commissioner of Buildings:

A handwritten signature in black ink, appearing to read "Christopher M. Santilli", written over a horizontal line.

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.



## Work Permit Department of Buildings

Permit Number: 104032949-01-AL

Issued: 10/16/2006

Expires: 10/29/2007

Address: MANHATTAN 534 WEST 42 STREET

**Description of Work:**

ALT1 - APPLICATION FILED FOR CHANGE OF USE FROM THEATRE TO RETAIL AND RESIDENTIAL USE WITH NEW 4TH FLOOR THROUGH 9TH FLOOR AND ROOF. OBTAIN NEW C OF O.

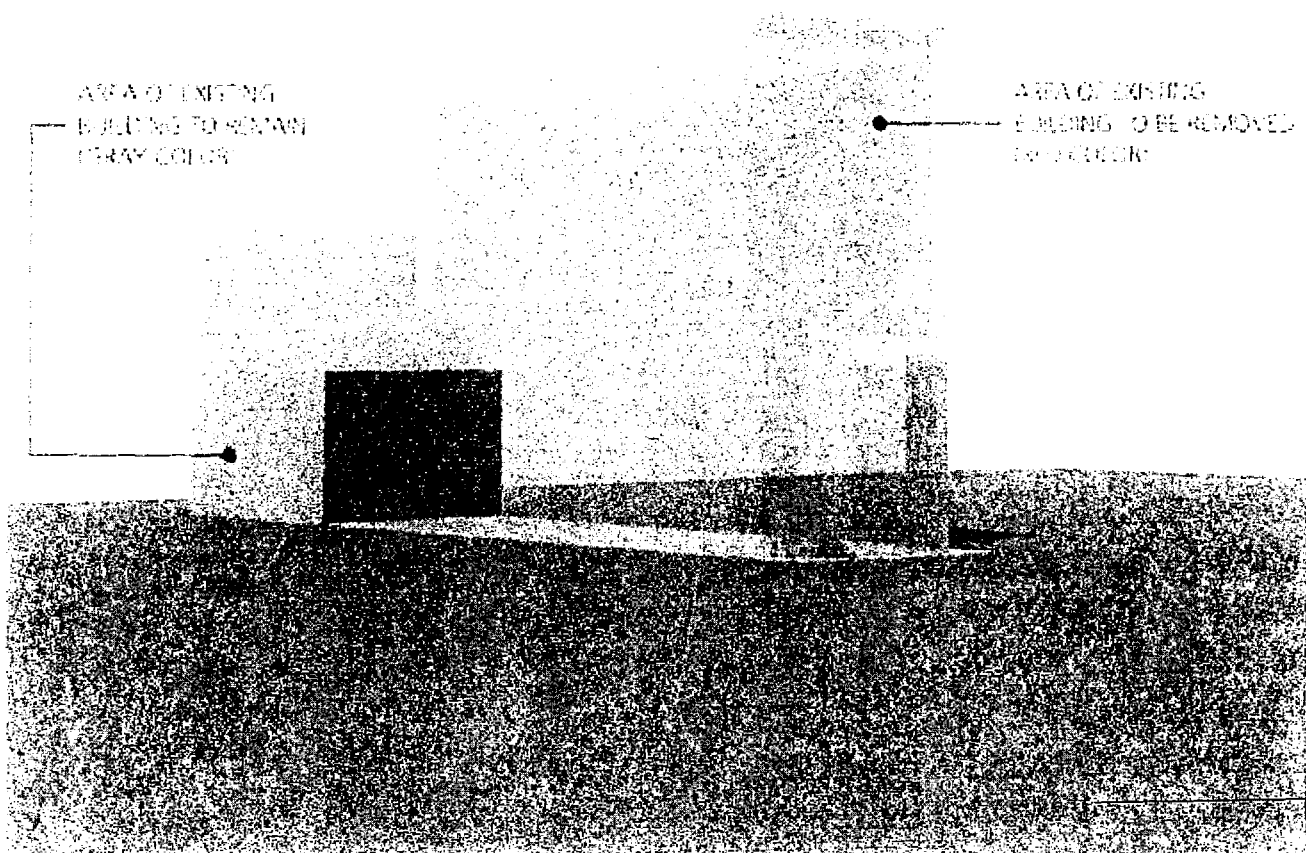
For detailed information regarding this permit, please log on to BISWeb at [www.nyc.gov/buildings](http://www.nyc.gov/buildings)

Emergency Telephone Day or Night: 311

Borough Commissioner: *Christopher M. Santilli* Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.

THE DEUCE CONDOMINIUM  
534 W. 42nd ST. NY, NY  
BRIAN E. BOYLE, AIA




ARCHITECT'S CERTIFICATION OF NET SF AREAS AND AVERAGE SF AREA OF APARTMENT UNITS

534 West 42nd Street, New York, NY						
Unit Description	Floor	Square Feet*	Number of Units	Average SF Area : 7 Apts.		
2	2	1167	1			
3	3	1167	1			
4	4	1167	1			
5	5	1167	1			
6	6	1167	1			
7	7	1167	1			
8	8 & 9	2158	1			
Totals			7	1308.6		

\*The Square Area of the Unit is the Area contained within the perimeter walls of the residential unit

I certify to the correctness of the square foot areas set forth above

Architect Information:

  
 Signature of Architect or Engineer

Brian E. Boyle, R.A.  
 Print Name

75 Spring Street, 6th Floor.  
 Address

New York, New York 10012  
 City, State, Zip

(212) 334-7402  
 Telephone Number





# AFFIDAVIT OF ENERGY STAR COMPLIANCE

STATE OF NEW YORK

COUNTY OF New York

## Gary Schaeffer

I am the Managing Member of Shao-Lin Operating LLC

owner of premises located in the County of New York, City and State of New York, identified as block 1070, lot(s) 49 on the tax map of the City of New York, making this application for a Preliminary Certificate of Eligibility for a §421-a Partial Tax Exemption.

I hereby certify, as required pursuant to §11-245.8 of the Administrative Code of the City of New York and §6-05(d)((1) of Chapter 6, Title 28 of the Rules of the City of New York, that whenever any household appliance in any dwelling unit, or any household appliance that provides heat or hot water for any dwelling unit in the multiple dwelling, is installed or replaced with a new household appliance on or after December 19, 2006, such new appliance shall be certified as Energy Star, or that either (A) an appropriately-sized Energy Star certified household appliance is not manufactured, such that movement of walls or fixtures would be necessary to create sufficient space for such appliance, and/or (B) an Energy Star certified boiler or furnace of sufficient capacity is not manufactured.<sup>1</sup>

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption and know the City of New York will rely on the veracity of such statements in granting tax exemption. The attached application is intended to be a written instrument as defined in Article 175 of the Penal Law and I understand that any false statement is punishable as a Class E felony that provides a term of imprisonment not to exceed four years.

Sworn to me this

2nd day of April, 2008

**Affiant Signature**

**Gary Schaeffer**

Name \_\_\_\_\_

### Managing Member

Title

**Shao-Lin Operating LLC**

Name of Entity (if applicable)

Notary Public  
SHERYL D. LIMPERT  
Notary Public, State of New York  
No. 0115072374  
Qualified in New York County  
Commission Expires Jan 27, 2011

<sup>1</sup> For purposes of this paragraph, (A) "household appliance" shall mean any refrigerator, room air conditioner, dishwasher or clothes washer, within a dwelling unit in the multiple dwelling that is provided by the owner, and any boiler or furnace that provides heat or hot water for any dwelling unit in the multiple dwelling, and (B) "Energy Star" shall mean a designation from the United States Environmental Protection Agency or Department of Energy indicating that a product meets the energy efficiency standards set forth by the agency for compliance with the Energy Star program.

(6/18/07)

City of New York  
Department of Housing Preservation and Development  
Office of Development  
Division of Housing Finance  
Office of Tax Incentive Programs  
421-a Partial Tax Exemption Program  
100 Gold Street, 9-V  
New York, NY 10038

**Architect's / Engineer's Certification of the Aggregate Floor Area, Dwelling Units & Room Count**

Docket # \_\_\_\_\_ Address(es) **534 West 42nd Street**  
Borough **Manhattan** Block **1070** Lot(s) **49**  
Total Number of Buildings **1**

I, **Brian E. Boyle, R.A.**, certify that I am a Registered Architect or Professional Engineer licensed to practice by and in good standing with the New York State Department of Education. As such, I certify to the truth of the following in connection with the above pending application for 421-a Partial Tax Exemption:

1. I am the architect or engineer for the above Project. The annexed Plans, each page of which is initialed and dated by me as of this date, are a true copy of the most recent plans approved by the New York City Department of Buildings (hereinafter, "Plans").
2. The calculations on the following **4** [#] consecutively numbered pages of the following schedule, are a true and accurate reflection of the layout and dimensions of the Plans. The room count and dwelling unit count as shown on the schedule are in compliance with Chapter 6 of Title 28 of the Rules of the City of New York ("421-a Rules")<sup>1</sup>.
3. The calculations of the Residential and Non – Residential Aggregate Floor Area were prepared in accordance with the guidelines described in the 421-a Rules<sup>2</sup> and the guidance provided in the latest edition of Department of Housing Preservation and Development's Frequently Asked Questions, dated **6-17-2004**.

<sup>1</sup> For purposes of this certification, rooms shall be counted in accordance with 28 RCNY § 6-01(c): "Room Count" shall be calculated in the following manner: Each dwelling unit with at least one room which either (i) contains no cooking facilities and measures at least one hundred and fifty (150) square feet, or (ii) contains cooking facilities and measures at least two hundred and thirty (230) square feet, shall count as two and one-half rooms. Every other room in the dwelling unit separated by either walls or doors, including bedrooms, shall count as an additional room, plus one-half room for a balcony, provided, however, that kitchens, cooking facilities, bathrooms or corridors shall not count as an additional room. To be included in the calculation of "room count," a room must meet the requirements of habitability as provided in Administrative Code §§ 27-746 and 27-751.

<sup>2</sup>For purposes of this certification, Aggregate Floor Area shall be measured in accordance with 28 RCNY § 6-01(c): "Aggregate Floor Area" shall mean the sum of the gross horizontal areas of all of the floors of a dwelling or dwellings and accessory structures on a lot measured from the exterior faces of exterior walls or from the center line of party walls.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, §§11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting tax exemption. I certify that the above statements are true and correct to the best of my knowledge, under penalty of perjury.

Sworn to me this 9 day of April 2008


  
\_\_\_\_\_  
Notary Public or Commissioner of Deeds

**Lori A Moser**  
**Notary Public, State of New York**  
**No. 01MO6186462**  
**Qualified in New York City**  
**My Commission Expires**  
**Nov. 07, 2009**

[OR

Dated: April 9, 2008

Seal of RA or PE]

  
\_\_\_\_\_  
Architect / Engineer Signature  
**Brian E. Boyle, R.A.**  
\_\_\_\_\_  
Architect / Engineer Name  
**Brian E. Boyle, A.I.A.**  
\_\_\_\_\_  
Business Name  
**75 Spring Street (6th Floor)**  
**New York, New York 10002**  
\_\_\_\_\_  
Business Address  
**(212) 334-7402**  
\_\_\_\_\_  
Phone Number

**Architect's / Engineer's Certification of the Aggregate Floor Area, Dwelling Units & Room Count**

**534 West 42nd Street, New York, NY 10036**

Building 1 of 1 Address \_\_\_\_\_ Block 1070 Lot 49  
 [Total # of Bldgs.]

**104744724-01-EW-OT 103934995-01-PL 103934995-01-EW OT**

Department of Buildings Job Number **104032949-01-AL 103934995-01-EW MH**

**104032949-03-PL 104633292-01-EW-OT**

Floor	Residential A.F.A.	Non- Residential A.F.A. & Ineligible Residential A.F.A.	# 0 BR @ 2.5 Rooms	# 1 BR @ 3.5 Rooms	# 2 BR @ 4.5 Rooms	# 3 BR @ 5.5 Rooms	# 4 BR @ 6.5 Rooms	# Dwelling Units	# Rooms
1	893	199							
2	1,386			1				1	3.5
3	1,386			1				1	3.5
4	1,386			1				1	3.5
5	1,386			1				1	3.5
6	1,386			1				1	3.5
7	1,386			1				1	3.5
8	1,285				1*			1*	4.5
9	1,285								
Roof		266							
Total	11,779	465	1	6	1			7	25.5

**\* Duplex Apartment from 8th to 9th Floor**

Total Finished Space in Sf 12,407  
 Total Unfinished Space in Sf 1,384  
 Total Balcony Space in Sf 1,269



**Architect's / Engineer's Certification of the Aggregate Floor Area, Dwelling Units & Room Count**

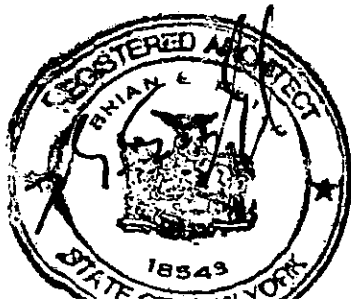
**Project Building(s) Summary**

Building	Floor(s)	Residential A.F.A.	Non- Residential A.F.A. & Ineligible Residential A.F.A.	# 0 BR	# 1 BR	# 2 BR	# 3 BR	# 4 BR	# Dwelling Units	# Rooms
1	1 thru 9	11,779	465		6	1			7	25.5
Total	9	11,779	465		6	1			7	25.5

Total Finished Sf All Buildings 12,407  
 Total Unfinished Sf All Buildings 1,384  
 Total Balcony Area Sf All Buildings 1,269

**Additional Information required for Projects that fall within the Geographic Exclusion Area (28 RCNY § 6-02(c)(10)) where eligibility for 421-a Partial Tax Exemption is based upon the purchase of Negotiable Certificates**

Total Net Sf of Dwelling Units 9,160  
 Average Sf per Dwelling Unit 1,308.6



**Architect's / Engineer's Certification of the Aggregate Floor Area, Dwelling Units & Room Count**

**534 West 42nd Street, New York, NY 10036**

Building 1 of 1 Address \_\_\_\_\_ Block 1070 Lot 49  
 [Total # of Bldgs.]

**104744724-01-EW-OT 103934995-01-PL 103934995-01-EW OT**

Department of Buildings Job Number **104032949-01-AL 103934995-01-EW MH**

**104032949-03-PL 104633292-01-EW-OT**

Floor	Residential A.F.A.	Non- Residential A.F.A. & Ineligible Residential A.F.A.	# 0 BR @ 2.5 Rooms	# 1 BR @ 3.5 Rooms	# 2 BR @ 4.5 Rooms	# 3 BR @ 5.5 Rooms	# 4 BR @ 6.5 Rooms	# Dwelling Units	# Rooms
1	893	199							
2	1,386			1				1	3.5
3	1,386			1				1	3.5
4	1,386			1				1	3.5
5	1,386			1				1	3.5
6	1,386			1				1	3.5
7	1,386			1				1	3.5
8	1,285				1*			1*	4.5
9	1,285								
Roof		266							
Total	11,779	465	1	6	1			7	25.5

**\* Duplex Apartment from 8th to 9th Floor**

Total Finished Space in Sf 12,407

Total Unfinished Space in Sf 1,384

Total Balcony Space in Sf 1,269



**Architect's / Engineer's Certification of the Aggregate Floor Area, Dwelling Units & Room Count**

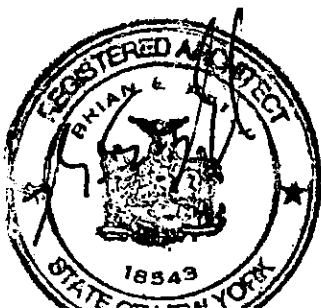
**Project Building(s) Summary**

Building	Floor(s)	Residential A.F.A.	Non- Residential A.F.A. & Ineligible Residential A.F.A.	# 0 BR	# 1 BR	# 2 BR	# 3 BR	# 4 BR	# Dwelling Units	# Rooms
1	1 thru 9	11,779	465		6	1			7	25.5
Total	9	11,779	465		6	1			7	25.5

Total Finished Sf All Buildings      12,407  
 Total Unfinished Sf All Buildings    1,384  
 Total Balcony Area Sf All Buildings   1,269

**Additional Information required for Projects that fall within the Geographic Exclusion Area (28 RCNY § 6-02(c)(10)) where eligibility for 421-a Partial Tax Exemption is based upon the purchase of Negotiable Certificates**

Total Net Sf of Dwelling Units      9,160  
 Average Sf per Dwelling Unit       1,308.6



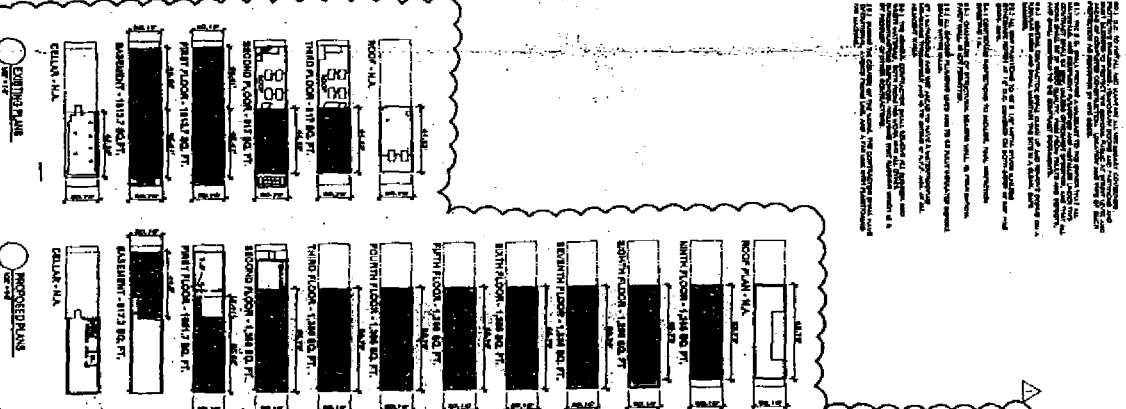
1. The purpose of this report is to provide a detailed description of the physical characteristics of the building, including its location, size, and construction. The information is intended for use in the development of a fire insurance policy and for the purpose of determining the appropriate fire protection measures.

2. The building is located at 1234 Main Street, City, State, and is a three-story structure. The total area of the building is approximately 10,000 square feet. The building is constructed of brick and has a flat roof.

3. The building is divided into three floors. The first floor is used for retail purposes and contains a large display area. The second floor is used for office space and contains several offices and a conference room. The third floor is used for storage and contains a large warehouse area.

4. The building is equipped with a fire alarm system and a sprinkler system. The fire alarm system is a manual system that requires the fireman to pull a alarm pull station. The sprinkler system is an automatic system that activates when the temperature in the room reaches a certain level.

5. The building is also equipped with a fire extinguisher and a fire escape. The fire extinguisher is a dry chemical extinguisher and is located in the main entrance. The fire escape is located on the side of the building and is used for evacuation in the event of a fire.



OCCUPANCY / ENTIRE BUILDING	
Room No.	Description
101	RETAIL - 10,000 SQ. FT.
201	OFFICE - 1,000 SQ. FT.
202	OFFICE - 1,000 SQ. FT.
203	OFFICE - 1,000 SQ. FT.
204	CONFERENCE - 1,000 SQ. FT.
301	WAREHOUSE - 10,000 SQ. FT.

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THE DULLES  
FIRE INSURANCE CO.  
1234 Main Street  
City, State

GENERAL NOTES  
GN-1

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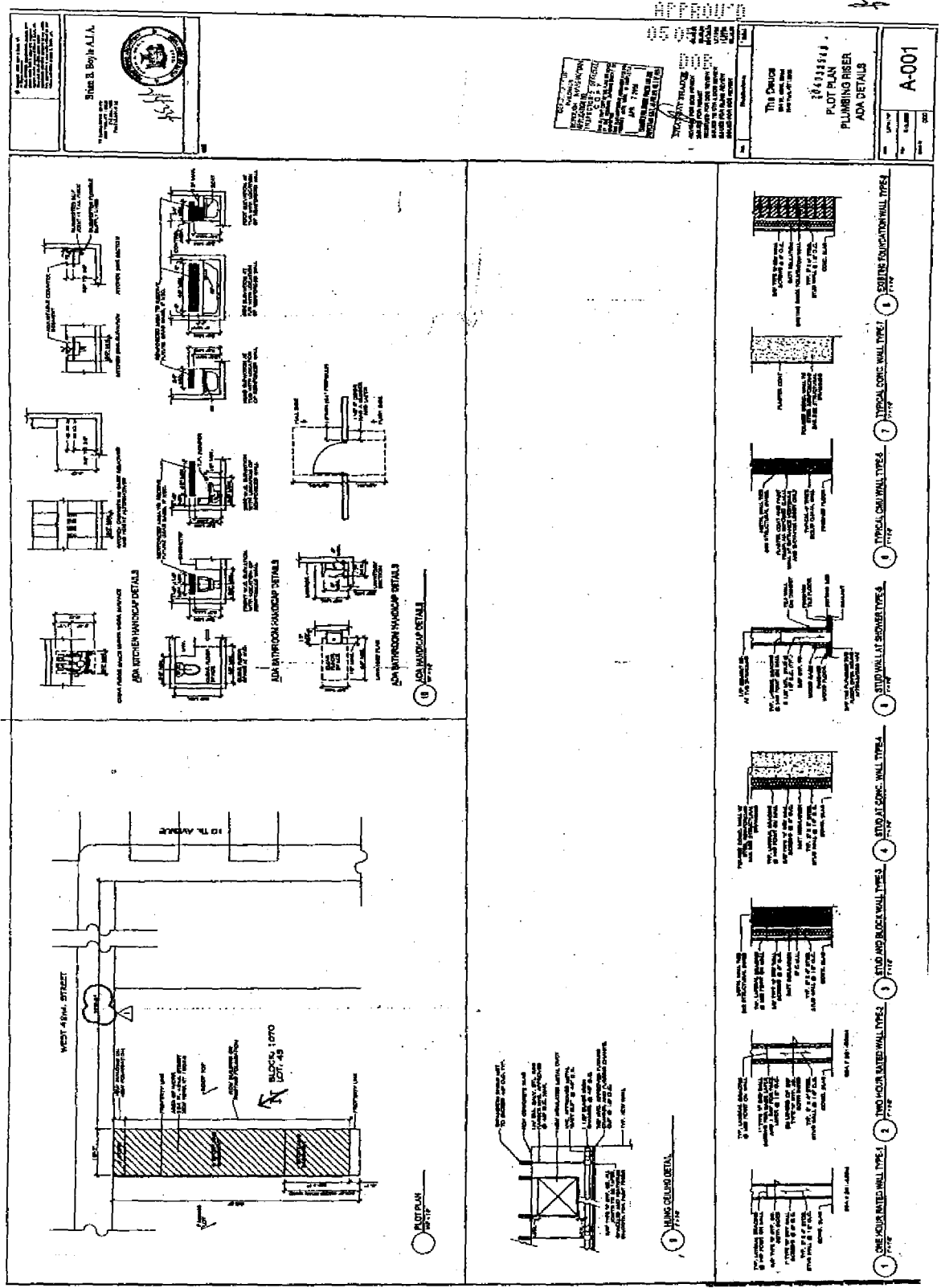
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11/19/08



1/5 8 1/2

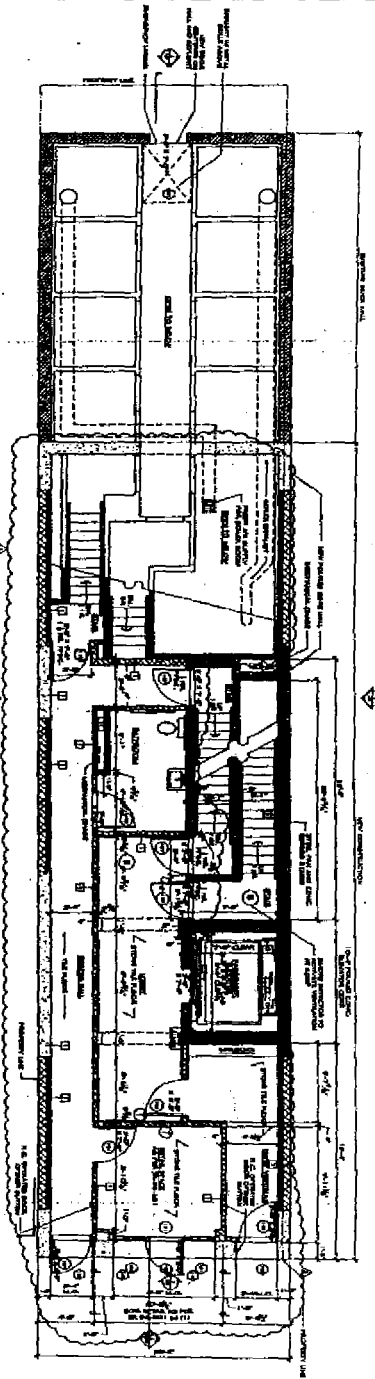
APPROVED  
0501



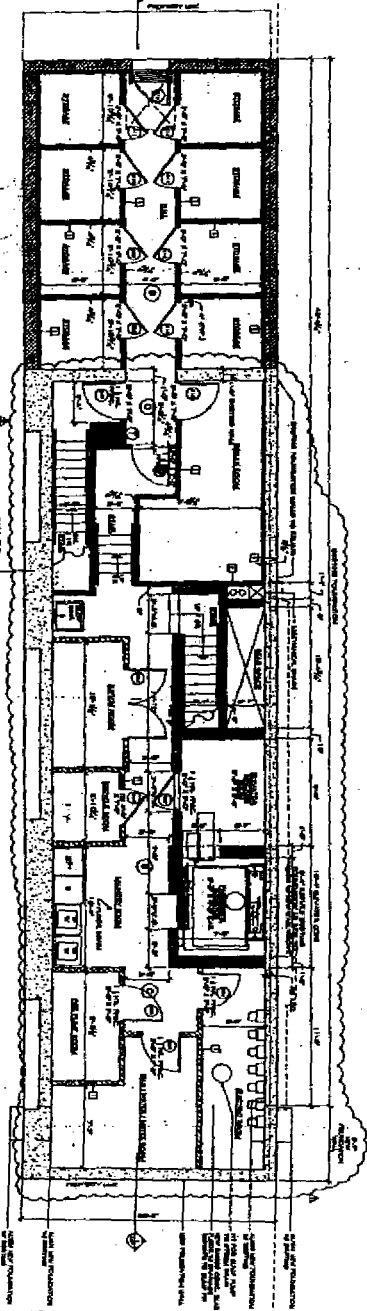
Shane B. Boyle AIA  
Architect  
1151  
1151

RECEIVED  
PLANNING DEPARTMENT  
CITY OF SEATTLE  
JAN 11 2007

THE DESIGN  
PLOT PLAN  
PLUMBING RISER  
ADA DETAILS  
A-001



FIRST FLOOR PLAN



BASEMENT AND CELLAR PLAN

		Drawn by: <i>hsh</i> Checked by: <i>hsh</i> Date: 10/1/54
TITLE: <b>FLOOR PLANS</b> <b>CELLAR / BASEMENT</b> <b>AND FIRST FLOOR</b>		
No. <b>A-002</b>	Date: <b>10/1/54</b>	Scale: <b>1/8" = 1'-0"</b>


1. All dimensions are in feet and inches.  
 2. All dimensions are to the center of the wall unless otherwise noted.  
 3. All dimensions are to the center of the door unless otherwise noted.  
 4. All dimensions are to the center of the window unless otherwise noted.  
 5. All dimensions are to the center of the staircase unless otherwise noted.  
 6. All dimensions are to the center of the elevator unless otherwise noted.  
 7. All dimensions are to the center of the shaft unless otherwise noted.  
 8. All dimensions are to the center of the room unless otherwise noted.  
 9. All dimensions are to the center of the building unless otherwise noted.  
 10. All dimensions are to the center of the site unless otherwise noted.

10/1/54  
 hsh

5/2/74  
5/1/74

REFLECTED

**Blair E. Boyd, AIA**



Architect

1000 17th Street, N.W.  
Washington, D.C. 20036

**LEGEND**

- 1. EXISTING WALLS
- 2. EXISTING DOORS
- 3. EXISTING WINDOWS
- 4. EXISTING STAIRS
- 5. EXISTING ELEVATORS
- 6. EXISTING MECHANICAL EQUIPMENT
- 7. EXISTING UTILITIES
- 8. EXISTING STRUCTURAL ELEMENTS
- 9. EXISTING FINISHES
- 10. EXISTING FURNITURE
- 11. EXISTING PLANTING
- 12. EXISTING LANDSCAPE
- 13. EXISTING SITEWORK
- 14. EXISTING UTILITIES
- 15. EXISTING STRUCTURAL ELEMENTS
- 16. EXISTING FINISHES
- 17. EXISTING FURNITURE
- 18. EXISTING PLANTING
- 19. EXISTING LANDSCAPE
- 20. EXISTING SITEWORK

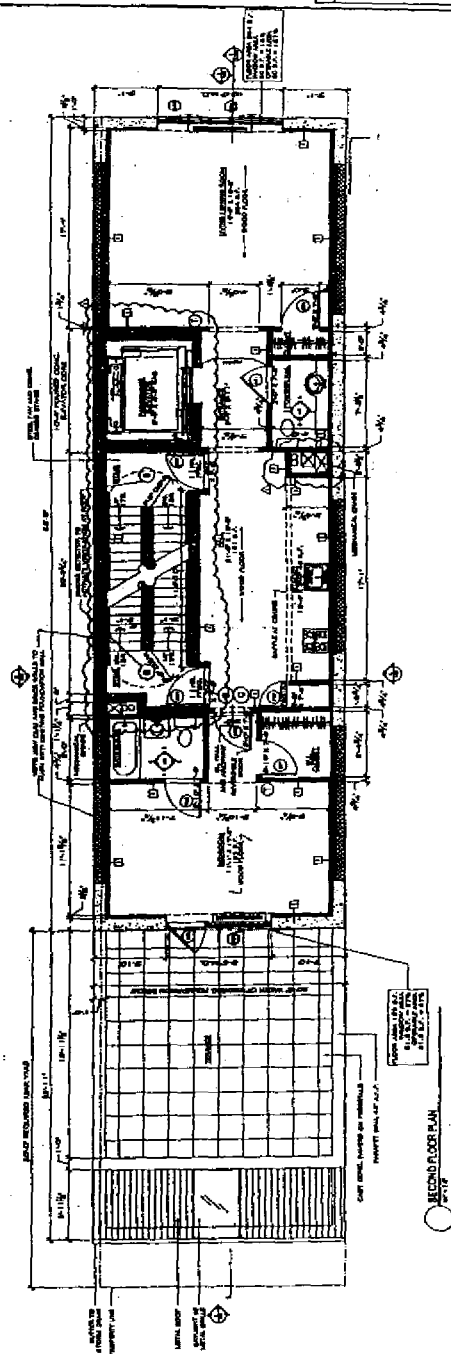
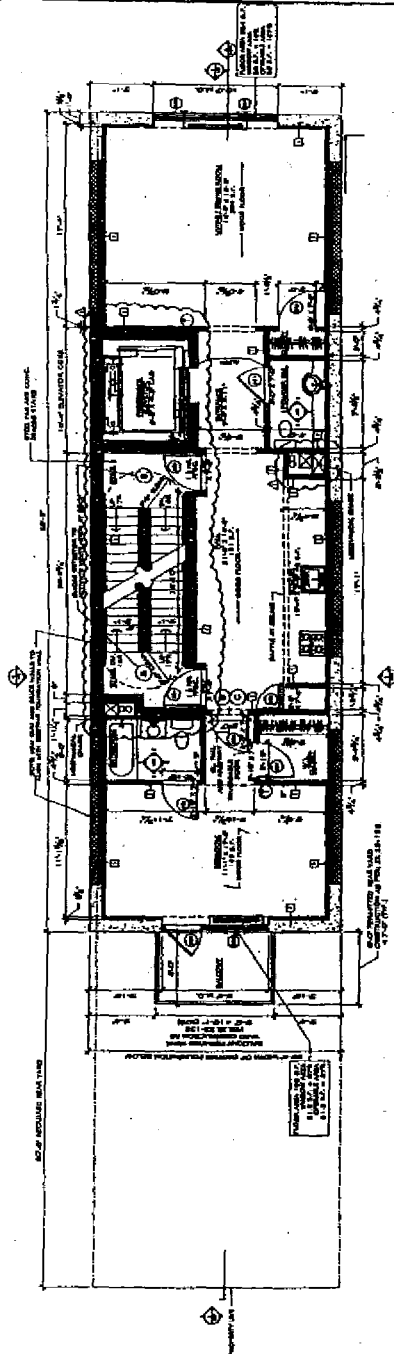
**THE DESIGN**

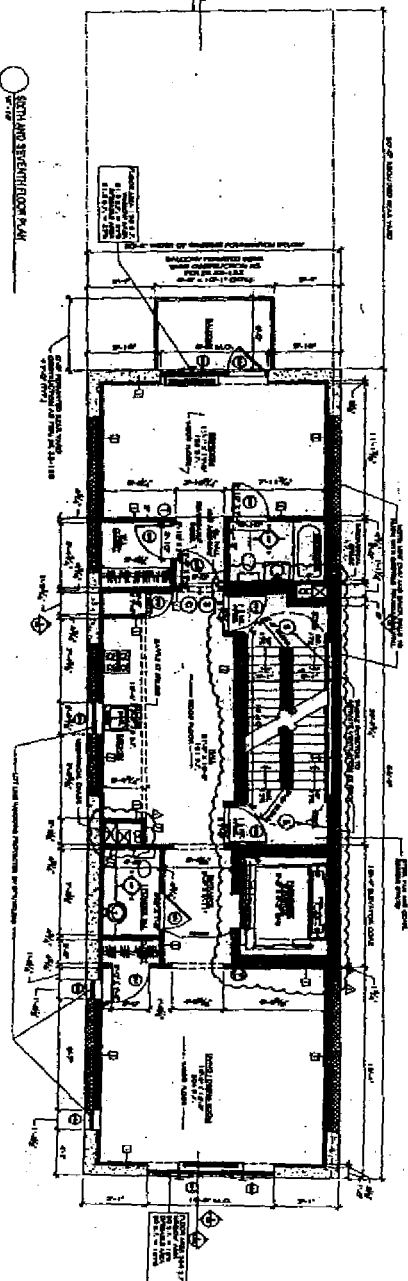
1000 17th Street, N.W.  
Washington, D.C. 20036

**FLOOR PLANS**

SECOND FLOOR AND  
THIRD THRU FIFTH FLOOR

**A-003**






		State of New York Department of State Division of Buildings Office of the State Architect
The Division of Buildings has approved the plans for the construction of the SIXTH AND SEVENTH FLOORS of the A-004		
Date of Approval 1/1/1964	Date of Issuance 1/1/1964	Date of Revision 1/1/1964

1/1/1964  
 1/1/1964  
 1/1/1964

12/6/4  
35



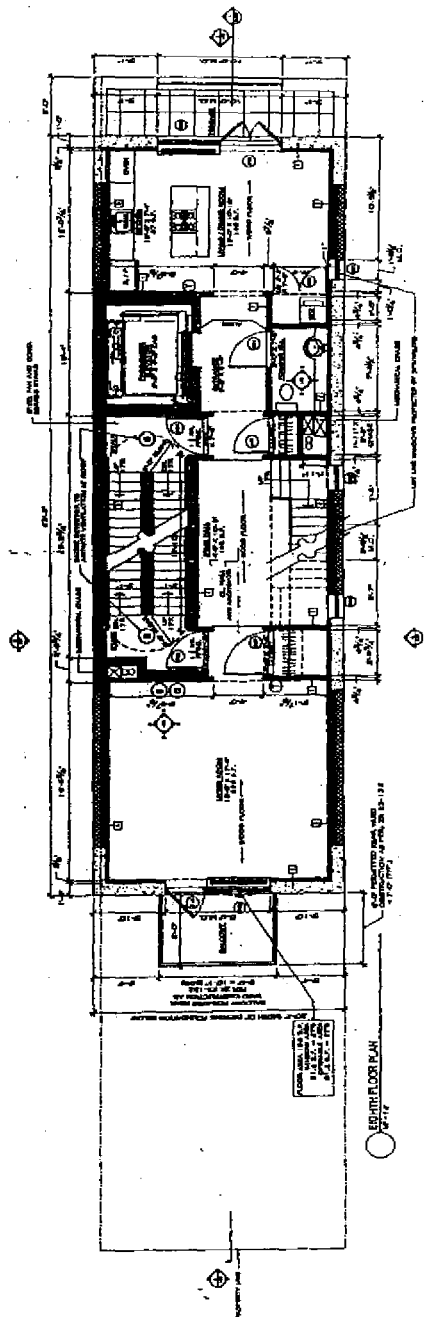
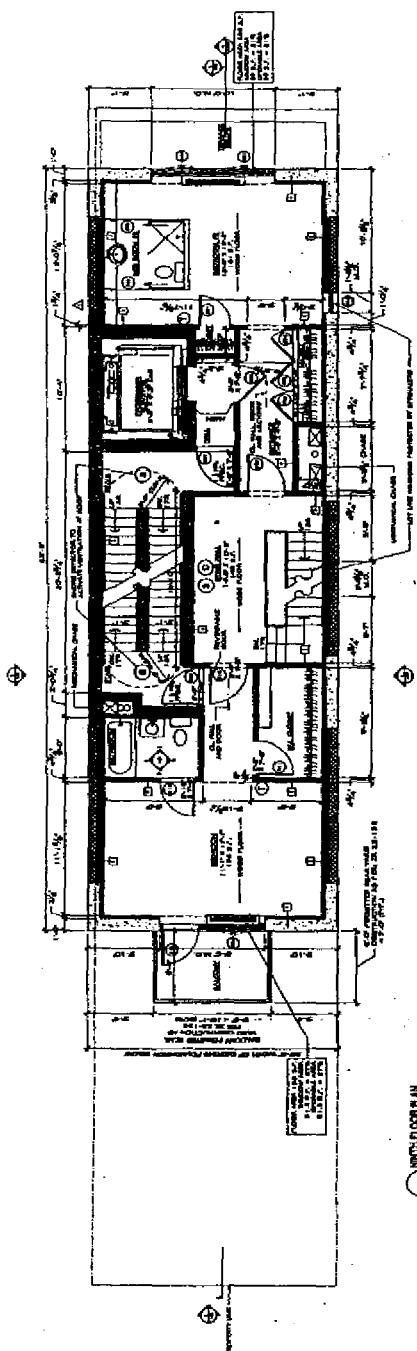
**Bureau of Reclamation**  
U.S. Department of the Interior  
Washington, D.C.

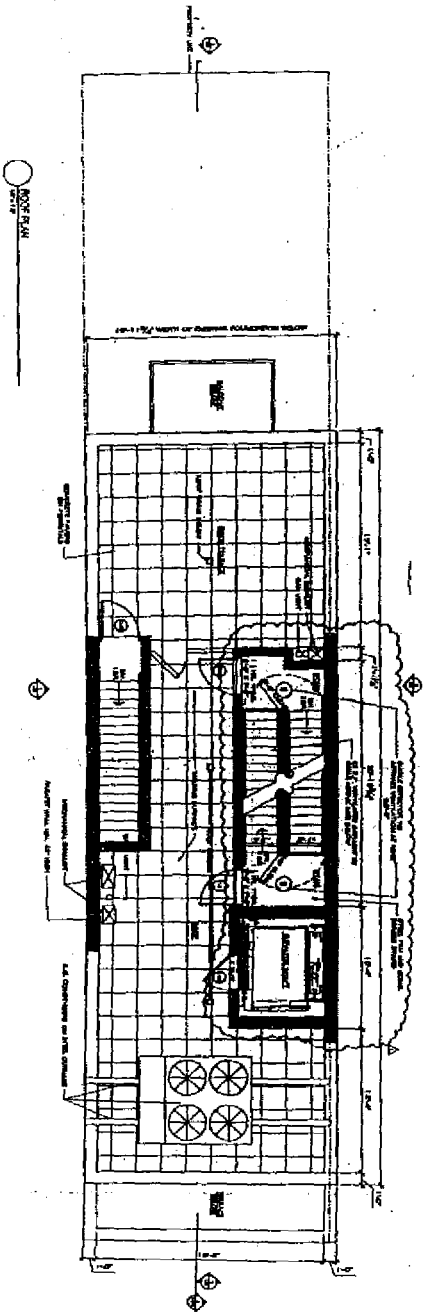
**10031111.9**  
FLOOR PLANS  
EIGHTH AND  
NINTH FLOOR

**A-005**

**The Deuce**  
10031111.9  
FLOOR PLANS  
EIGHTH AND  
NINTH FLOOR

**10031111.9**  
FLOOR PLANS  
EIGHTH AND  
NINTH FLOOR

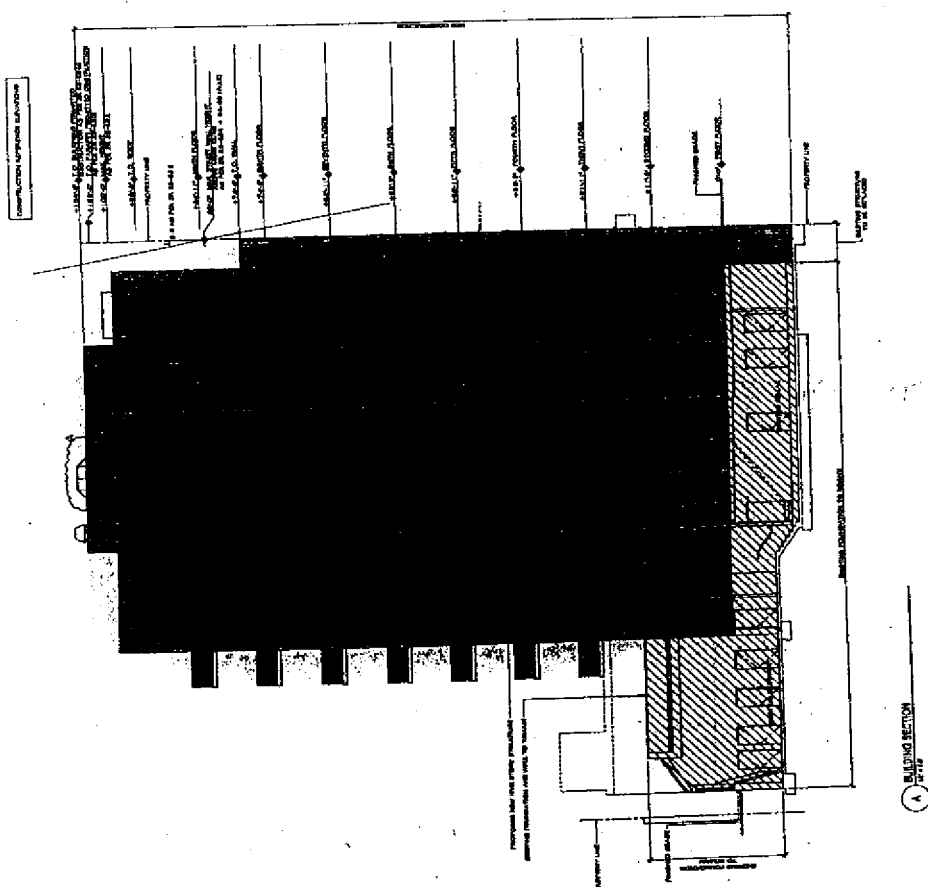


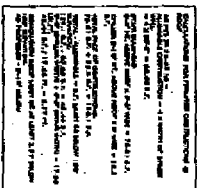


		<p><b>State of New York</b>  <b>Department of State</b>  <b>Division of Buildings</b>  <b>Office of the State Architect</b></p>
<p><b>Project Name:</b> The Dakota  <b>Project Number:</b> 101111111  <b>Project Address:</b> 101111111  <b>Project City:</b> New York  <b>Project State:</b> New York  <b>Project Zip:</b> 10111</p>		
<p><b>Project Description:</b> The Dakota  <b>Project Type:</b> Residential  <b>Project Status:</b> In Progress  <b>Project Date:</b> 10/1/11</p>		
<p><b>Project Owner:</b> The Dakota  <b>Project Architect:</b> The Dakota  <b>Project Engineer:</b> The Dakota  <b>Project Contractor:</b> The Dakota</p>		
<p><b>Project Notes:</b> The Dakota  <b>Project Comments:</b> The Dakota  <b>Project Remarks:</b> The Dakota</p>		
<p><b>Project Signatures:</b> The Dakota  <b>Project Initials:</b> The Dakota  <b>Project Date:</b> 10/1/11</p>		
<p><b>Project Title:</b> The Dakota  <b>Project Number:</b> 101111111  <b>Project Address:</b> 101111111  <b>Project City:</b> New York  <b>Project State:</b> New York  <b>Project Zip:</b> 10111</p>		

10/1/11

1. NAME (Last, first, middle initial) 2. GRADE 3. SCHOOL 4. CITY 5. STATE 6. ZIP CODE		7. DATE 8. TIME 9. PLACE	
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20. NAME OF SCHOOL 21. ADDRESS 22. CITY 23. STATE 24. ZIP CODE		25. NAME OF SCHOOL 26. ADDRESS 27. CITY 28. STATE 29. ZIP CODE	
30. NAME OF SCHOOL 31. ADDRESS 32. CITY 33. STATE 34. ZIP CODE		35. NAME OF SCHOOL 36. ADDRESS 37. CITY 38. STATE 39. ZIP CODE	
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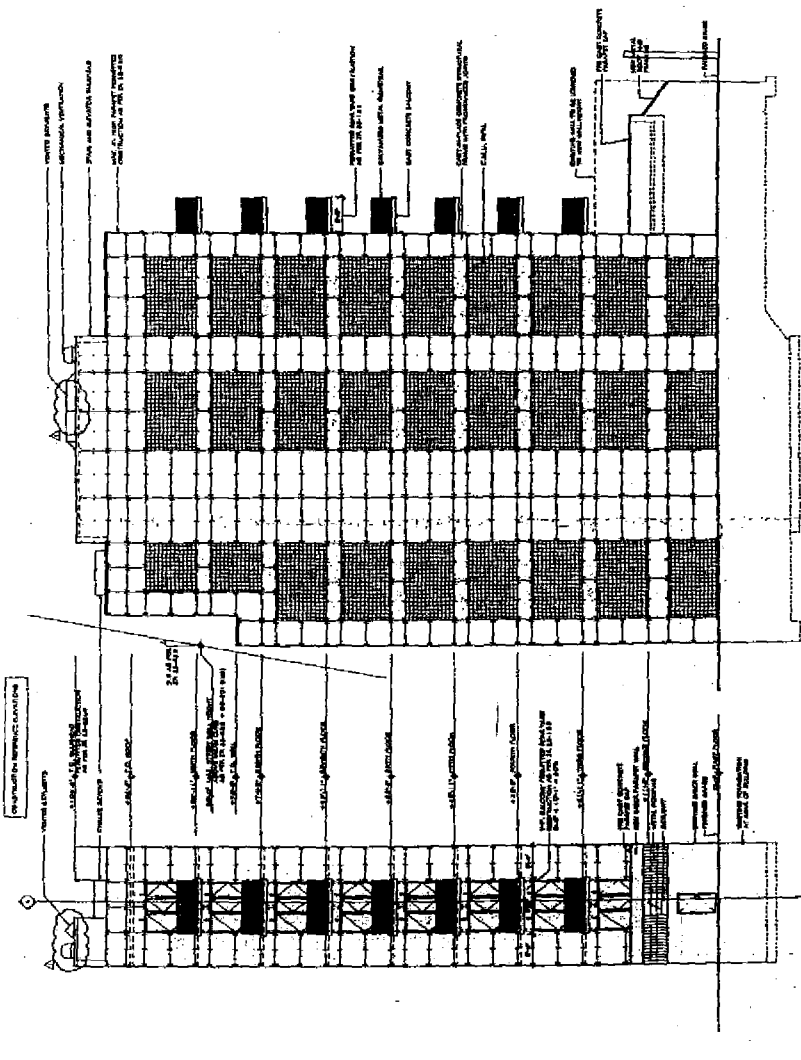


2/13/02  
H. S. J.



80/8/2  
13/3/2

 <p><b>The Decos Building Group, Inc.</b> 1000 West 10th Street Suite 100 Oklahoma City, Oklahoma 73106 Phone: (405) 521-1111 Fax: (405) 521-1112</p>		<p><b>PROJECT INFORMATION</b></p> <p>PROJECT NO. 1000 PROJECT NAME: THE DECOS BUILDING GROUP, INC. PROJECT ADDRESS: 1000 WEST 10TH STREET, SUITE 100, OKLAHOMA CITY, OKLAHOMA 73106 PROJECT DATE: 10/1/98 PROJECT STATUS: IN PROGRESS</p>							
<p><b>THE DECOS BUILDING GROUP, INC.</b> 1000 WEST 10TH STREET, SUITE 100, OKLAHOMA CITY, OKLAHOMA 73106 PHONE: (405) 521-1111 FAX: (405) 521-1112</p>		<p><b>ELEVATIONS</b> SOUTH ELEVATION WEST ELEVATION</p>							
<p><b>REVISIONS</b></p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>10/1/98</td> <td>ISSUED FOR PERMIT</td> </tr> </tbody> </table>		NO.	DATE	DESCRIPTION	1	10/1/98	ISSUED FOR PERMIT	<p><b>PROJECT NO. 1000</b></p>	
NO.	DATE	DESCRIPTION							
1	10/1/98	ISSUED FOR PERMIT							



State of New York )

) ss.:

County of NY )

**Brian Shatz**, being duly sworn, under penalty of perjury, deposes and says:

I, a. I, **Brian Shatz, Manager, 534 West 42nd Street LLC**, am making this application for a Preliminary Certificate of Eligibility for 421-a Partial Tax Exemption (the "Application").

[If applicable:]

I, b. I held fee title or the leasehold interest under a ground lease of the real property identified in the Application at the time of the original filing, and I am authorized to make the Application on behalf of all persons or entities that currently hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application.

2. I have read and understand the requirements for 421-a Partial Tax Exemption.

3. I have reviewed the Application and I swear that all information set forth in the Application is true and correct and I submit the Application to induce the City of New York to grant 421-a Partial Tax Exemption.

4. The multiple dwelling will be owned as a cooperative or condominium, and is not required to be registered with the State of New York Department of Housing and Community Renewal. However, if the prospective cooperative or condominium plan has not been declared effective for filing at a time fifteen months after issuance of a Final Certificate of Eligibility for 421-a Partial Tax Exemption, these rental units must be registered with the New York State Division of Housing and Community Renewal no later than fifteen calendar days after such fifteen month period or, if the building is not occupied, such units must be registered prior to initial occupancy, and proof of registration submitted.

5. As required pursuant to §11-245.8 of the Administrative Code of the City of New York and §6-05(d)(1) of Chapter 6, Title 28 of the Rules of the City of New York, whenever any household appliance in any dwelling unit, or any household appliance that provides heat or hot water for any dwelling unit in the multiple dwelling, is installed or replaced with a new household appliance on or after December 19, 2006, such new appliance shall be certified as Energy Star, unless either (A) an appropriately-sized Energy Star certified household appliance is not manufactured, such that movement of walls or fixtures would be necessary to create sufficient space for such appliance, and/or (B) an Energy Star certified boiler or furnace of sufficient capacity is not manufactured.

[For purposes of this paragraph, (A) "household appliance" shall mean any refrigerator, room air conditioner, dishwasher or clothes washer, within a dwelling unit in the multiple dwelling that is provided by the owner, and any boiler or furnace that provides heat or hot water for any dwelling unit in the multiple dwelling, and (B) "Energy Star" shall mean a designation from the United States Environmental Protection Agency or Department of Energy indicating that a product meets the energy efficiency standards set forth by the agency for compliance with the Energy Star program.]

I understand that if the City of New York finds that the Application and or supporting documents, including but not limited to, the most recent Department of Buildings approved building plans; the survey; and contain incorrect or misleading information of substantial nature, or have omitted information of a material nature, and in the event that such breach or omission is not cured within ninety (90) days of notice thereof, the Department of Housing Preservation and Development shall advise the Department of Finance that the 421-a Certificate of Eligibility has been revoked or that the amount of 421-a Partial Tax Exemption has been reduced, and the Department of Finance shall retroactively or prospectively withdraw or reduce 421-a Partial Tax Exemption and reinstate the amount of taxes which would have been exempted and charge interest at the rate prescribed by the New York City Administrative Code to be calculated from the day on which such taxes would have been payable but for the 421-a Partial Tax Exemption.

I understand that in order to qualify for 421-a benefits, a site must have been vacant, predominantly vacant, underutilized, or improved with a non-conforming use three years prior to the commencement of construction (i.e., "Operative Date"). The site eligibility statements and or calculations stated in Section 7 of the Application accurately reflect the conditions at the site on the Operative Date and confirm that the real property identified in the Application meets the site eligibility requirement for 421-a benefits.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.



Owner's Signature

Brian Shatz

Owner's Name

Manager

Owner's Title

534 West 42nd Street LLC

Owner's Affiliation

Sworn to me before this 16 day of May, 2012



Notary Public or Commissioner of Deeds

**SHOSHANA T. CARMEL**  
Notary Public, State of New York  
No. 01CA6153596  
Qualified in New York County  
Commission Expires October 10, 2014

534 West 42nd Street LLC  
c/o Madison Realty Capital, L.P.  
825 Third Avenue, 37th Floor  
New York, New York 10022  
Phone: (646) 472-1900

May 17, 2012

NYC Dept. of Housing Preservation & Development  
421-a Exemption Unit  
100 Gold Street (3Y)  
New York, NY 10038

Re: TEO 8773  
534 West 42nd Street  
Block 1070, Lot 49, Manhattan

To Whom It May Concern:

534 West 42nd Street LLC is the successor-in-interest to Shao Lin Operating LLC pursuant to that certain Bargain and Sale Deed with Covenant Against Grantor's Act dated December 30, 2009.

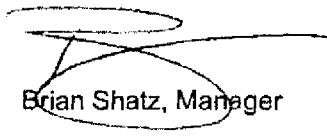
This affidavit is submitted to provide additional information concerning the acquisition of title to the premises.

The parties to the transaction were Shao Lin Operating LLC, as grantor/seller and 534 West 42nd Street, LLC, as grantee/buyer. Shao Lin Operating LLC was the fee owner of the premises, the original builder/developer of the property under construction, and the original applicant for 421-a exemption. 534 West 42nd Street LLC is a wholly-owned subsidiary of the previous mortgage lender – Madison Realty Capital, L.P.

There was no consideration involved in the acquisition. The transfer by the grantor can be described as a deed given in lieu of initiating the foreclosure proceedings. At the time of the acquisition, the transfer included the land and the construction of the building up to the point of transfer.

Please be advised that the laundry is located in the cellar and the storage units are located in the rear basement section of the building.

Very truly yours,

  
Brian Shatz, Manager

Sworn to before me this  
17th day of May, 2012

  
Notary Public

SHOSHANA T. CARMEL, Notary Public, State of New York, No. 01CA6153596, Commission Expires October 10, 2014

**SHOSHANA T. CARMEL**  
Notary Public, State of New York  
No. 01CA6153596  
Qualified in New York County  
Commission Expires October 10, 2014

*may 2 2012*

New York City Department of Housing Preservation and Development  
Division of Housing Incentives  
Tax Incentive Programs Unit  
The 421-a Partial Tax Exemption Program

Date: 10/02/12 Proj. Seq # 44820 Re-file Docket # 8773 Reviewer: Hosht

Dear 421-a Applicant/Applicant's Representative:

This application has failed to meet the basic submission criteria, will not be accepted for processing, and is being returned to the owner or owner's filing representative for one or more of the following reasons:

Complete and properly executed application, such as:

- ☐ Application and/or Affidavits are not in "Final" form;
- ☐ Pages of Application and/or Affidavits are missing;
- ☐ Project Sequence # is not same on all pages or is missing on pages/bottom of pages cut off;
- ☐ Blank field(s) on Architect's Affidavit;
- ☐ Architect's Affidavit is not signed & sealed OR is not signed & notarized;
- ☐ Opinion of Counsel is not printed on Attorney's letterhead or not signed;
- ☒ Incorrect or Missing Appraisal; *(Need original)*
- ☐ Incorrect or Missing RP-604;
- ☐ Incorrect or Missing Survey;
- ☐ Incorrect or Missing Cost Proration letter;
- ☒ Incorrect or Missing "Mid-Construction Purchase" letter (reviewer will provide more details);
- ☐ Incorrect or Missing "Ground Lease Breakdown" explanation;
- ☒ Incorrect or Missing "Alteration Permit" explanation (see questions attached);
- ☐ Plans are not signed and dated on each page by the architect / prof. engineer;
- ☐ Documents not original; and
- ☒ Other: *Mistake on section 6A regarding the question on Alt. Permit. Also, missing parking question. Please use updated version of online application*

Ownership/Project Information not correct, such as:

- ☐ Information on the Online Application, RPTR, and SAL1 does not match Deed;
- ☐ Former lots on Online Application do not match RP-604;
- ☒ Information on Section 4A of the Online Application pertaining to land acquisition cost does not match the SAL-1/RPTR;
- ☐ Inconsistent answers in Section 3C, Question 2 vs. Section 6A, Question 1 (ICIP question);
- ☒ Parking Questions in Section 6A answered incorrectly; *missing*
- ☐ Community Board was notified not within 10 days of the acceptance of application by HPD; and
- ☐ Other:

You may re-file for 421-a benefits by submitting a new Online Application with the correct information. A hard copy of your new application with the accompanying affidavits and documentation must be delivered to the 421-a Program along with a \$100 non-refundable deposit towards the preliminary application fee.

Should you have any questions, please contact the 421-a Unit at 212-863-8540.

Sincerely,

421-a Partial Tax Exemption Program

*Encl.*



**18. *My project is being constructed using an Alteration Permit. How does this affect my Online Application?***

In addition to indicating the correct Alteration permit number in Section 6, please provide a letter from the project's architect or professional engineer that analyzes the project's floor area. Below is a list of questions/items that must be included in the letter.

- Please explain why the Alteration permit was used instead of a New Building permit;
- Provide the dimensions of the former structure;
- Provide the dimensions of the new addition/enlargement;
- What percentage of the old structure was incorporated into the new structure? (Note: this is used to determine if at least 51% is new construction.);
- Describe the exact parts of the pre-existing building that remained; be as specific as possible (i.e. foundations, walls, floor framing, stairs, mechanical, electrical and plumbing systems, etc.);
- What specifically was added to the pre-existing building? How many stories and how many units in total were created (newly built vs. converted dwelling units)?
- If this project is a condo, after subdivision of lots, please specify which tax lots are associated with the newly-built dwelling units/stories.
- If parts of the building are not applying for 421-a benefits, please identify them and explain what exemption, if any, they will apply for?



**19. *I purchased this project mid-construction from the original builder/developer. How does this affect my project?***

In Section 4A of the Online Application, please indicate the purchase price that you paid for the project. When you submit the executed hardcopy of your Online Application, please include a letter explaining what took place as well as the dates and parties involved in the transaction. Your letter should also explain what was covered in the purchase price (i.e. land and construction up to the point of sale). Please note that the Final Application will require a CPA's certification of actual development costs for the builder/developer who completes construction of the project.



**20. *One or more lots in my project are being operated under a Ground Lease. How does this affect my project?***

Please indicate the monthly payment in Section 4A of the Online Application and submit a copy of the Ground Lease. In addition, please include a letter of explanation from the applicant that provides the method for how the monthly payments were calculated, including referencing the relevant section(s) of the Ground Lease where the information can be confirmed.

- 1) SUBMIT A SEALED NOTE FROM THE ARCHITECT EXPLAINING THE FOLLOWING: WHY WAS ALT PERMIT USED VS. GETTING A NEW BUILDING PERMIT; DESCRIBE EXISTING STRUCTURE: TAX CLASS (COMMERCIAL / RESIDENTIAL); USE (STORE / RESIDENCE).; THE DIMENSIONS OF THE FORMER STRUCTURE / NUMBER OF FLOORS; THE DIMENSIONS OF THE NEW ADDITION / NUMBER OF FLOORS; WHAT EXACT PARTS OF THE FORMER STRUCTURE REMAINED? BE SPECIFIC (I.E., WALL, FOUNDATION, ETC.); SHOW % OF OLD STRUCTURE VS. NEW. (WE ARE TRYING TO DETERMINE IF AT LEAST 51% IS NEW); WILL THE EXISTING PORTION GET A GUT REHABILITATION?; HOW MANY UNITS CREATED IN TOTAL?; IF THIS IS A CONDO (SHOW TAX LOTS BREAKDOWN), PLEASE IDENTIFY THE USE OF EACH TAX LOT; IDENTIFY WHICH UNITS ARE COMPLETELY NEW & WHICH ONES ARE EXISTING.
- 2) SUBMIT ALSO "AS-BUILT-PLANS" & DEMOLITION PLANS
- 3) APPLICANT SHOULD SUBMIT A NOTE CLARIFYING THE USE OF RESIDENTIAL SPACES MENTIONED ON FLOOR 9 IN SECTION 6A & 6B.
- 4) SUBMIT A NEW APPRAISAL WITH THE FOLLOWING INFO: CLEAR DESCRIPTION OF THE LOT , INCLUDING BOROUGH, BLOCK , LOT, LOT SIZE; DATE OF THE APPRAISAL (HAS TO BE AT START OF CONSTRUCTION OR NOT OLDER THEN 3-4 MONTHS BEFORE START OF CONSTRUCTION ); CLEARLY STATES THAT ONLY LAND IS BEING APPRAISED; APPRAISER'S NAME SPELLED OUT CLEARLY AND CORRECTLY ; APPRAISER'S SIGNATURE; APPRAISER'S VALID LICENSE NUMBER ; VALUE OF THE APPRAISAL ; APPRAISER'S VALID BUSINESS NAME & PLACE OF BUSINESS.
- 5) SUBMIT MID-CONSTRUCTION LETTER. SEE ALSO ATTACHED COPY OF 421-A ONLINE FAQ FROM OUR WEBSITE.

[Print](#) | [Close Window](#)

Subject: RE: 534 W. 42nd Street  
From: hshiff@ljbpc.com  
Date: Fri, Oct 05, 2012 6:04 pm  
To: "David Speiser" <dspeiser@madisonrealtycapital.com>  
Attach: TEO 8773 10.2.12.pdf

See attached. I finally spoke with the HPD representative who made the checklist. I think that the best route is to re-file the entire application which should cover the changes to the online computer program made since the one we are attempting to file was filed electronically. I called the architect who is away until Wednesday. They insist on an original appraisal. Do you have an appraiser who might adopt the appraisal submitted. The appraiser we used passed away suddenly. Instead of an appraisal they will accept a letter from a licensed broker which is probably the cheapest and quickest route. I also noticed that the building information about storage in the basement may have to be amended by the architect. The architect will also have to re-execute and answer some of the items raised by HPD. This should not take long because it had already been submitted but they now want new originals. Who is familiar with the building. Are the storage units all still residential or have there been changes. Have there been any changes to the building that vary from the plans submitted to HPD. I have begun drafting the fixes that HPD wants.

----- Original Message -----

Subject: 534 W. 42nd Street  
From: David Speiser <dspeiser@madisonrealtycapital.com>  
Date: Thu, October 04, 2012 4:28 pm  
To: Harvey Shiff <hshiff@ljbpc.com>

Harvey,

Would you please send me a copy of the HPD check lists, as well as the actual applications submitted to HPD?

Thanks.

---

David Speiser  
Madison Realty Capital  
825 Third Avenue, 37<sup>th</sup> Floor  
New York, NY 10022  
Direct: (646) 747-7822  
Fax: (646) 219-5643

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HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK



CASHIER'S CHECK

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

282111107 NEW 01/08 8810004306

Remitter LAWRENCE J. BERGER

Date 9800317913 25-3  
07/17/2012 440

Pay: ONE HUNDRED DOLLARS AND 00 CENTS

Pay To The Order Of NEW YORK CITY DEPARTMENT OF FINANCE \$ \*\*\*\*\*100.00 \*\*\*

Drawn: JPMORGAN CHASE BANK, N.A.  
Senior Vice President  
*Michael Anderson*  
JPMorgan Chase Bank, N.A.  
Columbus, OH



⑈9800317913⑈ ⑆044000037⑆ 758881433⑈

LAW OFFICES

LAWRENCE J. BERGER, P. C.

200 MADISON AVENUE

SUITE 1902

NEW YORK, N.Y. 10016

(212) 532-0222

FAX (212) 532-0224

LAWRENCE J. BERGER  
STEVEN E. RESNICK  
HARVEY I. SHIFF

October 2, 2012

LESLIE R. PERLMAN  
SETH J. GOLDBERG

NYC Department of Housing,  
Preservation & Development  
Office of Development, Division of Housing Incentives  
421-a Exemption Unit  
100 Gold Street, 3-Y4  
New York, New York 10038  
Attn: Olga Sheyner, Director

Re: TEO 8773  
421-a Partial Tax Exemption Final Application  
534 West 42<sup>nd</sup> Street  
Block 1070, Lot 49, Manhattan

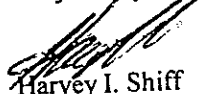
Dear Ms. Sheyner:

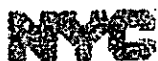
Enclosed please find the final paper version of the re-filed electronic application for the above referenced project consisting of the following executed documents:

1. "Application for Preliminary Certificate of Eligibility for Partial Tax Exemption";
2. Duly-executed "Owner's Affidavit";
3. Duly-executed "Architect's/Engineer's Certification In Support of Preliminary Application for 421-a Partial Tax Exemption" with revised plans;
4. Duly-executed "Opinion of Counsel";
5. Copy of Appraisal documentation;
6. Copy of Negotiable Certificate of Eligibility;
7. Copy of Survey;
8. Copy of Architect's Certification dated August 19, 2010;
9. Copy of Declaratory Ruling issued by HPD for this project; and
10. A bank check in the amount of \$100 enclosed for HPD's Preliminary Application fee.

Please immediately issue the Preliminary Certificate of Eligibility for this project or advise if there is any additional information or documentation required.

Very truly yours,

  
Harvey I. Shiff

 Department of Housing Preservation & Development	NYC Department of Housing Preservation and Development	Division of Housing Incentives
	<b>Application for Preliminary Certificate of Eligibility for Partial Tax Exemption</b>	
	Mail to: NYC Department of Housing Preservation and Development 421-a Partial Tax Exemption Program, 100 Gold Street, 3rd floor, Section 3Y, New York, NY 10038 (212) 863-8540 Fax (212) 863-5899	
Instructions: Once you have completed filling out the application and have submitted it electronically to HPD, you must also print, sign, and send a hard copy to the 421-a Partial Tax Exemption Program at HPD, along with all required affidavits and documentation. If construction commenced on or after December 28, 2007, each multiple dwelling must contain four (4) dwelling units or more (unless it is built with substantial government assistance). If construction commenced before December 28, 2007, three (3) or more dwelling units is sufficient.		

### Section 1B: Entity/Owner Information

Entity Type	Limited Liability Company (LLC)		
Entity Name	534 West 42nd Street LLC		
Name	Brian Shatz		
Title	Manager		
House No	825	Street Name	Third Avenue
PO Box/Suite/Floor	37 Floor		
City	New York	State	NY
Country	USA	Zip code	10022
Phone	(646) 442-4202	Fax	
Email			

### Section 2: Filing Representative Information

Filing Representative Type	Entity	Company Name	Lawrence J. Berger, P.C.
Name of Contact Person			
Name	Harvey Shiff		
House No	200	Street Name	Madison Avenue
PO Box/Suite/Floor	Suite 1902		
City	New York	State	NY
Country	USA	Zip code	10016
Phone	(212) 532-0222	Fax	(212) 532-0224
Email	hshiff@ljbpc.com		

Commencement of construction date	06/07/2007		
Estimated Year of Construction Completion	08/26/2010		
Borough	MANHATTAN	Block	01070
Base Year AV	\$202,860.00	GEA	Y
Will the project involve any subdivision or merger of current lot(s)?	N		
	Lot	0049	Tax Class
	REMIC	N	NPP
			4
			N

House Number	534	Street Name	West 42 Street	Zip Code		Tentative Lot	49
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Are negotiable certificates being used to qualify a project located in a 421-a geographic exclusion area? Y

Please enter the date on which the 421-a Written Agreement was executed.

05/11/2007

Will this project or any part of this project be receiving tax exemption or tax abatement under any other provision of state or local law?

N

Was this project site mapped as a public park or utilized for 10 or more consecutive years as a private park immediately prior to October 1, 1971?

N

Will any part of this project be used as a hotel or for single room occupancy?

N

Does this project contain more than 20 dwelling units?

N

Were there Class A residential units on the site one month prior to the start of construction?

N/A

Does the new project contain at least 5 dwelling units for each Class A dwelling unit on the site one month prior to the new construction?

N/A

### Section 3D: Substantial Government Assistance and Affordability Restrictions

Is the project being constructed with Substantial Governmental Assistance?

N

Is the Substantial Governmental Assistance pursuant to a program for the development of affordable housing?

N/A

Are at least 20% of the project's units subject to affordability restrictions?

N

There is a requirement that at least 20% of the onsite units be affordable to Low and Moderate Income households, as defined in 28 RCNY § 6-01 (c).

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 80% of Area Median Income(AMI).

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 60% of AMI.

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 120% of AMI, and the average AMI does not exceed 90%.

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 120% of AMI.

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 125% of AMI.

N/A

Did you purchase the lot within two (2) years prior to the start of construction?

N

Please enter purchase price:

N/A

Did you purchase the lot more than two (2) years prior to the start of construction?

Y

Please enter appraised value at the start of construction:

\$3,000,000.00

Is the lot being performed under a ground lease?

Please indicate monthly rent payable during period of construction:

N/A

Please indicate length of a ground lease in months:

N/A

Total Construction Costs:

\$4,900,643.70

Total Builder's Fee/Developer's Profit:	\$1,403,971.40
Total Professional and Other Fees:	\$1,224,638.90
Total Marketing Expenses:	\$74,275.00
Total Financing and Other Charges:	\$4,033,320.00
Total Project Cost:	\$14,636,849.00

Did any portion of the building apply for the Industrial and Commercial Incentive Program (ICIP) **N**  
Does the building include new residential construction and the concurrent conversion, alteration or improvement of a pre-existing building or structure? **N**

Commencement of construction date **06/07/2007**  
DOB/BIS Job Number **104032949**  
Building Permit Type **Alteration Permit**

Floor	Residential A.F.A.	#0 BR	#1 BR	#2 BR	#3 BR	#4 BR	#5 BR	#6 BR	#7 BR	#8 BR	# of Dwelling Units	# Rooms	Non-Residential A.F.A. and Ineligible Residential A.F.A.
10	0.00	0	0	0	0	0	0	0	0	0	0.00	0.00	266.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description <b>Roof stairs/Elev.Buldhead</b>													
9	1,285.00	0	0	0	0	0	0	0	0	0	0.00	0.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
8	1,285.00	0	0	1	0	0	0	0	0	0	1.00	4.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
7	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
6	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
5	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
4	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
3	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
2	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
1	893.00	0	0	0	0	0	0	0	0	0	0.00	0.00	199.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description <b>Retail</b>													

Address: 534 West 42 Street

Tentative Lot: 49

Floor	#0 BR	#1 BR	#2 BR	#3 BR	#4 BR	#5 BR	#6 BR	#7 BR	#8 BR	#Rooms	Residential A.F.A.	Non-Residential A.F.A. and Ineligible Residential
1	0	0	0	0	0	0	0	0	0	0.00	893.00	199.00
10	0	0	0	0	0	0	0	0	0	0.00	0.00	266.00
2	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
3	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
4	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
5	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
6	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
7	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00
8	0	0	1	0	0	0	0	0	0	4.50	1,285.00	0.00
9	0	0	0	0	0	0	0	0	0	0.00	1,285.00	0.00
Totals:	10	0	6	1	0	0	0	0	0	25.50	11,779.00	465.00

# Dwelling Units: 7  
# Rooms: 25.50

Commercial, etc. area in excess of 12% 0.00%

### Section 3: Room Schedule

Total Square Feet of Finished Space	12,407.00
Total Square Feet of Balcony Space	1,269.00
Total Square Feet of Unfinished Space	1,384.00
Average Square Feet Per Dwelling Unit	1,308.57
Total Net SF of Dwelling Units	9,160.00

To qualify for 421-a benefits, a site must have been vacant, predominantly vacant, underutilized, or improved with a non-conforming use three years prior to the start of construction (i.e. "Operative Date"). In order to determine if your project qualifies for 421-a benefits, this section of the application will take you through a number of questions which will determine your site eligibility. You must complete this section for each of the lots for which you are applying for 421-a benefits. Please enter the information as of the Operative Date.

Commencement of Construction Date:	6/7/2007
Operative Date:	06/07/2004
Total land area of lot (Square Feet):	1,933.53
Square footage of site:	1,933.53

**Test 1: The question below will test your site's eligibility based on vacant lot.**

Actual Assessed Valuation of improvements on the lot in the Fiscal Year in which the Operative Date falls: **\$72,000.00**

This site is ineligible based on this test because the actual assessed valuation of the improvements on the lot was not less than or equal to \$2,000. Please move on to the next site eligibility test.

**Test 2: The questions below will test your site's eligibility based on a vacant portion of the former lot as of the Operative Date.**

Is there an existing building that will not be demolished and will remain on the lot? **N**

Is the new multiple dwelling being constructed on a vacant portion of the lot as of the Operative Date?

This site is ineligible based on this test because the land that you are building on is not vacant. Please move on to the next site eligibility test.

**Test 3: The questions below will test your site's eligibility based on predominantly vacant land as of the Operative Date.**

Length of footprint of improvement (sq ft):	98.67	Width of footprint of improvement (sq ft):	19.58
Total area of footprint of improvement on lot (sq ft):	1,931.96	Total land area of lot (sq ft):	1,933.53

This site is ineligible based on this test because the area of the footprint of the improvement is not less than or equal to 15% of the land area of the lot. Please move on to the next site eligibility test.

**Test 4: The questions below will test your site's eligibility based on underutilized buildings as of the Operative Date.**

Was there a building(s) on the lot on the Operative Date? **Y**

What was the tax class of the lot on the Operative Date? **4**

**Test 7: The questions below will test your site's eligibility based on underutilized former non-residential building.**

Did work commence on or after May 12, 2000? **Y**

Is lot located in the Borough of Manhattan on either side or south of 110th Street? **Y**

Is lot located in the outer boroughs or in Manhattan north of 110th Street?

N

**Test 8: The questions below will test your site's eligibility based on underutilized former non-residential building in Manhattan on either side or south of 110th Street (assessed valuation test).**

Actual assessed valuation of building in the Fiscal Year in which the Operative Date falls \$72,000.00  
Actual assessed valuation of land in the Fiscal Year in which the Operative Date falls: \$130,500.00  
50% of the assessed valuation of the land on the Operative Date is: \$65,250.00

This site is ineligible based on this test because the actual assessed valuation of the building is not less than or equal to 50% of the actual assessed valuation of the land. Please move on to the next site eligibility test.

**Test 10: The questions below will test your site's eligibility based on underutilized former non-residential building in Manhattan on either side or south of 110th Street (Floor Area Ratio test).**

Zoning district of lot: C6-4  
Zoning map number: 8d  
Maximum residential F.A.R. in this zoning district: 10.00  
Identify Zoning Resolution section which confirms maximum residential F.A.R. above: 34-112  
Maximum non-residential F.A.R. in this zoning district: 10.00  
Identify Zoning Resolution section which confirms maximum non-residential F.A.R. above: 33-122  
Floor Area of former non-residential building: 5,461.00  
Total lot area (sq ft): 1,933.53  
This site has passed this 421-a eligibility test.

**Section 4: Site Eligibility Summary**

Lot	Square Feet	421-a Eligible
0049	1933.53	Pass

**Part A: Contact Information for Certifying Professionals**

Architect's/Engineer's Certification to be provided by:

Name Brian E. Boyle, R.A.  
Business Name Brian E. Boyle, AIA  
House No 75  
Street Spring Street, 6th Floor



City New York  
State NY  
Phone Number (212) 334-7402  
Opinion of Counsel to be provided by:  
Name Harvey I. Shiff  
Business Name Lawrence J. Berger, P.C.  
House No 200  
Street Madison Avenue  
City New York  
State NY  
Phone Number (212) 532-0222

### Checklist

Submit the most recent approved building plans. However, if the most recent approved building plans were already submitted to HPD as part of an earlier Architect's/Engineer's Certification, you do not need to re-submit the building plans.



Appraisal documentation



Surveys



Copy of 421-a negotiable certificates or 421-a Affordable Housing Written Agreement and contract to purchase certificates.



Architect's/Engineer's Certification



Opinion of Counsel



Please Keep a Copy of this Application for Your Records.

State of New York )

) ss.:

County of NY

**Brian Shatz**, being duly sworn, under penalty of perjury, deposes and says:

1.a. I, **Brian Shatz, Manager, 534 West 42nd Street LLC**, am making this application for a Preliminary Certificate of Eligibility for 421-a Partial Tax Exemption (the "Application").

[If applicable:]

1.b. I held fee title or the leasehold interest under a ground lease of the real property identified in the Application at the time of the original filing, and I am authorized to make the Application on behalf of all persons or entities that currently hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application.

2. I have read and understand the requirements for 421-a Partial Tax Exemption.

3. I have reviewed the Application and I swear that all information set forth in the Application is true and correct and I submit the Application to induce the City of New York to grant 421-a Partial Tax Exemption.

4. The multiple dwelling will be owned as a cooperative or condominium, and is not required to be registered with the State of New York Department of Housing and Community Renewal. However, if the prospective cooperative or condominium plan has not been declared effective for filing at a time fifteen months after issuance of a Final Certificate of Eligibility for 421-a Partial Tax Exemption, these rental units must be registered with the New York State Division of Housing and Community Renewal no later than fifteen calendar days after such fifteen month period or, if the building is not occupied, such units must be registered prior to initial occupancy, and proof of registration submitted.

5. As required pursuant to §11-245.8 of the Administrative Code of the City of New York and §6-05(d)(1) of Chapter 6, Title 28 of the Rules of the City of New York, whenever any household appliance in any dwelling unit, or any household appliance that provides heat or hot water for any dwelling unit in the multiple dwelling, is installed or replaced with a new household appliance on or after December 19, 2006, such new appliance shall be certified as Energy Star, unless either (A) an appropriately-sized Energy Star certified household appliance is not manufactured, such that movement of walls or fixtures would be necessary to create sufficient space for such appliance, and/or (B) an Energy Star certified boiler or furnace of sufficient capacity is not manufactured.

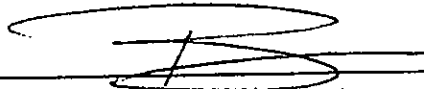
[For purposes of this paragraph, (A) "household appliance" shall mean any refrigerator, room air conditioner, dishwasher or clothes washer, within a dwelling unit in the multiple dwelling that is provided by the owner, and any boiler or furnace that provides heat or hot water for any dwelling unit in the multiple dwelling, and (B) "Energy Star" shall mean a designation from the United States Environmental Protection Agency or Department of Energy indicating that a product meets the energy efficiency standards set forth by the agency for compliance with the Energy Star program.]

I understand that if the City of New York finds that the Application and/or supporting documents, including but not limited to, the most recent Department of Buildings approved building plans; the survey; and contain incorrect or misleading information of substantial nature, or have omitted information of a material nature, and in the event that such breach or omission is not cured within ninety (90) days of notice thereof, the Department of Housing Preservation and Development shall advise the Department of Finance that the 421-a Certificate of Eligibility has been revoked or that the amount of 421-a Partial Tax Exemption has been reduced, and the Department of Finance shall retroactively or prospectively withdraw or reduce 421-a Partial Tax Exemption and reinstate the amount of taxes which would have been exempted and charge interest at the rate prescribed by the New York City Administrative Code to be calculated from the day on which such taxes would have been payable but for the 421-a Partial Tax Exemption.

I understand that in order to qualify for 421-a benefits, a site must have been vacant, predominantly vacant, underutilized, or improved with a non-conforming use three years prior to the commencement of construction (i.e., "Operative Date"). The site eligibility statements and/or calculations stated in Section 7 of the Application accurately reflect the conditions at the site on the Operative Date and confirm that the real property identified in the Application meets the site eligibility requirement for 421-a benefits.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.



Owner's Signature

*Brian Shatz*

Owner's Name

*Manager*

Owner's Title

*534 West 42nd Street LLC*

Owner's Affiliation

Sworn to me before this 16 day of May, 20 12

  
Notary Public or Commissioner of Deeds

**SHOSHANA T. CARMEL**  
Notary Public, State of New York  
No. 01CA8153588  
Qualified in New York County  
Commission Expires October 10, 2014

City of New York  
Department of Housing Preservation and Development  
Office of Development  
Division of Housing Incentives  
Tax Incentive Programs Unit  
421-a Partial Tax Exemption Program  
100 Gold Street, 3-Y4  
New York, NY 10038

**Architect's / Engineer's Certification**  
**In Support of Preliminary Application for 421-a Partial Tax Exemption**

Re: Online Application Submission Confirmation # 44820

Docket # TEO8773

Address(es) / Tentative Lot (s)

**Building 1: 534, West 42 Street, 49**

Borough MANHATTAN Block 01070

Lot(s) 0049.

Total Number of Buildings 1

**Brian E. Boyle, R.A.**, being duly sworn, under penalty of perjury, deposes and says:

1. I am a Registered Architect or Professional Engineer licensed to practice by and in good standing with the New York State Department of Education. As such, I certify to the truth of the matters set forth below in connection with the above pending application (the "Application") for 421-a Partial Tax Exemption.
2. The Building plans accompanying the Architect's/Engineer's Certification signed by me on 4/9/2008 and previously submitted to HPD, each page of which was initialed and dated by me, are a true copy of the most recent plans approved by the New York City Department of Buildings (hereinafter, "Plans").
3. The calculations in Section 6 of the Application are a true and accurate reflection of the layout and dimensions of the Plans, and the room count and dwelling unit count as shown in Section 6 of the Application are in compliance with Section 6-01(c) of Chapter 6 of Title 28 of the Rules of the City of New York (the "421-a Rules").
4. The calculations of Aggregate Floor Area and Floor Area of Commercial Community Facilities and Accessory Use Space of the building(s) applying for 421-a Partial Tax Exemption in Section 6 of the Application are in compliance with Sections 6-01(c) and 6-06(b) of the 421-a Rules and the guidance provided in the latest edition of Department of Housing Preservation and Development's Frequently Asked Questions, dated 6/17/2004.

The annexed survey, dated 6/24/2005, as prepared by Thomas Piciocco, a licensed land surveyor of Earl B. Lovett-S.P. Belcher, Inc. (name of company, if applicable) is a true copy of the survey used to determine the eligibility of the site for 421-a Partial Tax Exemption. The site eligibility statements and/or calculations stated in Section 7 of the Application accurately represent the conditions at the site on the Operative Date (i.e. 36 months prior to the commencement of construction) and the current lot or lots indicated on the Application are eligible for 421-a Partial Tax Exemption.

5. I have read the specific sections of the 421-a Rules applicable to this Project and understand them. I have relied upon this understanding for purposes of the representations I am making in this affidavit. 6/7/2007 is the accurate date of "commencement of construction," (i.e., the date upon which excavation and construction of initial footings and foundations commenced in good faith), for the above-referenced project and is consistent with the definitions of "commencement of construction" in Section 6-01(c) and "commence" in Section 6-09(a) of the 421-a Rules, as applicable.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.

I understand that if the Department of Housing Preservation and Development finds that any of the statements are incorrect, I may, in HPD's sole discretion, be prevented from certifying any future projects with HPD. Furthermore, I understand that submission of a false certification shall be deemed to be professional misconduct pursuant to Section 6509 of the Education Law.

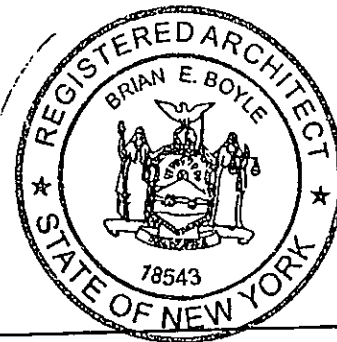
Sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public or Commissioner of Deeds

[OR

Dated: May 29, 2012

Seal of RA or PE]



Brian E. Boyle  
Architect / Engineer Signature

Brian E. Boyle, R.A.

Architect / Engineer Name

Brian E. Boyle, AIA

Business Name

75 Spring Street, 6th Floor New York, NY

Business Address

(212) 334-7402

Phone Number

LAW OFFICES  
**LAWRENCE J. BERGER, P. C.**

200 MADISON AVENUE  
SUITE 1902  
NEW YORK, N.Y. 10016

(212) 532-0222  
FAX (212) 532-0224

LAWRENCE J. BERGER  
STEVEN E. RESNICK  
HARVEY I. SHIFF

Date: 2/4/2011

LESLIE R. PERLMAN  
SETH J. GOLDBERG

Director, 421-a Programs  
The City of New York  
Department of Housing Preservation and Development  
100 Gold Street Room 3-Y4  
New York, New York 10038

Re: Online Application Submission Confirmation # 44820

Docket # TEO8773

Address(es) / Tentative Lot (s)

Building 1: 534, West 42 Street, 49

Borough MANHATTAN Block 01070

Lot(s) 0049.

Total Number of Buildings 1

Harvey I. Shiff, an attorney admitted to practice in the Courts of the State of New York, affirms the following to be true under the penalties of perjury pursuant to Civil Practice Law and Rules 2106:

1. I have acted as legal counsel to 534 West 42nd Street LLC ("Owner") in connection with its above referenced application for a partial real property tax exemption pursuant to Section 421-a of the Real Property Tax Law (the "Application").

2. I have reviewed all of the organizational documents of the Owner and such other certificates and instruments as necessary for the purpose of this opinion.

3. Owner is a Limited Liability Company (LLC), which is duly formed and validly existing under the laws of the State of New York

4. Brian Shatz is duly authorized to execute and deliver the Application to the City of New York Department of Housing Preservation and Development on behalf of the Owner and to make the representations and warranties contained in the Application.

X 5a. Owner holds fee title to the real property identified in the Application.

\_\_\_\_\_ 5b. I have attached a title report from \_\_\_\_\_, dated \_\_\_\_\_, which indicates that Owner holds fee title to the real property identified in the Application.

\_\_\_\_\_ 5c. Owner held fee title to the real property identified in the Application at the time of the original filing.

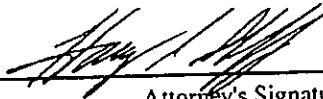
\_\_\_\_\_ 5d. I have attached a title report from \_\_\_\_\_, dated \_\_\_\_\_, which indicates that Owner held fee title to the real property identified in the Application at the time of the original filing.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.

I understand that if the Department of Housing Preservation and Development finds that any of the statements herein are incorrect, I may, at HPD's sole discretion, be prevented from delivering any certification or legal opinion to HPD in connection with any future project. Furthermore, I understand that any false statement may be deemed to be professional misconduct pursuant to Section 90 of the Judiciary Law.

Sincerely,



\_\_\_\_\_  
Attorney's Signature

Harvey I. Shiff

\_\_\_\_\_  
Attorney's Name



**APPRAISAL REPORT**  
**OF**  
**534 W. 42 STREET**  
**NEW YORK, NEW YORK**  
**BLOCK 1070, LOT 49**

**AS OF JUNE 7, 2007**

**ELIOT W. BERRY & CO., INC.**  
**501 FIFTH AVENUE - SUITE 1802**  
**NEW YORK, NEW YORK 10017**

ELIOT W. BERRY & CO., INC.  
501 Fifth Avenue - Suite 1802  
New York, New York 10017  
(212) 768-7000  
[eliotberry@verizon.net](mailto:eliotberry@verizon.net)

April 25, 2008

Harvey Schiff, Esq.  
Lawrence Berger PC  
200 Madison Avenue - Suite 1902  
New York, New York 10016

RE: VALUATION OF VACANT LAND  
534 W. 42 STREET  
NEW YORK, NEW YORK  
BLOCK 1070, LOT 49  
AS OF JUNE 7, 2007

Dear Mr. Schiff:

Per your request, we have prepared an appraisal of the above referenced premises.

The subject lot contains 1,933.53 square feet and was vacant land as of the appraisal date. The lot measures 19.58' wide by 98.75' deep. The lot is less than 45' wide and as such is considered a "sliver" parcel. As a result, though zoned C6-4, it may only be improved with a building of 11,978 square feet.

Based on our research and analysis, the market value of the subject land, as of the date of appraisal, June 7, 2007, is:

**THREE MILLION (\$3,000,000) DOLLARS**

Exposure time at this price is estimated at three months. Marketing time is estimated at six months.

Respectfully submitted,



Eliot Berry, ASA  
Senior Member, American Society of Appraisers  
N.Y. State Certified Real Estate Appraiser No. 6448  
EWB/gl

**SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS**

<b>PROPERTY IDENTIFICATION:</b>	534 W. 42 STREET New York, New York Block 1070, Lot 49
<b>LAND AREA:</b>	1,933.53± square feet (19.58" wide x 98.75' deep)  Sliver Site (less than 45' wide)
<b>MAXIMUM BUILDABLE FAR:</b>	11,978 Square Feet
<b>ZONING:</b>	C6-4 (minimized by sliver lot)
<b>DATE OF REPORT:</b>	April 25, 2008
<b>DATE OF VALUE:</b>	June 7, 2007
<b><u>VALUE ESTIMATE:</u></b>	
Via Sales Comparison Approach	\$3,000,000
<b>FINAL VALUE ESTIMATE</b>	<b>\$3,000,000</b>

**ELIOT W. BERRY & CO., INC.**

**SCOPE OF THE APPRAISAL**

This appraisal has been conducted using applicable standard appraisal techniques and in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute. The appraised value is exclusive of movable equipment, trade fixtures and personal property and is limited to the real estate only.

**PROPERTY IDENTIFICATION**

As of the appraisal date, June 7, 2007, the subject property is vacant land located at 534 W. 42 STREET in the County of New York. The municipal jurisdictions governing the subject property are New York City, New York County and the State of New York. The subject property is recorded in the City of New York property tax rolls as Block 1070, Lot 49.

**PURPOSE OF THE APPRAISAL**

The purpose of the appraisal is to estimate the market value of the Fee Simple Interest in the subject land as of June 7, 2007.

**FUNCTION OF THE APPRAISAL**

The function of this appraisal is to estimate the market value of the property as of June 7, 2007. The report is to be used as an estimate of the value for HPD, which may use it in attributing rents to the building to be constructed on the subject site.

**ELIOT W. BERRY & CO., INC.**

## DEFINITION OF MARKET VALUE

Market value is defined in the Dictionary of Real Estate Appraisal, 2nd edition, 1989, as:

*"The most probable price, as of a specified date, in cash, terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress."*

Fundamental assumptions and conditions presumed in this definition are:

1. Buyer and seller are motivated by self-interest.
2. Buyer and seller are well informed and are acting prudently.
3. The property is exposed for a reasonable time on the open market.
4. Payment is made in cash, its equivalent, or in specified financing terms.
5. Specific financing, if any, may be the financing actually in place or on terms generally available for the property type in its locale on the effective appraisal date.
6. The effect, if any, on the amount of market value of atypical financing, services, or fees shall be clearly and precisely revealed in the appropriate sections of the report.

**Exposure Time** is defined in the Dictionary of Real Estate Appraisal, 3rd edition, 1993, as follows:

- "1. The time a property remains on the market
2. The estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of appraisal...Exposure time is always presumed to occur prior to the effective date of appraisal. The concept of reasonable exposure encompasses not only adequate, sufficient and reasonable effort. Exposure time is different for various types of real estate and value ranges and varies under various market conditions."

**Marketing Time (or Market Period)**

- "1. The time it takes an interest in real property to sell on the market subsequent to the date of an appraisal.
2. Reasonable marketing time is an estimate of the amount of time it might take to sell an interest in real property at its estimated market value during the period immediately after the effective date of appraisal; the anticipated time required to expose the property to a pool of prospective purchasers and to allow appropriate time for negotiation, the exercise of due diligence, and the consummation of a sale at a price supported by current market conditions. Marketing time differs from exposure time, which is always presumed to precede the effective date of the appraisal."

**OWNERSHIP HISTORY**

Public records indicate title to the subject property is owned by Dojo West 42<sup>nd</sup> Street Realty. The property was purchased for \$1,800,000 November 3, 2004.

**AREA AND NEIGHBORHOOD ANALYSIS**

The subject neighborhood is located on the far west side of Manhattan between Tenth and 11<sup>th</sup> Avenues. Development in the 42<sup>nd</sup> Street corridor has been primarily commercial. Residential development of the subject site is minimized as it is a "sliver" site, less than 45' wide.

**DESCRIPTION OF THE SITE**

The subject lot is located on W. 42nd Street between Tenth and Eleventh Avenues in Manhattan, City and State of New York. The subject lot contains 1,933.53 square feet and was vacant land as of the appraisal date. The lot measures 19.58'' wide by 98.75' deep. The lot is less than 45' wide and as such is considered a "sliver" parcel. As a result, though zoned C6-4, it may only be improved with a building of 11,978 square feet.

All public utilities including electricity, gas, telephone, water and city sewers service the site.

**ELIOT W. BERRY & CO., INC.**

## ZONING

The subject property is located in a C6-4 residential zone. According to the Zoning Handbook, C6 districts are zoned for a wide variety of high bulk commercial uses requiring a central location. Most C6 districts are in Manhattan and provide for corporate headquarters, large hotels, entertainment facilities, retail stores and some residential development in mixed buildings.

C6-1A is a non-contextual district mapped in regional centers (Downtown Jamaica, for example). The designation includes the same bulk provision as C6-1, but imposes parking requirements appropriate for areas outside of Manhattan. All other C6 districts are exempt from parking requirements.

C6-2A is a contextual commercial district which is the equivalent of an R8A contextual district. It is currently mapped in Greenwich Village, and near Union Square in Manhattan.

C6-3A and C6-4A are medium bulk contextual commercial districts equivalent to R9A and R10A residential districts, respectively.

C6-1: General Central Commercial District  
Commercial FAR: 6.0 (7.12 with bonus)

C6-1A: Regional Subcenters  
Commercial FAR: 6.0 (9.0 with bonus)

C6-2: General Commercial District Outside Central Business District  
Commercial FAR: 6.0 (7.2 with bonus)

C6-2A: Contextual Commercial District Outside Central Business District  
Commercial FAR: 6.0

C6-3: General Commercial District Outside Central Business District  
Commercial FAR: 6.0 (7.2 with bonus)

C6-3A: Contextual Commercial District Inside the Central Business District  
Commercial FAR: 6.0

C6-4: Medium Bulk Office District  
Commercial FAR: 10.0 (12.0 with bonus)

**HIGHEST AND BEST USE, AS IF VACANT**

Given maximum allowable FAR of 10 in this C6-4 zone, the subject land (1,933.53 square feet vacant), if built to maximum FAR of 10, the site hypothetically could contain an improvement of not more than 19,335 square feet. However, the subject site is a "sliver" lot and can be improved with improvements of only 11,978 square feet.

ELIOT W. BERRY & CO., INC.

## APPRAISAL PROCESS

This section of the report explains the applicability of recognized appraisal methods, reviews the work done in the valuation process, and sets forth the reasoning that supports each opinion or conclusion.

### Applicability of Approaches

**The Cost Approach:** In this approach, the cost to replace the improvements is estimated. A deduction is made for any depreciation, and the result is combined with the estimated value of the land. The approach is applicable when each component is independently measurable, and when the sum of all components is believed to reflect fair value. The building was erected in 1900, making the Cost Approach unfeasible.

**The Sales Comparison Approach:** This approach compares the subject property to other properties that have changed hands fairly recently, at known price levels. The approach is most meaningful when there is adequate market data involving comparable properties. Reliability of the approach varies directly with the quantity and quality of available market data.

**The Income Capitalization Approach:** This approach analyzes the property's capacity to generate income (or other monetary benefit) and converts this capacity into an indication of value. The approach is suitable for properties that have obvious earning power and investment appeal, but inappropriate for properties that have no readily discernible income potential. This approach is generally the preferred technique for appraising income producing properties because it most closely reflects the investment rationale and strategies of typical buyers. However, the subject is a development site, with no income stream. Therefore, the Income Approach has not been employed.

### Applicability to Subject Property:

The Sales Comparison Approach has been used in this valuation of 1,933.53 square feet of vacant land as of the appraisal date. The subject is a sliver lot that can be improved with only 11,978 square feet.



### **SALES COMPARISON APPROACH**

The Sales Comparison Approach is most viable when an adequate number of properties of similar type have been sold recently or are currently for sale in the subject area's market. The application of this approach produces a value indication for a property through comparison with similar properties that have sold within a time frame applicable to a potential sale of the subject.

The sales prices of properties judged to be the most comparable tend to set a range of value into which the value indication for the subject property falls.

In analyzing the subject property via the Sales Comparison Approach, we have analyzed several sales of developable land from the subject and neighboring zip codes. All sales are development sites improved at the time of sale with buildings that would be demolished before construction.

The four (4) comparable sales are as follows:

COMPARABLE MIDTOWN FAR SALES					
	SALE 1	SALE 2	SALE 3	SALE 4	SUBJ.
Address	12-18 W. 55 St.	13 E. 47 Street	208-210 E. 52 St.	224 5th Ave. (26-27 St.)	534 W. 42 ST.
Block/Lot	1270/48,47	1283/11	1325/48	828/39	1070/49
Price	\$11,000,000	\$10,400,000	\$16,000,000	\$13,000,000	Sliver Lot
Date	3/29/05	8/22/2006	8/15/2006	4/11/2006	4/21/07
Year Built	1920	1910	1915	1980	1910
Lot Size/SF	4,000 sf (40' x 100')	2,500 sf (25' x 100')	4,000 sf (40' x 100')	2,800 sf (28' x 100')	1,934 sf (19.58' x 98.75')
Zoning	C5-P	C5-2.5	C6-6	C5-2	C6-4
FAR	8	12	15	10	10 but Sliver Lot
Buildable FAR	32,000	30,000 sf	60,000 sf	28,000 sf	11,978 sf
Price/SF/FAR	\$344	\$347	\$267	\$464	
Adjustments:					
Market Conditions	+24%	+12%	+16%	+12%	
Location	-10%	-20%	-10%	-20%	
Zoning/ Sliver Lot (45')	-30%	-20%	-30%	-30%	
Total Adj.	-16%	-28%	-24%	-38%	
Price/SF/FAR	\$289	\$250	\$203	\$288	

ELIOT W. BERRY &amp; CO., INC.

### EXPLANATION OF ADJUSTMENTS

The subject site contains 1,935 +/- square feet of site area that, due to the sliver nature of the subject lot, can be improved only with 11,978 square feet of building.

### **MARKET CONDITIONS:**

Developable land in Manhattan was still in demand as of the appraisal date, though the market was showing early signs of cooling. We have adjusted all the sales by +1% per month to the date of value.

### **LOCATION:**

The subject is located between Tenth and Eleventh Avenues on W. 42<sup>nd</sup> Street. This is not a prime residential location, hence the downwards locations to the comparable development sites.

### **ZONING/SLIVER LOT**

As noted, size of the developable FAR is a key to development in Manhattan. Larger sites are more desirable as the size of the land contributes to the allowable building size and the return that can be anticipated for what is to be constructed on a development site. The subject site is a "sliver" site. It is less than 45' wide and as such is limited to the size of improvements that can be built on the site.

### **VALUATION VIA SALES COMPARISON APPROACH**

After adjustments, the sales ranged from \$205 to \$289 per square foot.

While the market was still strong as of the date of value, June 7, 2007, the nature of the subject sliver site is such that only a very small building could be built on it. Sale 2, also less than 45' wide, was part of an assemblage and was thus able to maximize its FAR. We have emphasized Sale 2 and have adopted a value estimate of \$250 per square foot, as follows:

$$\begin{array}{rcl} 11,978 \text{ SF of DEVELOPABLE FAR} \times \$250/\text{SF}/\text{FAR} & = & \$2,994,500 \\ \text{SAY:} & & \$3,000,000 \end{array}$$

### **VALUE ESTIMATE VIA SALES COMPARISON APPROACH:**

**THREE MILLION (\$3,000,000) DOLLARS**

**ELIOT W. BERRY & CO., INC.**

## CERTIFICATE OF VALUE

PREMISES: 534 W. 42 STREET  
NEW YORK, NEW YORK

I, ELIOT W. BERRY, CERTIFY, THAT to the best of our knowledge and belief,...

THAT the statements of fact contained in this report are true and correct.

THAT the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are our personal, unbiased professional analyses, opinions and conclusions.

THAT we have no present or prospective interest in the property that is the subject of this report, we have no personal interest or bias with respect to the parties involved.

THAT our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Practice of the American Institute of Real Estate Appraisers.

THAT the use of this report is subject to the requirements of the American Institute of Real Estate Appraisers relating to review by its duly authorized representatives.

THAT Eliot W. Berry has personally conducted a physical inspection of the Subject Site and has written the enclosed report.

THAT we have employed accepted and tested methods in arriving at our conclusions as to value.

THAT the opinions of value expressed in the Report and in this Certificate are made subject to the "Assumptions and Conditions" appended to the Report and made a part thereof.

THAT as a result of our examination, investigation and analysis of the property and all the data pertinent thereto and in the light of our experience, our estimate of value of the property is:

THREE MILLION (\$3,000,000) DOLLARS



---

ELIOT BERRY, ASA  
New York State Certified Appraiser No. 6448  
Senior Member, American Society of Appraisers

ELIOT W. BERRY & CO., INC.

**UNDERLYING ASSUMPTIONS AND CONTINGENT CONDITIONS**

For the purpose of this appraisal, it is assumed:

1. That the legal description is correct.
2. That the title to the property is legally sufficient.
3. That there are no encumbrances or defects of title.
4. That the property is free and clear of all liens.
5. That the property will be efficiently managed and properly maintained.
6. That there are no structural conditions which are not apparent. The engineer's report referred to herein reflects the structural damage that has occurred at the property.
7. That there are no sub-surface soil conditions which would cause extraordinary development costs.

The appraisal is made subject to the following contingent conditions:

1. That no liability is assumed because of inaccuracies or errors in said estimate and opinions.
2. That no liability is assumed as a result of matters of legal character affecting the property, such as title defects, encroachments, liens, overlapping boundaries, party wall agreements, and easements. Nor will the appraiser assume any legal liability as to the opinion of value contained in this report.
3. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.
4. This appraisal is to be used in whole and not in part. No part of it shall be used in conjunction with any other appraisal. The appraisal is invalid if so used.
5. That no survey, structural or sub-surface soil investigation was made of the property by the appraiser.
6. The appraiser herein by reason of this appraisal is not required to give testimony in court with reference to the subject property unless otherwise previously arranged.

**ELIOT W. BERRY & CO., INC.**

7. Possession of this report, or copy thereof, does not carry with it the right of publication, nor may it be used for any purpose by anyone but the applicant, without the previous written consent of the appraiser.
8. Present worth of the purchasing power of a dollar.
9. This appraisal was made for the purpose stated and should not be used for any other purpose.
10. Each finding, prediction, assumption or conclusion contained in the appraisal report is the appraiser's personal opinion and is not an assurance that an event will or will not occur. We assume that there are no conditions relating to the real estate, sub-soil or structures located on the real estate which would affect appraiser's analyses, opinions or conclusions with respect to the real estate that are not apparent.
11. The data gathered in the appraisal process (except data furnished by client) and the appraisal report will remain property of the appraiser. The appraiser will not violate the confidential nature of the appraiser-client relationship by improperly disclosing any confidential information furnished to him. The appraiser is, however, authorized by the client to disclose all or any portion of the appraisal report and the related appraisal data to appropriate representatives of the Appraisal Institute if such disclosure is required to enable appraiser to comply with the by-laws and regulations of such Institute now or hereafter in effect.
12. The client agrees that the appraisal report will not be quoted or referred to in any report or financial statement of the client or in any documents filed with any governmental agency without the prior written consent of the appraiser. Neither all nor any part of the contents of the appraisal report (especially the conclusions as to value, the identity of the appraiser or references to the Appraisal Institute) shall be disseminated to the public through advertising media, public relations media, news media, sales media or other public means of communication without the prior written consent of the appraiser.

THE CITY OF NEW YORK  
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT  
OFFICE OF DEVELOPMENT  
RPTL Section 421-a Affordable Housing Program  
100 Gold Street, Room 957  
New York, NY 10038

**\*NEGOTIABLE CERTIFICATE OF ELIGIBILITY\***

DOCKET NUMBER	07-07	DATE OF ISSUANCE OF THIS CERTIFICATE	August 22, 2012
SITE OF AFFORDABLE UNITS	550 East 170th Street, Bronx	DATE OF EXECUTION OF WRITTEN AGREEMENT	May 11, 2007
BLOCK(S)	2925	DATE OF ISSUANCE OF (TEMPORARY) C OF O FOR AFFORDABLE UNITS	December 19, 2008
APPLICANT	East 170th Street Associates, L.P. c/o Allantic Development Group, LLC	NUMBER OF MARKET RATE UNITS ELIGIBLE*	8
APPLICANT'S ADDRESS	155 Avenue of the Americas, 3rd Floor, New York, NY 10013	*If average size of units exceeds 1,200 sq. ft., see Section 6-08(b)(6) of the Rules	
BENEFIT TRANSFEROR	Shao Lin Operating, LLC	BENEFIT TRANSFEREE	534 West 42nd Street, LLC

Whereas, the Department of Housing Preservation and Development has determined that the above-referenced Applicant has completed the construction, rehabilitation, or conversion of affordable dwelling units in accordance with the §421-a Affordable Housing Written Agreement between the City of New York's Department of Housing Preservation and Development and the Applicant;

The Commissioner has determined, therefore, that one or more eligible multiple dwellings containing the above-referenced number of units in the Geographic Exclusion Area is eligible to receive a 421-a partial Tax Exemption.

This Certificate may be conveyed or sold only by the Benefit Transferor named above, and only to the Benefit Transferee named above. This Certificate cannot be used to transfer benefits to any person or entity other than the Benefit Transferee named above. The transfer of this Certificate to the Benefit Transferee is accomplished by both the Benefit Transferor and the Benefit Transferee endorsing and notarizing this Certificate in the place indicated below. If this Certificate is not transferred in accordance with the above procedure, then the Benefit Transferor shall remain the owner of record of the above-referenced benefits and until such time as the Benefit Transferor directs HPD, at its sole discretion, to re-issue this Certificate to another entity. After the initial endorsement and notarization by the Benefit Transferor and the Benefit Transferee, subsequent transfers of this Certificate or any portion hereof by the Benefit Transferee may be accomplished by written request to HPD accompanied by this original Certificate. Unused Certificates must be returned to HPD for voiding and re-issuance.

BENEFIT TRANSFEROR:  
Shao Lin Operating, LLC  
By: [Signature]  
Sworn to me before this  
19 day of September 2012

BENEFIT TRANSFEREE:  
534 West 42nd Street, LLC  
By: [Signature]  
Sworn to me before this  
19 day of September 2012

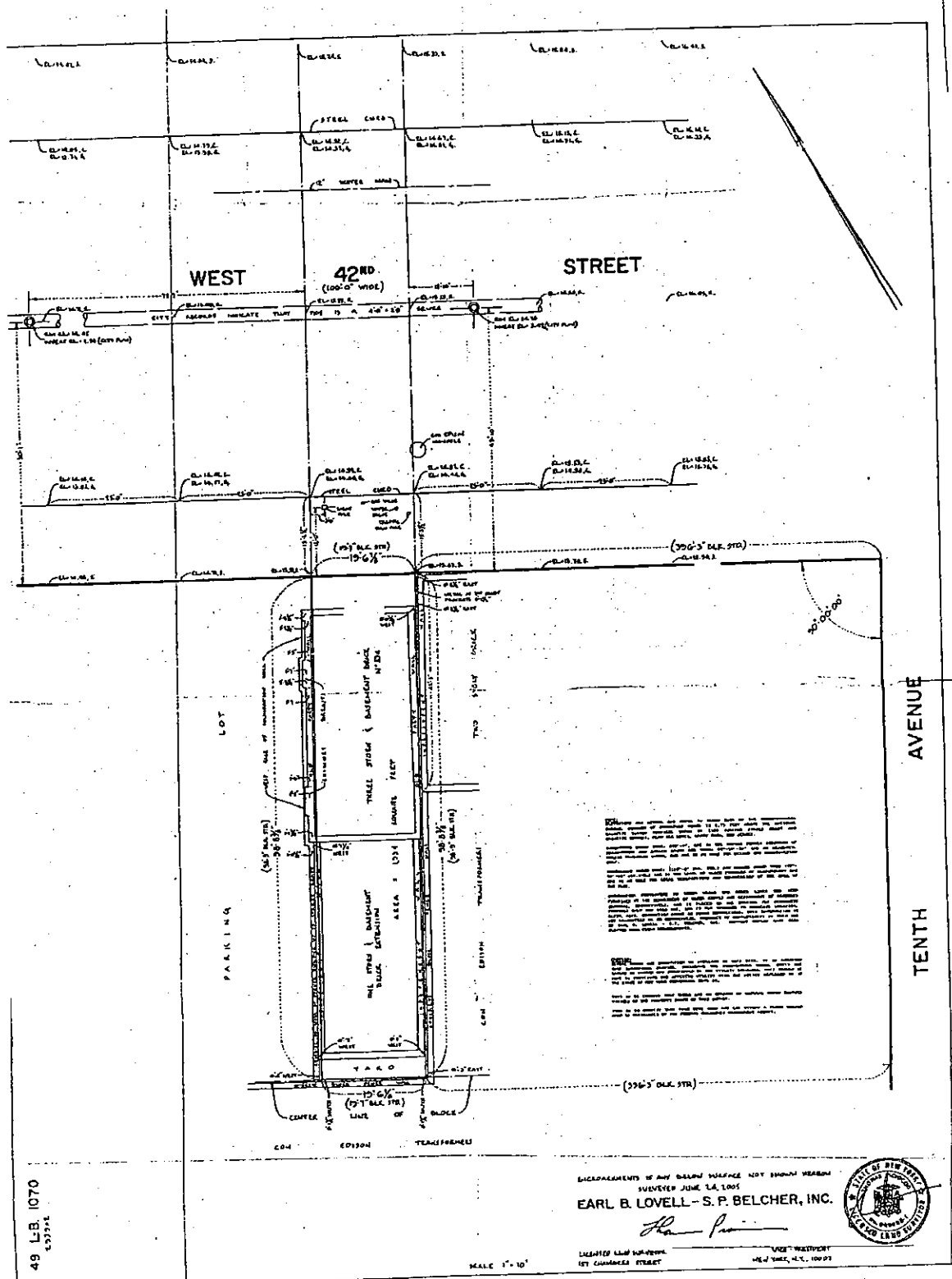
[Signature]  
Notary Public  
CANDY LOPEZ  
Notary Public, State of New York  
No. 01106103784  
Qualified in Bronx County  
Commission Expires 01-13-2011

[Signature]  
Notary Public  
SHOSHANA T. CARMEL  
Notary Public, State of New York  
No. 01CA6153596  
Qualified in New York County  
Commission Expires October 10, 2014

[Signature]  
Miriam Colón  
Assistant Commissioner  
Housing Incentives

Inclusionary Housing/  
421-a Affordable Housing  
Program Seal

NE 9/22/2012



49 L.B. 1070  
633751

DISCREPANCIES IN ANY BELOW SURFACE NOT SHOWN HEREIN  
SURVEYED JUNE 14, 1901  
EARL B. LOVELL - S.P. BELCHER, INC.

*Earl B. Lovell*

DESIGNED AND SURVEYED  
1ST COMMISSION STREET  
NEW YORK, N.Y., 1901



SCALE 1" = 10'



OFFICIAL

CERTIFICATION OF BRIAN E. BOYLE, R.A.

Brian E. Boyle, R.A., certifies the accuracy of the information set forth below:

1. I am a Registered Architect licensed by the State of New York under License Number 18543. I make this Certification in reply to the "Preliminary Application Checklist" of HPD dated July 22, 2010.
2. The developer of the project located at 534 West 42<sup>nd</sup> Street (M/1070/49), retained me and my firm to design a new nine (9) story primarily residential structure.
3. An alteration permit was initially utilized to commence construction because a small portion of the exterior wall of the pre-existing structure was retained. It was only after construction commenced pursuant to the Alteration Permit that the Department of Buildings required the issuance of a new building permit.
4. The site was previously improved with a three (3)-story and basement commercial structure with a one-story and basement extension that was formerly utilized as a theater and was classified in tax class 4. The floor area of the demolished structure was 5,461 sf<sup>1</sup> and the dimensions of each floor of the former structure are set forth in the footnote below.<sup>2</sup> See also attached Survey. The parts of the former structure that were retained included 668 sf of the pre-existing perimeter wall out of the total pre-existing exterior wall area of 7,356 sf that was located in the rear addition and a small part of the old foundation supporting the section of the retained perimeter walls. The floor area of the new building is 12,795 sf. and the dimensions of the new structure are set forth in the footnote 3 below.<sup>3</sup> All of the floor area of the former structure was demolished or removed so that there was no floor area remaining after the demolition. As all of the floor area of the new building is new, 100 % of the floor area of the new structure is new and thus more than 51% of the new building is new compared to the former structure.
5. There will be a total of 8 units in the condominium that will include one commercial condominium unit and seven individual residential condominium units.
6. Due to the narrow nature of the site, the small section of the rear perimeter wall was retained because the existing walls were used as shoring and removed in stages, facilitating the building of the new foundation of the new building. This allowed selective removal of the old foundation walls to perform the new foundation work in sections and this was more manageable, allowing phasing of the work and allowing work inside the small footprint of the building.

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<sup>1</sup>The vast majority of the existing building, including all floor framing, stairs, mechanical, electrical and plumbing systems, windows, doors, appliances and finishes were removed and demolished. All demolition work was performed pursuant to permit (Alt-2 type permits- # 104241562) and in accordance with filed plans, showing the extent of the demolition.

All of the pre-existing structure has been demolished except for approximately 9% of the pre-existing perimeter walls (only part of rear wall) and a small part of the old foundation supporting this retained perimeter wall. The building that was demolished contained 7,356 sf of exterior wall area and only 668 sf of the former building's wall surface remains. Attached hereto is a massing model graphically illustrating the pre-existing structure and the minor portion of the pre-existing structure that was retained and that will be integrated into the new building that has been constructed on the site

<sup>2</sup> basement dimensions: 20.445 x 89.07; first floor dimensions: 20.445 x 92.82; 2nd & 3rd floor dimensions: 20.73 x 44.25.

<sup>3</sup> basement dimensions: 20.16 x 44.00; 1st flr dimensions: 20.16 x 64.07; 2nd thru 7th floor dimensions: 20.16 x 68.75; 8th & 9th floor dimensions: 20.16 x 63.75.

7. The building will be new in all material respects. There will be a newly designed structural framework, new enhanced foundation system integrated into the small portion of the remaining foundation and there will be all new building systems in compliance with current code requirements, including structural, MEP, Life Safety, Egress, waste management, telecommunications, finishes and Energy Code compliance.

8. The NYC Building Department will issue a Certificate of Occupancy for a New Building after the completion of the construction at the Site. Originally, the building was commenced pursuant to an Alteration Type 1 Permit (Permit # 104032949). However, thereafter, the NYC Dept. of Buildings required the issuance of new building permit and the building will eventually be completed pursuant to a new building permit as issued by the New York City Building Department.

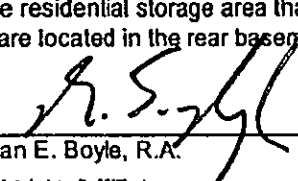
9. A breakdown of tentative condo units showing use and new units versus old is set forth below:

Tentative Tax Lot	Use	New or Old
1401	Retail	New
1402	Residential Apt.	New
1403	Residential Apt.	New
1404	Residential Apt.	New
1405	Residential Apt.	New
1406	Residential Apt.	New
1407	Residential Apt.	New
1408	Residential Apt.	New

10. The plans previously submitted that were initiated and dated by me on April 9, 2008, a copy of which are annexed, represent what was built on the site and a copy of the demolition plans are annexed.

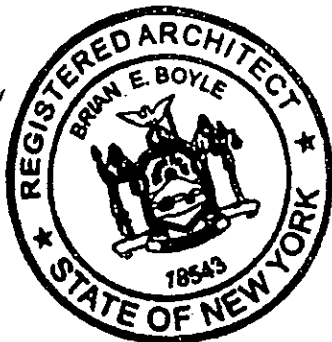
11. The laundry area is located in the cellar and the residential storage area that is accessory to the individual residential condominium units are located in the rear basement section of the building.

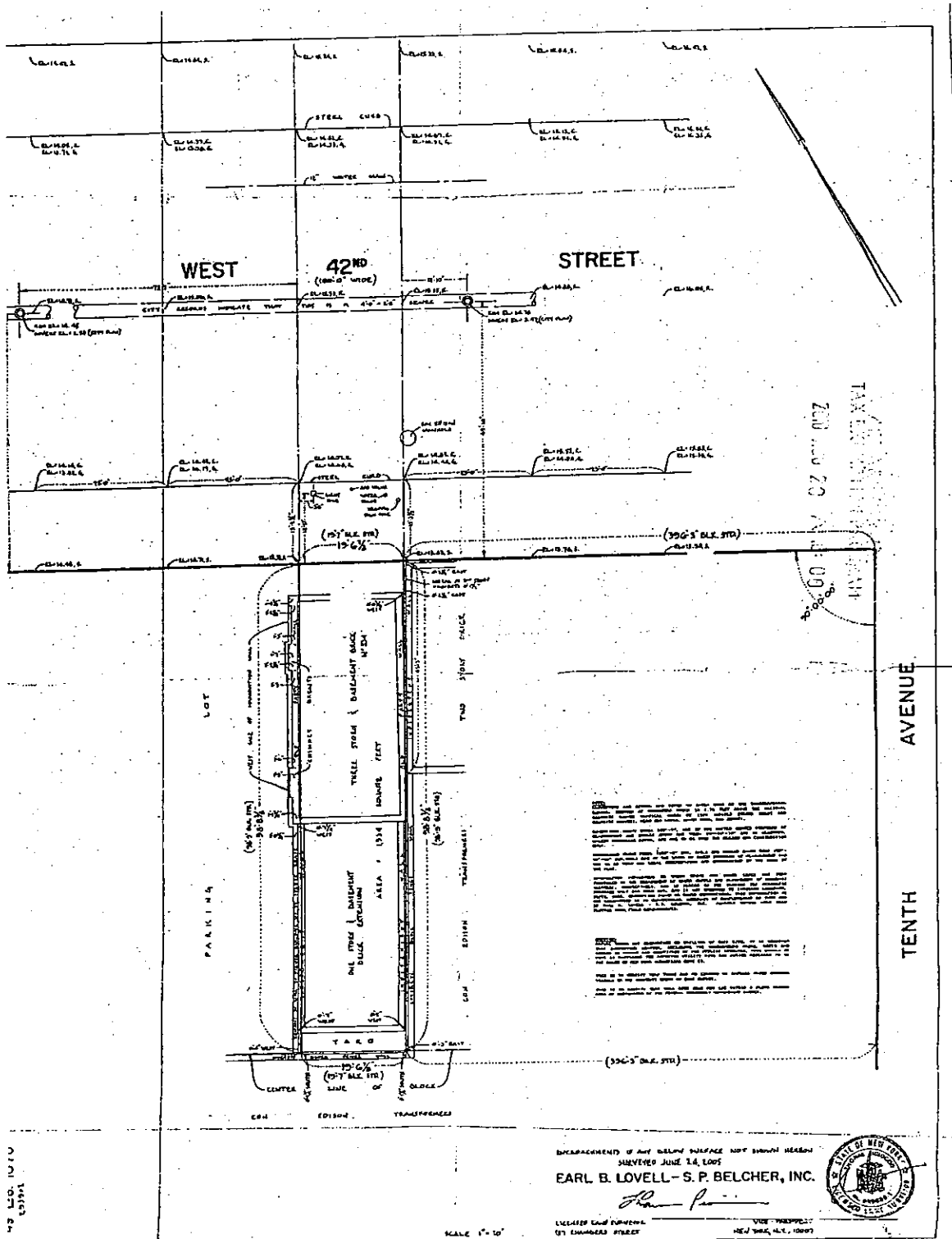
Seal

  
Brian E. Boyle, R.A.

Dated: August 19, 2010

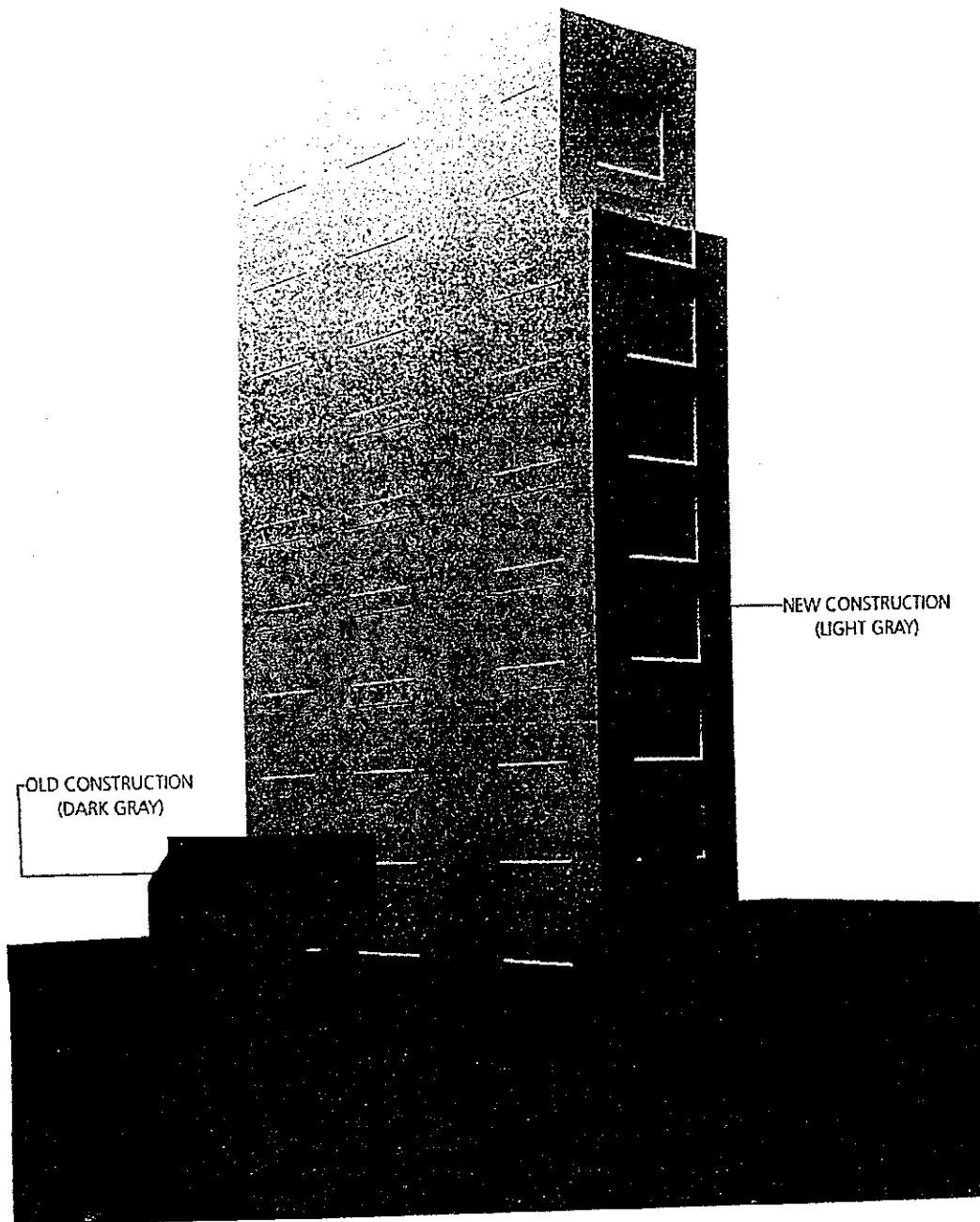
REGISTERED ARCHITECTS & PLANNERS, Inc. is an Equal Opportunity Employer for minorities May 6/2/02 npl





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THE DEUCE CONDOMINIUM  
534 W. 42nd ST. NY, NY  
BRIAN E. BOYLE, AIA



25/531

Blair P. Byrd, AIA

GENERAL NOTES

GN-1

**EXISTING PLAN**

**PROPOSED PLAN**

**ROOM SCHEDULE**

ROOM NO.	ROOM NAME	AREA (SQ. FT.)	VOLUME (CU. FT.)	FINISHES	NOTES
1	ROOF - 1A	1,200	12,000	Asph/Flt	
2	ROOF - 1B	1,200	12,000	Asph/Flt	
3	ROOF - 1C	1,200	12,000	Asph/Flt	
4	ROOF - 1D	1,200	12,000	Asph/Flt	
5	ROOF - 1E	1,200	12,000	Asph/Flt	
6	ROOF - 1F	1,200	12,000	Asph/Flt	
7	ROOF - 1G	1,200	12,000	Asph/Flt	
8	ROOF - 1H	1,200	12,000	Asph/Flt	
9	ROOF - 1I	1,200	12,000	Asph/Flt	
10	ROOF - 1J	1,200	12,000	Asph/Flt	
11	ROOF - 1K	1,200	12,000	Asph/Flt	
12	ROOF - 1L	1,200	12,000	Asph/Flt	
13	ROOF - 1M	1,200	12,000	Asph/Flt	
14	ROOF - 1N	1,200	12,000	Asph/Flt	
15	ROOF - 1O	1,200	12,000	Asph/Flt	
16	ROOF - 1P	1,200	12,000	Asph/Flt	
17	ROOF - 1Q	1,200	12,000	Asph/Flt	
18	ROOF - 1R	1,200	12,000	Asph/Flt	
19	ROOF - 1S	1,200	12,000	Asph/Flt	
20	ROOF - 1T	1,200	12,000	Asph/Flt	
21	ROOF - 1U	1,200	12,000	Asph/Flt	
22	ROOF - 1V	1,200	12,000	Asph/Flt	
23	ROOF - 1W	1,200	12,000	Asph/Flt	
24	ROOF - 1X	1,200	12,000	Asph/Flt	
25	ROOF - 1Y	1,200	12,000	Asph/Flt	
26	ROOF - 1Z	1,200	12,000	Asph/Flt	
27	ROOF - 2A	1,200	12,000	Asph/Flt	
28	ROOF - 2B	1,200	12,000	Asph/Flt	
29	ROOF - 2C	1,200	12,000	Asph/Flt	
30	ROOF - 2D	1,200	12,000	Asph/Flt	
31	ROOF - 2E	1,200	12,000	Asph/Flt	
32	ROOF - 2F	1,200	12,000	Asph/Flt	
33	ROOF - 2G	1,200	12,000	Asph/Flt	
34	ROOF - 2H	1,200	12,000	Asph/Flt	
35	ROOF - 2I	1,200	12,000	Asph/Flt	
36	ROOF - 2J	1,200	12,000	Asph/Flt	
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38	ROOF - 2L	1,200	12,000	Asph/Flt	
39	ROOF - 2M	1,200	12,000	Asph/Flt	
40	ROOF - 2N	1,200	12,000	Asph/Flt	
41	ROOF - 2O	1,200	12,000	Asph/Flt	
42	ROOF - 2P	1,200	12,000	Asph/Flt	
43	ROOF - 2Q	1,200	12,000	Asph/Flt	
44	ROOF - 2R	1,200	12,000	Asph/Flt	
45	ROOF - 2S	1,200	12,000	Asph/Flt	
46	ROOF - 2T	1,200	12,000	Asph/Flt	
47	ROOF - 2U	1,200	12,000	Asph/Flt	
48	ROOF - 2V	1,200	12,000	Asph/Flt	
49	ROOF - 2W	1,200	12,000	Asph/Flt	
50	ROOF - 2X	1,200	12,000	Asph/Flt	
51	ROOF - 2Y	1,200	12,000	Asph/Flt	
52	ROOF - 2Z	1,200	12,000	Asph/Flt	
53	ROOF - 3A	1,200	12,000	Asph/Flt	
54	ROOF - 3B	1,200	12,000	Asph/Flt	
55	ROOF - 3C	1,200	12,000	Asph/Flt	
56	ROOF - 3D	1,200	12,000	Asph/Flt	
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130	ROOF - 5Z	1,200	12,000	Asph/Flt	

**GENERAL NOTES**

1. All dimensions are in feet and inches.
2. All areas are in square feet.
3. All volumes are in cubic feet.
4. All materials are to be installed in accordance with the manufacturer's instructions.
5. All work is to be done in accordance with the latest edition of the Building Code of America.
6. All work is to be done in accordance with the latest edition of the International Building Code.
7. All work is to be done in accordance with the latest edition of the National Fire Protection Association (NFPA) code.
8. All work is to be done in accordance with the latest edition of the American Institute of Architects (AIA) code.
9. All work is to be done in accordance with the latest edition of the American Society of Mechanical Engineers (ASME) code.
10. All work is to be done in accordance with the latest edition of the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) code.
11. All work is to be done in accordance with the latest edition of the American Society of Civil Engineers (ASCE) code.
12. All work is to be done in accordance with the latest edition of the American Society of Environmental Engineers and Scientists (ASEES) code.
13. All work is to be done in accordance with the latest edition of the American Society of Professional Engineers (ASPE) code.
14. All work is to be done in accordance with the latest edition of the American Society of Professional Engineers (ASPE) code.
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20. All work is to be done in accordance with the latest edition of the American Society of Professional Engineers (ASPE) code.

**Dean & Boyle AIA**

Architects

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0500

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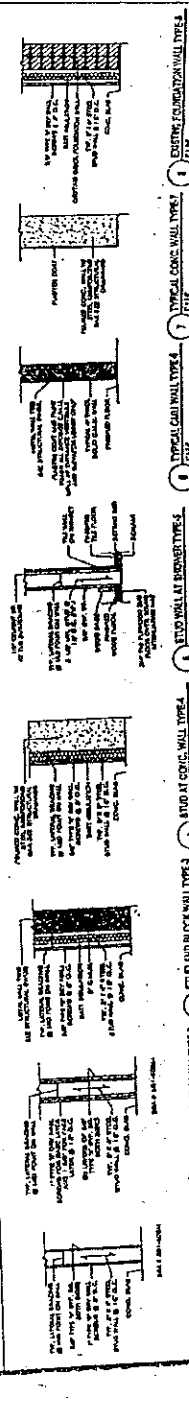
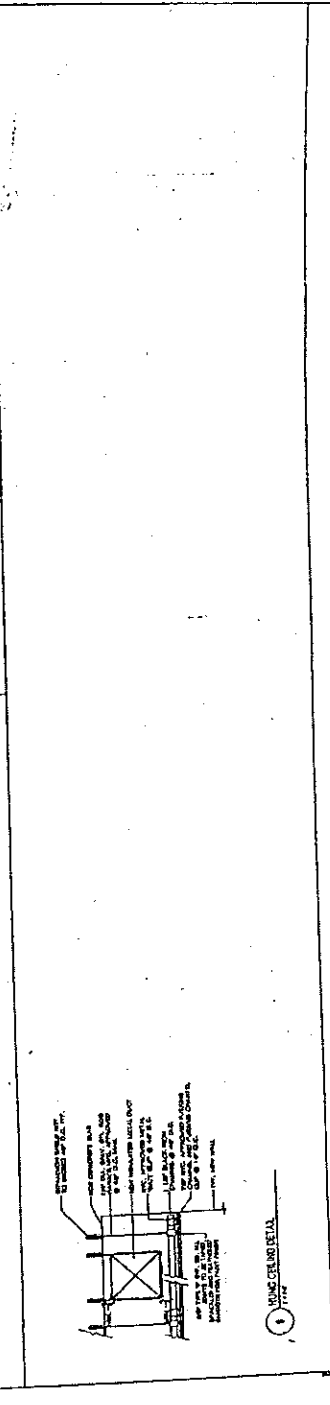
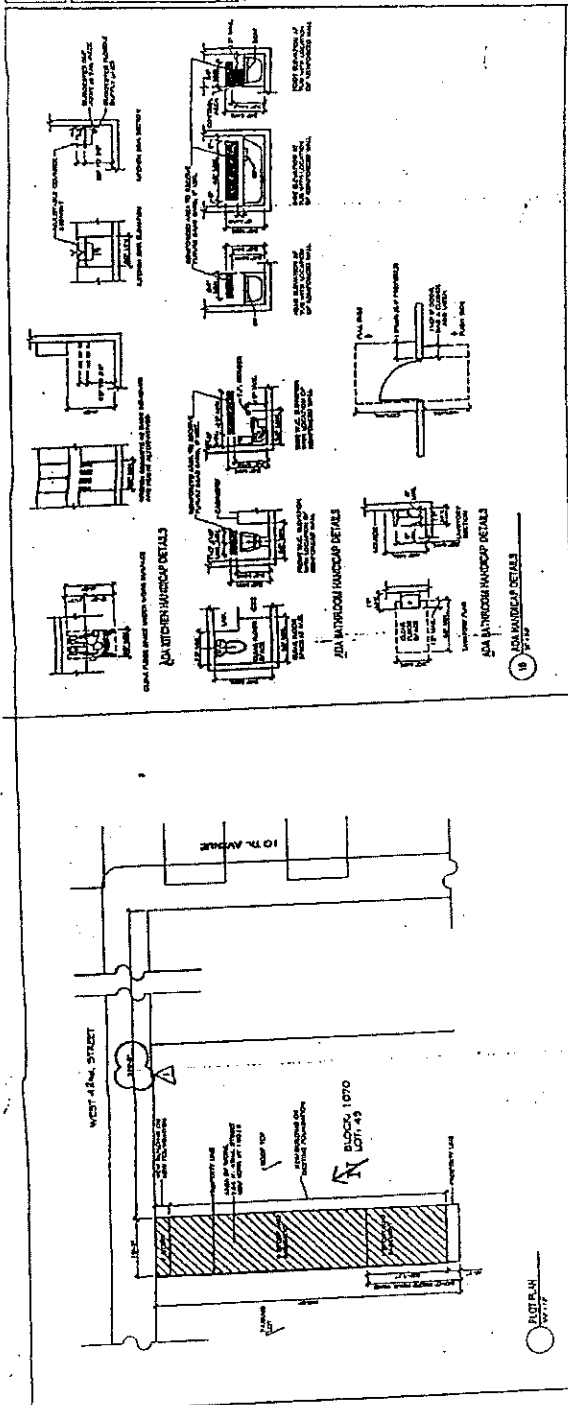
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**The Chicago**

**PLANNING INSER**

**ADA DETAILS**



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10/3/54

**THE DUNES**  
18457718  
FLOOR PLANS  
SECOND FLOOR AND  
THIRD FLOOR  
B-0335A

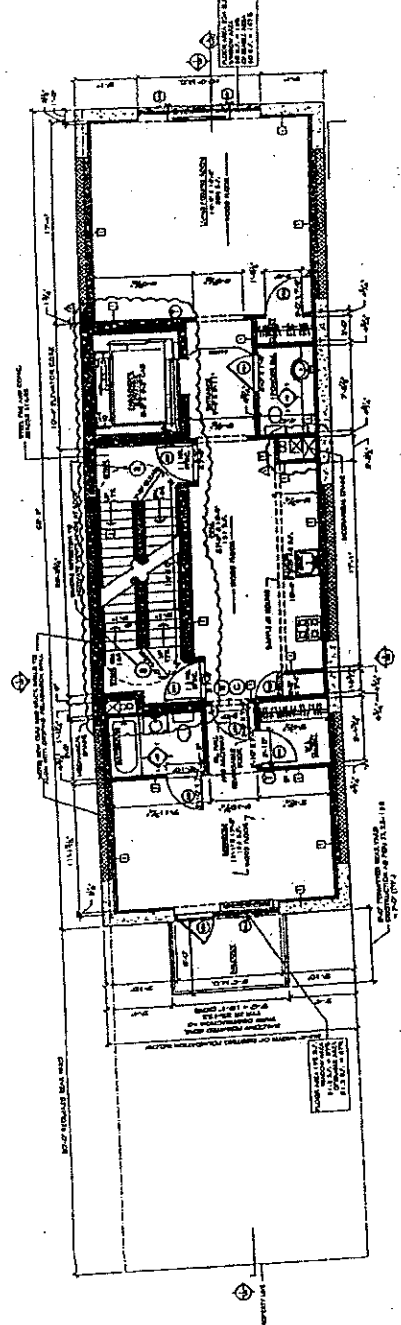
**A-003**

**LEGEND**

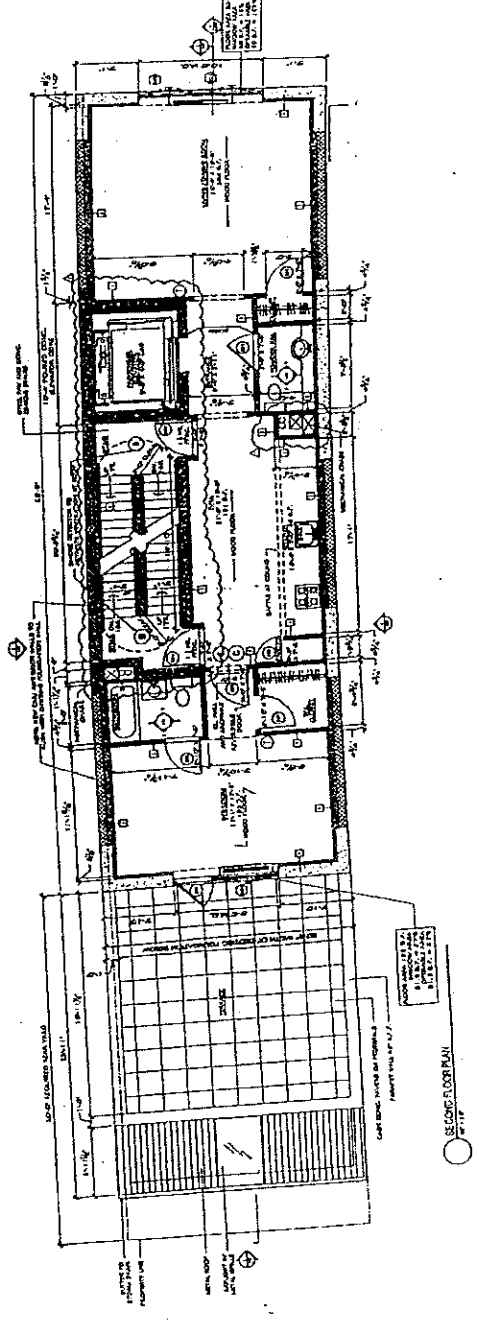
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- 2. ALL DIMENSIONS TO FACE UNLESS NOTED OTHERWISE
- 3. ALL DIMENSIONS TO CENTERLINE UNLESS NOTED OTHERWISE
- 4. ALL DIMENSIONS TO OUTLINE UNLESS NOTED OTHERWISE
- 5. ALL DIMENSIONS TO CENTERLINE OF CURB UNLESS NOTED OTHERWISE
- 6. ALL DIMENSIONS TO FACE OF CURB UNLESS NOTED OTHERWISE
- 7. ALL DIMENSIONS TO FACE OF WALL UNLESS NOTED OTHERWISE
- 8. ALL DIMENSIONS TO FACE OF DOOR UNLESS NOTED OTHERWISE
- 9. ALL DIMENSIONS TO FACE OF WINDOW UNLESS NOTED OTHERWISE
- 10. ALL DIMENSIONS TO FACE OF FLOOR UNLESS NOTED OTHERWISE
- 11. ALL DIMENSIONS TO FACE OF CEILING UNLESS NOTED OTHERWISE
- 12. ALL DIMENSIONS TO FACE OF ROOF UNLESS NOTED OTHERWISE
- 13. ALL DIMENSIONS TO FACE OF BASEMENT UNLESS NOTED OTHERWISE
- 14. ALL DIMENSIONS TO FACE OF ATTIC UNLESS NOTED OTHERWISE
- 15. ALL DIMENSIONS TO FACE OF PORCH UNLESS NOTED OTHERWISE
- 16. ALL DIMENSIONS TO FACE OF BALCONY UNLESS NOTED OTHERWISE
- 17. ALL DIMENSIONS TO FACE OF TERRACE UNLESS NOTED OTHERWISE
- 18. ALL DIMENSIONS TO FACE OF DRIVEWAY UNLESS NOTED OTHERWISE
- 19. ALL DIMENSIONS TO FACE OF GARAGE UNLESS NOTED OTHERWISE
- 20. ALL DIMENSIONS TO FACE OF DRIVEWAY UNLESS NOTED OTHERWISE

**NOTES**

1. ALL DIMENSIONS IN FEET AND INCHES
2. ALL DIMENSIONS TO FACE UNLESS NOTED OTHERWISE
3. ALL DIMENSIONS TO CENTERLINE UNLESS NOTED OTHERWISE
4. ALL DIMENSIONS TO OUTLINE UNLESS NOTED OTHERWISE
5. ALL DIMENSIONS TO CENTERLINE OF CURB UNLESS NOTED OTHERWISE
6. ALL DIMENSIONS TO FACE OF CURB UNLESS NOTED OTHERWISE
7. ALL DIMENSIONS TO FACE OF WALL UNLESS NOTED OTHERWISE
8. ALL DIMENSIONS TO FACE OF DOOR UNLESS NOTED OTHERWISE
9. ALL DIMENSIONS TO FACE OF WINDOW UNLESS NOTED OTHERWISE
10. ALL DIMENSIONS TO FACE OF FLOOR UNLESS NOTED OTHERWISE
11. ALL DIMENSIONS TO FACE OF CEILING UNLESS NOTED OTHERWISE
12. ALL DIMENSIONS TO FACE OF ROOF UNLESS NOTED OTHERWISE
13. ALL DIMENSIONS TO FACE OF BASEMENT UNLESS NOTED OTHERWISE
14. ALL DIMENSIONS TO FACE OF ATTIC UNLESS NOTED OTHERWISE
15. ALL DIMENSIONS TO FACE OF PORCH UNLESS NOTED OTHERWISE
16. ALL DIMENSIONS TO FACE OF BALCONY UNLESS NOTED OTHERWISE
17. ALL DIMENSIONS TO FACE OF TERRACE UNLESS NOTED OTHERWISE
18. ALL DIMENSIONS TO FACE OF DRIVEWAY UNLESS NOTED OTHERWISE
19. ALL DIMENSIONS TO FACE OF GARAGE UNLESS NOTED OTHERWISE
20. ALL DIMENSIONS TO FACE OF DRIVEWAY UNLESS NOTED OTHERWISE




SECOND FLOOR PLAN



THIRD FLOOR PLAN





Ministry of Defense  
State of Israel

**Plan B. 10/10/11**

Architect: [Name]  
Engineer: [Name]  
Scale: 1:100

**Legend:**

- 1. Stairs
- 2. Elevator
- 3. Entrance
- 4. Exit
- 5. Room
- 6. Corridor
- 7. Staircase
- 8. Staircase
- 9. Staircase
- 10. Staircase
- 11. Staircase
- 12. Staircase
- 13. Staircase
- 14. Staircase
- 15. Staircase
- 16. Staircase
- 17. Staircase
- 18. Staircase
- 19. Staircase
- 20. Staircase

**Notes:**

1. The plan is for a building with a total area of 10,000 sq. m.

2. The building is located in the city of [Location].

3. The building is used for [Purpose].

4. The building is designed to accommodate [Number] people.

5. The building is designed to meet the requirements of the [Standard].

**THE DESIGN**

Architect: [Name]  
Engineer: [Name]  
Scale: 1:100

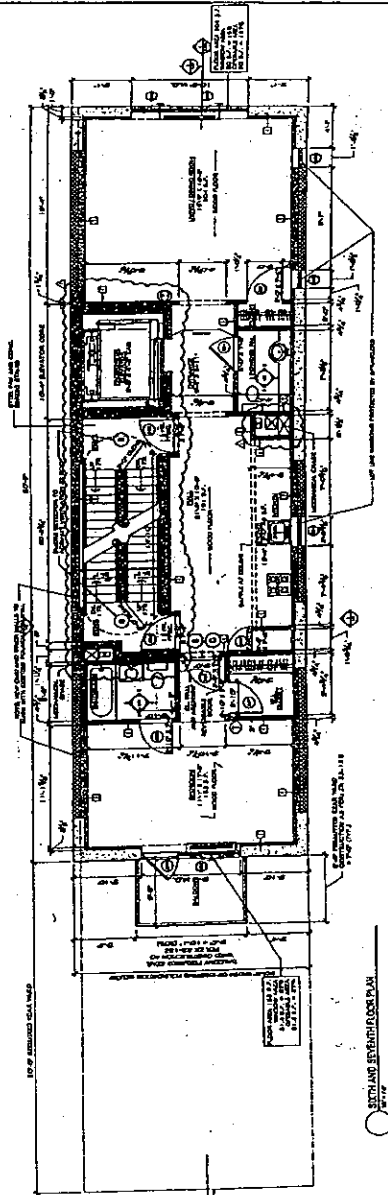
**FLOOR PLANS**

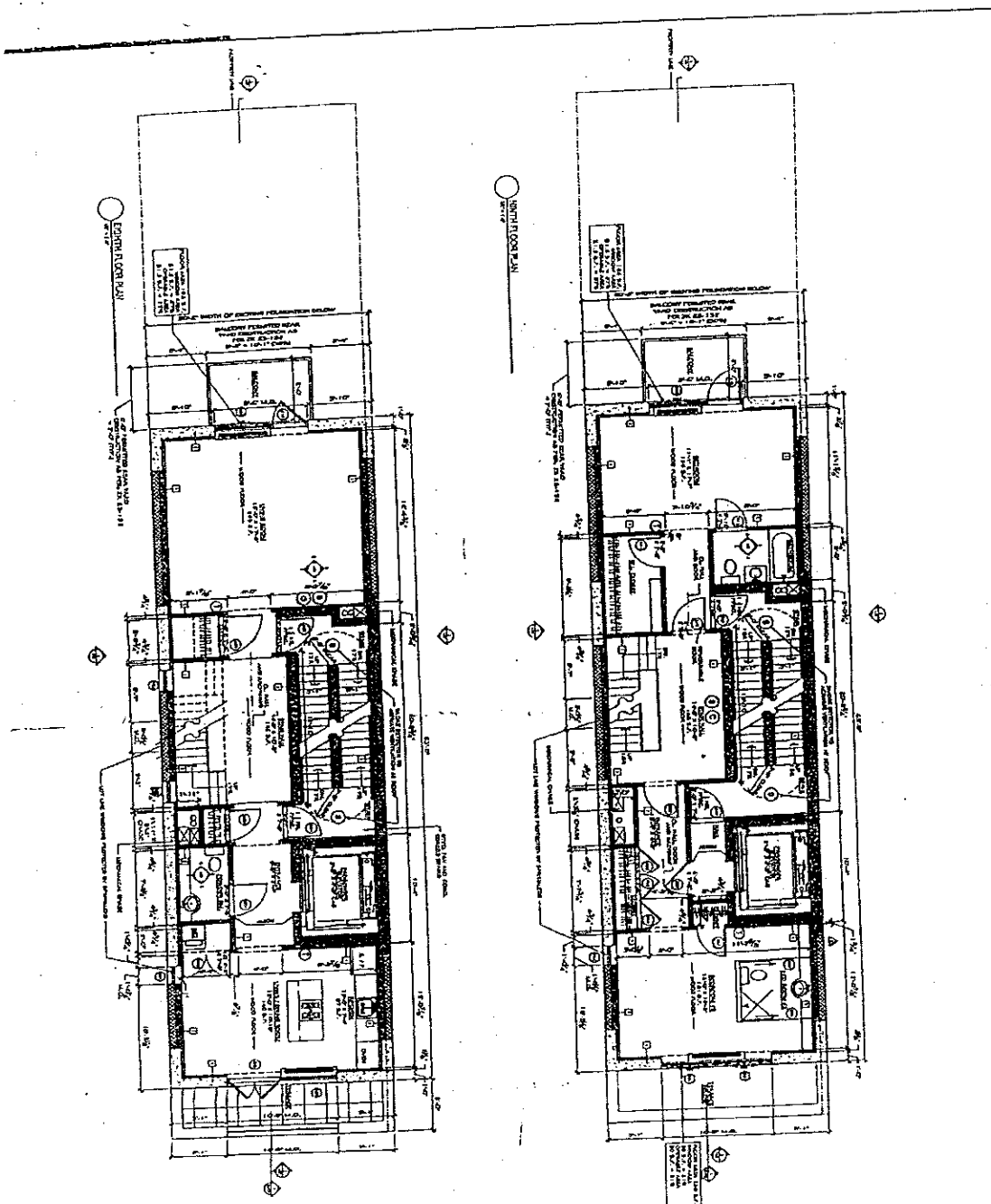
Architect: [Name]  
Engineer: [Name]  
Scale: 1:100

**SECTION AND ELEVATION PLANS**

Architect: [Name]  
Engineer: [Name]  
Scale: 1:100

**A-004**





**THE HOUSE**

**1st FLOOR**


**2nd FLOOR**

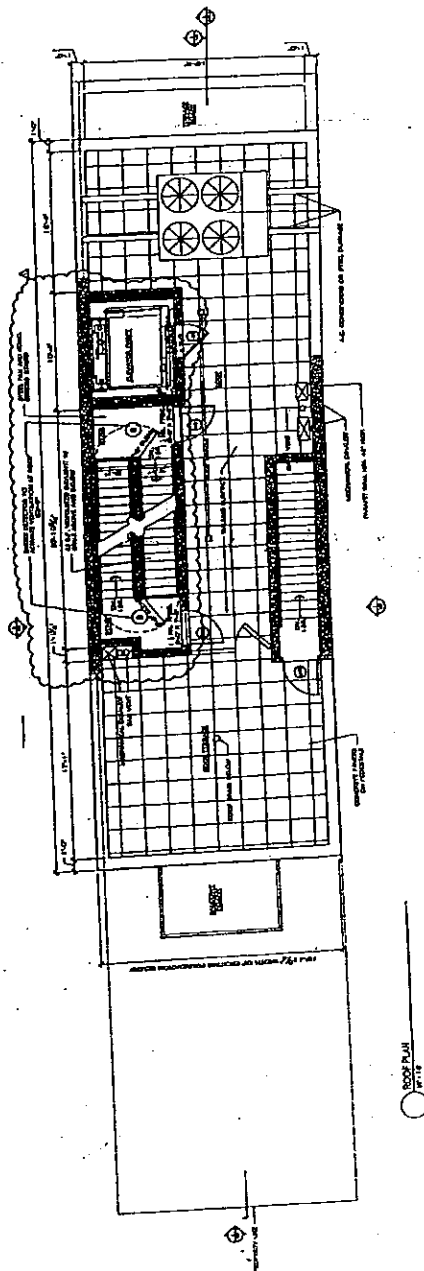
**A-005**

**LEGEND**


- 1. ROOMS
- 2. HALLS
- 3. STAIRS
- 4. ELEVATORS
- 5. ENTRANCES
- 6. EXITS
- 7. WINDOWS
- 8. DOORS
- 9. CLOSETS
- 10. BATHS
- 11. KITCHENS
- 12. DINING ROOMS
- 13. LIVING ROOMS
- 14. BED ROOMS
- 15. PORCHES
- 16. PATIOS
- 17. TERRACES
- 18. GARAGES
- 19. DRIVEWAYS
- 20. FENCES
- 21. LANDSCAPE
- 22. UTILITIES
- 23. MECHANICAL
- 24. ELECTRICAL
- 25. PLUMBING
- 26. HEATING
- 27. COOLING
- 28. INSULATION
- 29. ROOFING
- 30. FOUNDATION
- 31. STRUCTURE
- 32. MATERIALS
- 33. FINISHES
- 34. EQUIPMENT
- 35. FURNITURE
- 36. FIXTURES
- 37. ACCESSORIES
- 38. OTHER

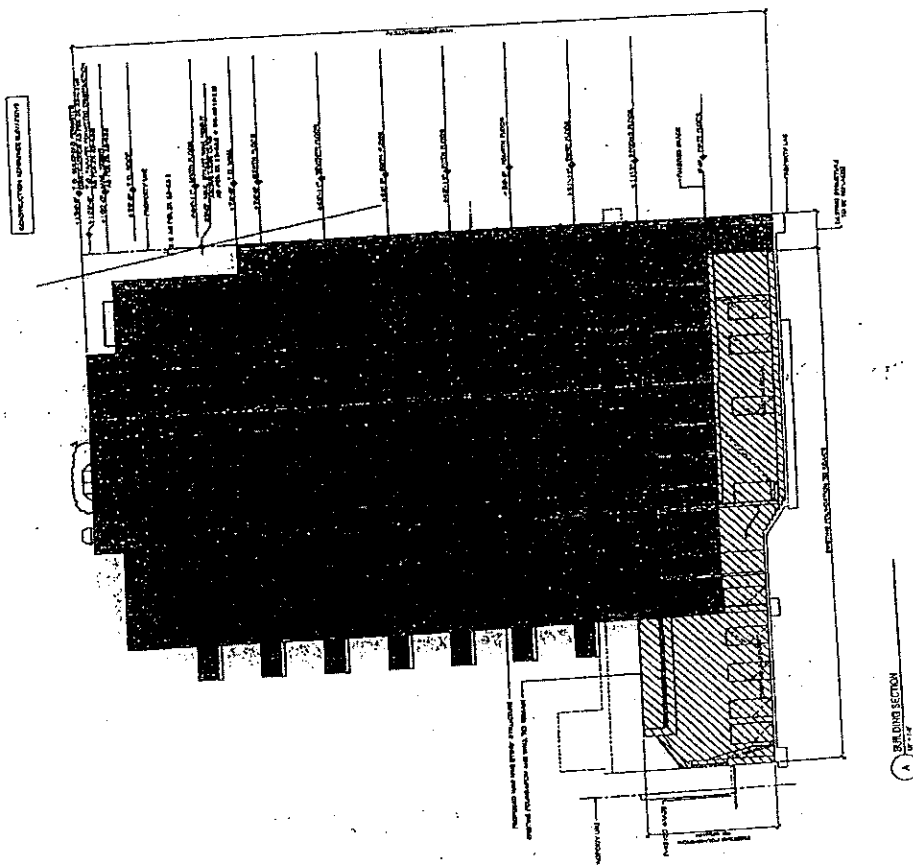
11/18/10

 <p>ESTABLISHED 1887</p>		<p>THE DESIGN</p> <p>1540331165</p> <p>ROOF PLAN</p>		<p>A-006</p>	
<p>THIS DRAWING IS THE PROPERTY OF THE AMERICAN SOCIETY OF CIVIL ENGINEERS. IT IS TO BE USED ONLY FOR THE PROJECT AND PURPOSE SPECIFIED HEREON. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE AMERICAN SOCIETY OF CIVIL ENGINEERS.</p>		<p>THIS DRAWING IS THE PROPERTY OF THE AMERICAN SOCIETY OF CIVIL ENGINEERS. IT IS TO BE USED ONLY FOR THE PROJECT AND PURPOSE SPECIFIED HEREON. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE AMERICAN SOCIETY OF CIVIL ENGINEERS.</p>		<p>THIS DRAWING IS THE PROPERTY OF THE AMERICAN SOCIETY OF CIVIL ENGINEERS. IT IS TO BE USED ONLY FOR THE PROJECT AND PURPOSE SPECIFIED HEREON. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE AMERICAN SOCIETY OF CIVIL ENGINEERS.</p>	





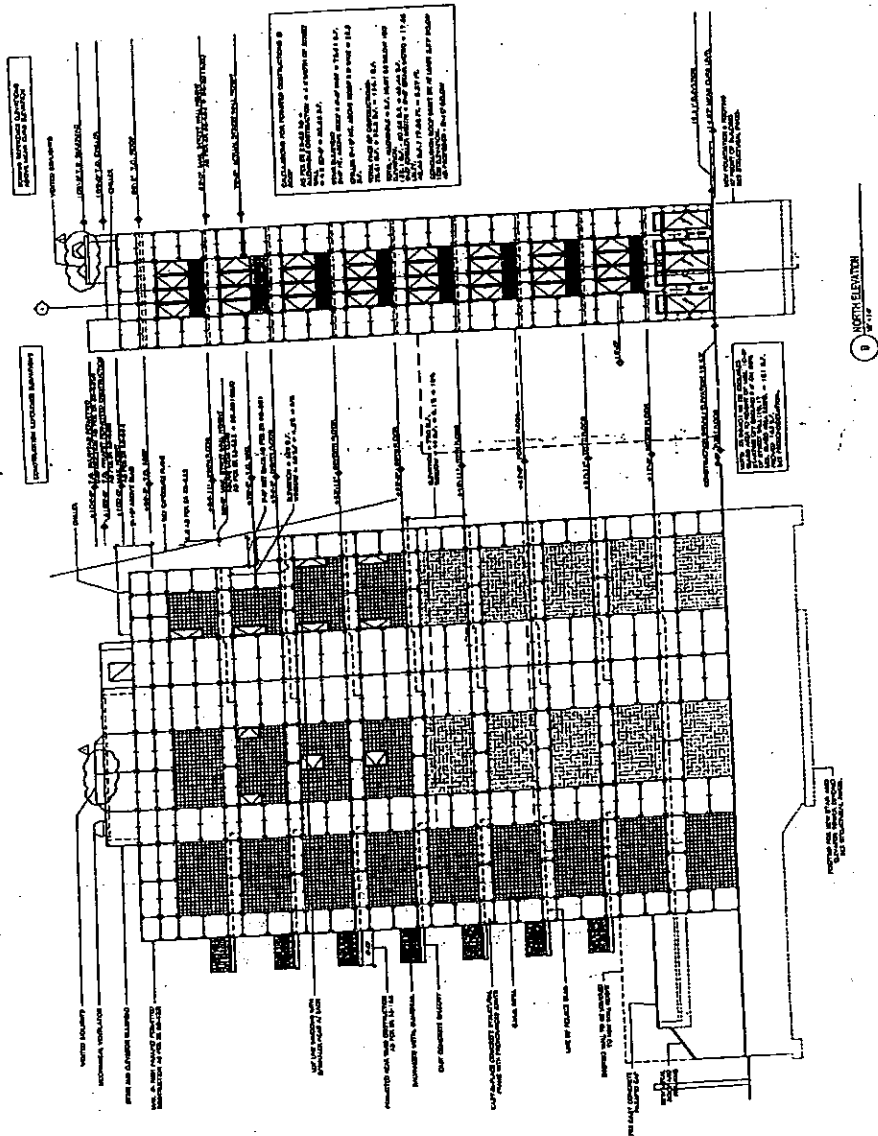
207 3/4

 <p>UNITED STATES COAST GUARD Bureau of Marine Inspection</p>		<p>1. BUILDING SECTION 2. BUILDING SECTION 3. BUILDING SECTION 4. BUILDING SECTION 5. BUILDING SECTION 6. BUILDING SECTION 7. BUILDING SECTION 8. BUILDING SECTION 9. BUILDING SECTION 10. BUILDING SECTION 11. BUILDING SECTION 12. BUILDING SECTION 13. BUILDING SECTION 14. BUILDING SECTION 15. BUILDING SECTION 16. BUILDING SECTION 17. BUILDING SECTION 18. BUILDING SECTION 19. BUILDING SECTION 20. BUILDING SECTION 21. BUILDING SECTION 22. BUILDING SECTION 23. BUILDING SECTION 24. BUILDING SECTION 25. BUILDING SECTION 26. BUILDING SECTION 27. BUILDING SECTION 28. BUILDING SECTION 29. BUILDING SECTION 30. BUILDING SECTION 31. BUILDING SECTION 32. BUILDING SECTION 33. BUILDING SECTION 34. BUILDING SECTION 35. BUILDING SECTION 36. BUILDING SECTION 37. BUILDING SECTION 38. BUILDING SECTION 39. BUILDING SECTION 40. BUILDING SECTION 41. BUILDING SECTION 42. BUILDING SECTION 43. BUILDING SECTION 44. BUILDING SECTION 45. BUILDING SECTION 46. BUILDING SECTION 47. BUILDING SECTION 48. BUILDING SECTION 49. BUILDING SECTION 50. BUILDING SECTION 51. BUILDING SECTION 52. BUILDING SECTION 53. BUILDING SECTION 54. BUILDING SECTION 55. BUILDING SECTION 56. BUILDING SECTION 57. BUILDING SECTION 58. BUILDING SECTION 59. BUILDING SECTION 60. BUILDING SECTION 61. BUILDING SECTION 62. BUILDING SECTION 63. BUILDING SECTION 64. BUILDING SECTION 65. BUILDING SECTION 66. BUILDING SECTION 67. BUILDING SECTION 68. BUILDING SECTION 69. BUILDING SECTION 70. BUILDING SECTION 71. BUILDING SECTION 72. BUILDING SECTION 73. BUILDING SECTION 74. BUILDING SECTION 75. BUILDING SECTION 76. BUILDING SECTION 77. BUILDING SECTION 78. BUILDING SECTION 79. BUILDING SECTION 80. BUILDING SECTION 81. BUILDING SECTION 82. BUILDING SECTION 83. BUILDING SECTION 84. BUILDING SECTION 85. BUILDING SECTION 86. BUILDING SECTION 87. BUILDING SECTION 88. BUILDING SECTION 89. BUILDING SECTION 90. BUILDING SECTION 91. BUILDING SECTION 92. BUILDING SECTION 93. BUILDING SECTION 94. BUILDING SECTION 95. BUILDING SECTION 96. BUILDING SECTION 97. BUILDING SECTION 98. BUILDING SECTION 99. BUILDING SECTION 100. BUILDING SECTION</p>		<p>THE CAUSE BUILDING SECTION A-200</p>	
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2013/12  
17/3/24

<b>APPROVAL</b>	
 <b>Blair E. Boyte A.S.C.E.</b> Professional Engineer No. 111033111 State of California Mechanical Exp. 12/31/2025	
 <b>THE DESIGN</b> 111033111 BUILDING ELEVATIONS EAST ELEVATION NORTH ELEVATION 111033111	
<b>A-300</b>	



801/12  
13/3/5

**Boyle & Boyle ALA**



Boyle & Boyle ALA  
1000 10th Ave  
New York, NY 10018  
Tel: 212 692 1234  
Fax: 212 692 1235

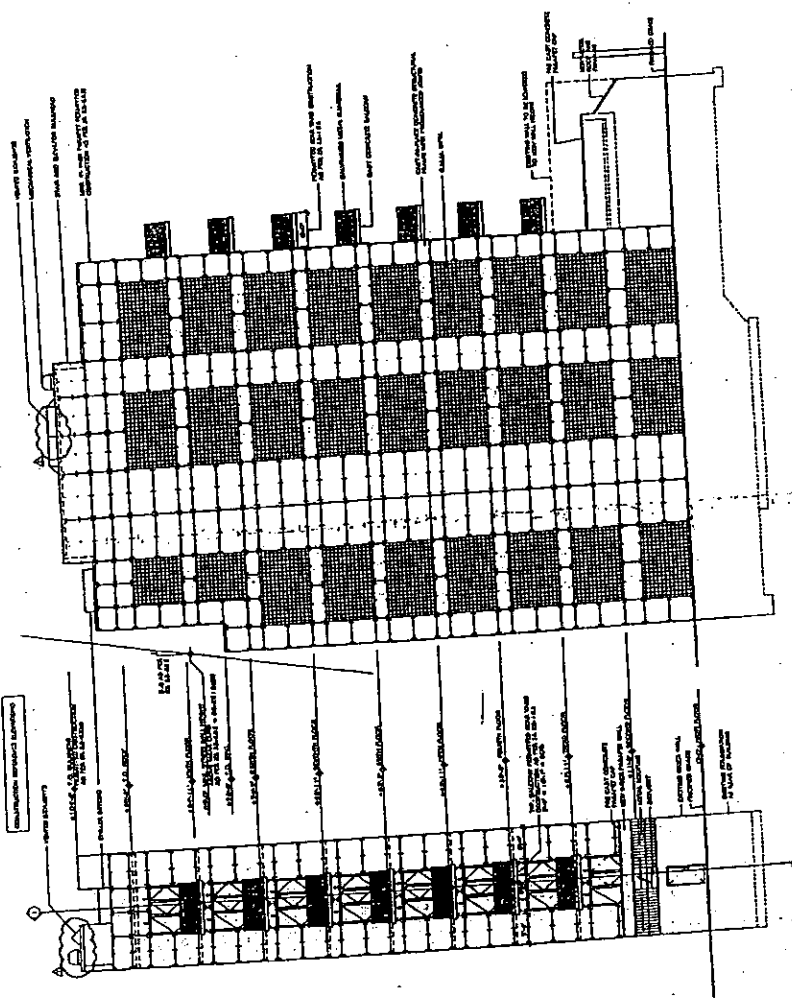
**THE CHURCH**  
1000 10th Ave  
New York, NY 10018  
Tel: 212 692 1234  
Fax: 212 692 1235

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New York, NY 10018  
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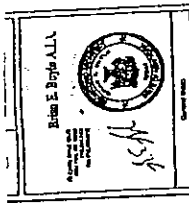


WEST ELEVATION  
1000 10th Ave

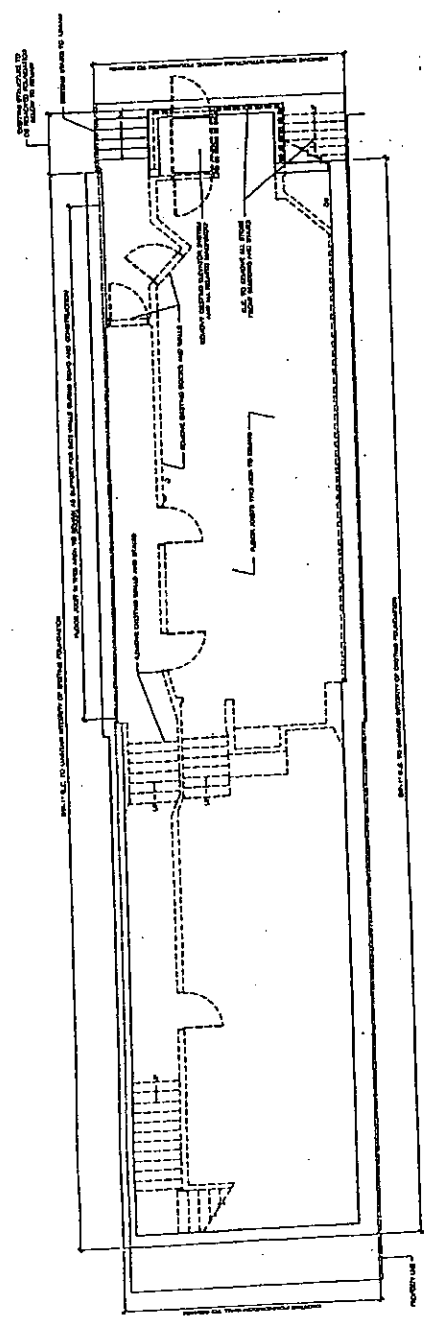
SOUTH ELEVATION  
1000 10th Ave

**A-301**

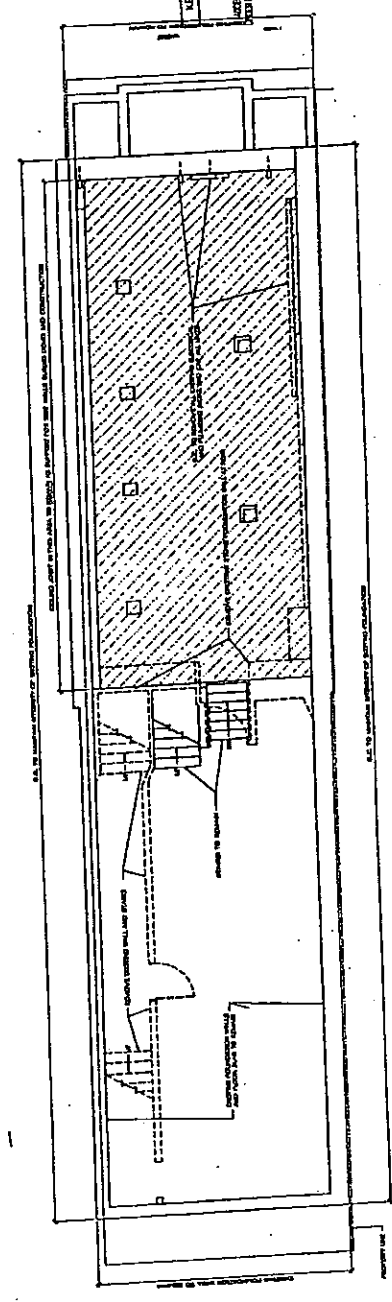




10132005	
CELLAR AND BASEMENT PLANS	
D-002	
The Director of the Office of the Inspector General Department of Defense Washington, D.C. 20315-5000	



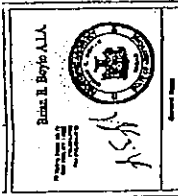
BASEMENT PLAN  
10132005



CELLAR PLAN  
10132005

10132005  
CELLAR AND BASEMENT PLANS



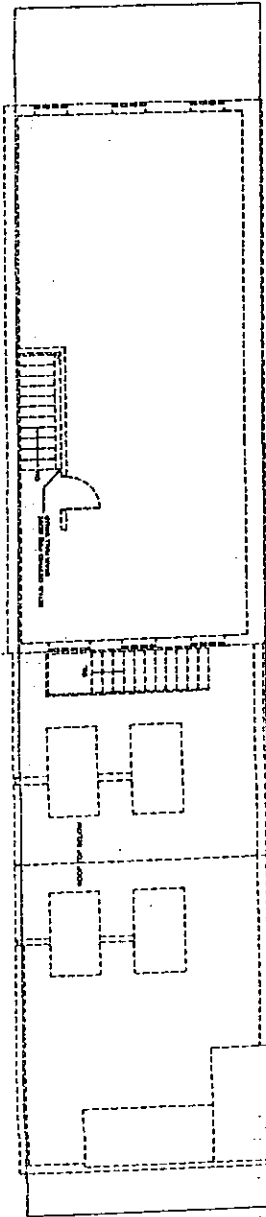


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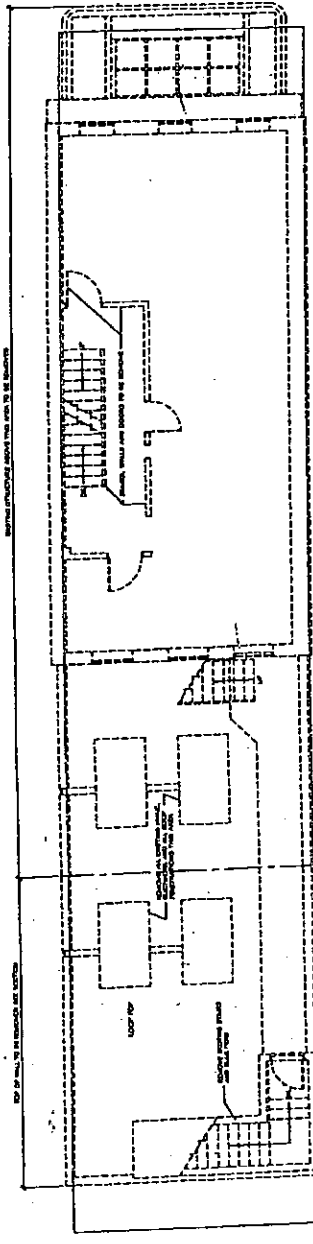
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Client	The Duce
Project Name	CELLAR AND BASEMENT PLAN
Sheet No.	D-003
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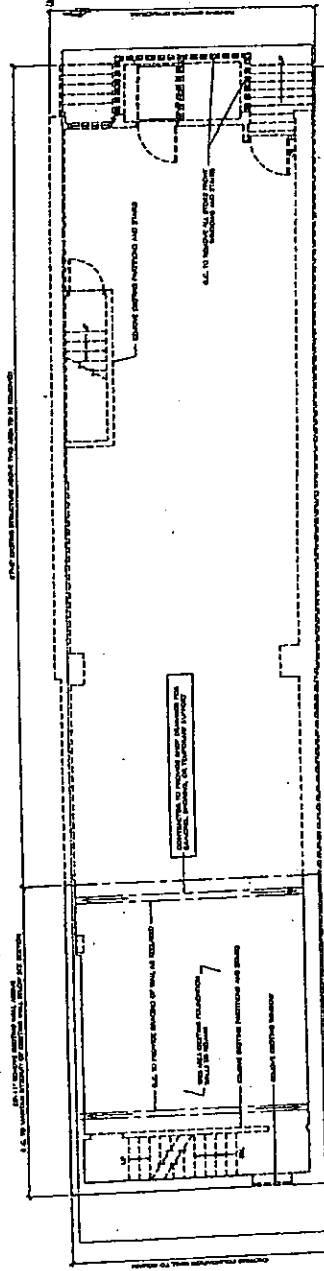
10/13/05  
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THIRD FLOOR DEMOLITION PLAN  
10/13/05



SECOND FLOOR DEMOLITION PLAN  
10/13/05



FIRST FLOOR DEMOLITION PLAN  
10/13/05





Department of  
Housing Preservation  
& Development

nyc.gov/hpd

Office of Development  
Housing Incentives  
100 Gold Street  
New York, N.Y. 10038

SHAUN DONOVAN  
Commissioner  
HOLLY M. LEIGHT  
Deputy Commissioner  
MIRIAM COLÓN  
Assistant Commissioner

September 29, 2008

Harvey I. Shiff, Esq.  
Lawrence J. Berger, P.C.  
200 Madison Avenue, Suite 1902  
New York, NY 10016  
Phone: (212) 532-0222; Fax: (212) 532-0224

Re: 534 West 42<sup>nd</sup> Street  
Block 1070, Lot 49  
Borough of Manhattan  
Declaratory Ruling No. 2008 (§421-a)

Dear Mr. Shiff:

I am writing in response to your request dated May 12, 2008, as supplemented by later submissions, for a declaratory ruling pursuant to §6-05(g) of Chapter 6 of Title 28 of the Rules of the City of New York (the "Rules") regarding the eligibility of a construction project (the "Project") at the above referenced site (the "Site") for tax benefits pursuant to §421-a of the Real Property Tax Law ("§421-a"),<sup>1</sup> §§11-245, 11-245.1, and 11.245.1-b of the Administrative Code,<sup>2</sup> and the Rules.<sup>3</sup>

I. Eligibility Requirements

To be eligible for §421-a tax benefits, the Project must comply with each of the eligibility requirements set forth in §421-a, the Administrative Code, and the Rules. The application of these requirements to the Project is discussed in detail below. Capitalized terms not defined herein have the respective meanings given in the Rules.

<sup>1</sup> As amended by Chapters 618, 619 and 620 of the Laws of 2007 and Chapter 15 of the Laws of 2008.

<sup>2</sup> As added or amended by Local Law No. 58 of 2006.

<sup>3</sup> Including amendments effective June 19, 2008.

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A. Location Requirements

1. Geographic Exclusion Area Limitation

Sections 6-02(b)(3) and 6-02(c)(10) of the Rules provide that multiple dwellings that commence construction in the Geographic Exclusion Area prior to July 1, 2008 are eligible for §421-a tax benefits only if carried out with Substantial Governmental Assistance or if Affordable Units are created in accordance with the requirements of §6-08 of the Rules. Real Property Tax Law §421-a and §6-09(b)(1) of the Rules provide that multiple dwellings that commence construction in the Geographic Exclusion Area on or after July 1, 2008 are eligible for §421-a tax benefits only if affordable units are created in accordance with the requirements of §421-a(7) or if Negotiable Certificates are purchased. In accordance with Administrative Code §11-245(d), to determine whether construction commences on or after July 1, 2008, construction shall be deemed to have commenced on the date immediately following the issuance by the Department of Buildings ("DOB") of a building or alteration permit for a multiple dwelling (based upon architectural, plumbing and structural plans approved by DOB) on which the excavation and the construction of initial footings and foundations commences in good faith as certified by an architect or professional engineer licensed in New York State, provided that the construction of such multiple dwelling has been completed without undue delay, as certified by such architect or professional engineer.

Based on the information you have provided, the Project is located in the Geographic Exclusion Area described in §6-02(c)(10) of the Rules. You indicate that the Project commenced construction prior to July 1, 2008. Accordingly, the Project will be subject to the Geographic Exclusion Area limitations described in §6-02(b)(3) of the Rules. You have advised us that the owner will purchase Negotiable Certificates as provided in §6-08 of the Rules. Accordingly, the Project will satisfy the Geographic Exclusion Area limitation requirement of §6-02(b)(3) of the Rules. Negotiable Certificates must be presented when filing an application for a certificate of eligibility pursuant to the Rules.

2. Public and Private Park Limitation

Paragraphs (5) and (6) of §6-02(c) of the Rules bar §421-a benefits for projects situated on land mapped as a public park (with certain exceptions) or utilized for ten (10) or more consecutive years immediately prior to October 1, 1971 as a private park (as defined in §6-02(c)(6) of the Rules). You state and we assume that the Site does not fall within either category.

B. Site Requirements

Section 6-02(f) of the Rules states that for a project to be eligible for §421-a benefits, the land on which it is located must have been "vacant, predominantly vacant, under-utilized, or improved with a non-conforming use on the operative date." "Operative Date" means, in the case of the Project, thirty-six (36) months prior to the Commencement of Construction.

Under §6-02(f)(3)(G)(a)(1) and (2)(i) of the Rules, where Commencement of Construction occurred on or after October 30, 2002, land in Manhattan south of or adjacent to either side of 110<sup>th</sup>

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Street is under-utilized if, on the Operative Date, it was improved with a non-residential building or buildings, each of which contained no more than the permissible floor area ratio ("FAR") for non-residential buildings in the zoning district in question, and an FAR which was fifty percent (50%) or less of the maximum FAR for residential buildings in such zoning district.

You indicate that the Commencement of Construction occurred on June 7, 2007 in the 2006/2007 fiscal year.<sup>4</sup> Accordingly, the Operative Date will have occurred on June 7, 2004 in the 2003/2004 fiscal year.

You have submitted a zoning analysis in the form of affidavits sworn to by Brian E. Boyle, a registered architect, dated January 24, 2008 and August 26, 2008 and supplemented by a letter dated August 27, 2008 (collectively, the "Boyle analysis"), along with a copy of the zoning map for lot 49 and relevant pages from the Zoning Resolution. In addition, you have provided a survey of lot 49 dated June 24, 2005, prepared by Thomas Piciocco, a licensed land surveyor and vice president of Earl B. Lovell - S.P. Belcher, Inc.

Mr. Boyle indicates that on the Operative Date, lot 49 was improved with a non-residential building. In addition, Department of Finance Records indicate that in the 2003/2004 fiscal year, lot 49 was improved with a non-residential building or buildings designated as tax class 4. Mr. Boyle further indicates that on the Operative Date, lot 49 was located in a C6-4 zoning district, in which the permissible FAR for non-residential buildings was 10.0 and the maximum FAR for residential buildings was 10.0. Based upon Mr. Boyle's analysis, the relationship of the FAR of the existing building on lot 49 to the permissible non-residential FAR and maximum residential FAR in the 2003/2004 fiscal year was as follows:

Lot Number	Lot Area (square feet)	Floor Area of Existing Building (square feet)	FAR of Existing Building	Permissible Non-Residential FAR	Maximum Residential FAR	Ratio of Existing to Maximum Residential FAR
49	1,934	5,461	2.82	10.0	10.0	28.2%

Accordingly, on the Operative Date, the Site qualifies as under-utilized for the purposes of the Rules, since lot 49 was improved with a non-residential building which did not contain more than the permissible FAR for a non-residential building in the zoning district in which it was located and which had an FAR which was less than fifty percent (50%) of the maximum FAR for a residential building in such zoning district.

<sup>4</sup> Fiscal year refers to the 365 day New York City year for budget and tax purposes from July 1 through June 30. For example, both September 27, 2006 and February 25, 2007 fall in fiscal year 2006/2007.

C. Project Requirements

1. New Multiple Dwelling

Section 6-02(b) of the Rules provides that a project is eligible for §421-a benefits only if it is a "new multiple dwelling" and §421-a(1)(c) provides that a "new multiple dwelling" includes new residential construction and the concurrent conversion, alteration or improvement of a pre-existing building or structure provided that (i) for all tax lots now existing or hereafter created, not more than forty-nine percent (49%) of the floor area of the multiple dwelling consists of the pre-existing building or structure that was converted, altered or improved, and (ii) for certain geographical areas of Manhattan, the new residential construction or the concurrent conversion, alteration or improvement of the pre-existing building or structure must be aided by a governmental grant, loan or subsidy. Furthermore, §11.245.1-b(c) and §6-09(b)(5)(i) of the Rules provide that no §421-a benefits will be conferred for a multiple dwelling that commences construction on or after December 28, 2007 and contains fewer than four dwelling units as set forth in the certificate of occupancy, unless the construction of such multiple dwelling is carried out with Substantial Governmental Assistance pursuant to a Program for the Development of Affordable Housing.

You state and we assume that the Project commenced pursuant to an alteration permit based on architectural, structural and plumbing plans approved by the DOB and that upon completion it will be a new Multiple Dwelling.<sup>5</sup> We assume that the Project will be constructed on land which was entirely vacant and unimproved as of the Commencement of Construction except to the extent described in the Boyle analysis. The Boyle analysis and demolition plans submitted indicate that the pre-existing building on the Site has been demolished, except for portions of the rear perimeter wall and portions of the foundation required to support the retained portions of the rear perimeter walls.<sup>6</sup> We assume that upon application, you will provide photographs or other documentation evidencing the extent of the demolition and the progress of construction. Accordingly, the Project will meet the requirements set forth above.<sup>7</sup>

2. Not Used as a Hotel or for Single Room Occupancy

Paragraphs (3) and (4) of §6-02(c) of the Rules deem any building or portion thereof which is used as a Hotel or for Single Room Occupancy ineligible for §421-a benefits. You state and we assume that no such use of the Project will occur.

<sup>5</sup> You indicate that, although construction initially commenced pursuant to an alteration permit based on architectural, structural and plumbing plans approved by DOB, construction will be completed pursuant to a new building permit based upon architectural, plumbing and structural plans approved by DOB.

<sup>6</sup> Approximately nine percent (9%) of the exterior walls of the pre-existing building will be retained. Due to the narrowness of the Site, a small section of the rear perimeter wall was retained because the existing walls were used as shoring and removed in stages, facilitating the building of the new foundation of the new Multiple Dwelling.

<sup>7</sup> Although the Multiple Dwelling that is the subject of this declaratory ruling will contain seven (7) units, see section I.D.1 below, because construction commenced prior to December 28, 2007, the Project is not subject to the requirement of §11.245.1-b(c) and §6-09(b)(5)(i) of the Rules that the multiple dwelling contain at least four dwelling units unless the construction is carried out with governmental assistance.

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D. Construction Requirements

1. Number of Rooms

Section 6-02(e)(2) of the Rules requires that in a project containing more than one hundred (100) dwelling units, not less than ten percent (10%) of the dwelling units shall contain at least 4½ rooms and, in addition, not less than fifteen percent (15%) of the dwelling units shall contain at least 3½ rooms. The number of rooms shall be computed in accordance with the definition of "Room Count" in §6-01(c) of the Rules.

You state and we assume that the Project will contain seven (7) dwelling units. Accordingly, the Project is not subject to this requirement.

2. Class A Unit Replacement

Section 6-02(e)(3) of the Rules requires that a project with more than twenty (20) dwelling units contain at least five (5) dwelling units for each Class A dwelling unit in existence one month prior to the Commencement of Construction.

Because the Project will contain only seven (7) dwelling units, the Project is not subject to this requirement.

E. Limitation on Other Real Estate Tax Benefits

Section 421-a(2)(c)(i) provides that a Multiple Dwelling shall be eligible for tax benefits pursuant to that section only if "exemption from taxes is not availed of concurrently under any other law." Section 6-02(c)(1) of the Rules provides a limited exception for condominium units which are not taxed by reason of the exempt status of the owner.

You state and we assume that the Project will comply with this requirement and that the Project will not receive real estate tax benefits under any other State or local law.

F. Timing Requirements

1. Project Commencement

Section 421-a(2)(a)(iv)(a) and §421-a(2)(c)(ii) require that Commencement of Construction occur before December 28, 2010. You state and we assume that Commencement of Construction occurred on June 7, 2007 and that the Project has complied with this requirement.

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2. Application Timing

Sections 6-05(b) and 6-05(d) of the Rules impose specific timing requirements for filing applications for preliminary and final certificates of eligibility. You state and we assume that the Project will comply with these requirements.

G. Additional Requirements

1. Multiple Dwelling Registration

Section 6-05(d)(1)(vii) of the Rules provides that any building for which §421-a benefits are conferred must be registered with HPD in accordance with the provisions of article two of subchapter four of the Housing Maintenance Code. You state and we assume that the Project will comply with this requirement.

2. Energy Star Certification Requirement

Section 11.245.8 and §6-05(d)(1)(viii) of the Rules provide that, for any building for which §421-a benefits are conferred, certain household appliances that are newly installed or replaced must be certified as Energy Star, unless an appropriately-sized Energy Star appliance is not manufactured. You state and we assume that the Project will comply with this requirement.

3. Prevailing Wage Requirement

Section 421-a(8) provides that a Multiple Dwelling that commences construction on or after December 28, 2007 shall be eligible for tax benefits pursuant to that section only if "all building services employees regularly employed at the building, whether employed directly by the applicant or its successors, or through a property management company or a contractor, shall receive the applicable prevailing wage for the duration of the building's tax exemption." To be covered by this provision, such building service employees must perform work in connection with the care or maintenance of such building and be regularly scheduled to work for at least eight hours per week. Pursuant to §421-a(8)(c)(i and ii), these requirements shall not apply to projects containing less than fifty (50) dwelling units or to multiple dwellings where HPD certifies that at initial occupancy at least fifty percent (50%) of the dwelling units in the multiple dwelling are affordable to individuals or families with a gross household income at or below one hundred twenty-five-percent (125%) of the area median income. Cf. §6-05(d)(1)(ix) of the Rules.

You state and we assume that construction commenced prior to December 28, 2007. Therefore, the Project will not be subject to this prevailing wage requirement.

H. Condominium/Cooperative Requirement

Section 6-05(d)(1)(iii) of the Rules requires that if a project is to be owned as a cooperative or a condominium, the owner must provide a statement that if the prospective cooperative or condominium plan has not been declared effective for filing at a time fifteen months after the issuance of a final

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certificate of eligibility, such owner will register these rental units with the New York State Division of Housing and Community Renewal within fifteen days after such fifteen month period, or if the building is not occupied, an affidavit stating that the owner shall register all units as they become occupied. You state and we assume that the Project will be owned as condominiums and that it will comply with this requirement.

I. Community Board Notice Requirement

Section 6-03 of the Rules requires that a §421-a application for a project containing more than twenty (20) dwelling units be submitted to the community board in the area in which the project is located. Since the Project will contain only seven (7) dwelling units, the Project is not subject to this requirement.

J. Rent Limitations

Section 6-04 of the Rules imposes a cap on the initial monthly rent which may be charged in a project receiving §421-a benefits. You indicate that the residential units will be owned as condominiums. Therefore, this rental cap requirement will not pertain to the Project provided that the condominium plan is declared effective for filing within fifteen months after the issuance of a final certificate of eligibility.

II. Duration of Tax Benefits

Sections 6-02(d) and 6-09(b)(7) of the Rules establish the duration of the §421-a partial tax exemption.

Section 6-02(d)(1)(i)-(iii) of the Rules states that a ten (10) year post-construction exemption (as more particularly described therein) is available in the Geographic Exclusion Area if the Project is carried out with Substantial Governmental Assistance, the Department has imposed a requirement or the Department has certified pursuant to §6-08 of the Rules that twenty percent (20%) of the dwelling units are affordable to persons of Low and Moderate Income, or pursuant to an agreement with the Department and in conformity with §6-08 of the Rules, housing units affordable to persons of Low and Moderate Income are created off-site by new construction or substantial rehabilitation.

As noted above, you have advised us that the Project owner will purchase Negotiable Certificates pursuant to §6-08 of the Rules. Accordingly, the Project will be eligible for a ten (10) year post-construction partial tax exemption pursuant to §6-02(d)(1) of the Rules.

III. Reduction of Benefit for Excess Commercial, Community Facilities, and Accessory Use Space

Section 6-06(b) of the Rules provides that the tax exemption granted by §421-a will be reduced if the Project's Floor Area of Commercial, Community Facilities, and Accessory Use Space exceeds twelve percent (12%) of Aggregate Floor Area.

**NYC**

9/19/08  
df

The Project's Floor Area of Commercial, Community Facilities, and Accessory Use Space and a resulting decrease in benefits, if any, will be determined in accordance with the Rules based on the building plans for the Project as built.

IV. Conclusion

Based on the information provided by you and the assumptions stated herein, we conclude that the Project will be eligible for a construction period partial tax exemption and a ten (10) year post-construction partial tax exemption, as provided by §421-a.<sup>8</sup>

V. Scope of this Letter

Except as specifically stated herein, this letter is based solely upon the information provided by you and the assumptions stated herein, and we have not verified any of your statements or claims or investigated the accuracy of our assumptions. The Project must satisfy all statutory and regulatory requirements of §421-a in effect at the time of issuance of the certificate of eligibility in order to be eligible for benefits, and we cannot render a final determination regarding eligibility until all documentation required for a certificate of eligibility has been provided to us, reviewed and approved.

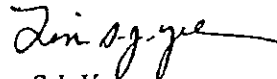
We confirm that an application for a preliminary certificate of eligibility for this Project was filed with this Office on May 5, 2008 and assigned docket number TEO8773. We have not completed our review of that application and express no opinion as to whether the Project is eligible for a §421-a partial tax exemption based upon the application submitted.

This letter relates only to the Project and the specific facts and circumstances thereof. It may not be used or relied upon in connection with any other application or project.

Each page of this letter is imprinted with the Tax Incentives raised seal, which is initialed and dated in blue ink.

In order to expedite processing, please include a copy of this letter when you apply for §421-a benefits.

Very truly yours,



Lisa S.J. Yee  
Director, Tax Incentive Programs

cc: Nancy Batterman, Deputy General Counsel  
Ronald Sinacori, 421 Program Director  
Christopher Boltinghouse, Declaratory Rulings Analyst

9/29/08

<sup>8</sup> In that the Project commenced construction prior to July 1, 2008, it is not subject to the Exemption cap as defined in §421-a(9)(a)(vi). See §6-09(b)(6).



282111107 NEW 01/08 8810004306

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

CASHIER'S CHECK

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK



9800317913

25-3

440

Date

07/17/2012

Remitter

LAWRENCE J. BERGER

Pay: ONE HUNDRED DOLLARS AND 00 CENTS

Pay To The  
Order Of NEW YORK CITY DEPARTMENT OF FINANCE

\$ \*\*\*\*\*100.00 \*\*\*

Drawn JPMORGAN CHASE BANK, N.A.

*Michael Andrews*

Senior Vice President  
JPMorgan Chase Bank, N.A.  
Columbus, OH



⑈9800317913⑈ ⑆044000037⑆ 758661433⑈

*my 421-a*

New York City Department of Housing Preservation and Development  
Division of Housing Incentives  
Tax Incentive Programs Unit  
The 421-a Partial Tax Exemption Program

Date: 10/02/12 Proj. Seq # 44820 Re-file Docket # 8773 Reviewer: Hosht

Dear 421-a Applicant/Applicant's Representative:

This application has failed to meet the basic submission criteria, will not be accepted for processing, and is being returned to the owner or owner's filing representative for one or more of the following reasons:

Complete and properly executed application, such as:

- ☐ Application and/or Affidavits are not in "Final" form;
- ☐ Pages of Application and/or Affidavits are missing;
- ☐ Project Sequence # is not same on all pages or is missing on pages/bottom of pages cut off;
- ☐ Blank field(s) on Architect's Affidavit;
- ☐ Architect's Affidavit is not signed & sealed OR is not signed & notarized;
- ☐ Opinion of Counsel is not printed on Attorney's letterhead or not signed;
- ☒ Incorrect or Missing Appraisal; (*Not original*)
- ☐ Incorrect or Missing RP-604;
- ☐ Incorrect or Missing Survey;
- ☐ Incorrect or Missing Cost Proration letter;
- ☒ ~~Incorrect or Missing~~ "Mid-Construction Purchase" letter (reviewer will provide more details);
- ☐ Incorrect or Missing "Ground Lease Breakdown" explanation;
- ☒ ~~Incorrect or Missing~~ "Alteration Permit" explanation (see questions attached);
- ☐ Plans are not signed and dated on each page by the architect / prof. engineer;
- ☐ Documents not original; and
- ☒ Other: *Mistake on section 6A regarding the question on Alt. Permit. Also, missing parking question. Please use updated version of online application*

Ownership/Project Information not correct, such as:

- ☐ Information on the Online Application, RPTR, and SAL1 does not match Deed;
- ☐ Former lots on Online Application do not match RP-604;
- ☒ Information on Section 4A of the Online Application pertaining to land acquisition cost does not match the SAL-1/RPTR;
- ☐ Inconsistent answers in Section 3C, Question 2 vs. Section 6A, Question 1 (ICIP question);
- ☒ Parking Questions in Section 6A answered incorrectly; *missing*
- ☐ Community Board was notified not within 10 days of the acceptance of application by HPD; and
- ☐ Other:
- ☐

You may re-file for 421-a benefits by submitting a new Online Application with the correct information. A hard copy of your new application with the accompanying affidavits and documentation must be delivered to the 421-a Program along with a \$100 non-refundable deposit towards the preliminary application fee.

Should you have any questions, please contact the 421-a Unit at 212-863-8540.

Sincerely,

421-a Partial Tax Exemption Program

*Encl.*



**18. *My project is being constructed using an Alteration Permit. How does this affect my Online Application?***

In addition to indicating the correct Alteration permit number in Section 6, please provide a letter from the project's architect or professional engineer that analyzes the project's floor area. Below is a list of questions/items that must be included in the letter.

- Please explain why the Alteration permit was used instead of a New Building permit;
- Provide the dimensions of the former structure;
- Provide the dimensions of the new addition/enlargement;
- What percentage of the old structure was incorporated into the new structure? (Note: this is used to determine if at least 51% is new construction.);
- Describe the exact parts of the pre-existing building that remained; be as specific as possible (i.e. foundations, walls, floor framing, stairs, mechanical, electrical and plumbing systems, etc.);
- What specifically was added to the pre-existing building? How many stories and how many units in total were created (newly built vs. converted dwelling units)?
- If this project is a condo, after subdivision of lots, please specify which tax lots are associated with the newly-built dwelling units/stories.
- If parts of the building are not applying for 421-a benefits, please identify them and explain what exemption, if any, they will apply for?



**19. *I purchased this project mid-construction from the original builder/developer. How does this affect my project?***

In Section 4A of the Online Application, please indicate the purchase price that you paid for the project. When you submit the executed hardcopy of your Online Application, please include a letter explaining what took place as well as the dates and parties involved in the transaction. Your letter should also explain what was covered in the purchase price (i.e. land and construction up to the point of sale). Please note that the Final Application will require a CPA's certification of actual development costs for the builder/developer who completes construction of the project.



**20. *One or more lots in my project are being operated under a Ground Lease. How does this affect my project?***

Please indicate the monthly payment in Section 4A of the Online Application and submit a copy of the Ground Lease. In addition, please include a letter of explanation from the applicant that provides the method for how the monthly payments were calculated, including referencing the relevant section(s) of the Ground Lease where the information can be confirmed.

- ① SUBMIT A SEALED NOTE FROM THE ARCHITECT EXPLAINING THE FOLLOWING: WHY WAS ALT PERMIT USED VS. GETTING A NEW BUILDING PERMIT; DESCRIBE EXISTING STRUCTURE: TAX CLASS (COMMERCIAL / RESIDENTIAL); USE (STORE / RESIDENCE).; THE DIMENSIONS OF THE FORMER STRUCTURE / NUMBER OF FLOORS; THE DIMENSIONS OF THE NEW ADDITION / NUMBER OF FLOORS; WHAT EXACT PARTS OF THE FORMER STRUCTURE REMAINED? BE SPECIFIC (I.E., WALL, FOUNDATION, ETC.); SHOW % OF OLD STRUCTURE VS. NEW. (WE ARE TRYING TO DETERMINE IF AT LEAST 51% IS NEW); WILL THE EXISTING PORTION GET A GUT REHABILITATION?; HOW MANY UNITS CREATED IN TOTAL?; IF THIS IS A CONDO (SHOW TAX LOTS BREAKDOWN), PLEASE IDENTIFY THE USE OF EACH TAX LOT; IDENTIFY WHICH UNITS ARE COMPLETELY NEW & WHICH ONES ARE EXISTING.
- ② SUBMIT ALSO "AS-BUILT-PLANS" & DEMOLITION PLANS
- ③ APPLICANT SHOULD SUBMIT A NOTE CLARIFYING THE USE OF RESIDENTIAL SPACES MENTIONED ON FLOOR 9 IN SECTION 6A & 6B.
- ④ SUBMIT A NEW APPRAISAL WITH THE FOLLOWING INFO: CLEAR DESCRIPTION OF THE LOT , INCLUDING BOROUGH, BLOCK , LOT, LOT SIZE; DATE OF THE APPRAISAL (HAS TO BE AT START OF CONSTRUCTION OR NOT OLDER THEN 3-4 MONTHS BEFORE START OF CONSTRUCTION ); CLEARLY STATES THAT ONLY LAND IS BEING APPRAISED; APPRAISER'S NAME SPELLED OUT CLEARLY AND CORRECTLY ; APPRAISER'S SIGNATURE; APPRAISER'S VALID LICENSE NUMBER ; VALUE OF THE APPRAISAL ; APPRAISER'S VALID BUSINESS NAME & PLACE OF BUSINESS.
- ⑤ SUBMIT MID-CONSTRUCTION LETTER. SEE ALSO ATTACHED COPY OF 421-A ONLINE FAQ FROM OUR WEBSITE.

LAW OFFICES  
**LAWRENCE J. BERGER, P. C.**

200 MADISON AVENUE  
SUITE 1902  
NEW YORK, N.Y. 10016

(212) 532-0222  
FAX (212) 532-0224

LAWRENCE J. BERGER  
STEVEN E. RESNICK  
HARVEY I. SHIFF

October 2, 2012

LESLIE R. PERLMAN  
SETH J. GOLDBERG

NYC Department of Housing,  
Preservation & Development  
Office of Development, Division of Housing Incentives  
421-a Exemption Unit  
100 Gold Street, 3-Y4  
New York, New York 10038  
Attn: Olga Sheyner, Director

Re: TEO 8773  
421-a Partial Tax Exemption Final Application  
534 West 42<sup>nd</sup> Street  
Block 1070, Lot 49, Manhattan


Dear Ms. Sheyner:

Enclosed please find the final paper version of the re-filed electronic application for the above referenced project consisting of the following executed documents:

1. "Application for Preliminary Certificate of Eligibility for Partial Tax Exemption";
2. Duly-executed "Owner's Affidavit";
3. Duly-executed "Architect's/Engineer's Certification In Support of Preliminary Application for 421-a Partial Tax Exemption" with revised plans;
4. Duly-executed "Opinion of Counsel";
5. Copy of Appraisal documentation;
6. Copy of Negotiable Certificate of Eligibility;
7. Copy of Survey;
8. Copy of Architect's Certification dated August 19, 2010;
9. Copy of Declaratory Ruling issued by HPD for this project; and
10. A bank check in the amount of \$100 enclosed for HPD's Preliminary Application fee.

Please immediately issue the Preliminary Certificate of Eligibility for this project or advise if there is any additional information or documentation required.

Very truly yours,

  
Harvey I. Shiff



NYC Department of Housing Preservation and Development

Division of Housing Incentives

## Application for Preliminary Certificate of Eligibility for Partial Tax Exemption

Mail to: NYC Department of Housing Preservation and Development 421-a Partial Tax Exemption Program, 100 Gold Street, 3rd floor, Section 3Y, New York, NY 10038 (212) 863-8540 Fax (212) 863-5899

**Instructions:** Once you have completed filling out the application and have submitted it electronically to HPD, you must also print, sign and send a hard copy to the 421-a Partial Tax Exemption Program at HPD along with all required affidavits and documentation. If construction commenced on or after December 28, 2007, each multiple dwelling must contain four (4) dwelling units or more (unless it is built with substantial government assistance). If construction commenced before December 28, 2007, three (3) or more dwelling units is sufficient.

### Section 3: Entity Information

Entity Type	Limited Liability Company (LLC)		
Entity Name	534 West 42nd Street LLC		
Name	Brian Shatz		
Title	Manager		
House No	825	Street Name	Third Avenue
PO Box/Suite/Floor	37 Floor		
City	New York	State	NY
Country	USA	Zip code	10022
Phone	(646) 442-4202	Fax	
Email			

### Section 4: Filing Representative Information

Filing Representative Type	Entity	Company Name	Lawrence J. Berger, P.C.
Name of Contact Person			

Name	Harvey Shiff		
House No	200	Street Name	Madison Avenue
PO Box/Suite/Floor	Suite 1902		
City	New York	State	NY
Country	USA	Zip code	10016
Phone	(212) 532-0222	Fax	(212) 532-0224
Email	hshiff@ljbpcc.com		

### Section 5: Project Information

Commencement of construction date	06/07/2007		
Estimated Year of Construction Completion	08/26/2010		
Borough	MANHATTAN	Block	01070
Base Year AV	\$202,860.00	GEA	Y
Lot	0049	Tax Class	4
REMIC	N	NPP	N
Will the project involve any subdivision or merger of current lot(s)?	N		

### Section 6: Building Location Information

House Number	534	Street Name	West 42 Street	Zip Code		Tentative Lot	49
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### Section 7: Other Information to Review

Are negotiable certificates being used to qualify a project located in a 421-a geographic exclusion area?

Y



Please enter the date on which the 421-a Written Agreement was executed.

05/11/2007

Will this project or any part of this project be receiving tax exemption or tax abatement under any other provision of state or local law?

N

Was this project site mapped as a public park or utilized for 10 or more consecutive years as a private park immediately prior to October 1, 1971?

N

Will any part of this project be used as a hotel or for single room occupancy ?

N

Does this project contain more than 20 dwelling units?

N

Were there Class A residential units on the site one month prior to the start of construction?

N/A

Does the new project contain at least 5 dwelling units for each Class A dwelling unit on the site one month prior to the new construction?

N/A

### Section 4 - Substantial Government Assistance and Affordability Restrictions

Is the project being constructed with Substantial Governmental Assistance?

N

Is the Substantial Governmental Assistance pursuant to a program for the development of affordable housing?

N/A

Are at least 20% of the project's units subject to affordability restrictions?

N

There is a requirement that at least 20% of the onsite units be affordable to Low and Moderate Income households, as defined in 28 RCNY § 6-01 (c).

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 80% of Area Median Income(AMI).

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 60% of AMI.

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 120% of AMI, and the average AMI does not exceed 90%.

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 120% of AMI.

N/A

There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 125% of AMI.

N/A

### Section 5 - Additional Project Information Lot No. 0049

Did you purchase the lot within two (2) years prior to the start of construction?

N

Please enter purchase price:

N/A

Did you purchase the lot more than two (2) years prior to the start of construction?

Y

Please enter appraised value at the start of construction:

\$3,000,000.00

Is the lot being performed under a ground lease?

Please indicate monthly rent payable during period of construction:

N/A

Please indicate length of a ground lease in months:

N/A

Total Construction Costs:

\$4,900,643.70

Total Builder's Fee/Developer's Profit:	\$1,403,971.40
Total Professional and Other Fees:	\$1,224,638.90
Total Marketing Expenses:	\$74,275.00
Total Financing and Other Charges:	\$4,033,320.00
Total Project Cost:	\$14,636,849.00

<b>201017 - Building Specifications</b>	<b>534 West 42 Street</b>	<b>Tentative No. 49</b>
---	---------------------------	-------------------------

Did any portion of the building apply for the Industrial and Commercial Incentive Program (ICIP)  
Does the building include new residential construction and the concurrent conversion, alteration  
or improvement of a pre-existing building or structure?

N  
N

Commencement of construction date  
DOB/BIS Job Number  
Building Permit Type

06/07/2007  
104032949  
Alteration Permit

Floor	Residential A.F.A.	#0 BR	#1 BR	#2 BR	#3 BR	#4 BR	#5 BR	#6 BR	#7 BR	#8 BR	# of Dwelling Units	# Rooms	Non-Residential A.F.A. and Ineligible Residential A.F.A.
10	0.00	0	0	0	0	0	0	0	0	0	0.00	0.00	266.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						Roof stairs/Elev.Bulldhead							
9	1,285.00	0	0	0	0	0	0	0	0	0	0.00	0.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
8	1,285.00	0	0	1	0	0	0	0	0	0	1.00	4.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
7	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
6	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
5	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
4	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
3	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
2	1,386.00	0	1	0	0	0	0	0	0	0	1.00	3.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
1	893.00	0	0	0	0	0	0	0	0	0	0.00	0.00	199.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						Retail							

Address: 534 West 42 Street											Tentative Lot: 49		
Floor	#0 BR	#1 BR	#2 BR	#3 BR	#4 BR	#5 BR	#6 BR	#7 BR	#8 BR	#Rooms	Residential A.F.A.	Non-Residential A.F.A. and Ineligible Residential	
1	0	0	0	0	0	0	0	0	0	0.00	893.00	199.00	
10	0	0	0	0	0	0	0	0	0	0.00	0.00	266.00	
2	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00	
3	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00	
4	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00	
5	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00	
6	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00	
7	0	1	0	0	0	0	0	0	0	3.50	1,386.00	0.00	
8	0	0	1	0	0	0	0	0	0	4.50	1,285.00	0.00	
9	0	0	0	0	0	0	0	0	0	0.00	1,285.00	0.00	
Totals:	10	0	6	1	0	0	0	0	0	25.50	11,779.00	465.00	
# Dwelling Units:		7											
# Rooms:		25.50											
Commercial, etc. area in excess of 12%					0.00%								

Total Square Feet of Finished Space	12,407.00
Total Square Feet of Balcony Space	1,269.00
Total Square Feet of Unfinished Space	1,384.00
Average Square Feet Per Dwelling Unit	1,308.57
Total Net SF of Dwelling Units	9,160.00



To qualify for 421-a benefits, a site must have been vacant, predominantly vacant, underutilized, or improved with a non-conforming use three years prior to the start of construction (i.e. "Operative Date"). In order to determine if your project qualifies for 421-a benefits, this section of the application will take you through a number of questions which will determine your site eligibility. You must complete this section for each of the lots for which you are applying for 421-a benefits. Please enter the information as of the Operative Date.

Commencement of Construction Date:	6/7/2007
Operative Date:	06/07/2004
Total land area of lot (Square Feet):	1,933.53
Square footage of site:	1,933.53

**Test 1: The question below will test your site's eligibility based on vacant lot.**

Actual Assessed Valuation of improvements on the lot in the Fiscal Year in which the Operative Date falls:	\$72,000.00
--	-------------

This site is ineligible based on this test because the actual assessed valuation of the improvements on the lot was not less than or equal to \$2,000. Please move on to the next site eligibility test.

**Test 2: The questions below will test your site's eligibility based on a vacant portion of the former lot as of the Operative Date.**

Is there an existing building that will not be demolished and will remain on the lot?	N
---	---

Is the new multiple dwelling being constructed on a vacant portion of the lot as of the Operative Date?	
---	--

This site is ineligible based on this test because the land that you are building on is not vacant. Please move on to the next site eligibility test.

**Test 3: The questions below will test your site's eligibility based on predominantly vacant land as of the Operative Date.**

Length of footprint of improvement (sq ft):	98.67	Width of footprint of improvement (sq ft):	19.58
Total area of footprint of improvement on lot (sq ft):	1,931.96	Total land area of lot (sq ft):	1,933.53

This site is ineligible based on this test because the area of the footprint of the improvement is not less than or equal to 15% of the land area of the lot. Please move on to the next site eligibility test.

**Test 4: The questions below will test your site's eligibility based on underutilized buildings as of the Operative Date.**

Was there a building(s) on the lot on the Operative Date?	Y
---	---

What was the tax class of the lot on the Operative Date?	4
--	---

**Test 7: The questions below will test your site's eligibility based on underutilized former non-residential building.**

Did work commence on or after May 12, 2000?	Y
---	---

Is lot located in the Borough of Manhattan on either side or south of 110th Street?	Y
---	---

Is lot located in the outer boroughs or in Manhattan north of 110th Street?

N

**Test 8: The questions below will test your site's eligibility based on underutilized former non-residential building in Manhattan on either side or south of 110th Street (assessed valuation test).**

Actual assessed valuation of building in the Fiscal Year in which the Operative Date falls

\$72,000.00

Actual assessed valuation of land in the Fiscal Year in which the Operative Date falls:

\$130,500.00

50% of the assessed valuation of the land on the Operative Date is:

\$65,250.00

This site is ineligible based on this test because the actual assessed valuation of the building is not less than or equal to 50% of the actual assessed valuation of the land. Please move on to the next site eligibility test.

**Test 10: The questions below will test your site's eligibility based on underutilized former non-residential building in Manhattan on either side or south of 110th Street (Floor Area Ratio test).**

Zoning district of lot:

C6-4

Zoning map number:

8d

Maximum residential F.A.R. in this zoning district:

10.00

Identify Zoning Resolution section which confirms maximum residential F.A.R. above:

34-112

Maximum non-residential F.A.R. in this zoning district:

10.00

Identify Zoning Resolution section which confirms maximum non-residential F.A.R. above:

33-122

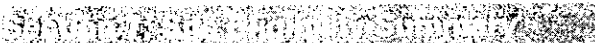
Floor Area of former non-residential building:

5,461.00

Total lot area (sq ft):

1,933.53

This site has passed this 421-a eligibility test.



Lot	Square Feet	421-a Eligible
0049	1933.53	Pass



Part A: Contact Information for Certifying Professionals

Architect's/Engineer's Certification to be provided by:

Name

Brian E. Boyle, R.A.

Business Name

Brian E. Boyle, AIA

House No

75

Street

Spring Street, 6th Floor

City New York  
State NY  
Phone Number (212) 334-7402  
Opinion of Counsel to be provided by:  
Name Harvey I. Shiff  
Business Name Lawrence J. Berger, P.C.  
House No 200  
Street Madison Avenue  
City New York  
State NY  
Phone Number (212) 532-0222



- Submit the most recent approved building plans. However, if the most recent approved building plans were already submitted to HPD as part of an earlier Architect's/Engineer's Certification, you do not need to re-submit the building plans. ☒
- Appraisal documentation ☒
- Surveys ☒
- Copy of 421-a negotiable certificates or 421-a Affordable Housing Written Agreement and contract to purchase certificates. ☒
- Architect's/Engineer's Certification ☒
- Opinion of Counsel ☒

Please Keep a Copy of this Application for Your Records

State of New York )

) ss.:

County of NY

**Brian Shatz**, being duly sworn, under penalty of perjury, deposes and says:

1. a. I, **Brian Shatz, Manager, 534 West 42nd Street LLC**, am making this application for a Preliminary Certificate of Eligibility for 421-a Partial Tax Exemption (the "Application").

[If applicable:]

\_\_\_ 1.b. I held fee title or the leasehold interest under a ground lease of the real property identified in the Application at the time of the original filing, and I am authorized to make the Application on behalf of all persons or entities that currently hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application.

2. I have read and understand the requirements for 421-a Partial Tax Exemption.

3. I have reviewed the Application and I swear that all information set forth in the Application is true and correct and I submit the Application to induce the City of New York to grant 421-a Partial Tax Exemption.

4. The multiple dwelling will be owned as a cooperative or condominium, and is not required to be registered with the State of New York Department of Housing and Community Renewal. However, if the prospective cooperative or condominium plan has not been declared effective for filing at a time fifteen months after issuance of a Final Certificate of Eligibility for 421-a Partial Tax Exemption, these rental units must be registered with the New York State Division of Housing and Community Renewal no later than fifteen calendar days after such fifteen month period or, if the building is not occupied, such units must be registered prior to initial occupancy, and proof of registration submitted.

5. As required pursuant to §11-245.8 of the Administrative Code of the City of New York and §6-05(d)(1) of Chapter 6, Title 28 of the Rules of the City of New York, whenever any household appliance in any dwelling unit, or any household appliance that provides heat or hot water for any dwelling unit in the multiple dwelling, is installed or replaced with a new household appliance on or after December 19, 2006, such new appliance shall be certified as Energy Star, unless either (A) an appropriately-sized Energy Star certified household appliance is not manufactured, such that movement of walls or fixtures would be necessary to create sufficient space for such appliance, and/or (B) an Energy Star certified boiler or furnace of sufficient capacity is not manufactured.

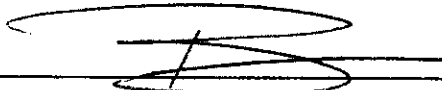
[For purposes of this paragraph, (A) "household appliance" shall mean any refrigerator, room air conditioner, dishwasher or clothes washer, within a dwelling unit in the multiple dwelling that is provided by the owner, and any boiler or furnace that provides heat or hot water for any dwelling unit in the multiple dwelling, and (B) "Energy Star" shall mean a designation from the United States Environmental Protection Agency or Department of Energy indicating that a product meets the energy efficiency standards set forth by the agency for compliance with the Energy Star program.]

I understand that if the City of New York finds that the Application and/or supporting documents, including but not limited to, the most recent Department of Buildings approved building plans; the survey; and contain incorrect or misleading information of substantial nature, or have omitted information of a material nature, and in the event that such breach or omission is not cured within ninety (90) days of notice thereof, the Department of Housing Preservation and Development shall advise the Department of Finance that the 421-a Certificate of Eligibility has been revoked or that the amount of 421-a Partial Tax Exemption has been reduced, and the Department of Finance shall retroactively or prospectively withdraw or reduce 421-a Partial Tax Exemption and reinstate the amount of taxes which would have been exempted and charge interest at the rate prescribed by the New York City Administrative Code to be calculated from the day on which such taxes would have been payable but for the 421-a Partial Tax Exemption.

I understand that in order to qualify for 421-a benefits, a site must have been vacant, predominantly vacant, underutilized, or improved with a non-conforming use three years prior to the commencement of construction (i.e., "Operative Date"). The site eligibility statements and/or calculations stated in Section 7 of the Application accurately reflect the conditions at the site on the Operative Date and confirm that the real property identified in the Application meets the site eligibility requirement for 421-a benefits.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.



Owner's Signature

*Brian Shatz*

Owner's Name

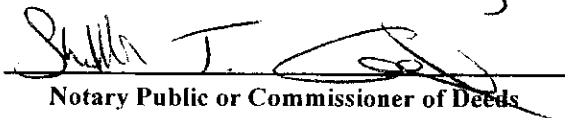
*Manager*

Owner's Title

*534 West 42nd Street LLC*

Owner's Affiliation

Sworn to me before this 16 day of May, 20 12



Notary Public or Commissioner of Deeds

**SHOSHANA T. CARMEL**  
Notary Public, State of New York  
No. 01CA6153596  
Qualified in New York County  
Commission Expires October 10, 2014



City of New York  
Department of Housing Preservation and Development  
Office of Development  
Division of Housing Incentives  
Tax Incentive Programs Unit  
421-a Partial Tax Exemption Program  
100 Gold Street, 3-Y4  
New York, NY 10038

**Architect's / Engineer's Certification**  
**In Support of Preliminary Application for 421-a Partial Tax Exemption**

Re: Online Application Submission Confirmation # **44820**

Docket # **TEO8773**

Address(es) / Tentative Lot (s)

**Building 1: 534, West 42 Street, 49**

Borough **MANHATTAN** Block **01070**

Lot(s) **0049**.

Total Number of Buildings **1**

**Brian E. Boyle, R.A.** , being duly sworn, under penalty of perjury, deposes and says:

1. I am a Registered Architect or Professional Engineer licensed to practice by and in good standing with the New York State Department of Education. As such, I certify to the truth of the matters set forth below in connection with the above pending application (the "Application") for 421-a Partial Tax Exemption.
2. The Building plans accompanying the Architect's/Engineer's Certification signed by me on **4/9/2008** and previously submitted to HPD, each page of which was initialed and dated by me, are a true copy of the most recent plans approved by the New York City Department of Buildings (hereinafter, "**Plans**").
3. The calculations in Section 6 of the Application are a true and accurate reflection of the layout and dimensions of the Plans, and the room count and dwelling unit count as shown in Section 6 of the Application are in compliance with Section 6-01(c) of Chapter 6 of Title 28 of the Rules of the City of New York (the "421-a Rules").
4. The calculations of Aggregate Floor Area and Floor Area of Commercial Community Facilities and Accessory Use Space of the building(s) applying for 421-a Partial Tax Exemption in Section 6 of the Application are in compliance with Sections 6-01(c) and 6-06(b) of the 421-a Rules and the guidance provided in the latest edition of Department of Housing Preservation and Development's Frequently Asked Questions, dated **6/17/2004**.

The annexed survey, dated 6/24/2005, as prepared by Thomas Piciocco, a licensed land surveyor of Earl B. Lovell-S.P. Belcher, Inc. (name of company, if applicable) is a true copy of the survey used to determine the eligibility of the site for 421-a Partial Tax Exemption. The site eligibility statements and/or calculations stated in Section 7 of the Application accurately represent the conditions at the site on the Operative Date (i.e. 36 months prior to the commencement of construction) and the current lot or lots indicated on the Application are eligible for 421-a Partial Tax Exemption.

5. I have read the specific sections of the 421-a Rules applicable to this Project and understand them. I have relied upon this understanding for purposes of the representations I am making in this affidavit. 6/7/2007 is the accurate date of "commencement of construction," (i.e., the date upon which excavation and construction of initial footings and foundations commenced in good faith), for the above-referenced project and is consistent with the definitions of "commencement of construction" in Section 6-01(c) and "commence" in Section 6-09(a) of the 421-a Rules, as applicable.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.

I understand that if the Department of Housing Preservation and Development finds that any of the statements are incorrect, I may, in HPD's sole discretion, be prevented from certifying any future projects with HPD. Furthermore, I understand that submission of a false certification shall be deemed to be professional misconduct pursuant to Section 6509 of the Education Law.

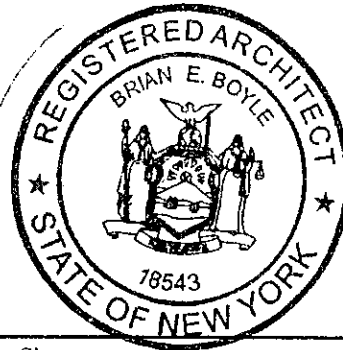
Sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public or Commissioner of Deeds

[OR

Dated: May 29, 2012

Seal of RA or PE]



*[Handwritten Signature]*

\_\_\_\_\_  
Architect / Engineer Signature

***Brian E. Boyle, R.A.***

\_\_\_\_\_  
Architect / Engineer Name

***Brian E. Boyle, AIA***

\_\_\_\_\_  
Business Name

***75 Spring Street, 6th Floor New York, NY***

\_\_\_\_\_  
Business Address

***(212) 334-7402***

\_\_\_\_\_  
Phone Number

LAW OFFICES  
**LAWRENCE J. BERGER, P. C.**

200 MADISON AVENUE  
SUITE 1902  
NEW YORK, N.Y. 10016

(212) 532-0222  
FAX (212) 532-0224

LAWRENCE J. BERGER  
STEVEN E. RESNICK  
HARVEY I. SHIFF

Date: 2/4/2011

LESLIE R. PERLMAN  
SETH J. GOLDBERG

Director, 421-a Programs  
The City of New York  
Department of Housing Preservation and Development  
100 Gold Street Room 3-Y4  
New York, New York 10038

Re: Online Application Submission Confirmation # 44820

Docket # TE08773

Address(es) / Tentative Lot (s)

Building 1: 534, West 42 Street, 49

Borough MANHATTAN Block 01070

Lot(s) 0049.

Total Number of Buildings 1

Harvey I. Shiff, an attorney admitted to practice in the Courts of the State of New York, affirms the following to be true under the penalties of perjury pursuant to Civil Practice Law and Rules 2106:

1. I have acted as legal counsel to 534 West 42nd Street LLC ("Owner") in connection with its above referenced application for a partial real property tax exemption pursuant to Section 421-a of the Real Property Tax Law (the "Application").
2. I have reviewed all of the organizational documents of the Owner and such other certificates and instruments as necessary for the purpose of this opinion.
3. Owner is a Limited Liability Company (LLC), which is duly formed and validly existing under the laws of the State of New York
4. Brian Shatz is duly authorized to execute and deliver the Application to the City of New York Department of Housing Preservation and Development on behalf of the Owner and to make the representations and warranties contained in the Application.

X 5a. Owner holds fee title to the real property identified in the Application.

\_\_\_\_ 5b. I have attached a title report from \_\_\_\_\_, dated \_\_\_\_\_, which indicates that Owner holds fee title to the real property identified in the Application.

\_\_\_\_ 5c. Owner held fee title to the real property identified in the Application at the time of the original filing.

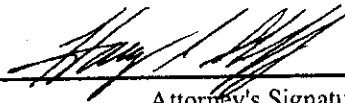
\_\_\_\_ 5d. I have attached a title report from \_\_\_\_\_, dated \_\_\_\_\_, which indicates that Owner held fee title to the real property identified in the Application at the time of the original filing.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.

I understand that if the Department of Housing Preservation and Development finds that any of the statements herein are incorrect, I may, at HPD's sole discretion, be prevented from delivering any certification or legal opinion to HPD in connection with any future project. Furthermore, I understand that any false statement may be deemed to be professional misconduct pursuant to Section 90 of the Judiciary Law.

Sincerely,



\_\_\_\_\_  
Attorney's Signature

Harvey I. Shiff

\_\_\_\_\_  
Attorney's Name

**APPRAISAL REPORT**  
**OF**  
**534 W. 42 STREET**  
**NEW YORK, NEW YORK**  
**BLOCK 1070, LOT 49**

**AS OF JUNE 7, 2007**

**ELIOT W. BERRY & CO., INC.**  
**501 FIFTH AVENUE - SUITE 1802**  
**NEW YORK, NEW YORK 10017**

ELIOT W. BERRY & CO., INC.  
501 Fifth Avenue - Suite 1802  
New York, New York 10017  
(212) 768-7000  
[eliotberry@verizon.net](mailto:eliotberry@verizon.net)

April 25, 2008

Harvey Schiff, Esq.  
Lawrence Berger PC  
200 Madison Avenue - Suite 1902  
New York, New York 10016

**RE: VALUATION OF VACANT LAND  
534 W. 42 STREET  
NEW YORK, NEW YORK  
BLOCK 1070, LOT 49  
AS OF JUNE 7, 2007**

Dear Mr. Schiff:

Per your request, we have prepared an appraisal of the above referenced premises.

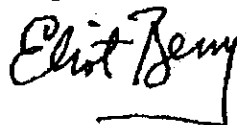
The subject lot contains 1,933.53 square feet and was vacant land as of the appraisal date. The lot measures 19.58' wide by 98.75' deep. The lot is less than 45' wide and as such is considered a "sliver" parcel. As a result, though zoned C6-4, it may only be improved with a building of 11,978 square feet.

Based on our research and analysis, the market value of the subject land, as of the date of appraisal, June 7, 2007, is:

**THREE MILLION (\$3,000,000) DOLLARS**

Exposure time at this price is estimated at three months. Marketing time is estimated at six months.

Respectfully submitted,



Eliot Berry, ASA  
Senior Member, American Society of Appraisers  
N.Y. State Certified Real Estate Appraiser No. 6448  
EWB/gl

**SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS**

<b>PROPERTY IDENTIFICATION:</b>	534 W. 42 STREET New York, New York Block 1070, Lot 49
<b>LAND AREA:</b>	1,933.53± square feet (19.58'' wide x 98.75' deep)  Sliver Site (less than 45' wide)
<b>MAXIMUM BUILDABLE FAR:</b>	11,978 Square Feet
<b>ZONING:</b>	C6-4 (minimized by sliver lot)
<b>DATE OF REPORT:</b>	April 25, 2008
<b>DATE OF VALUE:</b>	June 7, 2007
<b><u>VALUE ESTIMATE:</u></b>	
<b>Via Sales Comparison Approach</b>	<b>\$3,000,000</b>
<b>FINAL VALUE ESTIMATE</b>	<b>\$3,000,000</b>

**ELIOT W. BERRY & CO., INC.**



**SCOPE OF THE APPRAISAL**

This appraisal has been conducted using applicable standard appraisal techniques and in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute. The appraised value is exclusive of movable equipment, trade fixtures and personal property and is limited to the real estate only.

**PROPERTY IDENTIFICATION**

As of the appraisal date, June 7, 2007, the subject property is vacant land located at 534 W. 42 STREET in the County of New York. The municipal jurisdictions governing the subject property are New York City, New York County and the State of New York. The subject property is recorded in the City of New York property tax rolls as Block 1070, Lot 49.

**PURPOSE OF THE APPRAISAL**

The purpose of the appraisal is to estimate the market value of the Fee Simple Interest in the subject land as of June 7, 2007.

**FUNCTION OF THE APPRAISAL**

The function of this appraisal is to estimate the market value of the property as of June 7, 2007. The report is to be used as an estimate of the value for HPD, which may use it in attributing rents to the building to be constructed on the subject site.

**ELIOT W. BERRY & CO., INC.**

**DEFINITION OF MARKET VALUE**

Market value is defined in the Dictionary of Real Estate Appraisal, 2nd edition, 1989, as:

*"The most probable price, as of a specified date, in cash, terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress."*

Fundamental assumptions and conditions presumed in this definition are:

1. Buyer and seller are motivated by self-interest.
2. Buyer and seller are well informed and are acting prudently.
3. The property is exposed for a reasonable time on the open market.
4. Payment is made in cash, its equivalent, or in specified financing terms.
5. Specific financing, if any, may be the financing actually in place or on terms generally available for the property type in its locale on the effective appraisal date.
6. The effect, if any, on the amount of market value of atypical financing, services, or fees shall be clearly and precisely revealed in the appropriate sections of the report.

**Exposure Time** is defined in the Dictionary of Real Estate Appraisal, 3rd edition, 1993, as follows:

- "1. The time a property remains on the market
2. The estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of appraisal...Exposure time is always presumed to occur prior to the effective date of appraisal. The concept of reasonable exposure encompasses not only adequate, sufficient and reasonable effort. Exposure time is different for various types of real estate and value ranges and varies under various market conditions."

**Marketing Time (or Market Period)**

- "1. The time it takes an interest in real property to sell on the market subsequent to the date of an appraisal.
2. Reasonable marketing time is an estimate of the amount of time it might take to sell an interest in real property at its estimated market value during the period immediately after the effective date of appraisal; the anticipated time required to expose the property to a pool of prospective purchasers and to allow appropriate time for negotiation, the exercise of due diligence, and the consummation of a sale at a price supported by current market conditions. Marketing time differs from exposure time, which is always presumed to precede the effective date of the appraisal."

**OWNERSHIP HISTORY**

Public records indicate title to the subject property is owned by Dojo West 42<sup>nd</sup> Street Realty. The property was purchased for \$1,800,000 November 3, 2004.

**AREA AND NEIGHBORHOOD ANALYSIS**

The subject neighborhood is located on the far west side of Manhattan between Tenth and 11<sup>th</sup> Avenues. Development in the 42<sup>nd</sup> Street corridor has been primarily commercial. Residential development of the subject site is minimized as it is a "sliver" site, less than 45' wide.

**DESCRIPTION OF THE SITE**

The subject lot is located on W. 42nd Street between Tenth and Eleventh Avenues in Manhattan, City and State of New York. The subject lot contains 1,933.53 square feet and was vacant land as of the appraisal date. The lot measures 19.58'' wide by 98.75' deep. The lot is less than 45' wide and as such is considered a "sliver" parcel. As a result, though zoned C6-4, it may only be improved with a building of 11,978 square feet.

All public utilities including electricity, gas, telephone, water and city sewers service the site.

**ELIOT W. BERRY & CO., INC.**

## ZONING

The subject property is located in a C6-4 residential zone. According to the Zoning Handbook, C6 districts are zoned for a wide variety of high bulk commercial uses requiring a central location. Most C6 districts are in Manhattan and provide for corporate headquarters, large hotels, entertainment facilities, retail stores and some residential development in mixed buildings.

C6-1A is a non-contextual district mapped in regional centers (Downtown Jamaica, for example). The designation includes the same bulk provision as C6-1, but imposes parking requirements appropriate for areas outside of Manhattan. All other C6 districts are exempt from parking requirements.

C6-2A is a contextual commercial district which is the equivalent of an R8A contextual district. It is currently mapped in Greenwich Village, and near Union Square in Manhattan.

C6-3A and C6-4A are medium bulk contextual commercial districts equivalent to R9A and R10A residential districts, respectively.

C6-1: General Central Commercial District

Commercial FAR: 6.0 (7.12 with bonus)

C6-1A: Regional Subcenters

Commercial FAR: 6.0 (9.0 with bonus)

C6-2: General Commercial District Outside Central Business District

Commercial FAR: 6.0 (7.2 with bonus)

C6-2A: Contextual Commercial District Outside Central Business District

Commercial FAR: 6.0

C6-3: General Commercial District Outside Central Business District

Commercial FAR: 6.0 (7.2 with bonus)

C6-3A: Contextual Commercial District Inside the Central Business District

Commercial FAR: 6.0

C6-4: Medium Bulk Office District

Commercial FAR: 10.0 (12.0 with bonus)

## HIGHEST AND BEST USE, AS IF VACANT

Given maximum allowable FAR of 10 in this C6-4 zone, the subject land (1,933.53 square feet vacant), if built to maximum FAR of 10, the site hypothetically could contain an improvement of not more than 19,335 square feet. However, the subject site is a "sliver" lot and can be improved with improvements of only 11,978 square feet.

**ELIOT W. BERRY & CO., INC.**

## APPRAISAL PROCESS

This section of the report explains the applicability of recognized appraisal methods, reviews the work done in the valuation process, and sets forth the reasoning that supports each opinion or conclusion.

### Applicability of Approaches

**The Cost Approach:** In this approach, the cost to replace the improvements is estimated. A deduction is made for any depreciation, and the result is combined with the estimated value of the land. The approach is applicable when each component is independently measurable, and when the sum of all components is believed to reflect fair value. The building was erected in 1900, making the Cost Approach unfeasible.

**The Sales Comparison Approach:** This approach compares the subject property to other properties that have changed hands fairly recently, at known price levels. The approach is most meaningful when there is adequate market data involving comparable properties. Reliability of the approach varies directly with the quantity and quality of available market data.

**The Income Capitalization Approach:** This approach analyzes the property's capacity to generate income (or other monetary benefit) and converts this capacity into an indication of value. The approach is suitable for properties that have obvious earning power and investment appeal, but inappropriate for properties that have no readily discernible income potential. This approach is generally the preferred technique for appraising income producing properties because it most closely reflects the investment rationale and strategies of typical buyers. However, the subject is a development site, with no income stream. Therefore, the Income Approach has not been employed.

### Applicability to Subject Property:

The Sales Comparison Approach has been used in this valuation of 1,933.53 square feet of vacant land as of the appraisal date. The subject is a sliver lot that can be improved with only 11,978 square feet.

### SALES COMPARISON APPROACH

The Sales Comparison Approach is most viable when an adequate number of properties of similar type have been sold recently or are currently for sale in the subject area's market. The application of this approach produces a value indication for a property through comparison with similar properties that have sold within a time frame applicable to a potential sale of the subject.

The sales prices of properties judged to be the most comparable tend to set a range of value into which the value indication for the subject property falls.

In analyzing the subject property via the Sales Comparison Approach, we have analyzed several sales of developable land from the subject and neighboring zip codes. All sales are development sites improved at the time of sale with buildings that would be demolished before construction.

The four (4) comparable sales are as follows:

**ELIOT W. BERRY & CO., INC.**

COMPARABLE MIDTOWN FAR SALES					
	SALE 1	SALE 2	SALE 3	SALE 4	SUBJ.
Address	12-18 W. 53 St.	13-14-47 Street	208-210 E. 52 St.	224-5th Ave. (26-27 St.)	534 W. 42 St.
Block/Lot	1270/48,47	1283/11	1325/48	828/39	1070/49
Price	\$11,000,000	\$10,400,000	\$16,000,000	\$13,000,000	Sliver Lot
Date	3/29/05	8/22/2006	8/15/2006	4/11/2006	4/21/07
Year Built	1920	1910	1915	1980	1910
Lot Size/SF	4,000 sf (40 x 100')	2,500 sf (25' x 100')	4,000 sf (40' x 100')	2,800 sf (28' x 100')	1,934 sf (19.58' x 98.75')
Zoning	C5-P	C5-2.5	C6-6	C5-2	C6-4
FAR	8	12	15	10	10 but Sliver Lot
Buildable FAR	32,000	30,000 sf	60,000 sf	28,000 sf	11,978 sf
Price/SF/FAR	\$344	\$347	\$267	\$464	
<b>Adjustments:</b>					
Market Conditions	+24%	+12%	+16%	+12%	
Location	-10%	-20%	-10%	-20%	
Zoning/ Sliver Lot (45')	-30%	-20%	-30%	-30%	
Total Adj.	-16%	-28%	-24%	-38%	
Price/SF/FAR	\$289	\$250	\$203	\$288	

ELIOT W. BERRY &amp; CO., INC.

### EXPLANATION OF ADJUSTMENTS

The subject site contains 1,935 +/- square feet of site area that, due to the sliver nature of the subject lot, can be improved only with 11,978 square feet of building.

### **MARKET CONDITIONS:**

Developable land in Manhattan was still in demand as of the appraisal date, though the market was showing early signs of cooling. We have adjusted all the sales by +1% per month to the date of value.

### **LOCATION:**

The subject is located between Tenth and Eleventh Avenues on W. 42<sup>nd</sup> Street. This is not a prime residential location, hence the downwards locations to the comparable development sites.

### **ZONING/SLIVER LOT**

As noted, size of the developable FAR is a key to development in Manhattan. Larger sites are more desirable as the size of the land contributes to the allowable building size and the return that can be anticipated for what is to be constructed on a development site. The subject site is a "sliver" site. It is less than 45' wide and as such is limited to the size of improvements that can be built on the site.

### **VALUATION VIA SALES COMPARISON APPROACH**

After adjustments, the sales ranged from \$205 to \$289 per square foot.

While the market was still strong as of the date of value, June 7, 2007, the nature of the subject sliver site is such that only a very small building could be built on it. Sale 2, also less than 45' wide, was part of an assemblage and was thus able to maximize its FAR. We have emphasized Sale 2 and have adopted a value estimate of \$250 per square foot, as follows:

$$\begin{array}{rcl} 11,978 \text{ SF of DEVELOPABLE FAR} \times \$250/\text{SF/FAR} & = & \$2,994,500 \\ \text{SAY:} & & \$3,000,000 \end{array}$$

### **VALUE ESTIMATE VIA SALES COMPARISON APPROACH:**

**THREE MILLION (\$3,000,000) DOLLARS**

**ELIOT W. BERRY & CO., INC.**



## CERTIFICATE OF VALUE

**PREMISES: 534 W. 42 STREET  
NEW YORK, NEW YORK**

I, ELIOT W. BERRY, CERTIFY, THAT to the best of our knowledge and belief,...

THAT the statements of fact contained in this report are true and correct.

THAT the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are our personal, unbiased professional analyses, opinions and conclusions.

THAT we have no present or prospective interest in the property that is the subject of this report, we have no personal interest or bias with respect to the parties involved.

THAT our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Practice of the American Institute of Real Estate Appraisers.

THAT the use of this report is subject to the requirements of the American Institute of Real Estate Appraisers relating to review by its duly authorized representatives.

THAT Eliot W. Berry has personally conducted a physical inspection of the Subject Site and has written the enclosed report.

THAT we have employed accepted and tested methods in arriving at our conclusions as to value.

THAT the opinions of value expressed in the Report and in this Certificate are made subject to the "Assumptions and Conditions" appended to the Report and made a part thereof.

THAT as a result of our examination, investigation and analysis of the property and all the data pertinent thereto and in the light of our experience, our estimate of value of the property is:

**THREE MILLION (\$3,000,000) DOLLARS**



---

ELIOT BERRY, ASA  
New York State Certified Appraiser No. 6448  
Senior Member, American Society of Appraisers

**ELIOT W. BERRY & CO., INC.**

**UNDERLYING ASSUMPTIONS AND CONTINGENT CONDITIONS**

For the purpose of this appraisal, it is assumed:

1. That the legal description is correct.
2. That the title to the property is legally sufficient.
3. That there are no encumbrances or defects of title.
4. That the property is free and clear of all liens.
5. That the property will be efficiently managed and properly maintained.
6. That there are no structural conditions which are not apparent. The engineer's report referred to herein reflects the structural damage that has occurred at the property.
7. That there are no sub-surface soil conditions which would cause extraordinary development costs.

The appraisal is made subject to the following contingent conditions:

1. That no liability is assumed because of inaccuracies or errors in said estimate and opinions.
2. That no liability is assumed as a result of matters of legal character affecting the property, such as title defects, encroachments, liens, overlapping boundaries, party wall agreements, and easements. Nor will the appraiser assume any legal liability as to the opinion of value contained in this report.
3. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.
4. This appraisal is to be used in whole and not in part. No part of it shall be used in conjunction with any other appraisal. The appraisal is invalid if so used.
5. That no survey, structural or sub-surface soil investigation was made of the property by the appraiser.
6. The appraiser herein by reason of this appraisal is not required to give testimony in court with reference to the subject property unless otherwise previously arranged.

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7. Possession of this report, or copy thereof, does not carry with it the right of publication, nor may it be used for any purpose by anyone but the applicant, without the previous written consent of the appraiser.
8. Present worth of the purchasing power of a dollar.
9. This appraisal was made for the purpose stated and should not be used for any other purpose.
10. Each finding, prediction, assumption or conclusion contained in the appraisal report is the appraiser's personal opinion and is not an assurance that an event will or will not occur. We assume that there are no conditions relating to the real estate, sub-soil or structures located on the real estate which would affect appraiser's analyses, opinions or conclusions with respect to the real estate that are not apparent.
11. The data gathered in the appraisal process (except data furnished by client) and the appraisal report will remain property of the appraiser. The appraiser will not violate the confidential nature of the appraiser-client relationship by improperly disclosing any confidential information furnished to him. The appraiser is, however, authorized by the client to disclose all or any portion of the appraisal report and the related appraisal data to appropriate representatives of the Appraisal Institute if such disclosure is required to enable appraiser to comply with the by-laws and regulations of such Institute now or hereafter in effect.
12. The client agrees that the appraisal report will not be quoted or referred to in any report or financial statement of the client or in any documents filed with any governmental agency without the prior written consent of the appraiser. Neither all nor any part of the contents of the appraisal report (especially the conclusions as to value, the identity of the appraiser or references to the Appraisal Institute) shall be disseminated to the public through advertising media, public relations media, news media, sales media or other public means of communication without the prior written consent of the appraiser.

**ELIOT W. BERRY & CO., INC.**

THE CITY OF NEW YORK  
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT  
OFFICE OF DEVELOPMENT  
RPTL Section 421-a Affordable Housing Program  
100 Gold Street, Room 937  
New York, NY 10038

**\*NEGOTIABLE CERTIFICATE OF ELIGIBILITY\***

DOCKET NUMBER	07-07	DATE OF ISSUANCE OF THIS CERTIFICATE	August 22, 2012
SITE OF AFFORDABLE UNITS	550 East 170th Street, Bronx	DATE OF EXECUTION OF WRITTEN AGREEMENT	May 11, 2007
BLOCK(S)	2925	DATE OF ISSUANCE OF (TEMPORARY) C OF O FOR AFFORDABLE UNITS	December 19, 2008
	LOT(S) 42, 48		
APPLICANT	East 170th Street Associates, L.P. c/o Atlantic Development Group, LLC		
APPLICANT'S ADDRESS	155 Avenue of the Americas, 3rd Floor, New York, NY 10013		
BENEFIT TRANSFEROR	Shao Lin Operating, LLC		
BENEFIT TRANSFEREE	534 West 42 <sup>nd</sup> Street, LLC		

8

\*If average size of units exceeds 1,200 sq. ft., see Section 6-08(b)(6) of the Rules

Whereas, the Department of Housing Preservation and Development has determined that the above-referenced Applicant has completed the construction, rehabilitation, or conversion of affordable dwelling units in accordance with the §421-a Affordable Housing Written Agreement between the City of New York's Department of Housing Preservation and Development and the Applicant;

The Commissioner has determined, therefore, that one or more eligible multiple dwellings containing the above-referenced number of units in the Geographic Exclusion Area is eligible to receive a 421-a partial Tax Exemption.

This Certificate may be conveyed or sold only by the Benefit Transferor named above, and only to the Benefit Transferee named above. This Certificate cannot be used to transfer benefits to any person or entity other than the Benefit Transferee named above. The transfer of this Certificate to the Benefit Transferee is accomplished by both the Benefit Transferor and the Benefit Transferee endorsing and notarizing this Certificate in the place indicated below. If this Certificate is not transferred in accordance with the above procedure, then the Benefit Transferor shall remain the owner of record of the above-referenced benefits if and until such time as the Benefit Transferor directs HPD, at its sole discretion, to re-issue this Certificate to another entity. After the initial endorsement and notarization by the Benefit Transferor and the Benefit Transferee, subsequent transfers of this Certificate or any portion hereof by the Benefit Transferee may be accomplished by written request to HPD accompanied by this original Certificate. Unused Certificates must be returned to HPD for voiding and re-issuance.

BENEFIT TRANSFEROR:

Shao Lin Operating, LLC

By: Jana V. Pandori  
Managing Member

Sworn to me before this

17 day of Sept 2012

C. Lopez  
Notary Public

BENEFIT TRANSFEREE:

534 West 42<sup>nd</sup> Street, LLC

By: [Signature]

Sworn to me before this

19 day of September 2012

[Signature]  
Notary Public

**CINDY LOPEZ**  
Notary Public, State of New York  
No. 01LO6103794  
Qualified in Bronx County  
Commission Expires 01-12-2016

**SHOSHANA T. CARMEL**  
Notary Public, State of New York  
No. 01CA6153598  
Qualified in New York County  
Commission Expires October 10, 2014

[Signature]  
Miriam Colón  
Assistant Commissioner  
Housing Incentives

Inclusionary Housing/  
421-a Affordable Housing  
Program Seal

MC 8/22/2012



CERTIFICATION OF BRIAN E. BOYLE, R.A.

OFFICE

Brian E. Boyle, R.A., certifies the accuracy of the information set forth below:

1. I am a Registered Architect licensed by the State of New York under License Number 18543. I make this Certification in reply to the "Preliminary Application Checklist" of HPD dated July 22, 2010.
2. The developer of the project located at 534 West 42<sup>nd</sup> Street (M/1070/49), retained me and my firm to design a new nine (9) story primarily residential structure.
3. An alteration permit was initially utilized to commence construction because a small portion of the exterior wall of the pre-existing structure was retained. It was only after after construction commenced pursuant to the Alteration Permit that the Department of Buildings required the issuance of a new building permit.
4. The site was previously improved with a three (3)-story and basement commercial structure with a one-story and basement extension that was formerly utilized as a theater and was classified in tax class 4. The floor area of the demolished structure was 5,461 sf<sup>1</sup> and the dimensions of each floor of the former structure are set forth in the footnote below.<sup>2</sup> See also attached Survey. The parts of the former structure that were retained included 668 sf of the pre-existing perimeter wall out of the total pre-existing exterior wall area of 7,356 sf that was located in the rear addition and a small part of the old foundation supporting the section of the retained perimeter walls. The floor area of the new building is 12,795 sf. and the dimensions of the new structure are set forth in the footnote 3 below.<sup>3</sup> All of the floor area of the former structure was demolished or removed so that there was no floor area remaining after the demolition. As all of the floor area of the new building is new, 100 % of the floor area of the new structure is new and thus more than 51% of the new building is new compared to the former structure.
5. There will be a total of 8 units in the condominium that will include one commercial condominium unit and seven individual residential condominium units.
6. Due to the narrow nature of the site, the small section of the rear perimeter wall was retained because the existing walls were used as shoring and removed in stages, facilitating the building of the new foundation of the new building. This allowed selective removal of the old foundation walls to perform the new foundation work in sections and this was more manageable, allowing phasing of the work and allowing work inside the small footprint of the building.

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<sup>1</sup> The vast majority of the existing building, including all floor framing, stairs, mechanical, electrical and plumbing systems, windows, doors, appliances and finishes were removed and demolished. All demolition work was performed pursuant to permit (Alt-2 type permits- # 104241562) and in accordance with filed plans, showing the extent of the demolition.

All of the pre-existing structure has been demolished except for approximately 9% of the pre-existing perimeter walls (only part of rear wall) and a small part of the old foundation supporting this retained perimeter wall. The building that was demolished contained 7,356 sf of exterior wall area and only 668 sf of the former building's wall surface remains. Attached hereto is a massing model graphically illustrating the pre-existing structure and the minor portion of the pre-existing structure that was retained and that will be integrated into the new building that has been constructed on the site

<sup>2</sup> basement dimensions: 20.445 x 89.07; first floor dimensions: 20.445 x 92.82; 2nd & 3rd floor dimensions: 20.73 x 44.25.

<sup>3</sup> basement dimensions: 20.16 x 44.00; 1st flr dimensions: 20.16 x 64.07; 2nd thru 7th floor dimensions: 20.16 x 68.75; 8th & 9th floor dimensions: 20.16 x 63.75.

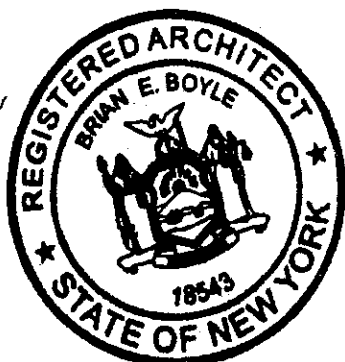
8. The NYC Building Department will issue a Certificate of Occupancy for a New Building after the completion of the construction at the Site. Originally, the building was commenced pursuant to an Alteration Type 1 Permit (Permit # 104032949). However, thereafter, the NYC Dept. of Buildings required the issuance of new building permit and the building will eventually be completed pursuant to a new building permit as issued by the New York City Building Department.

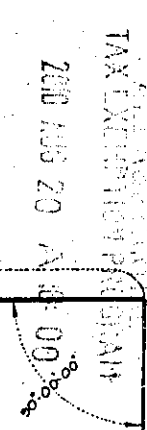
Tentative Tax Lot	Use	New or Old
1401	Retail	New
1402	Residential Apt.	New
1403	Residential Apt.	New
1404	Residential Apt.	New
1405	Residential Apt.	New
1406	Residential Apt.	New
1407	Residential Apt.	New
1408	Residential Apt.	New

11. The laundry area is located in the cellar and the residential storage area that is accessory to the individual residential condominium units are located in the rear basement section of the building.

Brian E. Boyle, R.A.

6-9410F5-421001MS-536 West 42nd St. brick building used for electronic store. 121 2ND, near

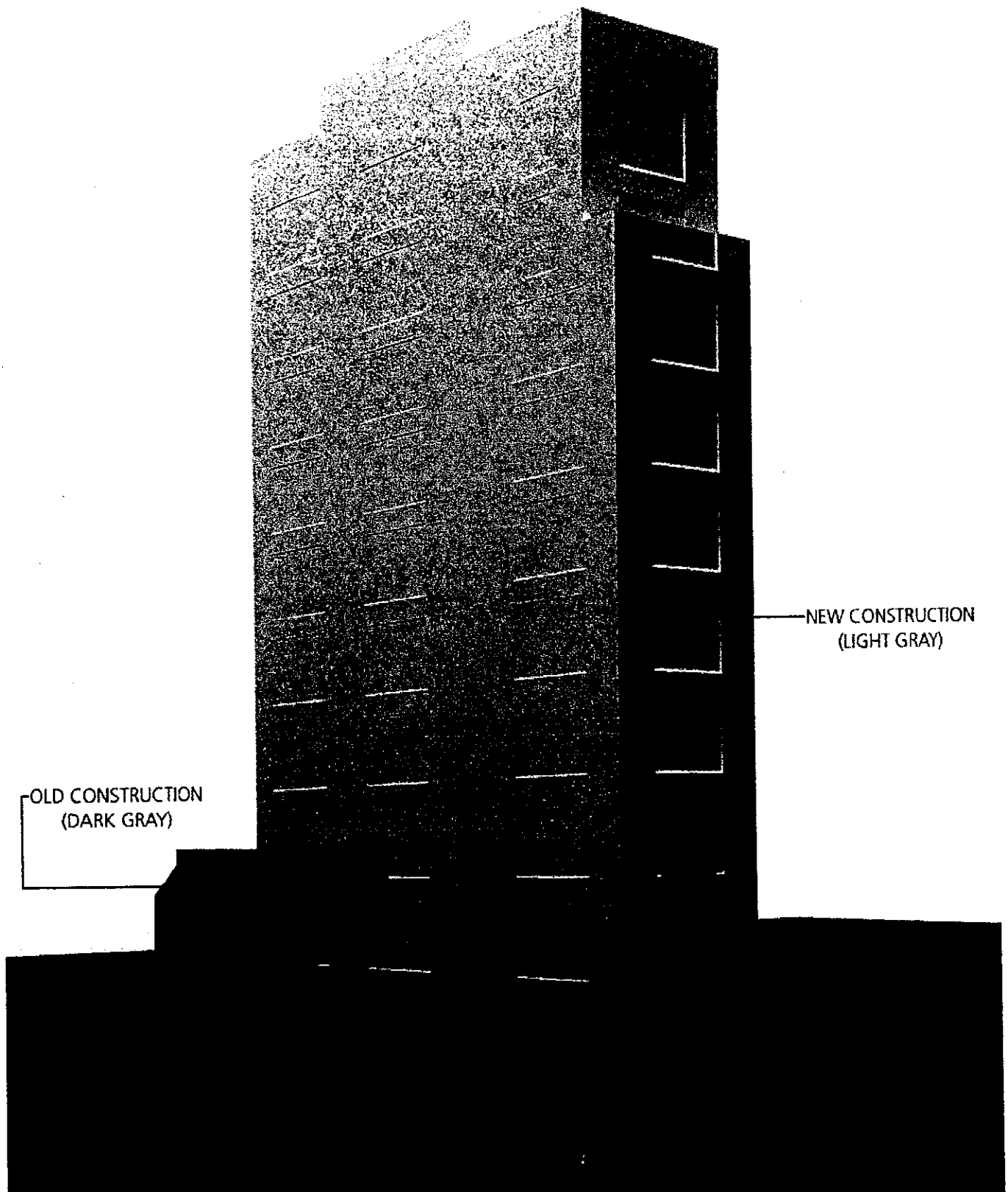


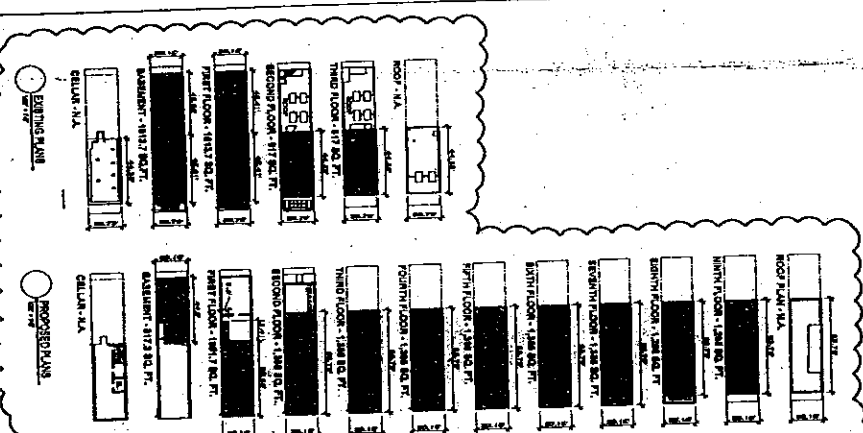


SCALE: 1" = 10'









THE DEUCE CONDOMINIUM  
534 W. 42nd ST. NY, NY  
BRIAN E. BOYLE, AIA



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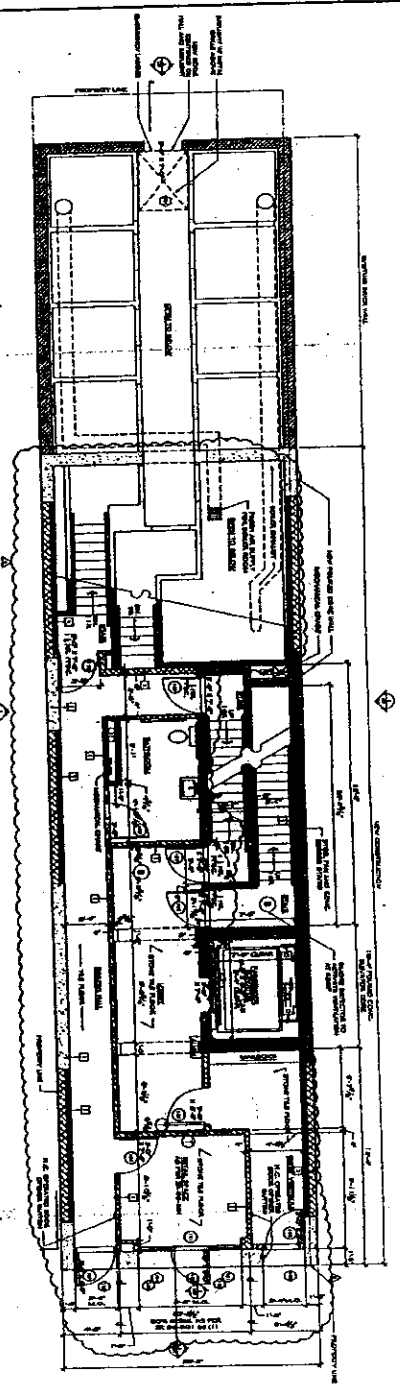
OCCUPANT & EYE REQUIREMENTS									
NAME	DOB	SEX	AGE	HT	WT	HAIR	EYES	GLASSES	REMARKS
JOHN DOE	1980-01-15	M	38	5'10"	180	BROWN	BROWN	YES	GOOD
JANE SMITH	1985-03-22	F	33	5'6"	150	BLOND	BLUE	NO	GOOD
ROBERT JONES	1978-07-10	M	40	6'2"	200	BLACK	BROWN	YES	GOOD
MICHAEL GARCIA	1990-11-05	M	28	5'8"	160	BROWN	BROWN	NO	GOOD
SARAH LEE	1982-04-18	F	36	5'4"	140	BLOND	BLUE	NO	GOOD
DAVID WILSON	1975-09-01	M	43	5'9"	170	BLACK	BROWN	YES	GOOD
EMILY ROSS	1988-06-12	F	31	5'7"	155	BROWN	BROWN	NO	GOOD
CHRISTOPHER KING	1972-02-28	M	46	6'0"	190	BLACK	BROWN	YES	GOOD
AMANDA HILL	1984-08-09	F	34	5'5"	145	BLOND	BLUE	NO	GOOD
ANDREW SCOTT	1979-12-03	M	39	5'11"	185	BROWN	BROWN	YES	GOOD
STEPHANIE ADAMS	1986-05-14	F	32	5'6"	150	BLOND	BLUE	NO	GOOD
KEVIN BAKER	1977-10-20	M	41	6'1"	195	BLACK	BROWN	YES	GOOD
NICOLE NELSON	1983-03-07	F	35	5'5"	148	BROWN	BROWN	NO	GOOD
BRANDON CROFT	1991-07-25	M	27	5'9"	165	BROWN	BROWN	NO	GOOD
ASHLEY HARRIS	1987-01-11	F	31	5'7"	152	BLOND	BLUE	NO	GOOD
JUSTIN PEREZ	1976-04-02	M	42	6'3"	205	BLACK	BROWN	YES	GOOD
KYRA STEVENSON	1989-09-16	F	29	5'8"	160	BROWN	BROWN	NO	GOOD
TYLER MORGAN	1981-12-08	M	37	5'10"	180	BROWN	BROWN	YES	GOOD
CHLOE BARNES	1985-06-24	F	33	5'6"	150	BLOND	BLUE	NO	GOOD
ANTHONY FOSTER	1974-03-19	M	44	6'0"	190	BLACK	BROWN	YES	GOOD
SKYLAR COOPER	1988-11-03	F	30	5'7"	155	BROWN	BROWN	NO	GOOD
SEAN RICHARDS	1973-08-27	M	45	6'1"	195	BLACK	BROWN	YES	GOOD
EMMA COOK	1986-02-13	F	32	5'5"	145	BLOND	BLUE	NO	GOOD
NOAH BELL	1978-05-06	M	40	6'2"	200	BROWN	BROWN	YES	GOOD
OLIVIA HENDERSON	1984-10-01	F	34	5'6"	150	BLOND	BLUE	NO	GOOD
LUKE WATSON	1979-04-23	M	39	5'11"	185	BROWN	BROWN	YES	GOOD
AVORA MURPHY	1987-07-17	F	31	5'7"	152	BROWN	BROWN	NO	GOOD
ISAC MILLER	1975-11-04	M	43	6'0"	190	BLACK	BROWN	YES	GOOD
CHARLOTTE FLEMING	1989-03-29	F	29	5'8"	160	BROWN	BROWN	NO	GOOD
LEO ROBERTS	1982-09-10	M	36	5'10"	180	BROWN	BROWN	YES	GOOD
GRACE KELLY	1985-12-05	F	33	5'6"	150	BLOND	BLUE	NO	GOOD
JOHN DOE	1980-01-15	M	38	5'10"	180	BROWN	BROWN	YES	GOOD

[illegible][illegible]

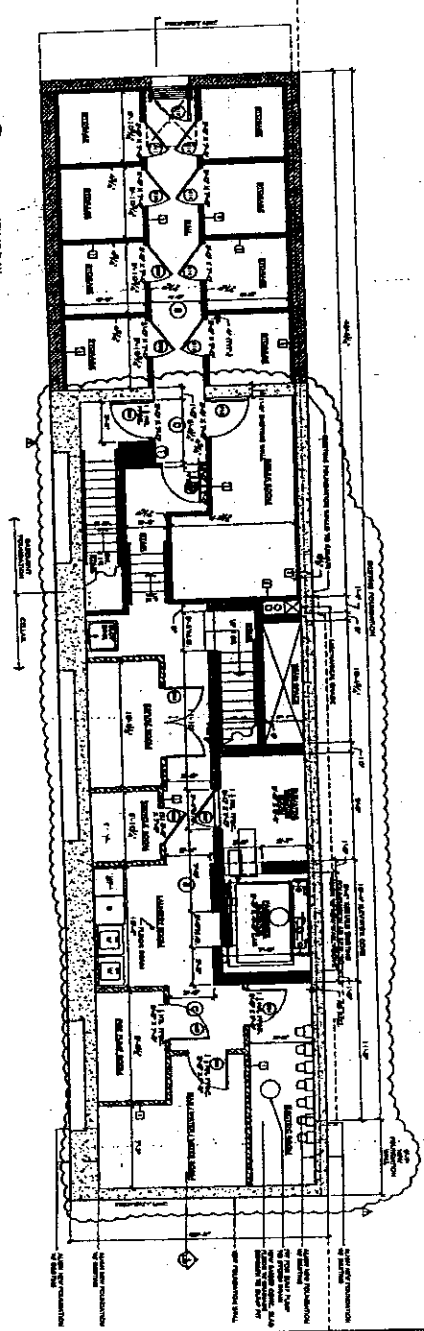
<div style="text-align: right;">  <p>             Brian E. Doyle, ALA.              Director, FBI              Washington, D.C.           </p> </div>	
<div style="text-align: right;">  <p>             This document contains information which is exempt from release under the provisions of the Freedom of Information Act, 5 U.S.C. 552, and is not to be distributed outside the Department of Justice.           </p> </div>	
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<div style="text-align: right;">  <p>             This document contains information which is exempt from release under the provisions of the Freedom of Information Act, 5 U.S.C. 552, and is not to be distributed outside the Department of Justice.           </p> </div>	

8/9/88

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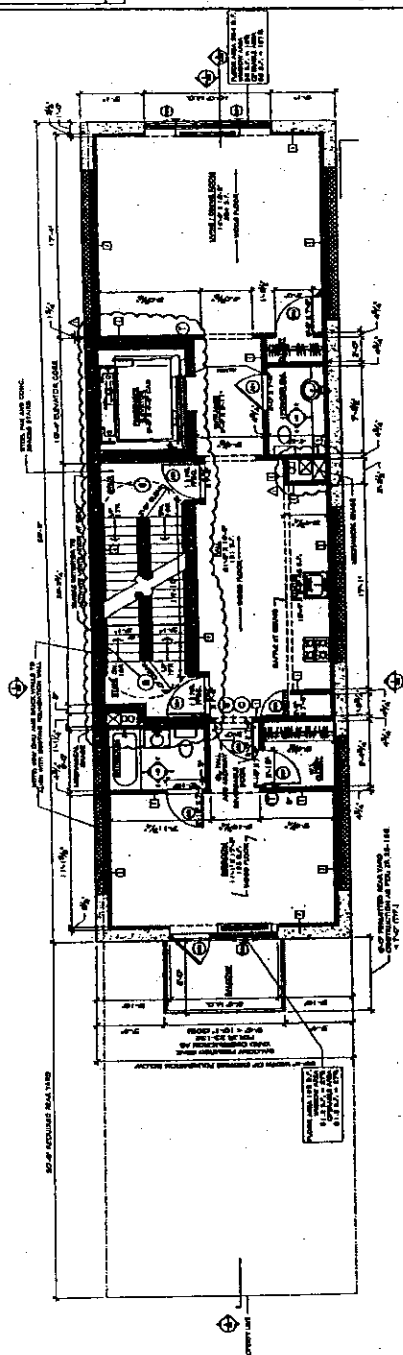
FIRST FLOOR PLAN



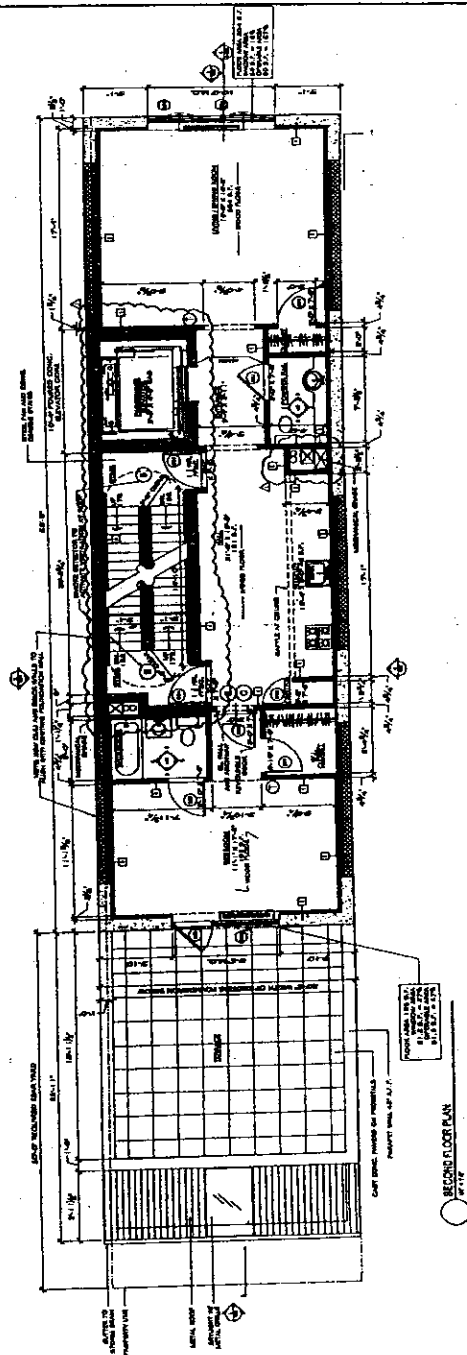
BASEMENT AND FIRST FLOOR PLAN

		<p><b>Bill E. Boyd, A.L.A.</b> Professional Engineer No. 1000, State of Alabama</p>
<p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li>1. ROOMS</li> <li>2. WALLS</li> <li>3. DOORS</li> <li>4. STAIRS</li> <li>5. ELEVATORS</li> <li>6. HALLS</li> <li>7. CLOSETS</li> <li>8. BATHS</li> <li>9. KITCHENS</li> <li>10. DINING ROOMS</li> <li>11. LIVING ROOMS</li> <li>12. BED ROOMS</li> <li>13. PORCHES</li> <li>14. TERRACES</li> <li>15. DRIVEWAYS</li> <li>16. GARAGES</li> <li>17. POOLS</li> <li>18. FOUNTAINS</li> <li>19. STATUES</li> <li>20. OTHER</li> </ul>		
<p><b>NOTES</b></p> <ol style="list-style-type: none"> <li>1. ALL ROOMS SHALL BE FINISHED TO THE CENTER LINE OF THE ADJACENT WALLS.</li> <li>2. ALL WALLS SHALL BE CONCRETE OR BRICK.</li> <li>3. ALL DOORS SHALL BE SWUNG AS SHOWN.</li> <li>4. ALL STAIRS SHALL BE CONCRETE.</li> <li>5. ALL ELEVATORS SHALL BE CONCRETE.</li> <li>6. ALL HALLS SHALL BE CONCRETE.</li> <li>7. ALL CLOSETS SHALL BE CONCRETE.</li> <li>8. ALL BATHS SHALL BE CONCRETE.</li> <li>9. ALL KITCHENS SHALL BE CONCRETE.</li> <li>10. ALL DINING ROOMS SHALL BE CONCRETE.</li> <li>11. ALL LIVING ROOMS SHALL BE CONCRETE.</li> <li>12. ALL BED ROOMS SHALL BE CONCRETE.</li> <li>13. ALL PORCHES SHALL BE CONCRETE.</li> <li>14. ALL TERRACES SHALL BE CONCRETE.</li> <li>15. ALL DRIVEWAYS SHALL BE CONCRETE.</li> <li>16. ALL GARAGES SHALL BE CONCRETE.</li> <li>17. ALL POOLS SHALL BE CONCRETE.</li> <li>18. ALL FOUNTAINS SHALL BE CONCRETE.</li> <li>19. ALL STATUES SHALL BE CONCRETE.</li> <li>20. ALL OTHER SHALL BE CONCRETE.</li> </ol>		
<p><b>THE DESIGN</b> Bill E. Boyd, A.L.A. Professional Engineer No. 1000, State of Alabama</p>		
<p><b>FLOOR PLAN</b> CELLAR / BASEMENT AND FIRST FLOOR</p>		
<p><b>A-002</b></p>		

10/2/74  
10/2/74

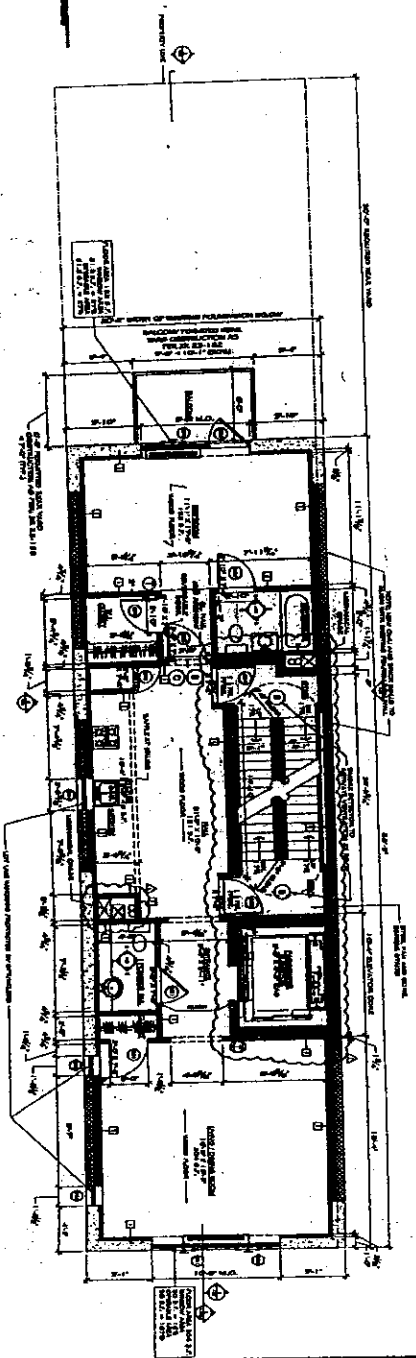
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### THIRD, FORTY-FIFTH FLOOR PLAN



SECOND FLOOR PLAN

SETH AND SEVENTH FLOOR PLAN  
DATE



**THE DESIGN**  
DATE: 10/1/80  
BY: [Signature]

**FLOOR PLANS**  
SIXTH AND  
SEVENTH FLOOR  
DATE: 10/1/80  
BY: [Signature]

**A-004**

**LEGEND**


- 1. ROOMS
- 2. STAIRS
- 3. ELEVATORS
- 4. HALLS
- 5. CORRIDORS
- 6. ENTRANCES
- 7. EXITS
- 8. PARKING
- 9. LANDSCAPE
- 10. UTILITIES
- 11. MECHANICAL
- 12. ELECTRICAL
- 13. TELEPHONE
- 14. SECURITY
- 15. FIRE
- 16. PLUMBING
- 17. HVAC
- 18. ASBESTOS
- 19. LEAD
- 20. RADON
- 21. MOLD
- 22. PEST
- 23. NOISE
- 24. AIR QUALITY
- 25. WATER QUALITY
- 26. SOIL QUALITY
- 27. CLIMATE
- 28. LIGHTING
- 29. SOUND
- 30. VIBRATION
- 31. ELECTROMAGNETIC INTERFERENCE
- 32. OTHER

**NOTES**

1. ALL ROOMS SHALL BE DESIGNED TO ACCOMMODATE THE FOLLOWING:

- 1.1. ROOMS
- 1.2. STAIRS
- 1.3. ELEVATORS
- 1.4. HALLS
- 1.5. CORRIDORS
- 1.6. ENTRANCES
- 1.7. EXITS
- 1.8. PARKING
- 1.9. LANDSCAPE
- 1.10. UTILITIES
- 1.11. MECHANICAL
- 1.12. ELECTRICAL
- 1.13. TELEPHONE
- 1.14. SECURITY
- 1.15. FIRE
- 1.16. PLUMBING
- 1.17. HVAC
- 1.18. ASBESTOS
- 1.19. LEAD
- 1.20. RADON
- 1.21. MOLD
- 1.22. PEST
- 1.23. NOISE
- 1.24. AIR QUALITY
- 1.25. WATER QUALITY
- 1.26. SOIL QUALITY
- 1.27. CLIMATE
- 1.28. LIGHTING
- 1.29. SOUND
- 1.30. VIBRATION
- 1.31. ELECTROMAGNETIC INTERFERENCE
- 1.32. OTHER

10/1/80  
[Signature]



**Brian R. Boya A.L.A.**  
Architect  
1111 Broadway  
New York, N.Y. 10036  
Tel. (212) 691-1111

**LEGEND**

- 1. EXISTING WALLS
- 2. EXISTING DOORS
- 3. EXISTING WINDOWS
- 4. EXISTING STAIRS
- 5. EXISTING ELEVATORS
- 6. EXISTING MECHANICAL ROOMS
- 7. EXISTING ELECTRICAL ROOMS
- 8. EXISTING PLUMBING ROOMS
- 9. EXISTING HVAC ROOMS
- 10. EXISTING ROOF
- 11. EXISTING FLOOR
- 12. EXISTING CEILING
- 13. EXISTING LIGHTING
- 14. EXISTING SOUNDPROOFING
- 15. EXISTING FIRE PROOFING
- 16. EXISTING SOUND PROOFING
- 17. EXISTING FIRE PROOFING
- 18. EXISTING SOUND PROOFING
- 19. EXISTING FIRE PROOFING
- 20. EXISTING SOUND PROOFING

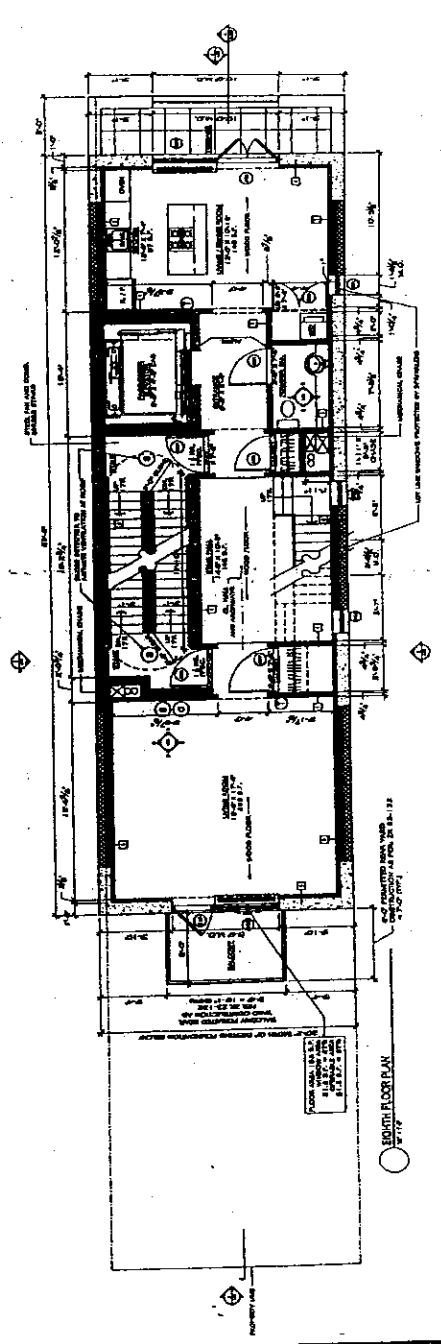
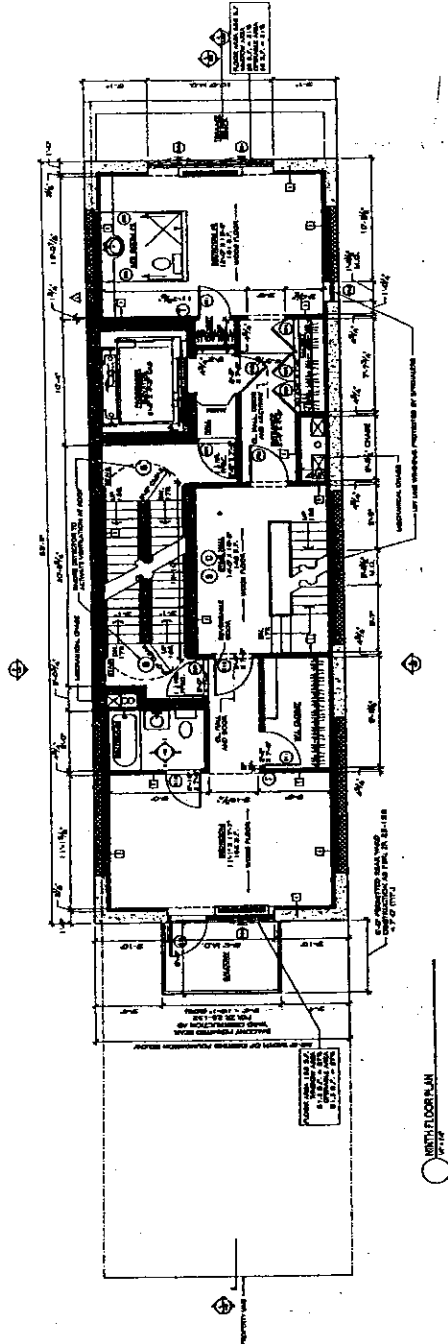
**NOTES**

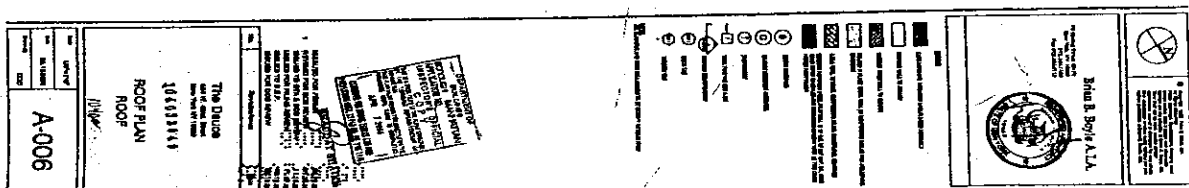
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.
2. ALL MATERIALS SHALL BE OF THE BEST QUALITY AND SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT.
3. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
4. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.
5. ALL MATERIALS SHALL BE OF THE BEST QUALITY AND SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT.
6. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

**THE DESIGN**  
Architect  
1111 Broadway  
New York, N.Y. 10036  
Tel. (212) 691-1111

**1111 BROADWAY  
FLOOR PLANS  
EIGHTH AND  
NINTH FLOOR**


**A-005**

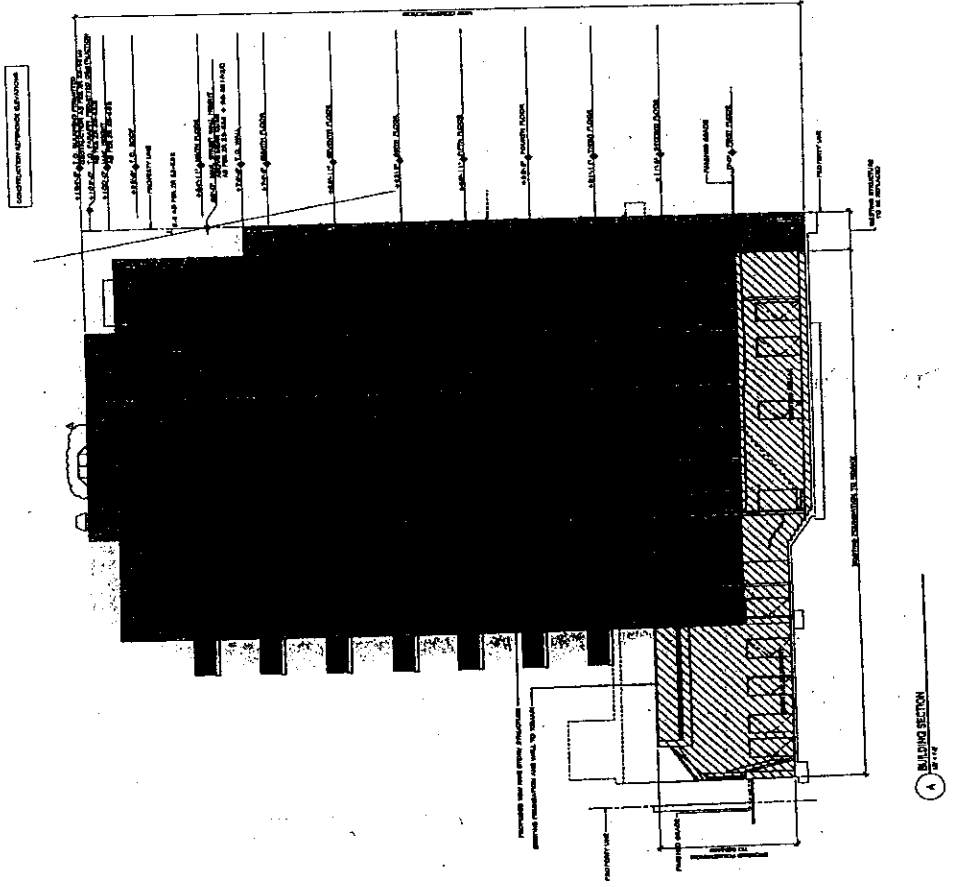






27 10/14/34


 State E. Boyle A.L.A. Architect 100 N. Dearborn St. Chicago, Ill.	THE HOUSE 18423344 BUILDING SECTION 1/4"	A-200



[illegible]

80/6/14

**Blair & Boyle AIA**



Architects  
1000 15th St. N.W.  
Washington, D.C. 20005  
Tel. (202) 331-1100

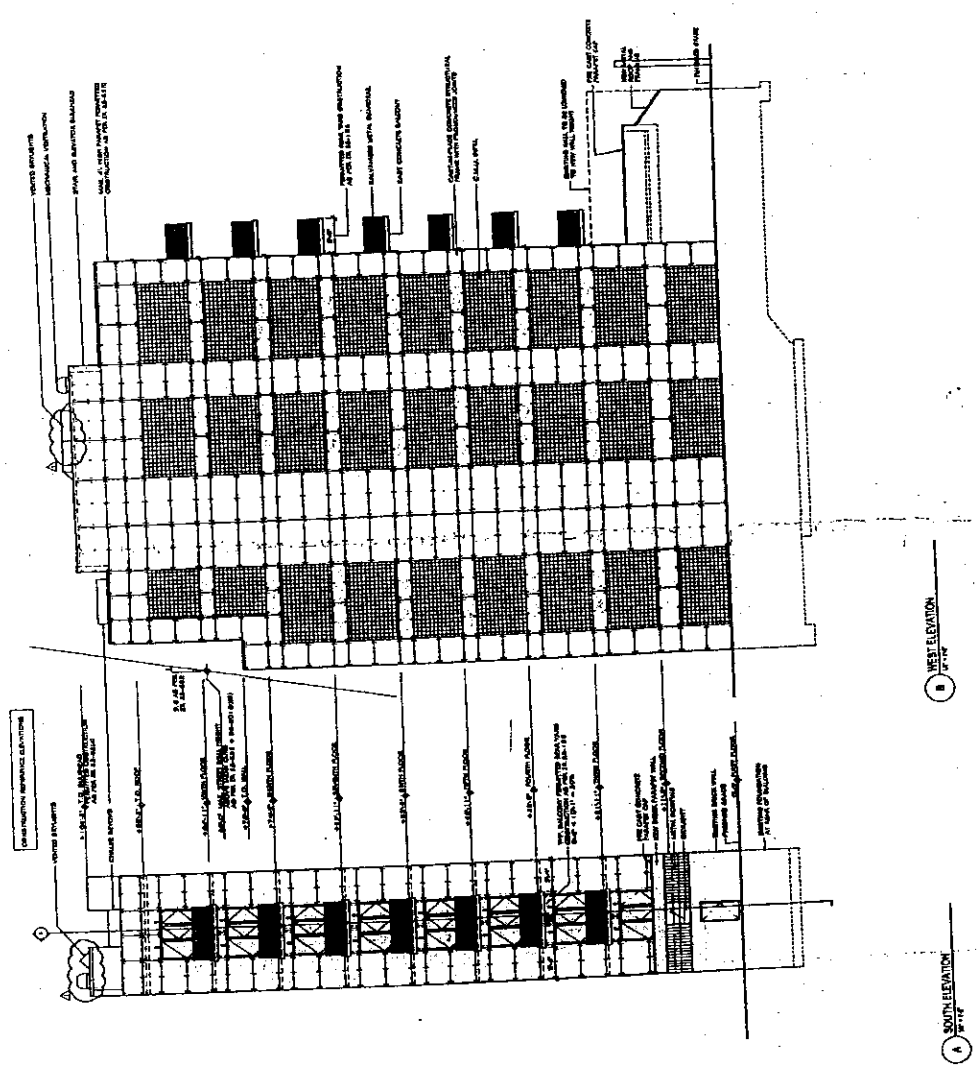
**THE DEUCE**  
1040 11th St. N.W.  
Washington, D.C. 20005  
Tel. (202) 331-1100

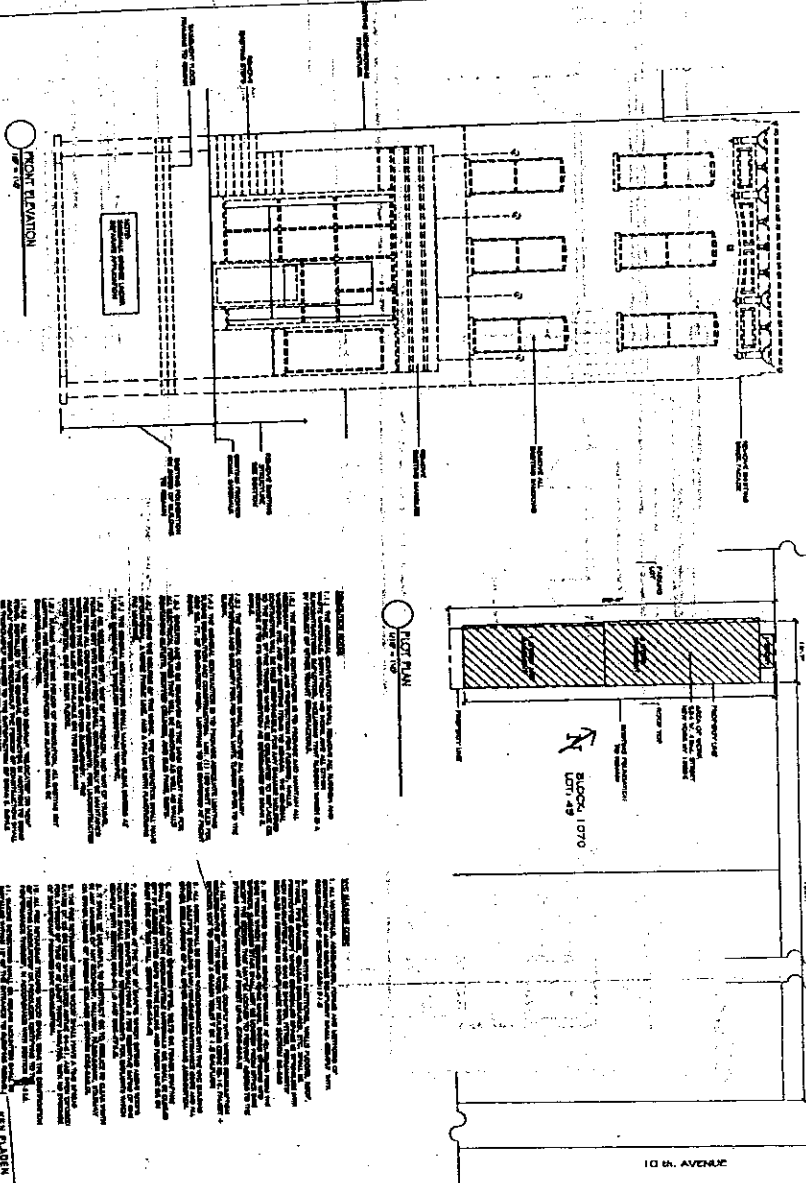
**ELEVATIONS**  
**SOUTH ELEVATION**  
**WEST ELEVATION**

**PROJECT NO.** 1040 11th St. N.W.  
**DATE** 10/1/80  
**BY** J. B. BOYLE  
**CHECKED** J. B. BOYLE

**SCALE** 1/8" = 1'-0"

**PROJECT NO.** 1040 11th St. N.W.  
**DATE** 10/1/80  
**BY** J. B. BOYLE  
**CHECKED** J. B. BOYLE



[illegible][illegible]

844882

DEMOLITION

FRONT ELEVATION

PLOT PLAN, GENERAL NOTES

10th AVENUE

DEMOLITION

FRONT ELEVATION

PLOT PLAN, GENERAL NOTES

844882

DEMOLITION

FRONT ELEVATION

PLOT PLAN, GENERAL NOTES

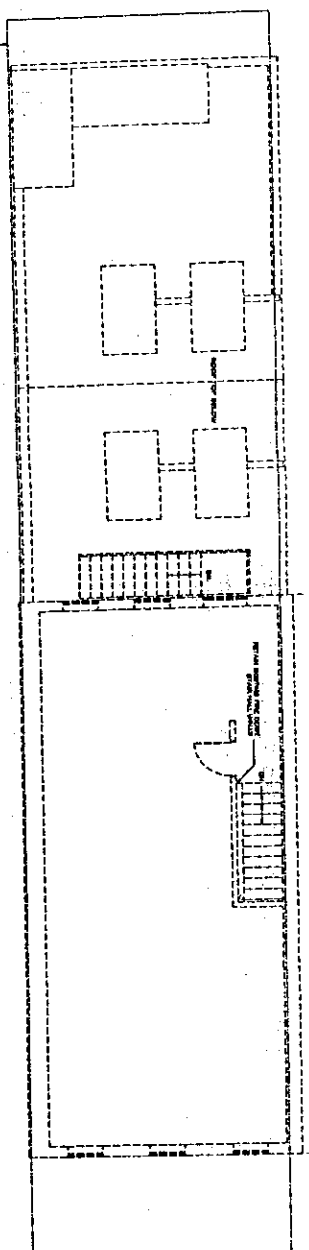
10th AVENUE

DEMOLITION

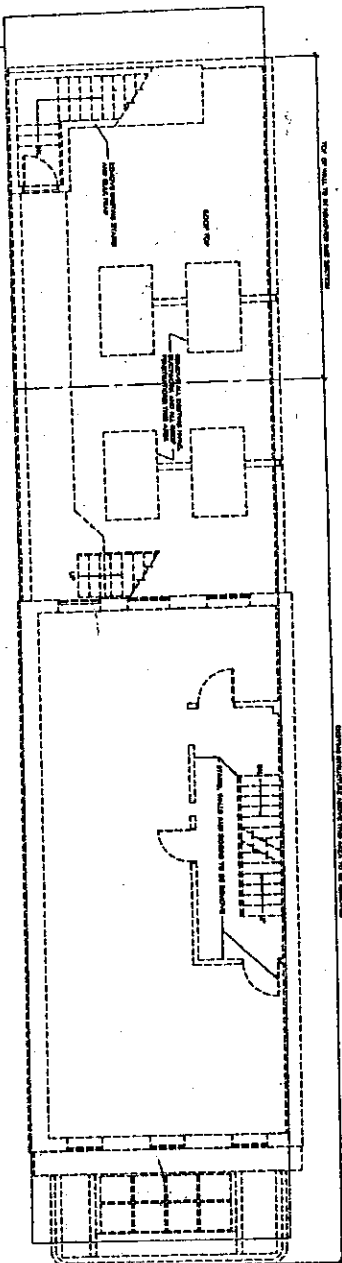
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PLOT PLAN, GENERAL NOTES

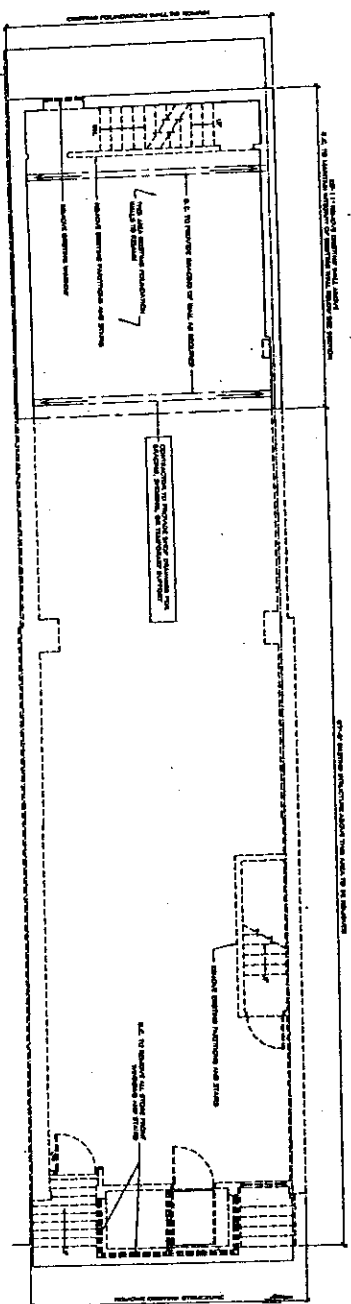




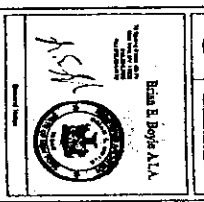
THIRD FLOOR RENOVATION PLAN  
1/1/79



SECOND FLOOR RENOVATION PLAN  
1/1/79



FIRST FLOOR RENOVATION PLAN  
1/1/79

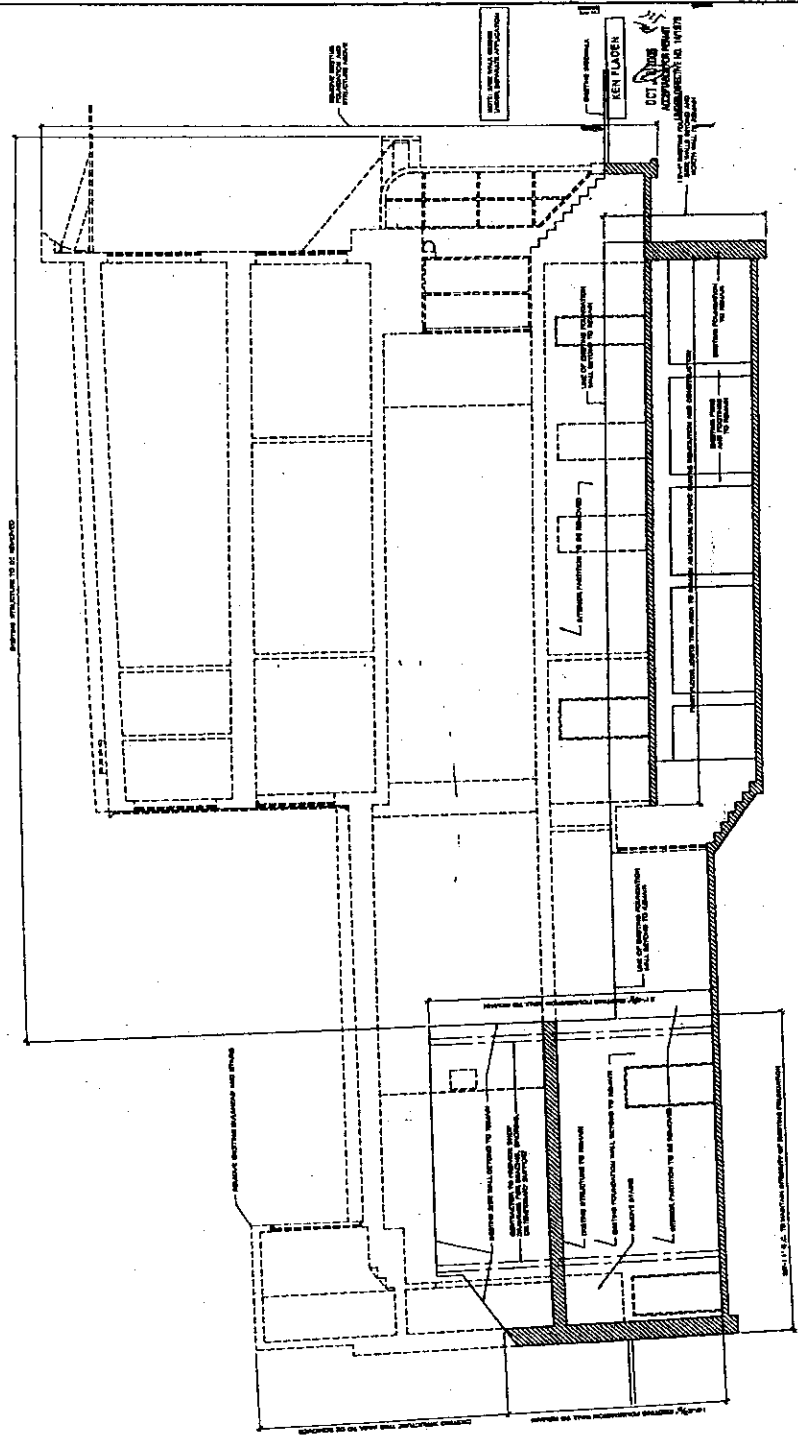


THE DULLES CELLAR AND BASEMENT PLAN	
DATE: 1/1/79	BY: [Signature]
NO. 003	REV. 003
D-003	

Brian E. Boyle, AIA  
 Principal Architect  
 1111 14th Street, NW  
 Washington, DC 20005  
 Phone: (202) 462-1111  
 Fax: (202) 462-1112  
 Email: bboyle@bboyle.com

11/11/05  
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APPROVED 11/11/05 11/11/05 11/11/05	
The Deuce 1111 14th Street NW Washington, DC 20005	DEMOLITION SECTION
D-004	11/11/05 11/11/05 11/11/05



FLOOR PLAN  
 11/11/05



Department of  
Housing Preservation  
& Development

nyc.gov/hpd

Office of Development  
Housing Incentives  
100 Gold Street  
New York, N.Y. 10038

SHAUN DONOVAN  
Commissioner  
HOLLY M. LEIGHT  
Deputy Commissioner  
MIRIAM COLÓN  
Assistant Commissioner

September 29, 2008

Harvey I. Shiff, Esq.  
Lawrence J. Berger, P.C.  
200 Madison Avenue, Suite 1902  
New York, NY 10016  
Phone: (212) 532-0222; Fax: (212) 532-0224

Re: 534 West 42<sup>nd</sup> Street  
Block 1070, Lot 49  
Borough of Manhattan  
Declaratory Ruling No. 2008 (§421-a)

Dear Mr. Shiff:

I am writing in response to your request dated May 12, 2008, as supplemented by later submissions, for a declaratory ruling pursuant to §6-05(g) of Chapter 6 of Title 28 of the Rules of the City of New York (the "Rules") regarding the eligibility of a construction project (the "Project") at the above referenced site (the "Site") for tax benefits pursuant to §421-a of the Real Property Tax Law ("§421-a"),<sup>1</sup> §§11-245, 11-245.1, and 11.245.1-b of the Administrative Code,<sup>2</sup> and the Rules.<sup>3</sup>

I. Eligibility Requirements

To be eligible for §421-a tax benefits, the Project must comply with each of the eligibility requirements set forth in §421-a, the Administrative Code, and the Rules. The application of these requirements to the Project is discussed in detail below. Capitalized terms not defined herein have the respective meanings given in the Rules.

<sup>1</sup> As amended by Chapters 618, 619 and 620 of the Laws of 2007 and Chapter 15 of the Laws of 2008.

<sup>2</sup> As added or amended by Local Law No. 58 of 2006.

<sup>3</sup> Including amendments effective June 19, 2008.

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A. Location Requirements

1. Geographic Exclusion Area Limitation

Sections 6-02(b)(3) and 6-02(c)(10) of the Rules provide that multiple dwellings that commence construction in the Geographic Exclusion Area prior to July 1, 2008 are eligible for §421-a tax benefits only if carried out with Substantial Governmental Assistance or if Affordable Units are created in accordance with the requirements of §6-08 of the Rules. Real Property Tax Law §421-a and §6-09(b)(1) of the Rules provide that multiple dwellings that commence construction in the Geographic Exclusion Area on or after July 1, 2008 are eligible for §421-a tax benefits only if affordable units are created in accordance with the requirements of §421-a(7) or if Negotiable Certificates are purchased. In accordance with Administrative Code §11-245(d), to determine whether construction commences on or after July 1, 2008, construction shall be deemed to have commenced on the date immediately following the issuance by the Department of Buildings ("DOB") of a building or alteration permit for a multiple dwelling (based upon architectural, plumbing and structural plans approved by DOB) on which the excavation and the construction of initial footings and foundations commences in good faith as certified by an architect or professional engineer licensed in New York State, provided that the construction of such multiple dwelling has been completed without undue delay, as certified by such architect or professional engineer.

Based on the information you have provided, the Project is located in the Geographic Exclusion Area described in §6-02(c)(10) of the Rules. You indicate that the Project commenced construction prior to July 1, 2008. Accordingly, the Project will be subject to the Geographic Exclusion Area limitations described in §6-02(b)(3) of the Rules. You have advised us that the owner will purchase Negotiable Certificates as provided in §6-08 of the Rules. Accordingly, the Project will satisfy the Geographic Exclusion Area limitation requirement of §6-02(b)(3) of the Rules. Negotiable Certificates must be presented when filing an application for a certificate of eligibility pursuant to the Rules.

2. Public and Private Park Limitation

Paragraphs (5) and (6) of §6-02(c) of the Rules bar §421-a benefits for projects situated on land mapped as a public park (with certain exceptions) or utilized for ten (10) or more consecutive years immediately prior to October 1, 1971 as a private park (as defined in §6-02(c)(6) of the Rules). You state and we assume that the Site does not fall within either category.

B. Site Requirements

Section 6-02(f) of the Rules states that for a project to be eligible for §421-a benefits, the land on which it is located must have been "vacant, predominantly vacant, under-utilized, or improved with a non-conforming use on the operative date." "Operative Date" means, in the case of the Project, thirty-six (36) months prior to the Commencement of Construction.

Under §6-02(f)(3)(G)(a)(1) and (2)(i) of the Rules, where Commencement of Construction occurred on or after October 30, 2002, land in Manhattan south of or adjacent to either side of 110<sup>th</sup>



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Street is under-utilized if, on the Operative Date, it was improved with a non-residential building or buildings, each of which contained no more than the permissible floor area ratio ("FAR") for non-residential buildings in the zoning district in question, and an FAR which was fifty percent (50%) or less of the maximum FAR for residential buildings in such zoning district.

You indicate that the Commencement of Construction occurred on June 7, 2007 in the 2006/2007 fiscal year.<sup>4</sup> Accordingly, the Operative Date will have occurred on June 7, 2004 in the 2003/2004 fiscal year.

You have submitted a zoning analysis in the form of affidavits sworn to by Brian E. Boyle, a registered architect, dated January 24, 2008 and August 26, 2008 and supplemented by a letter dated August 27, 2008 (collectively, the "Boyle analysis"), along with a copy of the zoning map for lot 49 and relevant pages from the Zoning Resolution. In addition, you have provided a survey of lot 49 dated June 24, 2005, prepared by Thomas Piciocco, a licensed land surveyor and vice president of Earl B. Lovell – S.P. Belcher, Inc.

Mr. Boyle indicates that on the Operative Date, lot 49 was improved with a non-residential building. In addition, Department of Finance Records indicate that in the 2003/2004 fiscal year, lot 49 was improved with a non-residential building or buildings designated as tax class 4. Mr. Boyle further indicates that on the Operative Date, lot 49 was located in a C6-4 zoning district, in which the permissible FAR for non-residential buildings was 10.0 and the maximum FAR for residential buildings was 10.0. Based upon Mr. Boyle's analysis, the relationship of the FAR of the existing building on lot 49 to the permissible non-residential FAR and maximum residential FAR in the 2003/2004 fiscal year was as follows:

Lot Number	Lot Area (square feet)	Floor Area of Existing Building (square feet)	FAR of Existing Building	Permissible Non-Residential FAR	Maximum Residential FAR	Ratio of Existing to Maximum Residential FAR
49	1,934	5,461	2.82	10.0	10.0	28.2%

Accordingly, on the Operative Date, the Site qualifies as under-utilized for the purposes of the Rules, since lot 49 was improved with a non-residential building which did not contain more than the permissible FAR for a non-residential building in the zoning district in which it was located and which had an FAR which was less than fifty percent (50%) of the maximum FAR for a residential building in such zoning district.

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<sup>4</sup> Fiscal year refers to the 365 day New York City year for budget and tax purposes from July 1 through June 30. For example, both September 27, 2006 and February 25, 2007 fall in fiscal year 2006/2007.



C. Project Requirements

1. New Multiple Dwelling

Section 6-02(b) of the Rules provides that a project is eligible for §421-a benefits only if it is a "new multiple dwelling" and §421-a(1)(c) provides that a "new multiple dwelling" includes new residential construction and the concurrent conversion, alteration or improvement of a pre-existing building or structure provided that (i) for all tax lots now existing or hereafter created, not more than forty-nine percent (49%) of the floor area of the multiple dwelling consists of the pre-existing building or structure that was converted, altered or improved, and (ii) for certain geographical areas of Manhattan, the new residential construction or the concurrent conversion, alteration or improvement of the pre-existing building or structure must be aided by a governmental grant, loan or subsidy. Furthermore, §11.245.1-b(c) and §6-09(b)(5)(i) of the Rules provide that no §421-a benefits will be conferred for a multiple dwelling that commences construction on or after December 28, 2007 and contains fewer than four dwelling units as set forth in the certificate of occupancy, unless the construction of such multiple dwelling is carried out with Substantial Governmental Assistance pursuant to a Program for the Development of Affordable Housing.

You state and we assume that the Project commenced pursuant to an alteration permit based on architectural, structural and plumbing plans approved by the DOB and that upon completion it will be a new Multiple Dwelling.<sup>5</sup> We assume that the Project will be constructed on land which was entirely vacant and unimproved as of the Commencement of Construction except to the extent described in the Boyle analysis. The Boyle analysis and demolition plans submitted indicate that the pre-existing building on the Site has been demolished, except for portions of the rear perimeter wall and portions of the foundation required to support the retained portions of the rear perimeter walls.<sup>6</sup> We assume that upon application, you will provide photographs or other documentation evidencing the extent of the demolition and the progress of construction. Accordingly, the Project will meet the requirements set forth above.<sup>7</sup>

2. Not Used as a Hotel or for Single Room Occupancy

Paragraphs (3) and (4) of §6-02(c) of the Rules deem any building or portion thereof which is used as a Hotel or for Single Room Occupancy ineligible for §421-a benefits. You state and we assume that no such use of the Project will occur.

<sup>5</sup> You indicate that, although construction initially commenced pursuant to an alteration permit based on architectural, structural and plumbing plans approved by DOB, construction will be completed pursuant to a new building permit based upon architectural, plumbing and structural plans approved by DOB.

<sup>6</sup> Approximately nine percent (9%) of the exterior walls of the pre-existing building will be retained. Due to the narrowness of the Site, a small section of the rear perimeter wall was retained because the existing walls were used as shoring and removed in stages, facilitating the building of the new foundation of the new Multiple Dwelling.

<sup>7</sup> Although the Multiple Dwelling that is the subject of this declaratory ruling will contain seven (7) units, see section I.D.1 below, because construction commenced prior to December 28, 2007, the Project is not subject to the requirement of §11.245.1-b(c) and §6-09(b)(5)(i) of the Rules that the multiple dwelling contain at least four dwelling units unless the construction is carried out with governmental assistance.

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D. Construction Requirements

1. Number of Rooms

Section 6-02(e)(2) of the Rules requires that in a project containing more than one hundred (100) dwelling units, not less than ten percent (10%) of the dwelling units shall contain at least 4½ rooms and, in addition, not less than fifteen percent (15%) of the dwelling units shall contain at least 3½ rooms. The number of rooms shall be computed in accordance with the definition of "Room Count" in §6-01(c) of the Rules.

You state and we assume that the Project will contain seven (7) dwelling units. Accordingly, the Project is not subject to this requirement.

2. Class A Unit Replacement

Section 6-02(e)(3) of the Rules requires that a project with more than twenty (20) dwelling units contain at least five (5) dwelling units for each Class A dwelling unit in existence one month prior to the Commencement of Construction.

Because the Project will contain only seven (7) dwelling units, the Project is not subject to this requirement.

E. Limitation on Other Real Estate Tax Benefits

Section 421-a(2)(c)(i) provides that a Multiple Dwelling shall be eligible for tax benefits pursuant to that section only if "exemption from taxes is not availed of concurrently under any other law." Section 6-02(c)(1) of the Rules provides a limited exception for condominium units which are not taxed by reason of the exempt status of the owner.

You state and we assume that the Project will comply with this requirement and that the Project will not receive real estate tax benefits under any other State or local law.

F. Timing Requirements

1. Project Commencement

Section 421-a(2)(a)(iv)(a) and §421-a(2)(c)(ii) require that Commencement of Construction occur before December 28, 2010. You state and we assume that Commencement of Construction occurred on June 7, 2007 and that the Project has complied with this requirement.

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2. Application Timing

Sections 6-05(b) and 6-05(d) of the Rules impose specific timing requirements for filing applications for preliminary and final certificates of eligibility. You state and we assume that the Project will comply with these requirements.

G. Additional Requirements

1. Multiple Dwelling Registration

Section 6-05(d)(1)(vii) of the Rules provides that any building for which §421-a benefits are conferred must be registered with HPD in accordance with the provisions of article two of subchapter four of the Housing Maintenance Code. You state and we assume that the Project will comply with this requirement.

2. Energy Star Certification Requirement

Section 11.245.8 and §6-05(d)(1)(viii) of the Rules provide that, for any building for which §421-a benefits are conferred, certain household appliances that are newly installed or replaced must be certified as Energy Star, unless an appropriately-sized Energy Star appliance is not manufactured. You state and we assume that the Project will comply with this requirement.

3. Prevailing Wage Requirement

Section 421-a(8) provides that a Multiple Dwelling that commences construction on or after December 28, 2007 shall be eligible for tax benefits pursuant to that section only if "all building services employees regularly employed at the building, whether employed directly by the applicant or its successors, or through a property management company or a contractor, shall receive the applicable prevailing wage for the duration of the building's tax exemption." To be covered by this provision, such building service employees must perform work in connection with the care or maintenance of such building and be regularly scheduled to work for at least eight hours per week. Pursuant to §421-a(8)(c)(i and ii), these requirements shall not apply to projects containing less than fifty (50) dwelling units or to multiple dwellings where HPD certifies that at initial occupancy at least fifty percent (50%) of the dwelling units in the multiple dwelling are affordable to individuals or families with a gross household income at or below one hundred twenty-five-percent (125%) of the area median income. Cf. §6-05(d)(1)(ix) of the Rules.

You state and we assume that construction commenced prior to December 28, 2007. Therefore, the Project will not be subject to this prevailing wage requirement.

H. Condominium/Cooperative Requirement

Section 6-05(d)(1)(iii) of the Rules requires that if a project is to be owned as a cooperative or a condominium, the owner must provide a statement that if the prospective cooperative or condominium plan has not been declared effective for filing at a time fifteen months after the issuance of a final



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certificate of eligibility, such owner will register these rental units with the New York State Division of Housing and Community Renewal within fifteen days after such fifteen month period, or if the building is not occupied, an affidavit stating that the owner shall register all units as they become occupied. You state and we assume that the Project will be owned as condominiums and that it will comply with this requirement.

I. Community Board Notice Requirement

Section 6-03 of the Rules requires that a §421-a application for a project containing more than twenty (20) dwelling units be submitted to the community board in the area in which the project is located. Since the Project will contain only seven (7) dwelling units, the Project is not subject to this requirement.

J. Rent Limitations

Section 6-04 of the Rules imposes a cap on the initial monthly rent which may be charged in a project receiving §421-a benefits. You indicate that the residential units will be owned as condominiums. Therefore, this rental cap requirement will not pertain to the Project provided that the condominium plan is declared effective for filing within fifteen months after the issuance of a final certificate of eligibility.

II. Duration of Tax Benefits

Sections 6-02(d) and 6-09(b)(7) of the Rules establish the duration of the §421-a partial tax exemption.

Section 6-02(d)(1)(i)-(iii) of the Rules states that a ten (10) year post-construction exemption (as more particularly described therein) is available in the Geographic Exclusion Area if the Project is carried out with Substantial Governmental Assistance, the Department has imposed a requirement or the Department has certified pursuant to §6-08 of the Rules that twenty percent (20%) of the dwelling units are affordable to persons of Low and Moderate Income, or pursuant to an agreement with the Department and in conformity with §6-08 of the Rules, housing units affordable to persons of Low and Moderate Income are created off-site by new construction or substantial rehabilitation.

As noted above, you have advised us that the Project owner will purchase Negotiable Certificates pursuant to §6-08 of the Rules. Accordingly, the Project will be eligible for a ten (10) year post-construction partial tax exemption pursuant to §6-02(d)(1) of the Rules.

III. Reduction of Benefit for Excess Commercial, Community Facilities, and Accessory Use Space

Section 6-06(b) of the Rules provides that the tax exemption granted by §421-a will be reduced if the Project's Floor Area of Commercial, Community Facilities, and Accessory Use Space exceeds twelve percent (12%) of Aggregate Floor Area.



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The Project's Floor Area of Commercial, Community Facilities, and Accessory Use Space and a resulting decrease in benefits, if any, will be determined in accordance with the Rules based on the building plans for the Project as built.

IV. Conclusion

Based on the information provided by you and the assumptions stated herein, we conclude that the Project will be eligible for a construction period partial tax exemption and a ten (10) year post-construction partial tax exemption, as provided by §421-a.<sup>8</sup>

V. Scope of this Letter

Except as specifically stated herein, this letter is based solely upon the information provided by you and the assumptions stated herein, and we have not verified any of your statements or claims or investigated the accuracy of our assumptions. The Project must satisfy all statutory and regulatory requirements of §421-a in effect at the time of issuance of the certificate of eligibility in order to be eligible for benefits, and we cannot render a final determination regarding eligibility until all documentation required for a certificate of eligibility has been provided to us, reviewed and approved.

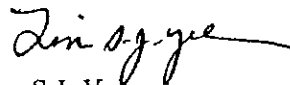
We confirm that an application for a preliminary certificate of eligibility for this Project was filed with this Office on May 5, 2008 and assigned docket number TEO8773. We have not completed our review of that application and express no opinion as to whether the Project is eligible for a §421-a partial tax exemption based upon the application submitted.

This letter relates only to the Project and the specific facts and circumstances thereof. It may not be used or relied upon in connection with any other application or project.

Each page of this letter is imprinted with the Tax Incentives raised seal, which is initialed and dated in blue ink.

In order to expedite processing, please include a copy of this letter when you apply for §421-a benefits.

Very truly yours,



Lisa S.J. Yee  
Director, Tax Incentive Programs

cc: Nancy Batterman, Deputy General Counsel  
Ronald Sinacori, 421 Program Director  
Christopher Boltinghouse, Declaratory Rulings Analyst

9/29/08

<sup>8</sup> In that the Project commenced construction prior to July 1, 2008, it is not subject to the Exemption cap as defined in §421-a(9)(a)(vi). See §6-09(b)(6).



THE CITY OF NEW YORK  
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT  
OFFICE OF DEVELOPMENT  
RPTL Section 421-a Affordable Housing Program  
100 Gold Street, Room 9S7  
New York, NY 10038

\*NEGOTIABLE CERTIFICATE OF ELIGIBILITY\*

DOCKET NUMBER	07-07		DATE OF ISSUANCE OF THIS CERTIFICATE	August 22, 2012	
SITE OF AFFORDABLE UNITS	550 East 170th Street, Bronx		DATE OF EXECUTION OF WRITTEN AGREEMENT	May 11, 2007	
BLOCK(S)	2925	LOT(S)	42.48	DATE OF ISSUANCE OF (TEMPORARY) C OF O FOR AFFORDABLE UNITS	December 19, 2008
APPLICANT	East 170th Street Associates, L.P. c/o Atlantic Development Group, LLC				
APPLICANT'S ADDRESS	155 Avenue of the Americas, 3rd Floor, New York, NY 10013				
BENEFIT TRANSFEROR	Shao Lin Operating, LLC		BENEFIT TRANSFEREE	534 West 42nd Street, LLC	

Whereas, the Department of Housing Preservation and Development has determined that the above-referenced Applicant has completed the construction, rehabilitation, or conversion of affordable dwelling units in accordance with the §421-a Affordable Housing Written Agreement between the City of New York's Department of Housing Preservation and Development and the Applicant;

The Commissioner has determined, therefore, that one or more eligible multiple dwellings containing the above-referenced number of units in the Geographic Exclusion Area is eligible to receive a 421-a partial Tax Exemption.

This Certificate may be conveyed or sold only by the Benefit Transferor named above, and only to the Benefit Transferee named above. This Certificate cannot be used to transfer benefits to any person or entity other than the Benefit Transferee named above. The transfer of this Certificate to the Benefit Transferee is accomplished by both the Benefit Transferor and the Benefit Transferee endorsing and notarizing this Certificate in the place indicated below. If this Certificate is not transferred in accordance with the above procedure, then the Benefit Transferor shall remain the owner of record of the above-referenced benefits if and until such time as the Benefit Transferor directs HPD, at its sole discretion, to re-issue this Certificate to another entity. After the initial endorsement and notarization by the Benefit Transferor and the Benefit Transferee, subsequent transfers of this Certificate or any portion hereof by the Benefit Transferee may be accomplished by written request to HPD accompanied by this original Certificate. Unused Certificates must be returned to HPD for voiding and re-issuance.

BENEFIT TRANSFEROR:	BENEFIT TRANSFEREE:	Inclusionary Housing/ 421-a Affordable Housing Program Seal
Shao Lin Operating, LLC	534 West 42nd Street, LLC	

By: Shao Lin  
Managing Member  
Sworn to me before this

12 day of Sept 2012

[Signature]  
Notary Public

CANDY LOPEZ  
Notary Public, State of New York  
No. 01LO6103764  
Qualified in Bronx County  
Commission Expires 01-12-20 16

By: [Signature]  
Sworn to me before this

19 day of Sept 2012

[Signature]  
Notary Public

SHOSHANA T. CARMEL  
Notary Public, State of New York  
No. 01CA6153596  
Qualified in New York County  
Commission Expires October 10, 2014

[Signature]  
Miriam Colón  
Assistant Commissioner  
Housing Incentives

[Signature]  
8/22/2012





Department of  
Housing Preservation  
& Development

nyc.gov/hpd

Office of Development  
Housing Incentives  
100 Gold Street  
New York, N.Y. 10038

SHAUN DONOVAN  
Commissioner  
HOLLY M. LEIGHT  
Deputy Commissioner  
MIRIAM COLÓN  
Assistant Commissioner

September 29, 2008

Harvey I. Shiff, Esq.  
Lawrence J. Berger, P.C.  
200 Madison Avenue, Suite 1902  
New York, NY 10016  
Phone: (212) 532-0222; Fax: (212) 532-0224

Re: 534 West 42<sup>nd</sup> Street  
Block 1070, Lot 49  
Borough of Manhattan  
Declaratory Ruling No. 2008 (§421-a)

Dear Mr. Shiff:

I am writing in response to your request dated May 12, 2008, as supplemented by later submissions, for a declaratory ruling pursuant to §6-05(g) of Chapter 6 of Title 28 of the Rules of the City of New York (the "Rules") regarding the eligibility of a construction project (the "Project") at the above referenced site (the "Site") for tax benefits pursuant to §421-a of the Real Property Tax Law ("§421-a"),<sup>1</sup> §§11-245, 11-245.1, and 11.245.1-b of the Administrative Code,<sup>2</sup> and the Rules.<sup>3</sup>

I. Eligibility Requirements

To be eligible for §421-a tax benefits, the Project must comply with each of the eligibility requirements set forth in §421-a, the Administrative Code, and the Rules. The application of these requirements to the Project is discussed in detail below. Capitalized terms not defined herein have the respective meanings given in the Rules.

<sup>1</sup> As amended by Chapters 618, 619 and 620 of the Laws of 2007 and Chapter 15 of the Laws of 2008.

<sup>2</sup> As added or amended by Local Law No. 58 of 2006.

<sup>3</sup> Including amendments effective June 19, 2008.

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A. Location Requirements

1. Geographic Exclusion Area Limitation

Sections 6-02(b)(3) and 6-02(c)(10) of the Rules provide that multiple dwellings that commence construction in the Geographic Exclusion Area prior to July 1, 2008 are eligible for §421-a tax benefits only if carried out with Substantial Governmental Assistance or if Affordable Units are created in accordance with the requirements of §6-08 of the Rules. Real Property Tax Law §421-a and §6-09(b)(1) of the Rules provide that multiple dwellings that commence construction in the Geographic Exclusion Area on or after July 1, 2008 are eligible for §421-a tax benefits only if affordable units are created in accordance with the requirements of §421-a(7) or if Negotiable Certificates are purchased. In accordance with Administrative Code §11-245(d), to determine whether construction commences on or after July 1, 2008, construction shall be deemed to have commenced on the date immediately following the issuance by the Department of Buildings ("DOB") of a building or alteration permit for a multiple dwelling (based upon architectural, plumbing and structural plans approved by DOB) on which the excavation and the construction of initial footings and foundations commences in good faith as certified by an architect or professional engineer licensed in New York State, provided that the construction of such multiple dwelling has been completed without undue delay, as certified by such architect or professional engineer.

Based on the information you have provided, the Project is located in the Geographic Exclusion Area described in §6-02(c)(10) of the Rules. You indicate that the Project commenced construction prior to July 1, 2008. Accordingly, the Project will be subject to the Geographic Exclusion Area limitations described in §6-02(b)(3) of the Rules. You have advised us that the owner will purchase Negotiable Certificates as provided in §6-08 of the Rules. Accordingly, the Project will satisfy the Geographic Exclusion Area limitation requirement of §6-02(b)(3) of the Rules. Negotiable Certificates must be presented when filing an application for a certificate of eligibility pursuant to the Rules.

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Paragraphs (5) and (6) of §6-02(c) of the Rules bar §421-a benefits for projects situated on land mapped as a public park (with certain exceptions) or utilized for ten (10) or more consecutive years immediately prior to October 1, 1971 as a private park (as defined in §6-02(c)(6) of the Rules). You state and we assume that the Site does not fall within either category.

B. Site Requirements

Section 6-02(f) of the Rules states that for a project to be eligible for §421-a benefits, the land on which it is located must have been "vacant, predominantly vacant, under-utilized, or improved with a non-conforming use on the operative date." "Operative Date" means, in the case of the Project, thirty-six (36) months prior to the Commencement of Construction.

Under §6-02(f)(3)(G)(a)(1) and (2)(i) of the Rules, where Commencement of Construction occurred on or after October 30, 2002, land in Manhattan south of or adjacent to either side of 110<sup>th</sup>



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Street is under-utilized if, on the Operative Date, it was improved with a non-residential building or buildings, each of which contained no more than the permissible floor area ratio ("FAR") for non-residential buildings in the zoning district in question, and an FAR which was fifty percent (50%) or less of the maximum FAR for residential buildings in such zoning district.

You indicate that the Commencement of Construction occurred on June 7, 2007 in the 2006/2007 fiscal year.<sup>4</sup> Accordingly, the Operative Date will have occurred on June 7, 2004 in the 2003/2004 fiscal year.

You have submitted a zoning analysis in the form of affidavits sworn to by Brian E. Boyle, a registered architect, dated January 24, 2008 and August 26, 2008 and supplemented by a letter dated August 27, 2008 (collectively, the "Boyle analysis"), along with a copy of the zoning map for lot 49 and relevant pages from the Zoning Resolution. In addition, you have provided a survey of lot 49 dated June 24, 2005, prepared by Thomas Piciocco, a licensed land surveyor and vice president of Earl B. Lovell – S.P. Belcher, Inc.

Mr. Boyle indicates that on the Operative Date, lot 49 was improved with a non-residential building. In addition, Department of Finance Records indicate that in the 2003/2004 fiscal year, lot 49 was improved with a non-residential building or buildings designated as tax class 4. Mr. Boyle further indicates that on the Operative Date, lot 49 was located in a C6-4 zoning district, in which the permissible FAR for non-residential buildings was 10.0 and the maximum FAR for residential buildings was 10.0. Based upon Mr. Boyle's analysis, the relationship of the FAR of the existing building on lot 49 to the permissible non-residential FAR and maximum residential FAR in the 2003/2004 fiscal year was as follows:

Lot Number	Lot Area (square feet)	Floor Area of Existing Building (square feet)	FAR of Existing Building	Permissible Non-Residential FAR	Maximum Residential FAR	Ratio of Existing to Maximum Residential FAR
49	1,934	5,461	2.82	10.0	10.0	28.2%

Accordingly, on the Operative Date, the Site qualifies as under-utilized for the purposes of the Rules, since lot 49 was improved with a non-residential building which did not contain more than the permissible FAR for a non-residential building in the zoning district in which it was located and which had an FAR which was less than fifty percent (50%) of the maximum FAR for a residential building in such zoning district.

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<sup>4</sup> Fiscal year refers to the 365 day New York City year for budget and tax purposes from July 1 through June 30. For example, both September 27, 2006 and February 25, 2007 fall in fiscal year 2006/2007.



C. Project Requirements

1. New Multiple Dwelling

Section 6-02(b) of the Rules provides that a project is eligible for §421-a benefits only if it is a "new multiple dwelling" and §421-a(1)(c) provides that a "new multiple dwelling" includes new residential construction and the concurrent conversion, alteration or improvement of a pre-existing building or structure provided that (i) for all tax lots now existing or hereafter created, not more than forty-nine percent (49%) of the floor area of the multiple dwelling consists of the pre-existing building or structure that was converted, altered or improved, and (ii) for certain geographical areas of Manhattan, the new residential construction or the concurrent conversion, alteration or improvement of the pre-existing building or structure must be aided by a governmental grant, loan or subsidy. Furthermore, §11.245.1-b(c) and §6-09(b)(5)(i) of the Rules provide that no §421-a benefits will be conferred for a multiple dwelling that commences construction on or after December 28, 2007 and contains fewer than four dwelling units as set forth in the certificate of occupancy, unless the construction of such multiple dwelling is carried out with Substantial Governmental Assistance pursuant to a Program for the Development of Affordable Housing.

You state and we assume that the Project commenced pursuant to an alteration permit based on architectural, structural and plumbing plans approved by the DOB and that upon completion it will be a new Multiple Dwelling.<sup>5</sup> We assume that the Project will be constructed on land which was entirely vacant and unimproved as of the Commencement of Construction except to the extent described in the Boyle analysis. The Boyle analysis and demolition plans submitted indicate that the pre-existing building on the Site has been demolished, except for portions of the rear perimeter wall and portions of the foundation required to support the retained portions of the rear perimeter walls.<sup>6</sup> We assume that upon application, you will provide photographs or other documentation evidencing the extent of the demolition and the progress of construction. Accordingly, the Project will meet the requirements set forth above.<sup>7</sup>

2. Not Used as a Hotel or for Single Room Occupancy

Paragraphs (3) and (4) of §6-02(c) of the Rules deem any building or portion thereof which is used as a Hotel or for Single Room Occupancy ineligible for §421-a benefits. You state and we assume that no such use of the Project will occur.

<sup>5</sup> You indicate that, although construction initially commenced pursuant to an alteration permit based on architectural, structural and plumbing plans approved by DOB, construction will be completed pursuant to a new building permit based upon architectural, plumbing and structural plans approved by DOB.

<sup>6</sup> Approximately nine percent (9%) of the exterior walls of the pre-existing building will be retained. Due to the narrowness of the Site, a small section of the rear perimeter wall was retained because the existing walls were used as shoring and removed in stages, facilitating the building of the new foundation of the new Multiple Dwelling.

<sup>7</sup> Although the Multiple Dwelling that is the subject of this declaratory ruling will contain seven (7) units, see section I.D.1 below, because construction commenced prior to December 28, 2007, the Project is not subject to the requirement of §11.245.1-b(c) and §6-09(b)(5)(i) of the Rules that the multiple dwelling contain at least four dwelling units unless the construction is carried out with governmental assistance.

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D. Construction Requirements

1. Number of Rooms

Section 6-02(e)(2) of the Rules requires that in a project containing more than one hundred (100) dwelling units, not less than ten percent (10%) of the dwelling units shall contain at least 4½ rooms and, in addition, not less than fifteen percent (15%) of the dwelling units shall contain at least 3½ rooms. The number of rooms shall be computed in accordance with the definition of "Room Count" in §6-01(c) of the Rules.

You state and we assume that the Project will contain seven (7) dwelling units. Accordingly, the Project is not subject to this requirement.

2. Class A Unit Replacement

Section 6-02(e)(3) of the Rules requires that a project with more than twenty (20) dwelling units contain at least five (5) dwelling units for each Class A dwelling unit in existence one month prior to the Commencement of Construction.

Because the Project will contain only seven (7) dwelling units, the Project is not subject to this requirement.

E. Limitation on Other Real Estate Tax Benefits

Section 421-a(2)(c)(i) provides that a Multiple Dwelling shall be eligible for tax benefits pursuant to that section only if "exemption from taxes is not availed of concurrently under any other law." Section 6-02(c)(1) of the Rules provides a limited exception for condominium units which are not taxed by reason of the exempt status of the owner.

You state and we assume that the Project will comply with this requirement and that the Project will not receive real estate tax benefits under any other State or local law.

F. Timing Requirements

1. Project Commencement

Section 421-a(2)(a)(iv)(a) and §421-a(2)(c)(ii) require that Commencement of Construction occur before December 28, 2010. You state and we assume that Commencement of Construction occurred on June 7, 2007 and that the Project has complied with this requirement.

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2. Application Timing

Sections 6-05(b) and 6-05(d) of the Rules impose specific timing requirements for filing applications for preliminary and final certificates of eligibility. You state and we assume that the Project will comply with these requirements.

G. Additional Requirements

1. Multiple Dwelling Registration

Section 6-05(d)(1)(vii) of the Rules provides that any building for which §421-a benefits are conferred must be registered with HPD in accordance with the provisions of article two of subchapter four of the Housing Maintenance Code. You state and we assume that the Project will comply with this requirement.

2. Energy Star Certification Requirement

Section 11.245.8 and §6-05(d)(1)(viii) of the Rules provide that, for any building for which §421-a benefits are conferred, certain household appliances that are newly installed or replaced must be certified as Energy Star, unless an appropriately-sized Energy Star appliance is not manufactured. You state and we assume that the Project will comply with this requirement.

3. Prevailing Wage Requirement

Section 421-a(8) provides that a Multiple Dwelling that commences construction on or after December 28, 2007 shall be eligible for tax benefits pursuant to that section only if "all building services employees regularly employed at the building, whether employed directly by the applicant or its successors, or through a property management company or a contractor, shall receive the applicable prevailing wage for the duration of the building's tax exemption." To be covered by this provision, such building service employees must perform work in connection with the care or maintenance of such building and be regularly scheduled to work for at least eight hours per week. Pursuant to §421-a(8)(c)(i and ii), these requirements shall not apply to projects containing less than fifty (50) dwelling units or to multiple dwellings where HPD certifies that at initial occupancy at least fifty percent (50%) of the dwelling units in the multiple dwelling are affordable to individuals or families with a gross household income at or below one hundred twenty-five-percent (125%) of the area median income. Cf. §6-05(d)(1)(ix) of the Rules.

You state and we assume that construction commenced prior to December 28, 2007. Therefore, the Project will not be subject to this prevailing wage requirement.

H. Condominium/Cooperative Requirement

Section 6-05(d)(1)(iii) of the Rules requires that if a project is to be owned as a cooperative or a condominium, the owner must provide a statement that if the prospective cooperative or condominium plan has not been declared effective for filing at a time fifteen months after the issuance of a final



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certificate of eligibility, such owner will register these rental units with the New York State Division of Housing and Community Renewal within fifteen days after such fifteen month period, or if the building is not occupied, an affidavit stating that the owner shall register all units as they become occupied. You state and we assume that the Project will be owned as condominiums and that it will comply with this requirement.

I. Community Board Notice Requirement

Section 6-03 of the Rules requires that a §421-a application for a project containing more than twenty (20) dwelling units be submitted to the community board in the area in which the project is located. Since the Project will contain only seven (7) dwelling units, the Project is not subject to this requirement.

J. Rent Limitations

Section 6-04 of the Rules imposes a cap on the initial monthly rent which may be charged in a project receiving §421-a benefits. You indicate that the residential units will be owned as condominiums. Therefore, this rental cap requirement will not pertain to the Project provided that the condominium plan is declared effective for filing within fifteen months after the issuance of a final certificate of eligibility.

II. Duration of Tax Benefits

Sections 6-02(d) and 6-09(b)(7) of the Rules establish the duration of the §421-a partial tax exemption.

Section 6-02(d)(1)(i)-(iii) of the Rules states that a ten (10) year post-construction exemption (as more particularly described therein) is available in the Geographic Exclusion Area if the Project is carried out with Substantial Governmental Assistance, the Department has imposed a requirement or the Department has certified pursuant to §6-08 of the Rules that twenty percent (20%) of the dwelling units are affordable to persons of Low and Moderate Income, or pursuant to an agreement with the Department and in conformity with §6-08 of the Rules, housing units affordable to persons of Low and Moderate Income are created off-site by new construction or substantial rehabilitation.

As noted above, you have advised us that the Project owner will purchase Negotiable Certificates pursuant to §6-08 of the Rules. Accordingly, the Project will be eligible for a ten (10) year post-construction partial tax exemption pursuant to §6-02(d)(1) of the Rules.

III. Reduction of Benefit for Excess Commercial, Community Facilities, and Accessory Use Space

Section 6-06(b) of the Rules provides that the tax exemption granted by §421-a will be reduced if the Project's Floor Area of Commercial, Community Facilities, and Accessory Use Space exceeds twelve percent (12%) of Aggregate Floor Area.



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The Project's Floor Area of Commercial, Community Facilities, and Accessory Use Space and a resulting decrease in benefits, if any, will be determined in accordance with the Rules based on the building plans for the Project as built.

IV. Conclusion

Based on the information provided by you and the assumptions stated herein, we conclude that the Project will be eligible for a construction period partial tax exemption and a ten (10) year post-construction partial tax exemption, as provided by §421-a.<sup>8</sup>

V. Scope of this Letter

Except as specifically stated herein, this letter is based solely upon the information provided by you and the assumptions stated herein, and we have not verified any of your statements or claims or investigated the accuracy of our assumptions. The Project must satisfy all statutory and regulatory requirements of §421-a in effect at the time of issuance of the certificate of eligibility in order to be eligible for benefits, and we cannot render a final determination regarding eligibility until all documentation required for a certificate of eligibility has been provided to us, reviewed and approved.

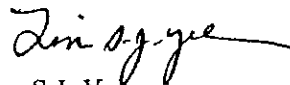
We confirm that an application for a preliminary certificate of eligibility for this Project was filed with this Office on May 5, 2008 and assigned docket number TEO8773. We have not completed our review of that application and express no opinion as to whether the Project is eligible for a §421-a partial tax exemption based upon the application submitted.

This letter relates only to the Project and the specific facts and circumstances thereof. It may not be used or relied upon in connection with any other application or project.

Each page of this letter is imprinted with the Tax Incentives raised seal, which is initialed and dated in blue ink.

In order to expedite processing, please include a copy of this letter when you apply for §421-a benefits.

Very truly yours,



Lisa S.J. Yee  
Director, Tax Incentive Programs

cc: Nancy Batterman, Deputy General Counsel  
Ronald Sinacori, 421 Program Director  
Christopher Boltinghouse, Declaratory Rulings Analyst

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<sup>8</sup> In that the Project commenced construction prior to July 1, 2008, it is not subject to the Exemption cap as defined in §421-a(9)(a)(vi). See §6-09(b)(6).

