

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

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January 17, 2013  
Start: 11:00 a.m.  
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HELD AT: Council Chambers  
City Hall

B E F O R E:  
MARK S. WEPRIN  
Chairperson

COUNCIL MEMBERS:  
Leroy G. Comrie, Jr.  
Daniel R. Garodnick  
Robert Jackson  
Jessica S. Lappin  
Diana Reyna  
Joel Rivera  
Larry B. Seabrook  
James Vacca  
Albert Vann  
Vincent M. Ignizio  
Ruben Wills

## A P P E A R A N C E S

Jonathan Drescher  
Director of Major Projects  
The Durst Organization

Carol Rosenthal  
Attorney  
Fried, Frank, Harris, Shriver & Jacobson LLP

Sarah Desmond  
Community Board 4

Joe Restuccia  
Community Board 4

Robert Benfatto  
Community Board 4

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Community Board 4

Ilene Popkin  
Citizen's Housing and Planning Council

Tammy Rivera  
Organizer  
New York City District Council of Carpenters

Nicolas Ronderos  
New York Director  
Regional Plan Association

Heather Beaudoin  
Building and Construction Trades Council of Greater  
New York

Geronimo Saldana  
SEIU Local 32 BJ

## A P P E A R A N C E S (CONTINUED)

Katherine Consuelo Johnson  
Member  
West Side Neighborhood Alliance

Bennett Baumer  
Organizer  
Housing Conservation Coordinators

Paul Sawyer  
Director of Community Affairs  
Office of Assembly Member Linda B. Rosenthal  
New York State Assembly

Moses Gates  
Association for Neighborhood Housing Development

Kathleen Treat  
Chair  
Hell's Kitchen Neighborhood Association

Allison Tupper  
Member  
West 46<sup>th</sup> Street Block Association

Bob Kalin  
Member  
West Side Neighborhood Alliance

Matt Klein  
Member  
West Side Neighborhood Alliance

Richard Brender  
Member  
West Side Neighborhood Alliance

David DuBose  
Deacon  
St. John the Evangelist Lutheran Church

## A P P E A R A N C E S (CONTINUED)

Jackie Del Valle  
Director of Organizing  
5<sup>th</sup> Avenue Committee in Brooklyn

Ted De Barbieri  
Staff Attorney  
Community Development Project  
Urban Justice Center

1                   CHAIRPERSON WEPRIN:   Okay.   Good  
2  
3 morning everyone.   My name is Mark Weprin.   I am  
4 the chair of the Zoning and Franchises  
5 Subcommittee of the Land Use Committee, and I am  
6 joined this morning by the following members of  
7 the subcommittee:   Council Member Robert Jackson,  
8 Council Member Al Vann, Council Member Dan  
9 Garodnick, Council Member Vincent Ignizio and  
10 Council Member Joel Rivera.   We are also delighted  
11 to be joined by Council Member Gale Brewer, who is  
12 the Council Member for the project that we are  
13 discussing this morning, and she is here to join  
14 us today, and we have only one item on the agenda,  
15 although it's broken into a number of Land Use  
16 items, and I'd like to start right away with that  
17 item.   So Land Use number 749, 750 and 751 known  
18 as the Durst West 57<sup>th</sup> Street.   I would like to now  
19 call up—even though they are already there  
20 Jonathan Drescher and Carol Rosenthal, who will be  
21 making the presentation this morning.   Before you  
22 start, I'd just let the people in the audience  
23 know our plan is to allow them to make their  
24 presentation.   They will have all the time they  
25 need because questions will be answered, and this

1 is where we are getting the answers. We will then  
2 call up panels, alternatively those in favor and  
3 those in opposition—probably the other way around—  
4 in opposition and then those in favor, and then do  
5 that until we have heard from everyone, so anyone  
6 who is here to testify will be heard. We will be  
7 putting a clock on you unfortunately, and that  
8 clock's going to be three minutes per person. So  
9 what I'd like you to do is if you have testimony  
10 written or if you have one in your mind with note,  
11 try in your head to work it down to three minutes.  
12 I know it's not a lot of time, but we have a lot  
13 of people who want to testify. If you run just to  
14 the end of that, I will give you a few seconds to  
15 finish up, but I'd rather you don't do that if you  
16 can avoid it. Okay? Just to make it go as  
17 smoothly as possible, but we will hear from  
18 everyone. So I apologize for the commercial.  
19 Whenever you are ready, please make sure when you  
20 speak to state your name for the record 'cause  
21 when it is transcribed later, we want to know who  
22 is speaking. Okay? Whenever you are ready.

24 CAROL ROSENTHAL: Now it's on.

25 Right? Okay. Great. Good morning, Chair Weprin

1 and City Council Members. I am Carol Rosenthal.  
2 I am a partner at Fried, Frank, Harris, Shriver &  
3 Jacobson. We are land use counsel to the Durst  
4 Organization, who is the applicant today. The  
5 site for this project is the block between 11<sup>th</sup>  
6 Avenue and 12<sup>th</sup> Avenue, 57<sup>th</sup> Street and 58<sup>th</sup> Street.  
7 You see it as you drive north on the Westside  
8 Highway. It's after the sanitation garage and  
9 just before the Con Ed site. The Durst  
10 Organization acquired a 99 year lease in the 1999  
11 for this site for the full block from the estate  
12 of a Mr. Applebee. Mr. Applebee is someone who  
13 died in 1913, and now his dozens and dozens of  
14 descendants have an ownership interest in this  
15 site. The Durst Organization since their lease  
16 commenced in 1999 have considered a number of  
17 projects for the site. They considered at one  
18 point a data center, but then after 9/11 that kind  
19 of use in Manhattan was not in favor. They  
20 considered a private school. They considered—they  
21 talked medical facilities, and most recently they  
22 considered a 700 to 800 room hotel. The times had  
23 changed from 2001 at which time the community was  
24 not in favor of residential to today at which  
25

1 point the community is very much in favor of  
2 residential for this site, so the Durst  
3 Organization listening to that and considering the  
4 site determined to do a residential project here,  
5 and so today we are proposing a very exciting  
6 predominantly residential rental building. The  
7 model is here. Jonathan Drescher, who is the  
8 director of major projects for the Durst  
9 Organization, sitting to my right is going to  
10 present the proposal. After that, I will  
11 summarize the ULERP [phonetic] actions, the  
12 actions that are before the Council and after  
13 that, we are happy to answer any questions that  
14 any of you may have, and we have our architect  
15 here and other representatives of our team so that  
16 we can do that. Thank you.

18 CHAIRPERSON WEPRI: Thank you. Mr.  
19 Drescher, make sure to state your name. Whenever  
20 you are ready...

21 JONATHAN DRESCHER: Thank you very  
22 much. My name is Jonathan Drescher. I am with  
23 the Durst Organization as Carol mentioned. First  
24 of all again thank you very much for being here  
25 today and hearing our proposal. I will try to



1  
2 make this brief yet concise and try to address any  
3 questions or concerns that you have through the  
4 proposal. As Carol mentioned, this development  
5 that we are proposing is on quite a challenging  
6 site, and I'll talk about that in just a couple of  
7 minutes, and recognizing that we wanted to do a  
8 mixed use project here being predominantly  
9 residential, we reached out to a Danish architect  
10 by the name of Bjarke Ingels, whose group is here  
11 today with us, and asked them to come up with a  
12 plan that dealt with the site and dealt with  
13 housing in a thoughtful way, and this is what they  
14 came up with. The site as I think you probably  
15 know is on the far west side between 58<sup>th</sup> Street  
16 and 57<sup>th</sup> Street. It's three very long blocks from  
17 Columbus Circle, which is the nearest  
18 transportation hub. It is worth noting that we  
19 own and operate the Helena, which is a 600 unit  
20 residential building next door to the site—right  
21 there, and we run a 20 minute shuttle to and from  
22 Columbus Circle on a natural gas powered bus to  
23 get people around. We would continue that as an  
24 amenity and to supplement the transportation  
25 challenges of the site. Beyond that we have a

1 highway to the west. We have a power plant to the  
2 north, and we have a sanitation garage to the  
3 south, so it's a little bit challenging, and we  
4 felt we needed to do something that would make an  
5 important and transformational element in the  
6 neighborhood. When one looks at the typical  
7 residential development in Manhattan, which is a  
8 tower on a base rather, that would sort of nicely  
9 fill out to the zoning that is on the second—Carol  
10 will talk in a minute about what actually is the  
11 zoning on the site—the zoning that we are asking  
12 for on the site, but our architect and we didn't  
13 feel that that would actually serve the  
14 neighborhood properly and develop the right kind  
15 of housing. We are actually thinking of something  
16 more in the low rise, more on the perimeter block  
17 model, which is very common not only in New York,  
18 but in other places around the world where you  
19 have a common green space in the middle of the  
20 development and the development is actually on the  
21 street wall, which helps to support the urban  
22 fabric around. We also want to sort of fit all  
23 the high density development that the site really  
24 could manage from an urban standpoint into the  
25

1 site, and so the architect's solution was to take  
2 the perimeter block and really extrude it upward  
3 in one corner and create sort of a perimeter block  
4 tower, if you will. Zooming in on the site just a  
5 bit, the site area is about 110,000 square feet.  
6 It is bordered by 57<sup>th</sup> Street on the south and 58<sup>th</sup>  
7 Street on the north. 58<sup>th</sup> Street is recently a one  
8 way street going eastward only. 57<sup>th</sup> street is I  
9 think as you know a very wide street, double lanes  
10 in both directions, and is an access to the  
11 Westside Highway. One of the first things we did  
12 when we were looking at the perimeter block was to  
13 lift up the eternal [phonetic] courtyard, and one  
14 of the main purposes in doing that was to create  
15 greater depth along the perimeter, which affords  
16 us the possibility to do more retail and more  
17 amenity retail along the perimeter by reinforcing  
18 the retail frontage around the block, and  
19 hopefully, life around the block. We also wanted  
20 to preserve the views from the east—not only from  
21 the Helena, but from other buildings, and so this  
22 was really the proposal that came after many, many  
23 proposals, but the proposal that really worked  
24 best, and we are very happy with it. And in  
25

1 working with various groups including City  
2 Planning, including the Community Board, including  
3 the Borough President's Office, we have made  
4 various adjustments to this scheme. One of the  
5 first adjustments we made with City Planning, and  
6 this is very subtle so pay attention, was to shift  
7 the tower slightly to the south really to set it  
8 up back from the sidewalk, to really reduce its  
9 mass as you are walking down 58<sup>th</sup> Street and  
10 experiencing the building, looking toward the  
11 river. Here is a zoom in of the site. You can  
12 see that shift slightly, and just to sort of  
13 orient you, this is the existing Helena. Just to  
14 the north of that is a building that is an Edison  
15 storage building, which is also the subject of  
16 this application in terms of its reuse, and this  
17 is the building that you see in front of you in  
18 the model, and this is right just to the north of  
19 that is a community facility building that we are  
20 proposing, but again, we have Con Edison to the  
21 north, the Sanitation Department garage to the  
22 south, and the highway to the West, so it's kind  
23 of a challenging site. Here is a section through  
24 the site—rather an elevation through the site just  
25

1 to give you an idea of the massing in the  
2 neighborhood. To the south is the Department of  
3 Sanitation and just behind that there will  
4 probably be some larger massing in the future, and  
5 to the north we have the Con Ed plant, and you can  
6 see the smokestack, which is higher than us, and  
7 furthest north of that is the Riverside Center  
8 development that was recently approved, and is  
9 actually currently under construction. Here is a  
10 layout of the overall site plan; just to orient  
11 you moving east to west we have the Helena  
12 development. This is the Helena's lobby--kind of a  
13 big move for the site was to provide a drive  
14 through - - for the site for both cars and  
15 pedestrians, and we located our lobby right in the  
16 middle of that block. That helps the functioning  
17 of our building, but it also helps to activate  
18 this through block. The perimeter of the block  
19 for the most part is retail. We even have some  
20 retail along 58<sup>th</sup> Street, which is something that  
21 we again developed in concert with the various  
22 constituent groups that we met with. I'll talk a  
23 little bit more about this in detail, but retail  
24 basically travels all the way around 58<sup>th</sup> Street,  
25

1 down 57<sup>th</sup> Street, off 12<sup>th</sup> Avenue and wraps around  
2 58<sup>th</sup> Street. We do have some back of house  
3 functions here like a truck dock and some  
4 mechanical space, but we also have an additional  
5 lobby here, which is actually serving probably  
6 about 300 departments, and retail space along 58<sup>th</sup>  
7 Street, so there is some activity here. Another  
8 thing that we did in considering the site plan was  
9 currently the parking for the Helena—the Helena  
10 garage—which is an existing 100 space garage, is  
11 entered here. By putting the through block, we  
12 are able to consolidate that entrance off the  
13 through block thereby reducing the curb cut and  
14 traffic across the sidewalk, and we are also able  
15 to change that driveway into an additional retail  
16 space, which really helps to reinforce the retail  
17 frontage all along 57<sup>th</sup> Street. Just to the north  
18 again, we have a community facility element that  
19 we are planning. We are hoping that is—and we are  
20 planning for that to be a childcare facility. So  
21 in terms of the way that the building looks, we  
22 think it looks great. We hope you do too, but  
23 there is a lot of attention been paid to sort of  
24 the detail at the street level, so I'd just like  
25

1 to show you that. This is looking westward down  
2 57<sup>th</sup> Street. You can see the sort of small scale  
3 retail frontage that we have got that maintains a  
4 rather low frontage for the retail all along the  
5 block and in addition, the architects have worked  
6 with our retail people and our leasing people to  
7 come up with a plan whereby the façade is very  
8 variegated to create interest as you walk along—  
9 it's not just sort of a plain long façade. It's a  
10 very long façade. It's about 500 feet, as well as  
11 the provision of tree pits. This allows not only  
12 interest in the façade, but allows us to very  
13 easily subdivide these retail spaces into smaller  
14 types of spaces. Continuing to move around the  
15 block, we are looking now at the building from the  
16 southwest corner looking northeast up at the  
17 building and you can start to see—really you can  
18 see in the model probably even better, the  
19 courtyard in the middle surrounded by the building  
20 whereby the roof actually is a walk, and it's  
21 punctuated by small terraces that look out to the  
22 south and to the west, and here is a nighttime  
23 view looking due east of the building. You will  
24 notice that a lot of the building is actually  
25

1 quite solid. This helps us both with the energy  
2 performance of the building as well as with its  
3 not being so attractive to birds during the night  
4 and during the day, which is good and something we  
5 care about. Just to illustrate a little more how  
6 these terraces work, the sloped wall sort of  
7 curves up the building and we have these little  
8 terraces that we refer to as cockpits, and they  
9 are basically as the slope of the building  
10 changes, they take on different sizes and  
11 configurations, but there are little terraces up  
12 the building, and here is a view if you were to  
13 look out one of the terraces to the west. Looking  
14 up to the east up 58<sup>th</sup> Street you can see that the  
15 façade of the building is actually very—it has a  
16 lot of interest to it, it has a lot of texture.  
17 In looking the other way on 58<sup>th</sup> Street, this is  
18 our lobby at the midblock and one of the concerns  
19 both of the community stressed by the Community  
20 Board and the Borough President was that 58<sup>th</sup>  
21 Street really needed to be activated in some way,  
22 and so in addition to sort of developing and  
23 expressing that lobby to make it a focal point  
24 along 58<sup>th</sup> Street as well as drawing the retail in  
25



1 from the corners, we are providing these vitrines,  
2 which are basically display areas for art and  
3 other types of things that would be lit and  
4 provide some activity to the street. It's  
5 probably worth noting at this point that one of  
6 the things that we needed to do and this was even  
7 before super storm Sandy was locate the Con Edison  
8 vaults above grade. We could not locate them  
9 below grade because of the flood plain. So we  
10 located them on the side of the building—we had to  
11 locate them a certain distance from the water. We  
12 are also in the process of looking at various  
13 other infrastructure, enhancements to the  
14 buildings to deal with flood negation. Here is  
15 another view of that so you can see how these  
16 vitrines really activate the middle of the block.  
17 Here is a—sorry. Here is a zoom in of the through  
18 block. Again, you can see how the main lobby  
19 entrance is right here. This is their converted  
20 retail area from the Helena. The parking access  
21 for the Helena. This is a one way drive that  
22 again, this was something we worked on with the  
23 Community Board and with the Borough President and  
24 with City Planning to reduce the width of this  
25

1 drive to basically the minimum we could do that to  
2 make it functional, and to increase the planting.  
3 We added benches to make it more user friendly to  
4 the public in general. This is a two story  
5 community facility and the retail you can see on  
6 the corner of 58<sup>th</sup> Street and these retail areas on  
7 57<sup>th</sup> Street, and by the way, we have committed to  
8 making at least three subdivisions of retail on  
9 57<sup>th</sup> Street to facilitate smaller amenity type  
10 retail. Here is a view of the building looking  
11 westward down 58<sup>th</sup> Street. Here is sort of walking  
12 closer to the building on 58<sup>th</sup> Street looking south  
13 through the through block at night. Looking  
14 northward through the through block during the  
15 day, this view actually illustrates one of the  
16 things that was important to us in thinking about  
17 the project was how to express and sort of give  
18 attention, proper attention, to the Con Ed plant,  
19 which while it is an energy plant, it is quite a  
20 beautiful and a stunning building, and we think  
21 it's an asset to the neighborhood and to our  
22 development, and we wanted to bring that out.  
23 Here is a section through the building that  
24 basically goes from west to east. You can see the  
25

1 Helena. You can see the Riverside Center  
2 development in the background, and you can see how  
3 the massing of the building really comes down  
4 toward the river, which is according to our  
5 architects, talking to the scale of the park and  
6 you can also see how our courtyard works in all of  
7 that. Here is the view of 57<sup>th</sup> Street again, and I  
8 just want to talk a little bit about the  
9 sustainable elements of the project because it has  
10 been of some interest to many, many people. We  
11 met with the Community Board's Sustainability  
12 Group, as well as various other interested  
13 parties, so very briefly and there is a lot going  
14 on here. There is a lot of efficiency, and  
15 sustainability items built into the design that  
16 basically follow along four areas of  
17 concentration—one is water conservation, the other  
18 is energy efficiency, indoor-air quality and  
19 sustainability of materials. I won't go through  
20 this list exhaustively, but just to pick out a  
21 few. Water conservation is very important to us.  
22 It is not something that is generally on the radar  
23 of a lot of new developments, but in this  
24 particular development, we have got low flow  
25

1 devices. We have got exterior - - to deal with  
2 storm drainage. We are of course retaining of the  
3 water, but we are also making use of a black water  
4 system that we built from the Helena where we have  
5 some excess that will be generated there, and we  
6 are basically pumping it over to this new  
7 development to work in cooling towers and flushing  
8 toilets to save water. In terms of energy  
9 efficiency, the envelope as I mentioned before is  
10 a very high performance envelope. We don't expect  
11 to have a lot of solar heat gain for example. All  
12 of the pumps and drives are high efficiency  
13 variable frequency drives. We will have various  
14 dimming devices throughout the building to manage  
15 light and energy use. Indoor environmental air  
16 quality is something that has always been  
17 important to us. It will probably become part of  
18 the code soon, but we are including for example  
19 mechanically supply of ventilation to every single  
20 apartment for outside air. We will be also  
21 committing this to be a non-smoking building.  
22 Sustainable materials—we are very committed to not  
23 only using sustainable materials, but promoting  
24 their use. We are committed to the various  
25

1 certification procedures that are in use, and we  
2 will basically set a very strict conformance  
3 standard for any material that is used in this  
4 building, not only that it has sort of friendly  
5 materials in it, but hopefully, are locally  
6 sourced and produced. The four areas that I just  
7 showed you, the water conservation, energy  
8 efficiency, sustainable materials, and indoor air  
9 quality really form the basis of our sustainable  
10 policy, which guide not only the development of  
11 this building, but all of our buildings in  
12 general. I'd like to now turn it over to Carol  
13 Rosenthal to talk about the actions.

14 CAROL ROSENTHAL: Right now the  
15 site has zoning that was placed on it in 2001, and  
16 at that time, the zoning district was changed to a  
17 C47--next slide--covering most of the block. That  
18 is a high density--that is an R10 district, R10  
19 equivalent district, and there was an M15 district  
20 in the back part of it as you can tell along 58<sup>th</sup>  
21 Street. In addition at that time the proposal  
22 then was to build predominantly commercial uses on  
23 the site, so we had some residential uses limited  
24 to the 11<sup>th</sup> Avenue part of the site where the  
25

1 Helena is now, the remainder currently is limited  
2 to commercial with a commercial tower along 12<sup>th</sup>  
3 Avenue, and so that is what the current large  
4 scale special permit allows us right now. In  
5 addition there were two public parking garages  
6 that were permitted at that time—a 399 car garage  
7 and a 239 car garage for a total of 638 public  
8 parking spaces on the site. So that is where we  
9 are now. Where we would like to go in order to  
10 have the residential building that has just been  
11 described to you is we would need to modify the M1  
12 district. We would need to change that to a  
13 residential district, and the residential district  
14 we are seeking is a C62 district, so it's not a  
15 high density district. Our total FAR increase on  
16 the site is about .35, so it's a very modest  
17 increase, and we focused really on getting  
18 ourselves to being able to do a residential  
19 building. The other request are special permits  
20 under the large scale, which we need for the  
21 massing of this building which as you can tell  
22 doesn't fit your traditional tower on a base, so  
23 we need it in order to push some of the density  
24 into the apex of the building, and to site it as  
25

1           you see here in our drawings. In addition, we are  
2           seeking instead of the 638 spaces, we are seeking  
3           one special permit for an accessory garage, which  
4           would be 285 spaces. There is 100 spaces now at  
5           the Helena, so that would give us a total of 385  
6           spaces. Our goal in doing that was to have enough  
7           parking for our site, but not anymore, so we serve  
8           our needs on our site. Finally, you will see  
9           actions that modify the existing special permits  
10          and the existing restrictive declarations to have  
11          one that worked for this site. So that is the  
12          actions that we are seeking, and we have been  
13          through the ULERP process. The Community Board  
14          recommended a no unless we met certain conditions.  
15          The Borough President recommended a yes provided  
16          we met certain conditions, and those conditions  
17          had to do with housing, parking and design. So  
18          I'm going to just address each of those quickly,  
19          and then I think we can move to questions, but in  
20          terms of the housing on this site, the Community  
21          Board has asked for permanent housing, like most  
22          of you may be familiar with that. We know that  
23          permanent housing is important. We can't do it  
24          our site. We have a ground lease, and our ground  
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1 lease has another approximately 87 years on it,  
2 and we can't commit to ourselves beyond what we  
3 have the authority to do, which is limited to our  
4 ground lease. We can't bind the many trusts that  
5 own the property beyond that period of time.  
6 Because of that we are not in the inclusionary  
7 housing program, and we are not getting a bonus.  
8 We are not getting a bump up. So we are not  
9 taking that R10 district with a 10 FAR and going  
10 to 12. Our FAR increase is as I explained before  
11 is quite modest across the site. Nonetheless, we  
12 are committed to doing affordable housing. We are  
13 committed to doing 20 percent of the units in this  
14 building to be affordable housing that will be  
15 affordable under the 80/20 program. It will be at  
16 up to 50 percent of AMI, and it will be for the 35  
17 years that the program requires, and at the end of  
18 the 35 years, those units are in the rent  
19 stabilization program, so whomever is in there  
20 stays in there and gets the benefit of being in  
21 that apartment until they vacate, so with a two to  
22 three percent turnover, we figure that there will  
23 be a lot of people there for many years after the  
24 35 years. The second issue that was raised—it was



1 parking, and that we should consider reducing the  
2 parking to a lower number, but as we looked at the  
3 census data and looks at our environmental reviews  
4 for our site we found that if we did that we  
5 wouldn't meet the needs generated by our project.  
6 We have about a .26 per dwelling unit parking  
7 need, so at the maximum cumulative aggregation the  
8 garage would be 385 spaces, which is what we have.  
9 The last one - - of requests was around design and  
10 around enhancing the midblock and enhancing what  
11 went on on 58<sup>th</sup> Street and we have done a lot of  
12 work with that and in the course of getting our  
13 approvals from City Planning, speaking with  
14 Community Board, working with them, speaking with  
15 the Borough President's Office, speaking with  
16 other members of the community, we have made a lot  
17 of changes to the midblock area and to the 58<sup>th</sup>  
18 Street areas as Jonathan showed you to enliven it  
19 and make that a more pedestrian friendly  
20 experience, so that is our presentation. We are  
21 very excited about the project. We hope you are  
22 too. We know there will be questions, so we are  
23 happy and here to address them for you.

24  
25 CHAIRPERSON WEPRIN: Okay. Thank

1                   you very much. Before I get into questions I want  
2                   to welcome two members that have joined us:

3                   Council Member Jessica Lappin and our newest  
4                   member Council Member Ruben Wills from Queens, so

5                   he is going to be joining us. He is already on  
6                   the question list, so he jumped right in. But

7                   before we get started, I'm first going to say I  
8                   want to compliment you on the architect's design

9                   of the building. It is certainly a neat building  
10                  that is certainly interesting and something that

11                  will be definitely dynamic on the West Side if

12                  everything goes according to plan. It definitely  
13                  catches the eye. It has even been tweeted out

14                  already I understand, so it's interesting, and I

15                  want to compliment Durst on the sustainability  
16                  issues and on the environmental issues that you

17                  have done with this building and other buildings.

18                  Those are great things. There obviously are

19                  issues that the community is concerned about, and

20                  I was going to ask you about them myself; however,

21                  given that we have with us Gale Brewer, who

22                  represents the site, I am going to ask her because

23                  I see she is taking copious notes. I am going to

24                  ask her to try to do it as briefly as possible,

25

1  
2 but obviously there is a lot of issues to be  
3 talked about, and so it's probably best to come  
4 from her, so I am going to call on Council Member  
5 Brewer.

6 COUNCIL MEMBER BREWER: Thank you  
7 very much, Chair Weprin, and I want to thank you  
8 also for a good presentation. Of course from the  
9 Durst Organization we expect no less, and we also  
10 appreciate the environmental impact that is always  
11 something for others to emulate, and again, we  
12 expect no less, but we appreciate it very much. I  
13 happen to like the design. I know every design  
14 has its critics and its complimentors [phonetic],  
15 so I like the design, but I have a couple of  
16 questions needless to say. One that you didn't  
17 mention is what is the status with the height and  
18 the plume of Con Ed? I know that is a very  
19 esoteric question, but it is one that has come up  
20 in the community, and how are you going to address  
21 that problem? Again, maybe you have to explain it  
22 'cause the public may not understand what language  
23 I am speaking.

24 CAROL ROSENTHAL: I will explain it  
25 as best I can, but I do have my environmental

1  
2 consultants here who can also step in. The issue  
3 has to do with we are adjacent to the Con Ed  
4 building, and the Con Ed building emits stuff for  
5 lack of a better word. Somebody else will talk  
6 about PM2s or something, but I am just going to  
7 say it emits some stuff. So in terms of our  
8 environmental reviews, we had to study the impact  
9 of that on our building, the impact of our  
10 building on that and how it gets dispersed to  
11 other buildings in the area, both current and  
12 currently planned, and the impact of us and other  
13 buildings back to us, so we looked at all of that,  
14 and we have done a number of models, and at one  
15 point there was a concern because the models that  
16 we were using, which by the way do not have this  
17 building shape in the most of the models, we had  
18 some concerns, but in doing further work in a more  
19 sophisticated model, we have been able to  
20 demonstrate that we will not have an issue with  
21 the building, so we are very happy about that.  
22 That happened between the draft and the final that  
23 we were able to slap that in.

24 COUNCIL MEMBER BREWER: and who  
25 signed off on that? That would be DEP or...?

1  
2 CAROL ROSENTHAL: Yes, and SECRA  
3 [phonetic] and the SECRA office.

4 COUNCIL MEMBER BREWER: Next  
5 question is regarding the retail, I know to your  
6 credit, you are keeping the size small, and as  
7 somebody who is the author of many uptown  
8 legislative aspects of that, I appreciate it. So  
9 my question is, do you know yet what kind of  
10 retail on 57<sup>th</sup> Street and do you have some sense, a  
11 grocery store? You said three storefronts, but it  
12 looks like there is more from the wonderful  
13 photograph.

14 JONATHAN DRESCHER: There are more.  
15 I think there are six or something. We tried to  
16 make it flexible obviously because we never know  
17 who is going to come. There are a number of  
18 things that can strain the retail development.  
19 There is a drop in the block. There is about 11  
20 feet from one end of the site to the next, so I  
21 think there are two steps inside that retail area,  
22 so those are natural areas of division and so that  
23 is sort of how you come up with the number three,  
24 but the façade I think there are 24 foot bays or  
25 something like that, 30 foot bays that provide

1 natural subdivisions. We don't know. We would  
2 imagine amenity retail in the closer ones—dry  
3 cleaner, shoemaker, that sort of thing, and then  
4 in the far one, we were hoping to attract some  
5 sort of food market. We think that would be a  
6 benefit to the nearly 1400 units that we will have  
7 on the block.

9 CAROL ROSENTHAL: I just wanted to  
10 add to that in our ULERP package, we are required  
11 to have a minimum number of stores along 57<sup>th</sup>  
12 Street—there is the wraparound store on the end  
13 and the three additional stores before you get to  
14 the midblock, and then of course, there is other  
15 retail in the Helena.

16 COUNCIL MEMBER BREWER: So you were  
17 talking specifically about that when you said the  
18 three? That is what was confusing.

19 JONATHAN DRESCHER: Yes.

20 COUNCIL MEMBER BREWER: Okay. The  
21 issue of the—I don't know if you call it driveway,  
22 open space, et cetera. Can you—obviously the  
23 community wants it to be—some driveways look like  
24 they are private and nobody can go down them even  
25 though they are public, so how do you envision

1 making this look as public as possible?

2 Obviously, you are understandably-I think the  
3 community would prefer that there wasn't a lobby  
4 there and there wasn't a parking, but I understand  
5 it's there. Again, that could be discussed  
6 further, but how do you envision making it as  
7 friendly as possible and figuring out a way that  
8 it doesn't look private?  
9

10 JONATHAN DRESCHER: Well, in terms  
11 of the way it looks one of the concepts-first of  
12 all, it would be very green. There is a lot of  
13 trees. There will be some benches there. It will  
14 be open 24 hours a day. That is-

15 COUNCIL MEMBER BREWER:  
16 [interposing] Well, you have to because you have  
17 cars coming and going.

18 JONATHAN DRESCHER: You have people  
19 coming and going.

20 COUNCIL MEMBER BREWER: You know  
21 what I would do with cars. Go ahead.

22 JONATHAN DRESCHER: And-

23 [background conversation]

24 COUNCIL MEMBER BREWER: No, I would  
25 leave them somewhere else. Go ahead.

1  
2 JONATHAN DRESCHER: One of the  
3 design aspects that we included in the design is  
4 that there won't be a curb, so the sidewalk, you  
5 won't wander into traffic. There will be the  
6 planters and trees - - where the cars are going to  
7 be.

8 COUNCIL MEMBER BREWER: This is a  
9 one way-

10 JONATHAN DRESCHER: [interposing]  
11 It's a one way.

12 COUNCIL MEMBER BREWER: --space. I  
13 don't know. So it's got a one lane? Can you be  
14 specific as to what it is?

15 JONATHAN DRESCHER: It's got two  
16 traffic lanes of 11 feet wide each, and what we  
17 expect the way we expect it to operate is that the  
18 one on the west will primarily be the drop off  
19 lane for the building and the one on the-

20 COUNCIL MEMBER BREWER:  
21 [interposing] That is where the lobby is.

22 JONATHAN DRESCHER: East will be  
23 the interest to the Helena garage. In practice,  
24 people will use sort of one lane, and then people  
25 will park on the left and they will go around-11



1 feet wide is sort of enough space to have those  
2 two cars maneuver comfortably, but you've I'm sure  
3 experienced narrow one way streets before, and  
4 that is with very limited traffic. We don't  
5 expect to have a lot of cars on the street. The  
6 entry to our accessory garage is off of 58<sup>th</sup>  
7 Street, not off of this through block, so all of  
8 that traffic is going to just go right around.

10 COUNCIL MEMBER BREWER: So there  
11 will be two garages total? One on the Helena,  
12 right, which is the one you are talking about  
13 here. It's hard for the public to understand, but  
14 one in the Helena, and one on 58<sup>th</sup> Street, which is  
15 the one for I guess the new building?

16 JONATHAN DRESCHER: That is  
17 correct.

18 COUNCIL MEMBER BREWER: So the  
19 Helena has now how many—

20 JONATHAN DRESCHER: [interposing]  
21 100.

22 COUNCIL MEMBER BREWER: In the same  
23 garage?

24 JONATHAN DRESCHER: 100 spaces in  
25 that garage.

1  
2 COUNCIL MEMBER BREWER: In the same  
3 garage.

4 JONATHAN DRESCHER: Yes.

5 COUNCIL MEMBER BREWER: Where do  
6 you enter that now in the Helena?

7 JONATHAN DRESCHER: Okay. Right  
8 here—

9 COUNCIL MEMBER BREWER:  
10 [interposing] 'Cause I'm just asking where the  
11 retail is, so you wanted to...

12 JONATHAN DRESCHER: This is the  
13 driveway now for the Helena. That retail box  
14 isn't there now.

15 COUNCIL MEMBER BREWER: No, I  
16 understand that. I am not a designer. I  
17 understand housing. I'm good on that, but I don't  
18 know anything about design to be honest with you.  
19 If we wanted to make that green space even larger,  
20 one could take out the retail or one could enter  
21 differently. It's a possibility. I'm not saying  
22 it's a good or a bad idea. I know you don't think  
23 it's a good idea. I understand that.

24 JONATHAN DRESCHER: Unfortunately  
25 that is the existing footprint of the building.

1  
2 There are several stories of construction on top  
3 of that, so it wouldn't function for the-

4 COUNCIL MEMBER BREWER:

5 [interposing] Depends on the ULERP, on what we  
6 decide. I'm just saying 'cause the driveway is  
7 not a very-

8 JONATHAN DRESCHER: It's in the  
9 existing building. The actual Helena structure is  
10 built.

11 COUNCIL MEMBER BREWER: Oh, I see  
12 okay. There is no other place to enter the  
13 parking garage except where you are suggesting it  
14 now off of this so-called public space?

15 JONATHAN DRESCHER: That is  
16 correct.

17 CHAIRPERSON WEPRIN: If anyone else  
18 is going to speak, you've got to whisper to them,  
19 or state for the record who you are and - - .

20 COUNCIL MEMBER BREWER: The other  
21 issue of the building behind. You didn't mention  
22 much about the storage facility. Could you talk  
23 about what you envision there 'cause I don't think  
24 people understand there is another whole building  
25 in addition to what you described.

1  
2 JONATHAN DRESCHER: There is  
3 actually—and one of the renderings looking from  
4 the east on 58<sup>th</sup> Street you can see the building.  
5 It's the Edison storage building. It's a seven  
6 story masonry building, concrete masonry building.  
7 Right now it's a storage building. They will be  
8 leaving soon, and our intent and the application  
9 shows that we will be repurposing that for  
10 residential use. It's also worth noting that we  
11 have also committed to make that an 80/20  
12 development as well. We expect that that will be  
13 about 110 units of rental—

14 COUNCIL MEMBER BREWER:

15 [interposing] And generally your rental units are  
16 studios, one bedroom? What is the mixture? Talk  
17 a little bit about housing.

18 JONATHAN DRESCHER: The mix for the  
19 repurposed Edison site, we don't really know yet,  
20 but the mix for this building is roughly 85  
21 percent studios and one bedrooms, I think 12  
22 percent two bedrooms, and the rest three bedrooms.  
23 I think we might have a four bedroom.

24 COUNCIL MEMBER BREWER: Okay, so  
25 you don't think there will be a lot of need for

1  
2 new schools is what you are trying to say with  
3 that kind of mix.

4 JONATHAN DRESCHER: I wasn't  
5 intending to say that, but that is actually the  
6 result-

7 COUNCIL MEMBER BREWER:  
8 [interposing] We'd love to have more. I  
9 understand there is a need for this type, although  
10 we'd love to have as many families as possible as  
11 well as individuals. Alright, so now with this  
12 affordable housing which of course is the main  
13 sticking point, I think we all like the project,  
14 like the positive environmental efforts, but the  
15 issue of this affordable housing, can you describe  
16 to us, I think we all know what 80/20 is. We  
17 understand the AMI. But my question is  
18 specifically would it just be a renegotiation of  
19 the Applebee trust in order to change to become  
20 more permanent? In other words, right across the  
21 street as we know is another developer,  
22 Touchstone, not beloved by 32BJ [phonetic], I know  
23 that, but they are putting in an affordable  
24 component for the life of the building because  
25 they have a more recent as I understand it

1 negotiation with Applebee. I think I can do this  
2 in my sleep, but the question is as a city where,  
3 and particularly in my neighborhood where we have  
4 almost no affordable with all due respect, I have  
5 already slept through and been through most of the  
6 80/20 in my district. I have been here since the  
7 '60s, and so the Trump buildings are moving along.  
8 All of the buildings that have 80/20 that were put  
9 in in the 1990s or in some cases now market. We  
10 don't want that to happen, so because people die,  
11 they move, they don't stay stabilized that long to  
12 be honest with you, and there is not succession  
13 rights by the way, otherwise, I would make sure  
14 that everybody that moved in had kids and  
15 grandchildren, so they could stay, but that is not  
16 how it works.

18 CHAIRPERSON WEPRIN: Don't deal  
19 with bigger issues today.

20 COUNCIL MEMBER BREWER: Okay. I am  
21 just saying—let's be specific as to why you feel  
22 you cannot make this permanent housing besides  
23 cost, or is that the only reason?

24 CAROL ROSENTHAL: We have a lease  
25 that ends in 87 years. We are not permitted to

1                   SUBCOMMITTEE ON ZONING AND FRANCHISES                   39  
2           encumber the property.  We don't have the  
3           authority to encumber the property beyond it says  
4           our lease.

5                                   COUNCIL MEMBER BREWER:  Okay.

6                                   CAROL ROSENTHAL:  And we need to  
7           return the property to the owners without leases,  
8           without rent stabilizations, any leases - - in  
9           place, that is our obligation.

10                                  COUNCIL MEMBER BREWER:  So you  
11           could in fact encumber it until year 87 in other  
12           words we have got the Helena has been up there for  
13           part of this time, so I assume--and they have an  
14           80/20 also in the Helena.

15                                  CAROL ROSENTHAL:  Right.

16                                  COUNCIL MEMBER BREWER:  So it's  
17           possible then you could encumber if that is the  
18           right term, the permanent stabilization if that is  
19           what it is or in this case perhaps the 80/20 or  
20           whatever affordable housing until year 87?  That  
21           is possible under your lease?  I'm asking.

22                                  CAROL ROSENTHAL:  Under the lease.  
23           As you know, rent stabilized leases continue until  
24           vacancy decontrol with or without succession, and  
25           so if you have all these leases ending in year

1  
2 '87, you are not going to have them—people are  
3 going to have the rights to stay beyond the 87  
4 years.

5 COUNCIL MEMBER BREWER: But even  
6 with 35 years essentially, and then I will stop,  
7 Mr. Chair, you could in fact live longer and be  
8 stabilized after the lease, so that the Applebee  
9 family could be stuck with you at year 87. I'm  
10 just saying—

11 CAROL ROSENTHAL: [interposing]  
12 There are 52 years remaining - - so I suppose that  
13 is a risk that—we are taking that risk - - .

14 COUNCIL MEMBER BREWER: I don't  
15 want to belabor the issue. I will tell you as we—  
16 I want to make it clear to my colleagues you are  
17 going to hear a lot of testimony to this effect  
18 and we are going to keep working, and I appreciate  
19 it. We have to find a way to make this project  
20 permanently affordable for those units that are  
21 part of the 80/20 program or whatever program we  
22 can come up with. Thank you very much, Mr. Chair.

23 CHAIRPERSON WEPRIN: Thank you,  
24 Council Member Brewer. I'd like to call on now  
25 Council Member Wills for a question.



COUNCIL MEMBER WILLS: Good

morning. Let me first say the same thing to echo Council Member Brewer and Weprin's sentiments that the design aspect of this building is incredible. The sustainability aspects are well thought out, and the fact that you spoke to post Sandy codes is appreciated. I only had a couple of questions. What is the optimum—the optimum construction schedule permits zoning granted, what is the completion time for this building to be done in?

JONATHAN DRESCHER: We expect to start our superstructure in the fall of this year, so if this is successful, and we can then get a building permit in a timely fashion. And then it's approximately two and a half year construction schedule to our first TCO, so we would—that is temporary certificate of occupancy, so we would expect to open the building in the fall of 2015, and sort of be fully completed by early 2016. We—

COUNCIL MEMBER WILLS:

[interposing] And I was late so if these questions were already asked or explained beforehand, the jobs construction, the post construction jobs, how

1  
2 many are created?

3 JONATHAN DRESCHER: Depends on how  
4 you figure it. I think there is something like 4  
5 million man hours or something. It depends on how  
6 you divide that, but anywhere between say 1700 and  
7 2200 construction jobs for the project, and then  
8 of course we will have a number of permanent jobs  
9 that are created by the project.

10 COUNCIL MEMBER WILLS: Do we know  
11 the realm of the permanent jobs and what types of  
12 jobs they are?

13 JONATHAN DRESCHER: We have leasing  
14 agents. We have managers. We have porters. We  
15 have maintenance staff.

16 COUNCIL MEMBER WILLS: Doormen.

17 JONATHAN DRESCHER: Doormen. We  
18 have a courtyard in here that will require a lot  
19 of maintenance. I don't really know off hand how  
20 many jobs that it is, but I think right now in the  
21 Helena we have probably at least 10 or 12 people  
22 working, and this is that size again, so..

23 COUNCIL MEMBER WILLS: The AMI.  
24 When you testified you said that it would be up to  
25 50 percent AMI. In the brochure that you handed

1 out, it says units will be either 50 percent or 40  
2 percent AMI. Are we looking at the 40 percent,  
3 the threshold and then going up to 50 percent is  
4 what we are working towards? Or...?

5  
6 CAROL ROSENTHAL: No, under the  
7 80/20 program there is a deeply skewed rental  
8 option, so in order to make sure that you maintain  
9 a certain income level some of the units will be  
10 at 40 percent. That is why it says 40 to 50  
11 percent.

12 COUNCIL MEMBER WILLS: And we are  
13 looking at the projected—the AMI—do you have a  
14 projection or are we looking at the projected AMI  
15 for 2015 to 2016 'cause I'm sure they will go up  
16 or are we looking it—how are we looking at that?

17 JONATHAN DRESCHER: We just take  
18 whatever the AMI as it is published and we use  
19 that, so we are not making our own projections  
20 about the AMI. We are using whatever is the  
21 official statutory AMI at that time.

22 COUNCIL MEMBER WILLS: Alright.  
23 Thank you. Thank you, Mr. Chair.

24 CHAIRPERSON WEPRIN: Thank you, Mr.  
25 Wills. I'd like to call on Mr. Dan Garodnick from

1  
2 Manhattan.

3 COUNCIL MEMBER GARODNICK: Thank  
4 you, Mr. Chairman, and I want to join my  
5 colleagues in recognizing the impressive design of  
6 the building and also the sustainability features,  
7 which we really appreciate and certainly help us  
8 in setting a precedent for other buildings around  
9 the city, and so thank you. I just wanted to just  
10 follow up on some of the questions from Council  
11 Member Brewer on the affordability issue and  
12 certainly happy to support her and you all in any  
13 effort to try to preserve the long term  
14 affordability of the units that are part of this  
15 program, but let's just talk about that lease term  
16 and those 52 years because I wanted to make sure I  
17 understand it. You have 87 years to go in the  
18 term of the lease, and a 35 year commitment at the  
19 moment on affordability giving you by the math as  
20 described was 52 years wiggle room to return the  
21 property back under the terms of the lease  
22 unencumbered. Is that right?

23 CAROL ROSENTHAL: Right. That is  
24 what that—

25 COUNCIL MEMBER GARODNICK:

1 [interposing] What happens in the circumstance in  
2 which you continue to have rent stabilized tenants  
3 in the building at year 87 under the terms of your  
4 lease just under the plan you are proposing today,  
5 you could still potentially have that. What  
6 happens?  
7

8 CAROL ROSENTHAL: We are in  
9 violation of our lease. That is an obligation  
10 under the lease, so that is what happens.

11 COUNCIL MEMBER GARODNICK: Okay,  
12 and then it would be a matter of you would have to  
13 resolve that legally between you and the lessor  
14 however that would happen.

15 CAROL ROSENTHAL: Right. We would  
16 have to be sued, damages, I don't know, but yeah,  
17 it's a contractual obligation that we have.

18 COUNCIL MEMBER GARODNICK: Okay.  
19 Well, look, this is—is there any interim period of  
20 negotiation between you and the lessor on the  
21 lease that you have for this location? Do you  
22 have any opportunity to renegotiate the terms of  
23 that lease anywhere in the middle of the lease?

24 CAROL ROSENTHAL: We have—as I  
25 mentioned before, there are currently dozens of

1 owners fee owners of this particular site. It is  
2 broken down into tax lots. Each tax lot is broken  
3 down into many tenants in common and trusts and so  
4 it is a huge number of people. It is very  
5 difficult to work with, and when this lease was  
6 negotiated in 1999 at that time that was before we  
7 are benefits of the forwardness thinking about  
8 inclusionary housing and permanency. It was a  
9 much different time. At that time, the Community  
10 Board were looking for commercial uses on the  
11 site. They weren't even looking for wanting  
12 residential uses, so at that time when the lease  
13 was negotiated, there was no thought about  
14 permanency or making changes or changing on the  
15 interim or anything like that so we have a lease  
16 from 1999 that is very different from a lease that  
17 we would negotiate today.

18  
19 COUNCIL MEMBER GARODNICK: I'll  
20 leave it there. I just wanted to understand the  
21 interplay between you and the lessor here and  
22 certainly hope you will work with Council Member  
23 Brewer in support of the goals that she is seeking  
24 to achieve.

25 CAROL ROSENTHAL: We are always

1 happy to work with Council Member Brewer.

2  
3 COUNCIL MEMBER GARODNICK: Good.

4 Thank you.

5 CHAIRPERSON WEPRIN: Thank you,  
6 Dan. I'd like to call on Council Member Jackson I  
7 believe has a question.

8 COUNCIL MEMBER JACKSON: Well,  
9 thank you and good morning everyone, and in fact  
10 when I walked in I said, wow, that model looks  
11 beautiful, and as you know, looks are looks, and  
12 reality is reality and I do hope and I assume we  
13 expect that everything will be built as planned,  
14 and things will be worked out, but now I just  
15 wanted to talk about the affordability aspects.  
16 In here you indicate 35 years of affordable units  
17 remain in a rent stabilization program. Who  
18 determined that term period of 25 years? Is that  
19 somewhere that is determined by law, the lease,  
20 community board agreement, agreement with the  
21 borough president's office, or what?

22 CAROL ROSENTHAL: The 35 years is  
23 the term that is provided in the 421A program, so  
24 when we enter into the 421A program, that would be  
25 a requirement from there, but I do want to say

1  
2 that if you are concerned about the reality we  
3 have a very tight sleeve on our special permits,  
4 and so we are confident you will see what you see,  
5 and so...

6 COUNCIL MEMBER JACKSON: Okay. So  
7 after the 35 years under the 421A basically all of  
8 the units are rent stabilized, is that correct?  
9 That is what you are saying that will be-

10 CAROL ROSENTHAL: [off mic] The 20  
11 percent that is in the program those remain rent  
12 stabilized units. There is vacancy decontrol, so  
13 whoever is living in there or-

14 COUNCIL MEMBER JACKSON:  
15 [interposing] Which is whatever level of  
16 decontrol, so Gale-

17 [crosstalk]

18 CAROL ROSENTHAL: When they leave  
19 the units, they are not in the program.

20 COUNCIL MEMBER JACKSON: So our  
21 colleague Gale Brewer is basically saying that  
22 request is to have these permanently affordable so  
23 that for the community that exists that regardless  
24 if I was in there as a rent stabilized apartment  
25 and then I moved three years later, then that unit



1                   SUBCOMMITTEE ON ZONING AND FRANCHISES                   49  
2                   would no longer be rent stabilized. Is that  
3                   correct?

4                                   CAROL ROSENTHAL: He is asking that  
5                   it would remain in the program indefinitely,  
6                   right.

7                                   [crosstalk]

8                                   COUNCIL MEMBER JACKSON: Isn't that  
9                   within your jurisdiction to do?

10                                  CAROL ROSENTHAL: Well, we have a  
11                   lease that constrains us. We are not fee owners  
12                   to the property, so we can't permanent—we can't  
13                   offer something that—including the housing  
14                   program—

15                                  COUNCIL MEMBER JACKSON:  
16                   [interposing] And you have said that repeatedly.  
17                   You can't offer anything permanent beyond your  
18                   lease agreement. That is what you basically said.  
19                   That is pretty clear, but now—and Dan Garodnick,  
20                   my colleague, was talking about at the end of your  
21                   lease agreement, there is an assumption that after  
22                   the end of your lease, which is 87 years I think  
23                   left—is that correct?

24                                  CAROL ROSENTHAL: That is the  
25                   amount we can [off mic].

1  
2 COUNCIL MEMBER JACKSON: So you  
3 turn the property back over to the property owners  
4 or you renew a new lease of agreement or whatever  
5 the situation may be. Is that correct?

6 CAROL ROSENTHAL: There is nothing  
7 built into the lease that allows us to renew it.  
8 There is nothing that—a lot of times you will have  
9 a lease renewal. I don't know if that is what you  
10 are thinking about.

11 COUNCIL MEMBER JACKSON: Well, I am  
12 just thinking about what if in fact you, your  
13 organization, renews a lease for another 50 years  
14 for example with the property owners?

15 CAROL ROSENTHAL: So you are  
16 talking about reopening negotiations—

17 COUNCIL MEMBER JACKSON:  
18 [interposing] I'm talking about what if. What if  
19 Durst reaches an agreement with the property  
20 owners to lease the property for another 50 years?  
21 So when you talk about permanent affordability, I  
22 can understand that you are saying you cannot  
23 offer anything beyond what lease you have, but if  
24 you extend your lease that could be extended to  
25 anyone else that you have a lease of agreement

1  
2 with, right?

3 CAROL ROSENTHAL: Theoretically if  
4 someone extended the lease, then you could extend  
5 that as well, but I want to just emphasize  
6 something else just so it doesn't get lost in  
7 this.

8 COUNCIL MEMBER JACKSON: Okay.  
9 Please.

10 CAROL ROSENTHAL: The inclusionary  
11 housing program, it's a very good program. It's  
12 very well thought out, and it's very well thought  
13 out on the economics. It gives you a bump up in  
14 FAR as long with the other programs that are in  
15 play 421A et cetera in order to make it work. We  
16 are not getting an increase in—we are not getting  
17 a 2 FAR [phonetic] increase. We are not getting  
18 a—what we are doing is allowing ourselves to be  
19 residential. We are losing all of the commercial  
20 space we might otherwise build. We are converting  
21 instead to do residential because we believe that  
22 that is what the community and that is a good use  
23 for this location. So I didn't want that to get  
24 lost in this discussion. Thank you.

25 JONATHAN DRESCHER: If I could just

1  
2 reinforce one of the points that Carol made before  
3 about the turnover of these units. In our  
4 experience, these units don't turn over more than  
5 really Carol said two to three percent a year. I  
6 think our experience is more like one or two  
7 percent, but I'll give Carol the benefit of the  
8 doubt on that, and if you do that, most in 50  
9 years we are talking about probably 125 of these  
10 units are still occupied, and these are occupied  
11 by the people, not people who moved in on day one  
12 after we finish construction, they are occupied by  
13 people that might have moved in in year 30, and so  
14 they have got another 25 years to go—35 years or  
15 45 years till they vacate the apartment, and then  
16 that is our experience. It is not as if after  
17 year 35 these are going to be vacated, and as  
18 Carol mentioned before, we are underwriting a risk  
19 or undertaking a risk that they might not be  
20 vacated at the end of the lease, but that is the  
21 consequence of - - .

22 COUNCIL MEMBER JACKSON: Well, I  
23 will be around at that time to examine all of  
24 this. Don't worry about that.

25 JONATHAN DRESCHER: We will have a

1  
2 drink.

3 COUNCIL MEMBER JACKSON: I am just  
4 from a layperson point of view, and I'm not in the  
5 real estate business. I am not an architect, but  
6 so let me just walk through this scenario. You  
7 finish the project in 2016 and people are moving  
8 in and you have X amount of tenants that have  
9 fallen under the 20 percent of affordability,  
10 okay, and so and let's assume there is 50 units  
11 that are affordable. Do you know how many units  
12 are going to be affordable?

13 JONATHAN DRESCHER: The application  
14 is for 753 units, and up to 20 percent, which is  
15 151.

16 COUNCIL MEMBER JACKSON: Okay. 151  
17 are going to be affordable, and so if you get 151  
18 people that move in, and let's say half of them  
19 move out in five years, are those half of the  
20 units that people moved out, are they still within  
21 the program? Yes? The answer is yes?

22 JONATHAN DRESCHER: Yes.

23 COUNCIL MEMBER BREWER: [off mic]

24 COUNCIL MEMBER JACKSON: But only  
25 while there is an abatement as my colleague

1 indicated?

2  
3 JONATHAN DRESCHER: It's for the 35  
4 years.

5 COUNCIL MEMBER JACKSON: Okay.

6 CAROL ROSENTHAL: The abatement is  
7 actually 20 years, but the program requires you to  
8 be affordable and rent stabilization for 35 years,  
9 so they add up the 15 years. That is the way the  
10 program is-

11 COUNCIL MEMBER JACKSON: So in  
12 essence for the duration of the 35 years? In  
13 essence.

14 CAROL ROSENTHAL: Right.

15 COUNCIL MEMBER JACKSON: Okay. I'm  
16 pretty clear. Thank you.

17 COUNCIL MEMBER BREWER: Very  
18 quickly, do you have to renegotiate at year 50 or  
19 is that not correct information? What do you have  
20 to do at year 50 if anything - - ?

21 CAROL ROSENTHAL: We do not have to  
22 renegotiate the lease at year 50.

23 COUNCIL MEMBER BREWER: You don't  
24 do any negotiation until year 87?

25 CAROL ROSENTHAL: We have no right

1  
2 to renegotiate. We have a lease that runs for 87  
3 years. It's a ground lease. They are expecting  
4 us to develop it, and do what we do, and hand it  
5 back to them.

6 COUNCIL MEMBER BREWER: So there is  
7 no clause in there that says you could open  
8 negotiations again at year 50? Year 50 doesn't  
9 exist.

10 CAROL ROSENTHAL: No. No.

11 COUNCIL MEMBER BREWER: Alright.  
12 Thank you.

13 CHAIRPERSON WEPRIN: Thank you,  
14 Council Member Brewer, and I want to thank this  
15 panel. Obviously, you will probably be sticking  
16 around. Will you leave us the model for now, and  
17 if people need it... We will excuse you and we are  
18 going to call up panels. So thank you very much.  
19 If you want to move your computer, you can do that  
20 please.

21 CAROL ROSENTHAL: Thank you,  
22 Council Members.

23 CHAIRPERSON WEPRIN: You are  
24 welcome. So what we are going to do next is we  
25 are going to call up—try to bring up people in

1 panels or probably four people. Sergeant at Arms,  
2 we are going to try to limit them to three minutes  
3 please, and what I'd like to do—doing this as  
4 slowly as possible, so they can make room, but the  
5 following people will be called up as soon as  
6 there is room there for them to sit. We will need  
7 four seats also, Sergeant at Arms. I'd like to  
8 call the following people from the Community  
9 Board, Sarah Desmond, Joe Restuccia, Robert  
10 Benfatto, Jean Daniel Noland. Those four people  
11 will come up. They are in opposition or to some  
12 degree in opposition on issues to this. Again, we  
13 are going to alternate. We are going to go to a  
14 panel in favor of this next after this, and then  
15 we will go back and forth until we have run out of  
16 one or the other, and then everybody will be  
17 called up in order. We will try to get through it  
18 as fast as possible. We want to make sure that  
19 everyone has an opportunity to be heard. That is  
20 our job here today.

21 [background conversation]

22 CHAIRPERSON WEPRIN: Okay, so when  
23 the music stops, everybody has a seat. Okay?

24 [background conversation]



1                   CHAIRPERSON WEPRIN: Now you will  
2  
3 have to sort out who is going to go first. Make  
4 sure to state your name before you speak. Okay.  
5 Mr. Benfatto, you are going to make sure they work  
6 out who goes first?

7                   ROBERT BENFATTO: Sarah is going  
8 first.

9                   CHAIRPERSON WEPRIN: Okay. Good.  
10 I see they didn't decide so easy, and try to limit  
11 your remarks to three minutes. You will hear an  
12 annoying bell when your three minutes are up. So  
13 try to finish before that bell if you can.  
14 Whenever you are ready.

15                   JEAN DANIEL NOLAND: Thank you,  
16 Chair Weprin, Committee Members. My name is Jean  
17 Daniel Noland. I am the Chair of the Clinton  
18 Hell's Kitchen Land Use and Zoning Committee of  
19 Manhattan Community Board 4. I am a former chair  
20 of the board. I got on this Community Board to  
21 express my gratitude for the opportunities this  
22 city has given me, and I take my mandate from the  
23 City Charter pretty seriously, and I take to heart  
24 the charge and the trust to preserve the Clinton  
25 special district of which this project is a part.

1 I don't think that has been mentioned, but this is  
2 in the Clinton special district--a charge which in  
3 part says, "to permit new construction within the  
4 area in character with the existing scale of the  
5 community and at rental levels which will not  
6 substantially alter the mixture of income groups  
7 presently residing in the area." Now look, a new  
8 residential building which ultimately will provide  
9 100 percent luxury housing is a betrayal of that  
10 trust. The residential and mixed income character  
11 of Clinton will neither be preserved, nor  
12 strengthened without permanent affordability for a  
13 portion of its housing stock. We want this  
14 project to go forward, but we don't want the  
15 community to go backwards. Now look, permanent  
16 affordable housing is not a radical idea. We have  
17 got it in Community Board 4. We have got it in  
18 the city. Cities throughout the United States  
19 have it. The rezoning of West Chelsea, 11<sup>th</sup>  
20 Avenue, the Hudson Yards all provided for  
21 permanent affordable housing. The Council voted  
22 to approve these. The Council thought it was  
23 important. The Council must not let us down now.  
24 Is it impossible for this applicant to achieve?

1  
2 Hardly. It's a smart developer. It has hired a  
3 battalion of smart lawyers to tell us that  
4 permanent affordability is not doable. If the  
5 applicant can make money from permanent  
6 affordability these same lawyers would tell us it  
7 is doable. Look, in conclusion, the proposed  
8 rezoning and special permits will greatly benefit  
9 the applicant by unlocking thousands, hundreds of  
10 thousands of square feet for residential  
11 development. This is a great private boom for the  
12 developer and good for them. Where is the public  
13 benefit? We'll let you live there for a while and  
14 then you can have to stand outside and look at  
15 this new, shiny object. As one of my committee  
16 members said, the applicant's grandchildren will  
17 be able to live in this development, unless we  
18 have permanent affordability, my grandchildren and  
19 those of many of my neighbors will not be able to  
20 live in this development and as importantly, the  
21 young people coming into the city needing housing  
22 will not be able to live in our neighborhood.

23 Thank you.

24 CHAIRPERSON WEPRIN: Thank you very  
25 much, and good timing. I am impressed. A great

1 start and a good example for the rest of the  
2 speakers. Whenever you are ready, I'm sorry.

3  
4 SARAH DESMOND: Good morning. My  
5 name is Sarah Desmond. I am a member of the  
6 Clinton Hell's Kitchen Land Use Committee and the  
7 executive director of Housing Conservation  
8 Coordinators, a community based group that does  
9 legal services and housing advocacy in Hell's  
10 Kitchen. Thank you for the opportunity to testify  
11 here this morning. I am here to urge the  
12 Committee to vote no on the proposed project  
13 unless the developer agrees to make the low income  
14 units permanently affordable. I want to echo a  
15 lot of the comments that were raised by my  
16 colleague, Jean Daniel Noland, and to ask that  
17 this project that this project go forward as a  
18 permanent affordability and will support a  
19 permanent affordable project. We can support it  
20 in that way. Our board has seen a lot of  
21 development over the past ten years. I mean more  
22 than probably seven ULERPs that I can recall have  
23 passed through this Committee in just the past  
24 seven years alone going back to the Hudson Yards  
25 in 2005. You have the special West Chelsea

1 district. You have the Western Rail Yards, the  
2 Two Trees, The Gotham just to name a few. There  
3 are a number of them that have undeniably each  
4 changed this community. While no one project has  
5 met the SECRA established threshold to trigger  
6 mitigation, collectively they have undeniably  
7 changed the demographics and diversity in our  
8 community. We have seen significant increases in  
9 the overall population. We have had an impact on  
10 our economic diversity that we are so proud of,  
11 and it's all through the aging and family  
12 demographics because most of the units are  
13 triggered for singles and for studios or one  
14 bedrooms, so while many of these developments were  
15 built within the past decades with 80/20  
16 financing--in fact Community Board 4 has the  
17 single largest concentration of 80/20s that have  
18 been built anywhere in New York state, not just  
19 the city. Those 20 percent of the affordable  
20 units generated under this program are coming  
21 toward expiration. When those units expire en  
22 masse, we are going to see large and enormous  
23 changes in our community and its demographics.  
24 During the Hudson Yards, this community fought

1 very hard for permanent affordable housing. We  
2 won. Initially it was a difficult discussion  
3 among our community board because it was  
4 overlaying the 80/20 financing with the  
5 inclusionary housing, but we had seen the short  
6 sightedness of the 80/20 program, and we did not  
7 want to see the Hudson Yards developed with public  
8 financing only to be 80 percent market with 20  
9 percent low income to eventually become 100  
10 market. If I recall correctly, this project is  
11 the first public action that we in our community  
12 have seen since the Hudson Yards in which the  
13 affordable component is not permanent. It is a  
14 developer that has worked well with our community.  
15 We have a long history, and we have just not been  
16 able to even have the initial discussion about the  
17 affordability on this project. I want to echo  
18 what J.D. said that this is the special Clinton  
19 district. We feel very strongly about it. It's  
20 to preserve the mixed income character of our  
21 neighborhood and I urge you to vote no unless  
22 there is no permanent affordable housing.

24 CHAIRPERSON WEPRIN: Wow. I'm  
25 impressed. That CB4. I have heard their

1                   SUBCOMMITTEE ON ZONING AND FRANCHISES                   63  
2           reputation. Look at that. Okay. Alright. Joe,  
3           you are next.

4                                   JOE RESTUCCIA: My name is Joe  
5           Restuccia. I am the co-chair of the Housing  
6           Committee, Manhattan Community Board 4, and I just  
7           want to note clearly that the value added here is  
8           a change in the midblock from M15 to C62. It's a  
9           one FAR increase over that portion. It may be .35  
10          for the site, but over that portion. We are  
11          unlocking the value by enabling residential to  
12          happen. It's currently an M zone, so it's  
13          unlocking value. It's not as if it is nothing as  
14          the developer has noted. This is a really good  
15          developer, and we are just confused why we are  
16          having this conversation at this point in time.  
17          They have every bell, whistle, and good image of  
18          what a building can be. I don't like that, but  
19          it's not bad, right? It's just a matter of taste,  
20          but sustainability, the way the work, the way the  
21          engage, this is a great developer. There is one  
22          of the best corporate citizens, Douglas Durst, in  
23          the city and one of the best organizations. So we  
24          are confused because they have a lease with 87  
25          years left. Right? This building is going to get

1 built. It will be built. I don't know why the  
2 unions are here and the consultants brought out  
3 the unions because it makes sense, but what I am  
4 shocked about is okay, you have a lease and you  
5 can't renegotiate it, but don't tell me you are  
6 not going to have it encumbered. That is just  
7 baloney. All this discussion about it, it is the  
8 term of affordability let's get clear for the  
9 Committee is 20 years for the income restriction,  
10 then it's an additional 15 for rent stabilization  
11 to stay. The rent stabilization does not have an  
12 affordable restriction to it. It's a 20 year  
13 restriction. That is it if people can stay on.  
14 In my family, people live more than 35 years.  
15 Alright? So what I'd like to know here we are  
16 asking Council Members - - from Monday that the  
17 restriction be the 87 term of the lease. If the  
18 City Planning Commission, Chair Burden asked me  
19 would 87 years be acceptable, and my response was  
20 that is a start. Well, you know something/ At  
21 least let's have the affordability run with the  
22 term of the lease. We are not talking about  
23 project feasibility, whether or not it will be  
24 built and the unions can have jobs both  
25



1 construction and permanent. All of that is going  
2 to happen. It is what happens after the 20 years  
3 and what we need to have happen here is it's a  
4 matter of the degree of profitability, not about  
5 after that restriction period, not about whether  
6 it's feasible. The bonds and how they do the  
7 financing has to all be done in 20 years and  
8 settled and finished, and they are great  
9 developers and they made those financials work  
10 many times before. I ask you again to understand  
11 when you blow away the smoke, when you cover the  
12 mirror, it's about how much someone is going to  
13 make after 20 years, after the 35 years, and they  
14 are going to make money because this is a  
15 beautiful building and it is going to attract  
16 people for a long time, and it's a great location.  
17 It's nothing about feasibility. It's about  
18 affordability. Our Board, our community certainly  
19 wants permanency, but if we are dealing with the  
20 lease, then 87 years is just fine. I amend my  
21 answer for the Planning Commission.

22  
23 CHAIRPERSON WEPRIN: Thank you.

24 Thank you, Joe, and now I'd like to call on Mr.  
25 Benfatto.

1  
2                   ROBERT BENFATTO: Thank you. Good  
3 morning. I would second everything my colleagues  
4 said. I actually was asked the same question at  
5 City Planning and said I thought the 87 years was  
6 a reasonable solution to the problem, but my  
7 comments—well, that was a great three minutes.

8                   CHAIRPERSON WEPRIN: Thank you, Mr.  
9 Benfatto. Okay. Sorry about that.

10                   [background conversation]

11                   ROBERT BENFATTO: I'm here to talk  
12 actually about two separate things, which is about  
13 the enlivening of West 58<sup>th</sup> Street and the midblock  
14 access, the driveway between the Helena building  
15 and the proposed building. In the package you had  
16 gotten is a memorandum I put together after the  
17 City Planning meeting when some more work was done  
18 tweaking the design for the landscaping and the  
19 outside of the building. We liked pretty much all  
20 the changes, and I have been asking for just a few  
21 tweaks that we think are really important to make  
22 it better. The West 58<sup>th</sup> Street side is right  
23 across from the Con Ed building, which you saw  
24 pictures of. It's a very large building, and that  
25 block if you do a Google search on it you will see

1           it is a very dark, unmoving block. There is  
2           nothing there. Obviously when the building gets  
3           there, there will be some more there, but you need  
4           the side of the building to be very alive. They  
5           have the one lobby where they are talking about  
6           opening it up a little bit in the front to make it  
7           livened out, and that is a really good idea, but  
8           they have two lobbies on West 58<sup>th</sup>. There is one  
9           further up on the east, and we had asked if they  
10          could do the same thing to that other lobby to  
11          extend out to in front of one of the loading  
12          docks, I guess the mechanical portion in front.  
13          We know they can't do it in front of the Con Ed  
14          place, but they could do it in that other lobby  
15          across in front of the mechanical, and we also—  
16          they had a number of trees, and we had asked if  
17          possible they could put some more trees, but if  
18          not, to landscape around the trees. In parts of  
19          the lower 50s and Clinton and in the 30s in Hell's  
20          Kitchen, there are trees, but they have like  
21          flower pots and planting beds that are larger  
22          around there which gives it more greenway and  
23          enlivens the street. On the midblock access, we  
24          thought a lot of work had been done there. It's  
25

1  
2 22 feet wide, the one lane that goes through from  
3 57 to 58<sup>th</sup> and we understand that the width of it  
4 especially since about halfway through is the  
5 access to the two buildings and cars are going to  
6 stop. We understand you might need something that  
7 large, but as you do the other half of the  
8 driveway access, that is just going to be driving  
9 out, so we don't understand why it can't be a  
10 little thinner so you can have more space and more  
11 greenery for people there to make it more—not just  
12 a driveway, but also a green space, and we have  
13 other places like this in the district and usually  
14 we would like to have a sign telling people that  
15 this is a public space, and it is a space that  
16 they are welcome to come and sit and spend the  
17 day. That's it. Thank you.

18 CHAIRPERSON WEPRIN: Thank you very  
19 much. Don't leave yet 'cause Council Member  
20 Brewer, did you want to ask this panel something?  
21 Don't feel obligated, but—

22 COUNCIL MEMBER BREWER:  
23 [interposing] Very quickly, I think for both J.D.  
24 and Joe, can you just very quickly explain one  
25 more time what you have accomplished with the

1 Clinton special district, and then secondly for  
2 Joe, what would be involved if one was to  
3 renegotiate? Obviously, professionally you have  
4 done that on housing issues in the past—just  
5 quickly Clinton special district and then  
6 logistically would one renegotiate? You need the  
7 mic.  
8

9                   JEAN DANIEL NOLAND: I'm sorry.  
10 Council Member, thank you. I will also very  
11 briefly. The Clinton special district is I guess  
12 I feel it has revitalized 9<sup>th</sup> Avenue. I have been  
13 there for almost 25 years, and that whole area,  
14 the revitalization of Hell's Kitchen has a lot to  
15 do with the preservation of the special Clinton  
16 district. It allows for a mixed neighborhood.  
17 It's the reason I moved to New York, so I could  
18 live among many different people, many different  
19 backgrounds. We still have that. Secondly, we  
20 preserve the housing of our most vulnerable  
21 populations and—

22                   COUNCIL MEMBER BREWER:

23 [interposing] What are the boundaries quickly?

24                   JEAN DANIEL NOLAND: Of the Clinton  
25 special district? 41 to 55<sup>th</sup>? I'm sorry to 58<sup>th</sup>

1  
2 from 8<sup>th</sup> Avenue over to 10<sup>th</sup> and 11<sup>th</sup> to the river  
3 now with the 11<sup>th</sup> Avenue rezoning.

4                   JOE RESTUCCIA: On Clinton special  
5 since 1973 when it was established it was the  
6 first affordable housing bonus prior to  
7 inclusionary housing being adopted in 1986, so  
8 what it has done is where any of the high density  
9 districts are along West 57<sup>th</sup>, 8<sup>th</sup> Avenue or 42<sup>nd</sup>,  
10 it has a required affordable housing bonus and  
11 that is meant as the neighborhood changes and the  
12 world changes, we get to keep people who live  
13 there to get an ability to live there in the  
14 future, which is so important for us—and their  
15 children and those units are permanently  
16 affordable. On the question of this 99 year  
17 lease, normally in a 99 year lease, you are able  
18 to negotiate an extension. Let's say you are not.  
19 During the course of it as long as you are paying  
20 the lease payments, there is no issue, so this  
21 question that came up today for the very first  
22 time of encumbrance, I am kind of surprised that  
23 there is an understanding that they have to—are  
24 they going to remove the building after year 87?  
25 I don't think so, so the real issue here is that

1  
2 in a lease as long as you are paying your lease  
3 payments the property is yours to do with, and  
4 then regulations that exist from city and state  
5 are part of a law, and the lease is subject to  
6 those, so if there is rent stabilized tenants and  
7 there is an income restriction up to year 87,  
8 well, then that is that, and it changes after  
9 that, but you don't have to renegotiate anything  
10 during the course of it. Maybe you are going to  
11 make less--if you have a lease payments that go up  
12 every so often and you have to keep affordable  
13 tenants in, you are getting less money and your  
14 lease payments go up, so maybe you are making  
15 less, but you are still obligated to make those  
16 lease payments you agreed upon in 1999. The - -  
17 is between what you are retaining and giving to  
18 the owner; it is not a difference that you give to  
19 the owner.

20 COUCNIL MEMBER BREWER: Thank you  
21 very much.

22 CHAIRPERSON WEPRIN: Good. Anyone  
23 else have questions of this panel? I'm seeing  
24 none. Thank you. Thank you, community board.  
25 I'd now like to call up a panel in favor of this

1 project. The following people—Tammy Rivera,  
2 Geronimo Saldana [phonetic], Ilene Popkin, Heather  
3 Beaudoin and then I have a fifth person, Mr.  
4 Barrowitz [phonetic], would you mind just given up  
5 your seat—are you leaving me? No, you're not  
6 leaving. And Nicolas Ronderos. If you could just  
7 temporarily give up that seat, you don't have to  
8 bring it up to the panel, they can just sort of be  
9 the fifth person can sit in that last seat and we  
10 will move them closer to the mic at the time.  
11 Thank you - - . I apologize. You've been kicked  
12 out of worse places, right? Actually, we have  
13 enough seats? Okay, right. Okay. Thank you  
14 guys. So it's all of the five that is why I made  
15 it five. Again, panel, you each will have three  
16 minutes. You can try to sum it up before then  
17 that is great too, but please state your name for  
18 the record before you speak, and we look forward  
19 to hearing from you as soon as you decide who  
20 wants to go first. Whenever you are ready. Thank  
21 you.  
22

23 ILENE POPKIN: Is it on? Thank  
24 you. Hi. Good afternoon. My name is Ilene  
25 Popkin, and I am speaking on behalf of the



1  
2 Citizen's Housing and Planning Council, a 75 year  
3 old, independent, non-profit housing policy  
4 organization, and I thank you for the opportunity  
5 to testify in support of the West 57<sup>th</sup> Street  
6 project proposed by Fetner Durst, Fetner  
7 Residential. We are excited about the prospect of  
8 these iconic residential proposal, adding to the  
9 stock of housing and improving a former industrial  
10 site with amenities and urban design improvements  
11 to help transform it into a vibrant neighborhood  
12 for the city. With the commitment of the  
13 experienced development team which has  
14 consistently provided quality spaces for New  
15 Yorkers while building to the highest standards of  
16 environmental responsibility, the project will be  
17 a welcome contribution to the city's ongoing needs  
18 for mixed income housing. The project presents an  
19 opportunity to add an addition 750 units of  
20 housing, which would include approximately 150  
21 units set aside for low income housing of various  
22 sizes for 35 years. This is a significant  
23 commitment that should not be taken lightly since  
24 the site itself could remain under its existing  
25 zoning and be developed for other non-residential

1 uses. This would be an unfortunately option given  
2 the significant benefits for the residential use  
3 at this location. While we really understand that  
4 there is desire to extend the 35 year restriction  
5 period into perpetuity, we would caution against  
6 such addition restrictions. New construction of  
7 housing requires a significant capital investment  
8 and this is in fact the reason that New York City  
9 has such an aggressive programmatic response to  
10 subsidized housing through below market  
11 construction financing, tax benefits, zoning  
12 benefits in some areas. In the end however these  
13 programs will have limited impact without  
14 significant private capital to get them built.  
15 The balance has been the hallmark of New York  
16 City's successful housing programs for decades.  
17 It is east to simply future requirements today,  
18 but they become unfunded mandates in the future.  
19 In the end, this strategy does not work. It will  
20 invariably require additional government  
21 intervention in the future or additional capital  
22 subsidies now, neither of which are available  
23 today. In addition, it locks the property into an  
24 income band 35 years into the future or more that  
25

1  
2 may or may not be the priority of the community at  
3 the time. Perhaps, worst of all it does not  
4 guarantee that low income households continue to  
5 receive the subsidized rents, which are to income  
6 at the time of rental, but are not monitored  
7 thereafter. As household incomes rise, rents  
8 remain below market. Less is likely that some  
9 tenants will continue to benefit from the original  
10 subsidies regardless of their need. The proposed  
11 project will provide a significant addition to our  
12 need for mixed income housing. It presents unique  
13 opportunities to enhance the public realm and  
14 access the waterfront. It provides retail  
15 community facility uses, such as daycare and  
16 construction of projects of architectural  
17 significance, while meeting high standards for the  
18 environmental sustainability. It improves the  
19 quality of life in the community.

20 CHAIRPERSON WEPRIN: Thank you. We  
21 didn't put you on the clock. I apologize. I gave  
22 you the opportunity to read with feeling—

23 ILENE POPKIN: I'm done.

24 CHAIRPERSON WEPRIN: At the end  
25 usually people are reading really quickly.

1  
2 ILENE POPKIN: I'm done. I was  
3 just going to say thank you. I was at the end,  
4 and I was just there to thank you.

5 CHAIRPERSON WEPRIN: Okay. No  
6 problem. Next. We will start the clock again. I  
7 apologize next time, but that was an accident.

8 ILENE POPKIN: [off mic]

9 CHAIRPERSON WEPRIN: You probably  
10 did, but I can't prove it.

11 TAMMY RIVERA: Good afternoon,  
12 everyone. My name is Tammy Rivera. I am here to  
13 just to talk about good jobs although I am for  
14 affordable housing 100 percent. As an organizer,  
15 I represent the New York City District Council of  
16 Carpenters, and I'm a council rep. I'm an  
17 organizer. I go around all the five boroughs  
18 looking at construction sites and interviewing  
19 workers. A lot of the workers sadly to say aren't  
20 getting an area standard wage, and everyone that I  
21 speak to aren't getting any kind of benefits.  
22 Unfortunately, a lot of the PPE, the personal  
23 protection equipment, that everybody has to have  
24 for their health and safety is usually not OSHA  
25 approved. They are cutting corners. Contractors

1  
2 aren't being accountable. In contrast, Durst  
3 Organization has been around a long time, and they  
4 have a reputable history of developing projects  
5 with responsible contractors. I am confident the  
6 proposed West 57<sup>th</sup> Street project will not be an  
7 exception. This project will help boost the  
8 economy because it will create permanent jobs as  
9 well as 1700 or so good paying construction jobs  
10 in a time where our industry is trying to get back  
11 to where it was before the downward economy in New  
12 York City. It's not easy building New York City,  
13 but we are proud. We are proud because we are  
14 educated. We are qualified. We are certified.  
15 It's not just a job for us. It's our careers.  
16 Benefits are very important. We have families.  
17 Some of us are mothers. Some of us are fathers,  
18 and when those little ones get sick, you know that  
19 is the world for you. You come second. We look  
20 forward to continue working with a responsible  
21 developer, such as Durst, and I am confident they  
22 will continue to do the right thing, the right  
23 way. Thank you.

24 CHAIRPERSON WEPRIN: Thank you, Ms.  
25 Rivera. Next speaker please.

1  
2                   NICOLAS RONDEROS: Should I wait  
3 for the clock?

4                   CHAIRPERSON WEPRIN: No, sir. You  
5 just start and we'll get that clock going really  
6 quickly. Don't try to be too considerate.

7                   NICOLAS RONDEROS: Thank you. My  
8 name is Nicolas Ronderos, and I am Regional Plan  
9 Association's New York director. A private, non-  
10 profit research and planning organization serving  
11 the greater New York Metropolitan Region, RPA  
12 would like to express its support for the 625 West  
13 57<sup>th</sup> Street rezoning, which would complement other  
14 west side initiatives that together are helping  
15 transform the area from a manufacturing zone to a  
16 mixed use environment. The project would result  
17 in the development in the much needed 1.1 million  
18 square feet of new buildings including 863  
19 residential units and 151 affordable units, 80,000  
20 square feet of commercial office, 62,000 gross  
21 square feet of retail, 28,000 gross square feet of  
22 community facility space and 185 additional  
23 accessory parking spaces. The site is currently -  
24 - regulated by zoning reflecting previous  
25 manufacturing and commercial land use

1 characteristics of this part of Manhattan. The  
2 proposed actions include rezoning to commercial  
3 from manufacturing, large scale development and  
4 other special permits and modifications to the  
5 existing restrictive declaration of the site.  
6 These changes are needed to allow for the proposed  
7 amount of residential space and to accommodate for  
8 the exemplary architecture proposed by the  
9 applicant. This project would allow precisely the  
10 type of uses that will enhance the area's  
11 transformation with a mixed use building with  
12 residential, commercial office, retail, community  
13 facility and parking uses. Provision of  
14 affordable housing and open space connections  
15 through the block would also benefit current and  
16 future residents. RPA has supported residential  
17 development on the west side of Manhattan since  
18 the 1920s and has been involved in neighborhood  
19 projects including Hudson River Park, Riverside  
20 South, Hudson Yards and West Chelsea that have  
21 transformed what was once a largely shipping,  
22 warehousing and manufacturing district on the west  
23 side waterfront into a mixed use residential  
24 district. RPA sees this project as an important  
25

1  
2 part of these larger transformations. It would  
3 enhance the livability of west side over the next  
4 generation. Thank you.

5 CHAIRPERSON WEPRIN: Thank you very  
6 much. Ms. Beaudoin?

7 HEATHER BEAUDOIN: Good afternoon,  
8 Mr. Chairman Weprin and members of the  
9 Subcommittee. My name is Heather Beaudoin. I am  
10 here on behalf of the Building and Construction  
11 Trades Council of Greater New York, an  
12 organization that consists of local affiliates of  
13 15 national and international unions representing  
14 100,000 working men and women in the five boroughs  
15 of New York City. We are pleased to testify today  
16 in support of the Land Use application submitted  
17 by Durst to allow for the construction of the West  
18 57<sup>th</sup> Street pyramid [phonetic] project, a superior  
19 design that will create 753 new rental housing  
20 units, 20 percent of which will be affordable.  
21 This project enjoys strong support from organized  
22 labor in the building and construction industry.  
23 Its 400 million investment will create 1750  
24 construction jobs at a time when they are  
25 desperately needed. The development time has



1 applied for and has been approved to use a project  
2 labor agreement on this site, which is in the  
3 process of being executed, meaning that  
4 construction jobs in skilled trades will be  
5 unionized and paid good wages with health  
6 insurance and pensions. This commitment is worth  
7 noting as many developers that come before this  
8 subcommittee and the City Council in general do  
9 not make such a commitment to working men and  
10 women and furthermore, do not do so voluntarily.  
11 So Durst is to be commended for that effort.  
12 Employment in construction in New York City based  
13 on the most recent data available from November  
14 2012 remains more than 22,000 jobs below the peak,  
15 which was in 2008. Recovery in our industry  
16 remains slow. Every worthy project that can  
17 contribute to putting members of our affiliated  
18 unions and others back to work is therefore  
19 critical to strengthening our employment outlook  
20 and the overall health of the city's economy. We  
21 therefore urge the subcommittee and the Council to  
22 support the land use applications needed to allow  
23 this important project to advance and look forward  
24 to working with you to do so. Thank you.  
25

1  
2 CHAIRPERSON WEPRIN: Thank you very  
3 much. Well timed. We will restart the clock for  
4 Mr. Saldana.

5 GERONIMO SALDANA: Good afternoon,  
6 Chairman, Subcommittee members. My name is  
7 Geronimo Saldana. On behalf of the 70,000 SEIU  
8 Local 32 BJ that live and work in New York City, I  
9 am here to express our support for Durst Fetner's  
10 residential planned development on West 57<sup>th</sup>  
11 Street. This project presents a threefold  
12 opportunity for the neighborhood. First, the  
13 development of this project would allow for more  
14 permanent jobs in the area that pay good wages and  
15 provide access to quality, affordable healthcare.  
16 It is these kinds of jobs that working people like  
17 future building service workers on Manhattan's  
18 west side need to survive and raise families in  
19 the city. In addition to being a responsible  
20 employer, Durst Fetner is deeply committed to  
21 environmental sustainability. If the project  
22 moves forward, it will take a site that was  
23 environmentally degraded in the years past and  
24 replace it with a cutting edge green building.  
25 This advancement would be coupled with innovative

1 environmental programming, including one of the  
2 largest residential composting programs in New  
3 York. Durst Fetner will make sure the development  
4 also responds to community needs. 150 units in  
5 the building will be affordable for decades and  
6 rent regulated for many years after that. As we  
7 all know, not every developer is committed to this  
8 mix of high quality jobs, environmentally  
9 sustainable projects and affordable housing that  
10 allows workers to care for their families and  
11 thrive in our city, not just in the present, but  
12 well into the future, yet across the street T.F.  
13 Cornerstone [phonetic] is looking to build even  
14 though they have no such record of responsible  
15 development and made a habit of undercutting  
16 industry standards. We need to support  
17 responsible community partners like Durst Fetner  
18 and recognize projects like this one that will  
19 help building services workers earn the wages and  
20 benefits they need to get a foothold in the middle  
21 class. For this reason on behalf of 32 BJ, I urge  
22 the City Council to vote in support of this  
23 proposal. Thank you.

24  
25 CHAIRPERSON WEPRIN: Thank you.

1  
2 Thank you very much. I know Council Member Brewer  
3 has a comment or a question.

4 COUNCIL MEMBER BREWER: I just want  
5 to say because I think we are all in the same—at  
6 least in terms of building, we all want this  
7 project built, and I think many of your members  
8 probably couldn't afford it, so we would like to  
9 make sure that your members can afford it and for  
10 the life of the building, and that is why we are  
11 here. So we are on the same page, and I  
12 appreciate the carpenters and - - and everybody  
13 else who says we want to have both. That is what  
14 we want. I appreciate your coming here today.  
15 Thank you.

16 CHAIRPERSON WEPRIN: Thank you,  
17 Council Member Brewer. Could you return the chair  
18 to the Durst Fetner crew over there? We won't  
19 need it the next time. Thank you very much.  
20 We're good. - - questions. I'd like to now call  
21 on panel in favor—in opposition. Okay. We are  
22 done with the panels in favor for now, so I'd like  
23 to call up for Assemblywoman Linda Rosenthal's  
24 Office, Paul Sawyer, Katherine Consuelo Johnson,  
25 Moses Gates and Bennett Baumer. Okay. Are all

1  
2 four of you here? I apologize, and we are going  
3 to try to get through this in order. Do we have  
4 four people? Did she walk out? We will put her  
5 last, and when she comes in—there she is. Sorry  
6 about that. Okay. I will admit we did try to  
7 accommodate Ms. Consuelo Johnson, and I can relate  
8 to the trips to the bathroom with a small child,  
9 so yes, take your time. You guys can decide who  
10 will go first. I don't know if you want to let  
11 her go first—you and your son, but we are not  
12 giving you more than three minutes even if he is  
13 cute. Okay?

14 KATHERINE CONSUELO JOHNSON: Thank  
15 you. Hi. Good morning. My name is Katherine  
16 Consuelo Johnson. I am a long term resident of  
17 Hell's Kitchen. I am also a member of the West  
18 Side Neighborhood Alliance. Last time I was here,  
19 it was about two years ago. I introduced myself  
20 as a working class parent. We are not working  
21 class anymore. We are poor, and we are looking  
22 for affordable housing—permanent, affordable  
23 housing. I did the math. If my family were to  
24 move into this Durst - - this year, I would have  
25 to move out when I was 68 years old because I

1 probably wouldn't be able to afford the rent. I  
2 love my neighborhood. There are many, many people  
3 like me with small children looking for affordable  
4 housing—permanent affordable housing. I am  
5 pleased to hear that the Durst pyramid is offering  
6 good labor, supporting the union, offering jobs,  
7 but what we really need is permanent affordable  
8 housing for people like me, poor people, people  
9 who are honest, who went to college and just can't  
10 seem to make any money right now. So I humbly ask  
11 the City Council to please please think about the  
12 poor people who do need this permanent affordable  
13 housing because I don't know—I am just afraid that  
14 one day New York City won't be a hodge podge of  
15 all sorts of socioeconomic people. It's just  
16 going to be you are really, really rich or you are  
17 really, really poor, and that is not what New York  
18 City is about. New York City is a cauldron of  
19 many, many different people. Thank you.

21 CHAIRPERSON WEPRIN: Thank you very  
22 much.

23 BENNETT BAUMER: Hello. My name is  
24 Bennett Baumer, and I am an organizer at Housing  
25 Conservation Coordinators. We are based in Hell's

1 Kitchen. We have been there for 40 years, and we  
2 are dedicated to preserving safe, decent and  
3 affordable housing. Every year we help thousands  
4 of neighborhood residents improve their living  
5 conditions and fight for changes that keep our  
6 neighborhood affordable and diverse for years to  
7 come, and HEC, we do not support this development  
8 as it currently stands. It's a development that  
9 takes advantage of public money through the 421A  
10 and 80/20 programs, but they do not offer  
11 permanent affordable housing, which is sort of the  
12 kicker here and the stumbling block for our  
13 support. We want permanent affordable housing.  
14 As Katherine Consuelo Johnson, you just heard from  
15 her and she put it very eloquently. The bind that  
16 many of our constituents in are neighborhood are  
17 in, you may have formerly thought of yourself as  
18 middle class and all of a sudden, you are just  
19 not, and it's not because of anything you did.  
20 It's just the development around you has increased  
21 and has become way more expensive and has put your  
22 ability to live in the place that maybe you grew  
23 up or moved to many years ago out of reach. We  
24 know what happens when affordable housing programs  
25

1  
2 are not permanent and that is why it is so  
3 important to have permanent affordable housing.  
4 The Durst Organization, I am confident it would be  
5 able to afford this as well, but when housing  
6 programs are not permanent, they disappear, and  
7 that is what is happening in New York City, and  
8 that is what is happening with the Section 8  
9 program or 80/20s, there is a potential collapse  
10 of the 80/20 program in our neighborhood when they  
11 expire, and we don't really know what is going to  
12 happen—well, we do know. They are not going to be  
13 affordable anymore. And HEC cannot support a  
14 development and a zoning change that doesn't give  
15 our community what it needs—permanent affordable  
16 housing.

17 CHAIRPERSON WEPRIN: Thank you, Mr.  
18 Baumer. Next, please.

19 PAUL SAWYIER: Good morning. My  
20 name is Paul Sawyer. I am here to testify on  
21 behalf of Assembly Member Linda B. Rosenthal.  
22 Good morning I am Assembly Member Linda B.  
23 Rosenthal, and I represent the 67<sup>th</sup> Assembly  
24 District, which includes the Upper West Side and  
25 parts of Clinton, Hell's Kitchen and Manhattan. I



1 am testifying today in regard to three  
2 applications by Durst Development LLC to the New  
3 York City Council as part of a uniform land use  
4 review procedure for a mixed use development and  
5 another for an enclosed tenant accessory parking  
6 garage with 385 spaces of accessory parking at the  
7 same development. Durst has entered into this  
8 venture with the clear intention of creating not  
9 only a stunning architectural design, but also a  
10 welcome and innovative approach to energy  
11 efficiency and conservation. From hybrid heating  
12 pumps to glass treated to prevent bird fatalities,  
13 the developer has spared no expense in ensuring  
14 that this building will be a landmark of the  
15 Clinton community and will have the least possible  
16 impact on the environment. Durst's design should  
17 be a model for other developers throughout the  
18 city, and it's unfortunate that therefore I cannot  
19 support Durst's current proposal because it does  
20 not include permanent affordability for the 20  
21 percent of units, which will be allocated for low  
22 and moderate income families under the 80/20 and  
23 421A programs. In addition the proposal seeks to  
24 exceed the amount of parking allowed in a  
25

1  
2 Manhattan core parking requirements. In reference  
3 to the housing portion, Durst contends that it has  
4 no control over the permanence of the  
5 affordability because it has a 99 year lease on  
6 the land rather than owning the lot outright;  
7 however, Durst can and should commit to preserving  
8 the unit's affordability for the duration of the  
9 lease, either on its own or by renegotiating the  
10 lease to adjust revenue payments on the land for  
11 extending the affordability. In addition, Durst  
12 has refused to come to the table and consider any  
13 affordability beyond what is required under the  
14 80/20 and 421A programs. To facilitate a  
15 cooperative negotiation process, I wrote to one of  
16 the primary owners of the site requesting that  
17 they reach out to Durst to renegotiate the lease,  
18 and am awaiting a response. Regarding parking,  
19 Manhattan core parking regulations allow for a  
20 maximum of 200 parking spaces in a residential,  
21 mixed use development provided the number of  
22 spaces does not exceed 20 percent of the number of  
23 units in the building and one space per 4,000  
24 square feet of commercial space. Durst's current  
25 proposal has 385 spaces, and it's surprising that

1 a developer such as Durst which has worked so hard  
2 to minimize the impact of its development on the  
3 environment in so many other ways intends to leave  
4 an overly large footprint on the already  
5 monumental congestion problems that exist within  
6 my district in Community Board 4. Durst has shown  
7 its commitment to investing in good jobs and  
8 responsible ecofriendly development at the expense  
9 of some its profits, but Clinton is crying out for  
10 a similar investment in affordable housing. For  
11 every one unit of affordable housing created or  
12 already existing in this city, there are arguably  
13 dozens of families trying to get in. We all want  
14 this project to move forward, but Durst must  
15 demonstrate a longer term commitment to affordable  
16 housing on this site by extending the  
17 affordability of its units beyond the bare minimum  
18 required to received financial incentives from the  
19 city and state. In the long term interest of the  
20 community as whole, I urge the City Council to  
21 require that Durst include provisions guaranteeing  
22 affordability for the duration of Durst's lease  
23 and reduce the parking allotment to what is  
24 permitted under Manhattan core requirements as  
25

1 conditions for approval of the application. Thank  
2 you.  
3

4 CHAIRPERSON WEPRIN: Wow, Mr.  
5 Sawyer. That is impressive—reading it and  
6 getting it under - - . If you could just please  
7 thank Assembly Member Rosenthal on our behalf and  
8 in my place in particular if you could send her my  
9 regards, I would appreciate it.

10 PAUL SAWYIER: Will do.

11 CHAIRPERSON WEPRIN: Next, please.

12 MOSES GATES: Hi. Thank you,  
13 Councilmen and Councilwomen. My name is Moses  
14 Gates. I am from the Association for Neighborhood  
15 Housing Development. We are a trade organization  
16 and policy organization of 94 city-wide not for  
17 profits. When this came before the City Planning  
18 Commission, I missed the boat because I saw oh,  
19 it's CB4. It's Durst. You know, this will be  
20 fine. Obviously it will be permanent. Why would  
21 I even show up? And now I find myself here with  
22 many, many members of the community trying to  
23 again, make the case that was made in 2005 that  
24 everything that all affordable housing built  
25 should be permanently affordable. I want to

1 address a few things just in regards to the  
2 subsidy and also the mechanics behind permanent  
3 affordability. Ilene Popkin, who testified  
4 earlier, gave me my first job in New York City,  
5 and I have enormous respect for her as a policy  
6 analyst, and she is dead wrong on the issues of  
7 permanent affordability and how they work. This  
8 will not cost any additional government subsidy in  
9 the future. These low income units, number one at  
10 50 percent AMI, will probably make a small amount  
11 of profit or at the very least break even in terms  
12 of operating expenses, and they are cross  
13 subsidized by the 80 percent market rates, one of  
14 the most expensive neighborhoods in Manhattan.  
15 This will cash flow just fine after year 20, after  
16 year 35 and into year 87. There will be no  
17 additional government recapitalization needed for  
18 this project. The public financing put into this  
19 goes to construct a building that is permanent.  
20 You have tax exempt financing. You have direct  
21 equity in the form of four percent tax credits,  
22 and it goes to construct a building that is  
23 permanent and the public benefit needs to be  
24 permanent as well. And in almost all cases, it  
25

1 is. When you have new open space or when you have  
2 a new subway station as part of a development,  
3 they don't backfill the subway station after 35  
4 years. It's how it goes, and this component needs  
5 to be permanently affordable as well—the  
6 affordable housing. So I love the building. I am  
7 one of those people who aesthetically thinks it's  
8 really cool. I also am confused as to why I am  
9 sitting here arguing for something that was  
10 decided by this community in 2005, and every other  
11 affordable unit is pledged permanence in  
12 perpetuity since then, and I would really love to  
13 be able to testify in favor of this in a few weeks  
14 if this project is amended to create permanent  
15 affordability. 87 years is great. We would also  
16 appreciate something that said that if the lease  
17 is renegotiated and all leases are renegotiated  
18 within that 87 years, they are not going to say,  
19 okay, here you go Applebee family, that if this is  
20 renegotiated, and they retain control of the land  
21 that the affordability is also extended. That is  
22 the only other additional thing that we would ask  
23 for. Thank you.

25 CHAIRPERSON WEPRIN: Thank you very

1                   SUBCOMMITTEE ON ZONING AND FRANCHISES                   95  
2           much. Does any member of the panel want to just-

3                                   COUNCIL MEMBER BREWER:

4           [interposing] Thank you all very much for  
5           everything. I really appreciate it.

6                                   CHAIRPERSON WEPRIN: There you go.

7           Council Member says thank you. Alright, thank

8           you. See you later. This is his first time

9           testifying? Second time as well? Uh oh. Watch

10          out, Gale. Next I will now call up another panel

11          of four people: Kathleen Treat, Matt Klein, Bob

12          Kalin, and Allison Tupper. I must have got that

13          right. Okay. So if those four people would make

14          their way. Is this testimony? - - That's

15          testimony if we can get that distributed please.

16          - - . For the record, everyone someone mentioned

17          the fact coming back in a couple of weeks--our plan

18          right now is to finish this hearing today, to

19          digest what we hear today, and then to have some

20          more further discussions afterwards, and then

21          indeed come back hopefully to resolve some of the

22          outstanding issues just for the record. We will

23          not be voting today. Whenever you are ready, you

24          guys seem like you know what is going on. You

25          know who is going first and all that. Good.

1 Whenever you are ready.

2  
3 KATHLEEN TREAT: Good afternoon. I  
4 am Kathleen Treat, chair of the Hell's Kitchen  
5 Neighborhood Association. The Durst Organization  
6 is to be commended for its commitment to New York.  
7 Many of my neighborhoods in the west 40s were  
8 tenants of the Dursts in the past and speak highly  
9 of them to this day. I heartily dislike the 80/20  
10 program, which offers enormous helpings of gravy  
11 to developers in return for miserly Ebenezer  
12 Scrooge 20 years and bah humbug. Wouldn't it be  
13 grand if the Dursts led the vanguard into  
14 permanently affordable housing? So go back to the  
15 Applebees if you got to do that. 87 years would  
16 be just great. Given their reputation as fair,  
17 morally upstanding landlords, who better to show  
18 the rest of the development community how it's  
19 done? Oh, dump those illegal 185 parking spaces,  
20 please, and make more of those units two bedrooms,  
21 please. I sincerely hope that the Durst  
22 Organization will accept this leadership  
23 challenge. Thank you.

24 CHAIRPERSON WEPRIN: Thank you, Ms.  
25 Treat.



2 ALLISON TUPPER: Good afternoon.

3 I'm Allison Tupper, a member of the West 46<sup>th</sup>  
4 Street Block Association and the West Side  
5 Neighborhood Alliance. I have two points to make.  
6 One is the need for permanent affordability. I  
7 underlined what Kathleen has said, and in  
8 addition, I'd like to say a little bit more about  
9 the parking. Durst has done many good things, and  
10 the fact that I just learned today they have a  
11 shuttle from the Helena over to the subways two  
12 long blocks away, that shows their commitment to  
13 the environment and a commitment to reducing—it  
14 obviates the need for extra parking, so I want to  
15 urge the Committee not to approve the zoning  
16 unless those extra parking spaces are removed. If  
17 they need another shuttle, good. That is what the  
18 environment needs. That is what pedestrian safety  
19 needs. That is what the reduction of congestion  
20 needs. Thank you.

21 CHAIRPERSON WEPRIN: Thank you.

22 BOB KALIN: Good morning. I'm Bob  
23 Kalin. I'm a member of the West Side Neighborhood  
24 Alliance, and I am going to try to keep my remarks  
25 under a minute.

CHAIRPERSON WEPRIN: Wow. Okay.

BOB KALIN: As it happens in my work as a community activist, I go way back with the Durst family. In the early 1980s I probably did about 40 apartment inspections with Seymour Durst himself. I'd call up to make an appointment with one of his agents, and invariably Seymour would be there. The one thing I never forgot about Seymour ever is he would cut to the chase and we would solve the problem right there. No bullshit. The last conversation I ever had with Seymour there was this young guy with him, and he usually would introduce me—I just figured it was an agent, and he didn't introduce me. At the end of the conversation I said, who is that guy? And he said that is my son, Douglas and Bob, you will be happy to know we are getting the hell out of the tenement business and we're moving into high rise development. You can say a lot of very good things about Douglas Durst. He builds his building with union labor. Not everybody does that. He is building the most interesting green buildings in the city right now. No one else is doing anything close that what they are doing.

1  
2 Yes, they haven't made us happy about the  
3 permanence and affordability to some of their  
4 projects, but they have been open to the  
5 conversation. Let me issue them a challenge. It  
6 doesn't get any better in the real estate  
7 development community than the Dursts. It  
8 doesn't. To make this project truly extraordinary  
9 to take it up to the next level, let's make some  
10 of it permanent and affordable. If there is a  
11 real estate family out there that is up to the  
12 challenge, it's the Dursts. Come on, guys. Show  
13 us that you can do it. Thanks.

14 CHAIRPERSON WEPRIN: You guys keep  
15 this up, Doug is going to run for mayor. But  
16 anyway, thank you. You are done I assume. Right.  
17 Okay. - - , you can't have his extra time.

18 MATT KLEIN: I would never ask.  
19 Good afternoon. My name is Matt Klein. I am a  
20 member of the West Side Neighborhood Alliance.  
21 WSNA is an independent member-run organization  
22 that mobilizes West Side residents to take charge  
23 of planning our community. I'll say that again--  
24 our community. We advocate for a diverse,  
25 affordable, livable neighborhood that preserves

1 the mixed income character of today's West Side,  
2 and we work to guarantee that the ongoing  
3 development of our neighborhood serves community  
4 members of all races, incomes and backgrounds. I  
5 handed in my testimony, so I'll just kind of cut  
6 and paste. If you extrapolate the percentage of  
7 affordability based on the amount of time  
8 remaining on the ground lease an 80/20 affordable  
9 for 35 years in the grand scheme of things only  
10 makes this project be nine percent affordable.  
11 They are asking for a zoning change from a  
12 manufacturing to a commercial that allows for  
13 residential, which is cash in hand, and all they  
14 are willing to give back to our community is nine  
15 percent of that as affordable, forgetting about  
16 whether or not it remains rent stabilized once the  
17 period is up. That seems like a cheat, very un-  
18 Durst-like to go with the theme of this hearing.  
19 So it doesn't give us anything. The one piece of  
20 benefit to the community is some trees and some  
21 benches on a driveway where there are going to be  
22 two cars? That seems ridiculous. What our  
23 community is really asking for is the fact that we  
24 can have family friendly apartments where people  
25

1 who aren't rich can live. That is what the  
2 neighborhood has stood for as long as I can  
3 remember, as long as these guys have been living  
4 there for a lot longer than I have. When we talk  
5 about this and we talk about the way that the  
6 building looks and the way that the Durst  
7 organization operates, we talk about exemplary, we  
8 talk about iconic and we talk about revolutionary.  
9 Well, the revolutionary idea to me is to say, you  
10 know what? Let's give the community what they are  
11 asking for. It's not a penalty. It's a bonus.  
12 It's important to be looked upon by community  
13 members as somebody who is responsible and does  
14 the right thing, and every other aspect of this  
15 project is, so why let go on the one that we  
16 really, really need? I think it's really  
17 interesting also just like what a pyramid  
18 symbolizes, and I really wish that we could have a  
19 lot of long term affordable apartments in there.  
20 Thank you.

21  
22 CHAIRPERSON WEPRIN: Thank you.

23 Ms. Brewer, do you have any comments you want to  
24 make?

25 COUNCIL MEMBER BREWER: That

2           Seymour Durst also served on the board of the dome  
 3           project [phonetic], which serves young people, and  
 4           I was on the board with him, and so we can go on  
 5           and on, and he was great. Thank you.

6                           CHAIRPERSON WEPRIN: Thank you very  
 7           much, panel. Please no one tell the Speaker I was  
 8           suggesting the Durst for mayor campaign. Anyway,  
 9           I'd like to now call up the next panel in  
 10          opposition: Richard Brender, David DuBose, Jackie  
 11          Del Valle and Deb Howard. Deb left. I have two  
 12          others only I think. Is Edward - - . Edward,  
 13          come on up. Just take one of the front row seats  
 14          and we will roll you in as we get there and  
 15          Catherine Johnson was the one who already spoke.  
 16          So anyone else here who I didn't call who wanted  
 17          to speak? No. Okay. So this will be the last -  
 18          - . Yes, we are joined by the chair of the Land  
 19          Use Committee, who had a funeral to be at this  
 20          morning, and we are delighted he is with us as  
 21          well.

22                           RICHARD BRENDER: Okay. I guess  
 23          fools rush in. My name is Richard Brender, and  
 24          I'm a member on the steering committee of the West  
 25          Side Neighborhood Alliance, and I am just

1 celebrating an anniversary. It has been 20 years—  
2 since January 1993 that I first moved into Hell's  
3 Kitchen on 51<sup>st</sup> Street, and I have seen a lot of  
4 changes, some of which are good. I never imagined  
5 that the neighborhood would become as popular as  
6 it is—some which aren't. A lot of our neighbors,  
7 the kids of our neighbors, their classmates are  
8 having to move out of the neighborhood 'cause they  
9 can't afford it anymore, and the trend according  
10 to the Fuhrman Institute of NYU studies real  
11 estate trends and since 1993 a lot of the units  
12 that used to be rental units are now owned by the  
13 residents, and the prices for these units are over  
14 a million dollars. That is not affordable  
15 housing. That is out of the range of a lot of my  
16 neighbors when I first moved in. So what's left  
17 of affordable housing tends to come in two forms—  
18 51 percent of affordable housing is rent regulated  
19 units, and we know what is happening with them.  
20 That is not your fault. That is Albany's and - -  
21 speech on another occasion way upstate for that.  
22 What I am concerned about is the 20 percent of the  
23 units that are public and subsidized units, and a  
24 lot of these units come with affordability  
25

1 restrictions imposed on developers like the  
2 Dursts, who accept city subsidies and zoning  
3 vacancies. Because subsidized housing usually  
4 reverts to market rates in 30 years—in this case  
5 35 years—it means that Hell’s Kitchen is going to  
6 be hemorrhaging 6,000 units of affordable housing  
7 that will be beyond the reach of the kids, the  
8 grandkids and classmates of the 20 percent of the  
9 subsidized units at the Durst pyramid. As I said,  
10 they are not going to be able to settle in Hell’s  
11 Kitchen. Often not in New York, and that is what  
12 concerns me about the Durst project. As I said,  
13 Hell’s Kitchen as you can see from what I have  
14 given out has a lion’s share of 80/20 units, and  
15 the first of these were created in 1987, and it  
16 means these things are going to be going out of  
17 subsidy within four years, and they are going to  
18 be increasing throughout the 2020s, 2030s. That  
19 is the second page of the appendix over here. It  
20 sounds familiar, and if it sounds familiar, it is.  
21 This is what happened with the Mitchell [phonetic]  
22 - - program, and we have seen its effect on Stuy  
23 Town, Peter Cooper Village, other units that have  
24 gone out of that sort of subsidy reverts to market  
25



1 rate, and right before he died, I interviewed  
2 state senator McGill Mitchell [phonetic], the - -  
3 , and he said the legislative never intended to  
4 convert these developments to private ownership.  
5 In hindsight, we should have looked at what would  
6 happen in the future. Frankly, we didn't give it  
7 much thought. Well, this is your opportunity to  
8 give it thought, and to learn from history.

9  
10 CHAIRPERSON WEPRIN: Thank you.

11 Next please.

12 DAVID DUBOSE: Good afternoon. My  
13 name is David DuBose and I am a deacon at St. John  
14 the Evangelist Lutheran Church in Brooklyn. We  
15 are the good neighbors across the river that are  
16 getting killed by gentrification the way you are  
17 struggling against it on the West Side. Over the  
18 last 20 years, 50 percent of our congregation has  
19 been displaced by the lack of affordable housing.  
20 Forget permanent affordable housing, which we are  
21 struggling for every day—just plain affordable  
22 housing, no place to go. Consequently, we do not  
23 see the promise that was made years ago of  
24 affordable housing in any way fulfilled at this  
25 particular point in time. It is such a little

1  
2 shred, and working people are not able to sustain  
3 their neighborhoods anymore. Consequently, our  
4 social action committee is a member of GRC, the  
5 Greenpoint Renaissance Corporation struggling for  
6 over the last 20 years to build affordable housing  
7 on the old hospital site. We are also a member of  
8 the CURED campaign, that is the Campaign with the  
9 Communities United for Responsible and Equitable  
10 Development because we are looking to ally with  
11 everybody and anybody we can because we know our  
12 survival depends upon it. To us in our grassroots  
13 world, market means the grocery store and a roof  
14 over your head, not Wall Street, and so we are  
15 joining for three policies to go along with the  
16 need for affordable housing. We first of all want  
17 to make sure that city affordable housing  
18 investments achieve maximum public benefits for  
19 working people and that means permanent  
20 affordability. Also, any projects using public  
21 funds of any sort, it should be automatic that it  
22 be permanently affordable. We shouldn't even be  
23 having this argument today when we know we don't  
24 have enough affordable housing to sustain the  
25 working people and now fast [phonetic] working

2 poor in our communities. In addition, community  
3 input like this like what we are doing today  
4 should be top priority. We shouldn't feel like we  
5 are begging or groveling for what we need to make  
6 our living sustainable in our communities.

7 Consequently, as a CURED member, we are with the  
8 West Side 100 percent on affordable housing and I  
9 must add one of our courageous clergyman, Reverend  
10 Gonzales of Southside First Presbyterian Church  
11 puts it this way after he saw himself displaced  
12 out of Park Slope when he was a kid. He said we  
13 have got to draw the line here because until we  
14 have sufficient, affordable housing to meet the  
15 demand that we are seeing, anything less is going  
16 to be working glass genocide by gentrification.  
17 Thank you and I hope you move forward.

18 [applause]

19 CHAIRPERSON WEPRIN: Thank you very  
20 much. I'll allow the outburst just because we  
21 only have a couple left. Next please.

22 : Good afternoon. Thank you for  
23 allowing me to testify. It's nice to see you  
24 again, Council Member Brewer. My name is Jackie  
25 Del Valle. I am the new director of organizing at

1  
2 5<sup>th</sup> Avenue Committee in Brooklyn. An active member  
3 of the Association of Neighborhood and Housing  
4 Development, the 5<sup>th</sup> Avenue Committee develops and  
5 manages affordable housing and community  
6 facilities, creates economic opportunities and  
7 ensures access to economic stability, organizes  
8 residents and workers, offers student center adult  
9 education and combats displacement caused by  
10 gentrification. We strongly advocate for  
11 permanent affordable housing as a way to keep our  
12 neighborhoods diverse and livable and have had our  
13 share of rezoning battles in Park Slope, Gowanus  
14 and Sunset Park where we permanently do our work.  
15 We feel that the proposed rezoning has two major  
16 flaws. First, nowhere in the actual rezoning  
17 proposal is the affordable housing component  
18 mentioned. While the developer proposes using  
19 421A and 80/20 to create about 150 units of  
20 affordable housing for 35 years, the developer  
21 cannot be truly held accountable if it's not  
22 including in the rezoning text. As it stands,  
23 they can be held accountable for not putting in  
24 the tree pits and the benches that are all  
25 included, but the biggest benefit for the

1 community, the affordable housing isn't in there,  
2 and that needs to be rectified. Secondly, the  
3 affordable housing plan by Durst is insufficient.  
4 As been mentioned throughout today's hearing, it's  
5 the minimum allowed and it's not permanent, which  
6 really seems laughable for a project that is being  
7 lauded as so groundbreaking. At the very least,  
8 the permanent affordability should at least be for  
9 the 87 years. It seems also from the testimony  
10 given that there is not even really been  
11 sufficient conversations with the Durst  
12 Corporation around it, and also, it is doable. I  
13 work for a developer. I have worked for other  
14 developers in the past, and given the history and  
15 the creativity that durst has shown, there is  
16 really no reason that they can't make this at  
17 least for the 87 years, and - - this project goes  
18 through as it, it's going to be a significant roll  
19 back in this city's fight for permanent  
20 affordability and there is very strong community  
21 support, especially from Community Board 4, which  
22 I actually know really well. Prior to becoming  
23 director of organizing at 5<sup>th</sup> Avenue Committee, I  
24 was organizer at Housing Conservation Coordinators  
25

2                   and with the West Side Neighborhood Alliance, so I  
3                   know the community really well, and I can speak  
4                   firsthand when I talk about it, and I just really  
5                   hope that these changes are made. Thank you.

6                                   CHAIRPERSON WEPRIN: Thank you very  
7                   much. Edward?

8                                   TED DE BARBIERI: Thanks very much,  
9                   Chair Weprin and Council Members Brewer and  
10                  Comrie. My name is Ted De Barbieri. I am a staff  
11                  attorney at the Community Development Project of  
12                  the Urban Justice Center, and we are opposed to  
13                  this project only because of the lack of permanent  
14                  affordability. It's clear this one time change to  
15                  zoning will be permanent. It's a permanent  
16                  benefit to the owner, permanent economic benefit.  
17                  This change will unlock tremendous value in the  
18                  property that will exist in perpetuity once the  
19                  building is built. At a minimum we think the  
20                  developer should commit to maintaining  
21                  affordability through the term of the land lease.  
22                  We also think it's important that the Council  
23                  require representations that they will renegotiate  
24                  for any future leases. Just again, the value in  
25                  this deal I think it's clear to everyone involved

2 and also to the owner of the over owner of the  
3 actual land, the lessor, so just we ask you to  
4 seriously consider it as you are and voice our  
5 opposition. Thank you.

6 CHAIRPERSON WEPRIN: Thank you.

7 Ms. Brewer, did you have any comments or  
8 questions?

9 COUNCIL MEMBER BREWER: I thank  
10 every panel. I really thank you also.

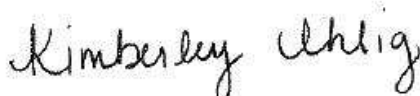
11 CHAIRPERSON WEPRIN: Thank you all.  
12 I want to thank you for the patience on the day.  
13 We had a lot of speaker, and it's hard and I  
14 apologize you are the last panel, but we do  
15 appreciate your testimony and everybody hang in  
16 there. I thank my colleagues who are still here  
17 and those who had to leave. We are going to  
18 recess this meeting until our next—we are actually  
19 adjourning? Okay. Well, first I am going to  
20 close the hearing, and then we are going to hold  
21 off the vote until our next meeting, but in the  
22 meantime, I will adjourn this meeting. So now  
23 this subcommittee is now adjourned.

24 [gavel]

C E R T I F I C A T E

I, Kimberley Uhlig certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature \_\_\_\_\_

Date \_\_\_\_\_1/26/13\_\_\_\_\_