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April 18, 2017

**VIA E-MAIL AND CERTIFIED MAIL**

Martin Rebholz, RA  
Borough Commissioner  
Manhattan Borough Office  
280 Broadway, 3rd Floor  
New York, NY 10007

Re: Zoning Challenge, April 3, 2017 Zoning Diagram for 430 East 58<sup>th</sup> Street (Block 1369, Lots 34, 35 and 133) (“Project”)

Dear Mr. Rebholz:

The East River Fifties Alliance submits the attached zoning challenge to the Project as depicted in the zoning diagram posted by DOB on April 3, 2017. The Project is subject to the tower-on-a-base regulations of Zoning Resolution (“ZR”) § 23-651. The zoning diagram, however, incorrectly documents compliance with standard tower regulations pursuant to ZR § 23-65. The result is a dramatically taller building than permitted by law.

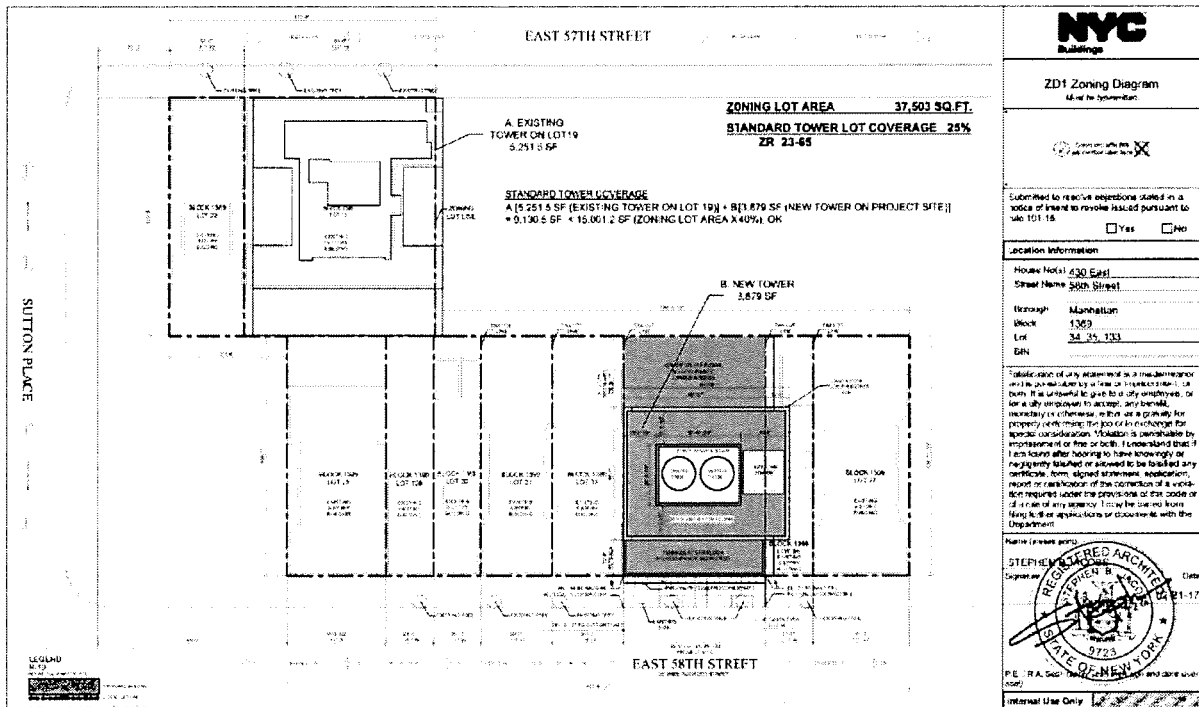
The Zoning Resolution defines when “buildings developed” or “enlarged” with towers shall comply with tower-on-a-base regulations (of Section 23-651). The law states:

The tower-on-a-base regulations of Section 23-651 shall apply to any such building that:

1. Contains more than 25 percent of its total floor area in residential use; and
2. Is located on a zoning lot that fronts upon a wide street and is either within 125 feet from such wide street frontage along the short dimension of the block or within 100 feet from such wide street frontage along the long dimension of the block.

If a portion of such building is developed or enlarged with a tower the entire zoning lot shall be subject to the provisions of Section 23-651.

The Project meets both criteria. It is a purely residential building with a zoning lot that fronts on both on both East 58<sup>th</sup> Street (a narrow street) and East 57<sup>th</sup> Street (a wide street). See below:



Moreover, the zoning lot is within 100 feet of East 57<sup>th</sup> Street along the long dimension of the block. The tower-on-a-base rules therefore apply requiring, among other things, (1) the tower to cover not less than 30% of the lot area of the zoning lot and (2) the buildings on the zoning lot to contain between 55 to 59.5% of their floor area below 150 feet. The Project does not even come close to meeting these two standards.

The Zoning Resolution carefully distinguished between the use of the term “building” and “zoning lot” and in this case clearly uses the term zoning lot to describe when and how tower-on-a-base rules apply. Legislative history confirms this reading. The original 1993 tower-on-a-base rules applied to any “development” or “enlargement” that met criteria similar to the present ones. The City Planning Commission found those terms to be vague.<sup>1</sup> In 2011, the Commission therefore amended the rules to include the present language, which applies to “zoning lots” that front on wide streets and are within certain distances of such streets. Our conversations with the Department of City Planning confirm this plain meaning.

The DOB has approved excavation and foundation permits for the Project. See below:

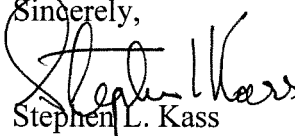
01/03/2017 121191423 02 NB P APPROVED 04/03/2017 0057530 PE MARCUS

**GRANTED**  
04/03/2017

INSTALLATION OF FOUNDATION WORK FOR NEW RESIDENTIAL BUILDING AS SHOWN ON  
Work on Floor(s): CEL,ROF 001 thru 067

<sup>1</sup> See City Planning Commission Report N 110090A ZRY, January 5, 2011. For example, the report states: “Regarding tower-on-a-base buildings, the Commission has modified the proposed text of Section 23-651, paragraph (a)(3) to clarify that the rule requiring at least 55 percent of the total floor area to be below a height of 150 feet applies to the zoning lot and not to individual buildings.”

ERFA and the elected officials copied below wrote to DOB on at least two occasions asking for you to exercise your discretion to not issue any partial approvals for this Project. We were concerned that the applicant would not propose a building that complies with zoning. Those concerns have been confirmed by the current Project.

Sincerely,  
  
Stephen L. Kass

SLK:

cc: Gale Brewer, Manhattan Borough President  
Daniel Garodnick, New York City Councilmember  
Benjamin Kallos, New York City Councilmember  
Alan Kersh, East River Fifties Alliance  
Liz Krueger, New York State Senator