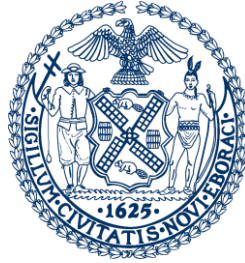


BENJAMIN J. KALLOS
COUNCIL MEMBER, 5TH DISTRICT

244 East 93rd Street
New York, NY 10128
(212) 860-1950 Voice
(212) 980-1828 Fax
www.BenKallos.com

BKallos@BenKallos.com



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September 19, 2019

Martin Rebholz
Manhattan Borough Commissioner
Department of Buildings
280 Broadway
New York, NY 10007

RE:
BIN Number: 1090365
Work Permit Number: 121191423
AHV Permit Reference Numbers: 00907421 and 00910375

Dear Borough Commissioner Rebholz,

Several of my constituents have reached out to my office with concerns regarding the After Hours Variance permits for 428 East 58th Street (Block 1369 Lot 34) granted for August 27 through September 6 and September 9 through September 20, for work to be completed on weeknights from 6 p.m. to 8 p.m.

My office has received numerous complaints about the AHV permits. After Hours Work Authorization may only be granted for one of five reasons specifically enumerated in the Administrative code under §24-223(e):

- (1) Emergency Work,
- (2) Public Safety,
- (3) City Construction Projects,
- (4) Construction Activities with Minimal Noise Impact, and
- (5) Undue Hardship.

The After Hours Variance Permit application did not cite "Emergency Work" or "Public Safety." As an elected official I can state that this is not a "City Construction Project," and there are too many noise complaints to satisfy "Construction Activities with Minimal Noise Impact."

In this case the applicant applied for the reason of "Undue Hardship" which requires the applicant to "substantiate a claim of undue hardship resulting from":

- unique site characteristics,
- unforeseen conditions,
- scheduling commitments and/or



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NEW YORK CITY COUNCIL MEMBER
DISTRICT 5, MANHATTAN

- financial considerations.

Each of these conditions must be “outside the control” of the applicant.

The variances state that they were approved for “Business Hours Operations Interruption,” which is not one of the enumerated reasons for approval. Additionally, constituents stated that the job site’s tower crane (CN Number: 0966 18) was raised during Labor Day weekend (August 31 – September 2), although there is no After Hours Variance listed for that weekend, and there does not appear to be any permit issued for such work.

Additionally, the construction site is required under §24-221 of the Administrative Code to submit to the Department of Environmental Protection a Noise Mitigation Plan specifying construction activities that will take place and devices that will be used on site and outlining noise mitigation measures. If the project is unable to comply strictly with city noise rules, it must submit an Alternative Noise Mitigation Plan outlining measures the applicant will take, above and beyond those measures already required, to significantly limit noise emissions from the construction site. In compliance with Local Law 53 of 2018, which I authored, and Local Law 10 of 2018, which I co-sponsored, please provide a digital copy or a link to the Noise Mitigation Plan.

Please also provide a digital copy of the PW5 forms that were filed for AHV numbers 00907421 and 00910375, along with all supporting documents to “substantiate a claim of undue hardship ... outside the control” of the applicant. If no such records exist, please provide a statement to that effect, stating that no plan or substantiation was provided and that no further after hours variances will be granted for this construction site.

Sincerely,

Ben Kallos
Council Member

Cc: Mayor Bill de Blasio
Commission Melanie La Rocca