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March 30, 2016

rsinger@bsa.nyc.gov for distribution

Hon. Margery Perlmutter
Chair
New York City Board of Standards and Appeals
250 Broadway, 29th Floor
New York, New York 10007

Ryan Singer
New York City Board of Standards and Appeals
250 Broadway, 29th Floor
New York, New York 10007

David J. Schnakenberg
General Counsel
New York City Board of Standards and Appeals
250 Broadway, 29th Floor
New York, New York 10007

Re: 74-07-BZ
Trustees of Congregation Shearith Israel
8-10 West 70th Street,
New York, New York, 10023 (the "Property")
Block 1122 Lots 36237 Zoning Map No. 8C

Dear Public Servants:

I am shocked to have received on Friday, March 25, 2016 a copy of the February 18, 2016 private Application. I did not receive this from BSA or Congregation Shearith Israel, but only as a result of a FOIL response to David Rosenberg.

On October 28, 2015, I delivered to you a letter, concerning my Challenge and Appeal to the DOB together with a CD of my entire challenge to DOB and in accordance with the rules of the BSA, a CD of all of the documents provided to DOB and BSA. **Please note – I delivered a copy of the October 28, 2015 letter to the Congregation and did not attempt to sneak**

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around, unlike the Congregation's secret, improper, ex parte communications with BSA and each of you.¹ As I stated in that letter, and ignored by all of you:

In order to expedite the new review, we ask that the BSA require the Congregation to file the plans as provided to the DOB and also provide plans and elevations showing differences between the DOB plans and the BSA approved plans.

We also ask that the BSA strictly enforce its June 7, 2013 requirements as to electronic filing and require the Congregation to provide all filings in Acrobat format (and Excel where applicable,) provide copies to us, and reject any filings not accompanied by the electronic version.

The DOB decision refers to the other information accompanying our Challenge. I am providing to the BSA by express delivery the two volumes provided to the DOB with the Challenge.

A CD will be provided to you and the Congregation in a separate communication.

You did not respond to my letter. Instead, starting in December 2015, you engaged in private ex parte communications and meetings with the Congregation culminating in the February 18, letter.

- You have chosen not to invite me, as counsel for a party, to those ex parte meetings
- You have chosen not to require the Congregation to provide copies of its communications to BSA to us.
- You have chosen to allow the Congregation to file an application without providing a copy to another party, and allowed Attorney Shelly Friedman to not provide a copy of me not only in violation of BSA rules and common courtesy, but in violation of the Canons of Ethics.
- You have chosen not to provide a copy of the Congregation's application of February 18, 2016 to me.
- You have chosen not to include a reference to the Application on your web site.

¹ We were not aware that Mr. Friedman was still counsel, and we had attempted to communicate with another apparent Congregation attorney, Bruce Lederman, to whom we addressed communications, but who never acknowledges his representation.

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- You have chosen not to propose amendments to your Rules to adopt as a rule “Instructions for Requests For Letters of Substantial Compliance” of July 11, 2011.
- You have chosen to allow the Congregation to pay only a fee of \$930 or a review of this matter (which includes perhaps \$40-50 million of condominiums), but required us to pay a fee of \$3100 (which was mooted when the DOB accepted our Challenge in part.)
- You have chosen, after your receipt of the February 18, 2015 Application, to not require the Congregation to provide elevations and 3D models showing the substantial change in height between the original BSA approved plans and the plans submitted to DOB.
- You have chosen, after your receipt of the February 18, 2015 Application, to not require the Congregation to provide specific citations to its allegations as to the prior actions and statements before the BSA in 2007 and 2008.
- You have chosen, after your receipt of the February 18, 2015 Application, to accept creative representations by Attorney Friedman, without specific fact affidavits by the Congregation, when prior representations by Attorney Friedman have been shown to not be accurate or true as to meaningful issues.
- You have chosen, it appears, to sanitize the BSA “record,” it appears, by excluding my letters and other letters by Mr. Rosenberg, so that the “record” of the matters being considered by the BSA Board, the purpose of which to not-so-innocently assert in future litigation that these documents are not in the “record” considered by BSA (which BSA has cutely done in the past.)
- You have chosen not to require Attorney Friedman and the Congregation to respond to the specific allegations in our DOB Challenge and Appeal.

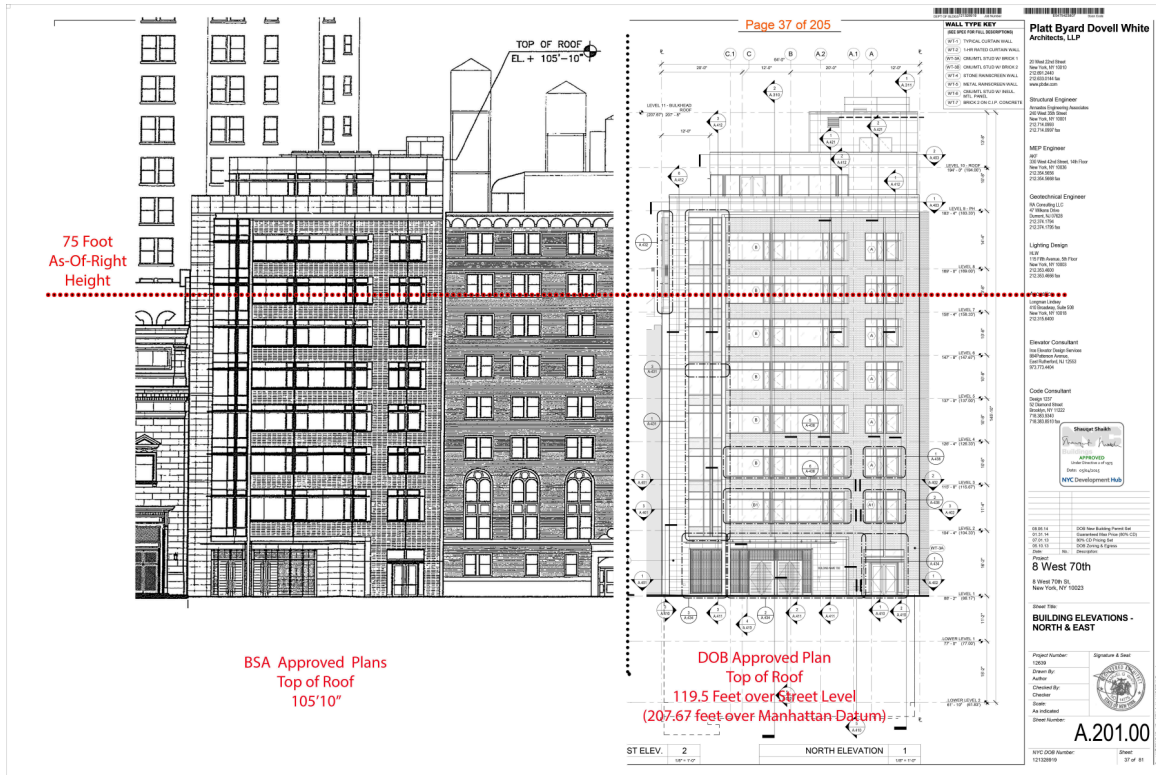
We believe that it is premature for the BSA to consider the request of a certificate of substantial compliance prior to the DOB completing its review of the challenges before DOB.

Indeed, the Congregation’s proper remedy is an appeal of the DOB decision on our Challenge and Appeal (and the other Challenges and Appeals) and not to use a procedure which is intended to be used for minor changes PRIOR to filing plans with the DOB.

We also believe it is improper for the BSA to consider the request of a certificate of substantial compliance without reviewing specifically each allegation in the Challenges before the DOB and to allow us to be full parties in the review of this matter.

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Indeed, unless received by BSA from the Congregation or from DOB, BSA has not received the supplement to our Second Challenge and Appeal. That is enclosed with the e-mail of this letter and includes the following comparison which demonstrated the substantial increase in height of the Congregation plans over the BSA approved plans:



We also demand that you take action to remedy each of your failures to act as specified above and to immediately cease ALL ex parte communications and meetings in this matter.

Finally, we would like to know whether any member of the Capallino lobbying firm (including former Vice-Chair Collins) has communicated with the BSA, including communications "privately" with any Commissioner as to this matter.

Sincerely,

Alan D. Sugarman

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Enclosed:
Kettaneh's Supplement to Second Challenge and Appeal to DOB of January 15, 2016

cc: David Rosenberg
Shelly Friedman, Esq.