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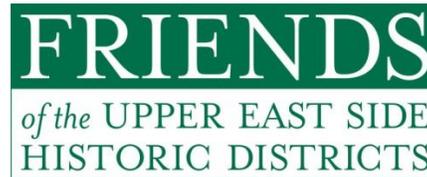
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Lawsuit Filed by Upper East Side Elected Officials and Community Leaders Challenges Proposed Skyscraper that Mocks Area Zoning Laws

Upper East Side, NY – On Friday, January 26th State Senator Liz Krueger, Council Member Ben Kallos, Carnegie Hill Neighbors, and FRIENDS of the Upper East Side Historic Districts filed a lawsuit in New York County Supreme Court contesting the City’s approval of 180 East 88th Street, which is currently under construction. This building violates two zoning rules that apply to any building at this location: the sliver building rule, which prohibits tall towers on narrow lots, and the “tower-on-a-base” rule, which requires any building fronting on a side street to have a base along the street line that roughly matches the height of its neighbors, so as to preserve the continuity of the block.

The building was approved because of a piece of chicanery that, if accepted as a precedent, would nullify these two zoning rules entirely. The developer, DDG Partners, created a tiny new tax and zoning lot fronting on 88th Street, initially only four feet deep and later enlarged to ten feet. The developer then transferred title to this sham lot to a sham entity, created only for the purpose of owning this lot. This sham lot cannot be built on; both because it is too small and because the Building Code requires that it be kept clear as an emergency exit from the new building. Through this ploy, the developer claims the property no longer fronts on 88th Street, and so does not have to comply with zoning rules that would prohibit such a sliver building.

Petitioners argue that this subterfuge violates both the letter and the intent of the Zoning Resolution. They ask the Court to block further construction and to declare (1) that a new lot created for the sole purpose of evading the law is a sham and a nullity; and/or (2) that the Zoning Resolution specifically prohibits creation of a new zoning lot for the purpose of construction a noncomplying building; and/or, (3) that, regardless of the new tax lot, the zoning applicable to 88th Street still applies, because the new lot is part of the same zoning lot as the new building; (4) and/or that in any event, under the plain language of the Zoning Resolution, the sliver building rule and the “tower-on-a-base” rule are still applicable, despite the existence of the new lot.

This case has citywide implications: If allowed to be built pursuant to current permits the tactics used at 180 East 88th Street would provide a roadmap to any developer who doesn’t want to

comply with the sliver building and “tower-on-a-base” rules. By giving developers the ability to sculpt a zoning lot at will to evade the City’s zoning rules, this precedent would also allow other abuses and overdevelopment citywide.

“An unbuildable lot is an unbiddable lot and it must not be the reason this 524-foot skyscraper gets to go up,” said **Council Member Ben Kallos**. “The purpose of zoning laws is to protect residents. The loophole being abused here is just an example of what residents have endured from overdevelopment in our City. Thank you to Carnegie Hill Neighbors, FRIENDS of the Upper East Side, Senator Krueger and Manhattan Borough President Brewer for their partnership in protecting the essence of our city’s zoning laws and for not giving up on this fight. See you in court.”

“Maintaining livable communities requires rational development where everyone plays by the rules. The idea that illegally slicing off a tiny sliver lot should enable a developer to completely ignore zoning requirements is simply outrageous,” said **State Senator Liz Krueger**. “We need to stand up for a thoughtful, community-based approach to development. Ignoring what rules we already have is a recipe for chaos.”

“The creation of a sham zoning lot at 180 East 88th Street is just one of many citywide examples of manipulation of zoning rules, endorsed by the Department of Buildings, to the detriment of surrounding communities. Allowing such subversions of the Zoning Resolution to proceed unchecked undermines the City’s own rules, and has the potential to radically alter the character of our neighborhoods without any policy intention to do so,” said **Rachel Levy**, Executive Director of FRIENDS of the Upper East Side Historic Districts.

“The City allowed the developer to slice off a small strip from his property so he can claim the building does not front on 88th Street and therefore does not need to conform to the street wall. Yet the City’s position is contradictory because the same small strip is integral to the building, serving as a required egress,” said **Lo van der Valk**, President of Carnegie Hill Neighbors, whose organization filed a series of challenges to the Department of Buildings questioning the approval of this project. Following DOB’s most recent denial of the community appeal in September 2017, CHN and FRIENDS appealed this decision to the Board of Standards and Appeals.

“Zoning is often a puzzle, and a part of me admires the ingenuity. But this tactic is so clearly against the intention of the zoning--especially when the micro-lot remains an essential part of the development--that I think a judge will be able to see things as they are and rule to protect the law,” said **George M. Janes**, AICP, planning and zoning consultant.

“As the Buildings Department said in May 2016, when it issued a Stop Work Order for this building, a ‘zoning lot cannot be subdivided into a 4-foot lot for the sole purpose of avoiding a zoning requirement.’ The Buildings Department then changed its mind, without explanation, and allowed work to continue. We have argued to the Court that the Buildings Department was right in the first place, that the permit is illegal, and that it should be annulled,” said **John Low-Beer**, attorney for the petitioners.

Brief for the lawsuit [available here](#).