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June 27, 2016

Mayor Bill de Blasio
City Hall
New York, NY 10007

Hon. Carl Weisbrod
Chair
City Planning Commission
22 Reade Street
New York, NY 10007

RE: ULURP Application No. C 160082, Adorama, 38-42 West 18th Street

Dear Mayor de Blasio and Chair Weisbrod:

I write to strongly support the position expressed by Manhattan Borough President Gale Brewer, Community Board 5, The Municipal Art Society, SEIU 32BJ, and others, that the City Planning Commission must deny the pending special permit application by 42 West 18th Street Realty Corp. (“the applicant”) unless the requirements of the Mandatory Inclusionary Housing (MIH) Program are applied.

The newly adopted text amendment to the Zoning Resolution definitively defines when the MIH Program will apply to special permit applications. ZR Section 23-933 states that the “Inclusionary Housing Program shall also apply as a condition of City Planning Commission approval of special permits as set forth in ZR Section-74-32.” ZR Section 74-32, entitled “Additional considerations for Special Permit Use and Bulk Modifications,” is clear. It reads:

“Where a special permit application would allow a significant increase in #residential floor area# and the special #floor area# requirements in #Mandatory Inclusionary Housing areas# of paragraph (d) of Section 23-154 (Inclusionary Housing) are not otherwise applicable, the City Planning Commission, in establishing the appropriate terms and conditions for granting of such special permit, shall apply such requirements

where consistent with the objectives of the Mandatory Inclusionary Housing program as set forth in Section 23-29 (General Provisions).”

The Department of City Planning has defined a “significant increase” as 10 residential units or 12,500 sq. ft. of residential floor area. **The applicant has indicated that the alterations to rear yard, height and setback, and street frontage requirements that they have requested would result in the creation of an additional 26 residential units (22,367 zoning square feet of residential floor area), far exceeding the “significant increase” threshold established in the zoning code.**

The applicant has stated that MIH should not apply, “because the bulk waivers requested under the ZR Section 74-711 Special Permit application simply facilitate the use of permitted residential floor area.” **This is an erroneous interpretation of the law. ZR Section 74-32 makes no reference to the requirement for an increase in *permitted* residential floor area ratio; instead it clearly states that a permit that allows a significant increase in *actual* residential floor area, as this prospective permit would, must meet the requirements of MIH.** This straightforward interpretation is bolstered by the Environmental Assessment Statement for the recently adapted MIH text amendment, which read, “the MIH program would also apply outside of MIH areas in zoning districts as a condition of granting future special permits for use or bulk modifications that facilitate the creation of a significant number of additional dwelling units.”

The decision made in this case has the potential to set a precedent that will dramatically impact the future growth of permanently affordable housing in New York City. I would like to emphasize that the Zoning Resolution does not allow for discretion as to the application of MIH, but in fact requires it in this instance. **I urge the City Planning Commission to abide by a plain reading of the law, and mandate the inclusion of affordable housing under MIH for 38-42 West 18th Street.**

Sincerely,



Liz Krueger
State Senator